

Approved: 3/31/00
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson Wagle at 1:30 p.m. on March 28, 2000, in Room 519-S of the Capitol.

All members were present except: Representative Gilbert - excused
Representative Kirk - excused
Representative Flora - excused
Representative Edmonds - excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Ann Deitcher, Committee Secretary
Edith Beaty, Taxation Secretary

Conferees appearing before the committee:

SB 545 - relating to sales taxation; concerning the imposition thereof by certain cities and counties.

The Chair introduced the supplemental note on **SB 545** that asked for the inclusion of additional counties. (Attachment 1).

It was moved by Representative Wagle and seconded by Representative Jenkins to adopt the supplemental note as an amendment to **SB 545**. The motion carried on a voice vote.

Representative Wilk moved for the favorable passage of **SB 545**. Representative Osborne seconded the motion and it was carried by a voice vote.

HB 2589 - relating to income taxation; authorizing credits for property tax paid by certain telecommunications companies.

Representative Gregory explained the recommendations of the sub-committee regarding **HB 2589**. (Attachment 2). He then provided copies of a balloon amendment to **HB 2589**. (Attachment 3).

Representative Gatewood moved for a conceptual amendment to be made to **HB 2589** to allow a portion of the property tax to take effect six months earlier. There was no second to the motion and the motion was withdrawn.

The motion was made by Representative Gregory and seconded by Representative Minor to make the balloon amendment to **HB 2589**. The motion to amend was passed on a voice vote.

Representative Johnston moved that **HB 2589** be tabled. There was no second to the motion and the motion was withdrawn.

It was moved by Representative Jenkins and seconded by Representative Long that **HB 2589** be passed out of Committee favorably. The motion carried on a voice vote.

CONTINUATION SHEET

Resolution 2485 - to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of certain property of public utility service providers. (Attachment 4).

It was moved by Representative Gregory and seconded by Representative Osborne to introduce rls 2485 and then move it into HCR 5019 to be worked. The motion carried on a voice vote.

SB 69 - concerning the Department of Revenue; relating to disclosure of certain information thereby.

Don Hayward told the Committee that **SB 69** needed technical amendments to update it for passage. (Attachment 5).

It was moved by Representative Minor to make the needed technical amendments to **SB 69**. A second was made by Representative Campbell and the motion carried on a voice vote.

It was moved by Representative Campbell and seconded by Representative Johnston to adopt **SB 69** as amended. The motion carried on a voice vote.

The meeting was adjourned at 2:15 p.m. The next meeting is on the call of the Chair.

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SUPPLEMENTAL NOTE ON SENATE BILL NO. 545

As Amended by *House* (~~Senate~~) Committee on
(~~Assessment and~~) Taxation

Brief (1)

SB 545, as amended, would make a number of changes to local sales tax authorization statutes. Neosho, *Osage*, Wilson, and Wabaunsee counties would be added to a list of 15 other counties with special authority to retain all revenue from countywide sales taxes (and not be required to share such revenues with cities), provided the tax is imposed for financing the construction or remodeling of a courthouse, jail, law enforcement facility, or other county administrative facility. All such taxes are required to sunset when the Secretary of Revenue determines the cost incurred in the financing of such facilities has been collected by retailers. Wabaunsee County would be granted an additional 0.25 percent rate authority for such purpose *and Osage County would be granted either an additional 0.25 percent or 0.5 percent for such purpose.*

Miami County would be granted special authority to retain all revenue from a countywide sales tax, and would be given an additional 1.0 percent authority, to finance road construction. *Clay County would be given similar additional authority of 0.5 percent.* Any such tax imposed by *those counties* would be required to sunset after five years.

Woodson County would be granted special authority to retain all revenue from a countywide sales tax imposed for the purpose of financing economic development initiatives or public infrastructure projects. The tax would have to be at the rate of 0.5 percent and would be required to sunset after five years.

Franklin County would be granted special authority to retain all revenue from a countywide sales tax, and would be given an additional 0.25 percent authority, to finance recreational facilities. Any such tax would be required to sunset upon payment of all financing costs associated with the facilities.

All cities in Harper *and Woodson counties* (Joyce - strike the word "County" here) would be added to the list of Class D cities with up to 1.0 percent of additional rate authority for funding economic development initiatives, strategic planning initiatives, or public infrastructure projects. Any taxes so imposed after the effective date of the act by Class D cities would be required to sunset after ten years. Current law requires such taxes to sunset after five years.

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Background

The City of Anthony, located in Harper County, supports the provisions relating to Class D cities.

All taxes authorized by the bill would require the approval of voters. Only two local sales taxes in state history have been imposed without a mandatory election: a 0.1 percent stormwater management sales tax in Johnson County; and a 0.65 percent tax imposed throughout Shawnee County by the Washburn University Board of Regents.

The original bill dealt only with Neosho County. *The provisions related to Wilson, Wabaunsee, and Miami counties and cities in Harper County were Senate Assessment and Taxation Committee amendments.* All other provisions hereinbefore described were *House Taxation* (Joyce - strike the word "Senate" here) Committee amendments.

1. *Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.ink.org/public/legislative/bill_search.html

SUBCOMMITTEE REPORT:

HB 2589 AND PROPERTY TAX CLASSIFICATION

To: Rep. John Edmonds
From: Chris W. Courtwright, Principal Analyst

This document is in response to your request for a summary of the subcommittee's recommendations. It is my understanding that all recommendations are unanimous.

HB 2589

HB 2589 authorizes refundable income tax credits designed to offset the property tax assessment rate differential (33 to 25 percent) between certain telecommunications companies and property which is assessed as commercial and industrial.

The subcommittee recommends an amendment to subsection (a) which would decelerate the effective date by one year. Relative to taxes paid on property acquired on and after January 1, 2001, income tax credits could be claimed to offset the aforementioned differential starting in tax year 2001.

The subcommittee also recommends the removal from the bill of subsection (b), which would have provided additional credits to offset the property tax liability differential on property currently in the state. Amendments to subsection (c) are technical.

The Department of Revenue now indicates that the fiscal note of the subcommittee version of the bill would be \$0.26 million in FY 2002; \$0.55 million in FY 2003; \$0.57 million in FY 2004; and \$0.60 million in FY 2005.

Constitutional Amendment

The subcommittee further recommends the introduction of a concurrent resolution which would seek to amend the Kansas Constitution to authorize the Legislature to provide for the definition of public utility services and the classification or reclassification of property of any entity, or division thereof, providing public utility services.

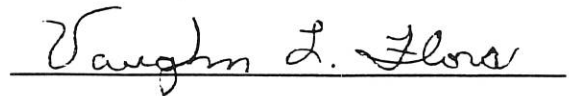
The proposed constitutional amendment would not be self-executing, and a future Legislature would need to take statutory action before the existing property tax treatment of public utility service providers would be changed.

The amendment would be placed on the November 7 general election ballot.



(Chairman)

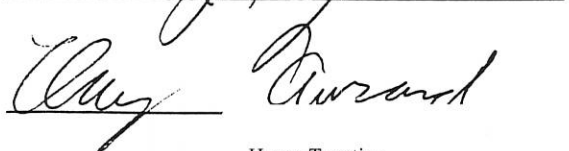












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HOUSE BILL No. 2589

By Special Committee on Assessment and Taxation

12-16

9 AN ACT relating to income taxation; authorizing credits for property tax
10 paid by certain telecommunications companies.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) For all taxable years commencing after December 31, 2000
14 1999 and with respect to property acquired on and after January 1, 2000,
15 there shall be allowed as a credit against the tax liability imposed by the
16 Kansas income tax act of a telecommunications company, as defined in
17 K.S.A. 79-3271 and amendments thereto, an amount equal to the differ-
18 ence between the property tax levied and paid on property assessed at
19 the 33% assessment rate and the property tax which would be levied and
20 paid on such property if assessed at a 25% assessment rate.

21 ~~[(b) For all taxable years commencing after December 31, 2002, and~~
22 ~~with respect to property acquired prior to January 1, 2000, there shall be~~
23 ~~allowed as a credit against the tax liability imposed by the Kansas income~~
24 ~~tax act of a telecommunications company, as defined in K.S.A. 79-3271~~
25 ~~and amendments thereto, an amount equal to the difference between the~~
26 ~~property tax levied and paid on property assessed at the 33% assessment~~
27 ~~rate and the property tax which would be levied and paid on such property~~
28 ~~if assessed at a 25% assessment rate, except that, for taxable year 2003,~~
29 ~~the credit shall be equal to 25% of such amount, for taxable year 2004,~~
30 ~~the credit shall be equal to 50% of such amount, for taxable year 2005,~~
31 ~~the credit shall be equal to 75% of such amount and for taxable year 2006,~~
32 ~~and all such taxable years thereafter, the credit shall be equal to 100% of~~
33 ~~such amount.]~~

34 [(c) If the amount of the tax credit determined under subsections (a)
35 and (b) exceeds the tax liability for the telecommunications company for
36 any taxable year, the amount thereof which exceeds such tax liability shall
37 be refunded to the telecommunications company. If the telecommuni-
38 cations company is a corporation having an election in effect under sub-
39 chapter S of the federal internal revenue code, a partnership or a limited
40 liability company, the credit provided by this section shall be claimed by
41 the shareholders of such corporation, the partners of such partnership or
42 the members of such limited liability company in the same manner as
43 such shareholders, partners or members account for their proportionate

2000

2001

(b)

subsection (a)

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1 shares of income or loss of the corporation, partnership or limited liability
2 company.

3 ~~[(d)]~~ As used in this section, the term "acquired" shall not include the (c)
4 transfer of property pursuant to an exchange for stock securities, or the
5 transfer of assets of one business entity to another due to a merger or
6 other consolidation.

7 Sec. 2. This act shall take effect and be in force from and after its
8 publication in the statute book.

By Committee on Taxation

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of certain property of public utility service providers.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 1. System of taxation; classification; exemption.
 (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, 1993, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at

the following percentages of value:

- | | | |
|-----|--|---------|
| (1) | Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located..... | 11 1/2% |
| (2) | Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution..... | 30% |
| (3) | Vacant lots..... | 12% |
| (4) | Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and which is included in this subclass by law..... | 12% |
| (5) | Public utility real property, except railroad real property which shall be assessed at the average rate that all other commercial and industrial property is assessed..... | 33% |
| (6) | Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use..... | 25% |
| (7) | All other urban and rural real property not otherwise specifically subclassified..... | 30% |

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- | | | |
|-----|--|---------|
| (1) | Mobile homes used for residential purposes..... | 11 1/2% |
| (2) | Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% | 30% |
| (3) | Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed..... | 33% |
| (4) | All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985..... | 30% |
| (5) | Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic | |

life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property.....	25%
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(6) All other tangible personal property not otherwise specifically classified.....	30%
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(b) The legislature may provide by law for the definition of public utility services and the classification or reclassification of property of any entity, or division thereof, providing public utility services.

~~(b)~~ (c) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement: This amendment would allow the legislature to provide by law for the classification or reclassification of property of public utility service providers for property tax assessment rate purposes.

"A vote for this proposition would grant the authority to the legislature to provide for the classification or reclassification of property of public utility service providers for property tax assessment rate purposes.

"A vote against this proposition would continue the existing property tax assessment rate treatment for all public utility service providers.

Sec. 3. This resolution, if approved by two-thirds of the

members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election to be held on November 7, 2000, unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

SESSION OF 2000

SUPPLEMENTAL NOTE ON SENATE BILL NO. 69

As Amended by House Committee on
Taxation

Brief*

SB 69 would amend two Kansas statutes to change the method used by the Kansas Department of Revenue to provide Kansas, Inc. with certain information. Kansas, Inc. is statutorily required to evaluate the cost effectiveness of various economic development income tax credits and sales tax exemptions. Kansas, Inc. also is required to prepare an annual report of this evaluation and submit this report to four specified legislative committees at the beginning of each legislative session. Under existing law, the Kansas Department of Revenue must develop a questionnaire to be completed by all Kansas corporate taxpayers on the use of these tax incentives. The bill would delete that requirement. The Department would be required instead, for tax years after 2000, to furnish Kansas, Inc. with the names, addresses, and telephone numbers of those individuals and firms using economic development tax credits. In addition, the bill would require the Department, for tax years after 2000, to furnish Kansas, Inc. with copies of approved applications for project exemption certificates for specified sales tax exemptions. Disclosure of information prohibited by the Federal Internal Revenue Code would not be authorized in this bill.

Background

SB 69 was requested by Kansas, Inc. to improve the reliability of responses from taxpayers concerning usage of economic development tax incentives. Mikel Miller, Kansas, Inc., testified the Department of Revenue reported receipt of 978 corporate

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.ink.org/public/legislative/bill_search.html.

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claims on four types of tax credit from 1994 through September 30, 1998. However, only 299 usable questionnaire responses were received by Kansas, Inc. – 30.6 percent of actual claims. Ms. Miller identified two other problems with the existing information collection system:

1. The questionnaire attempted only to capture corporate taxpayers and not individual taxpayers, such as sole proprietors or partners in a company.
2. The Department of Revenue has to harvest the questionnaires from all the corporate returns before providing them to Kansas, Inc. Moreover, all corporate taxpayers, even if they do not claim a credit, are required to complete the questionnaire.

The Senate Committee amended the bill during the 1999 Session to change the effective date from July 1, 1999 (effective date of the bill) to January 1, 2000 to begin implementation of the new information collection system. This amendment responded to a point made by the other conferee on the bill, Shirley Sicilian, Kansas Department of Revenue, that the Department would have to collect this information manually until November 1999, when an automation process is scheduled to be implemented. With the Senate Committee's amendment, the Department does not have to begin to collect this information manually and then, after only a few months, make the transition to an automated process.

The House Committee amended the bill during the 2000 Session to move the new requirements for the Department of Revenue from tax year 2000 to tax year 2001 and to update statutory references.