

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 p.m. on March 12, 2004 in Room 519-S of the Capitol.

Second Meeting

All members were present except:

Representative Lee Tafanelli- excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Martha Dorsey, Legislative Research Department

Gordon Self, Revisors of Statutes

Carol Doel, Committee Secretary

Conferees appearing before the committee: Chris Courtwright, Legislative Research Department

Others attending:

See Attached List

Chairman Edmonds opened the meeting with attention on **HB 2911** and recognized Representative Goico who stated that the Department of Commerce is doing an analysis at the present and requested that the bill be delayed until Monday, March 22 or Tuesday, March 23. The delay was granted.

Committee attention was then directed to **HB 2579** and recognized Representative Schwab who voiced the opinion that he had two concerns regarding this bill, one is that promises had already been made and the other is regarding constitutionality of taxing one person and not the other in the same enterprise. With these concerns in mind Representative Schwab made a motion to table **HB 2579**. Representative Flora seconded the motion. Vote was taken. Motion passed. Bill tabled.

The next bill on the agenda was **HB 2842**. Chairman Edmonds requested that Chris Courtwright, Department of Research give an analysis of the bill. Mr. Courtwright called attention to a spread sheet which showed the franchise tax major feature comparison – Current Law, **HB 2842** and **HB 2894** to which he added a fourth column “Hybrid Plan” which takes features from two bills. (Attachment 1)

Representative Larkin made a motion to take the franchise fee revenues from Secretary of State's fund and put them in the general fund to make it revenue neutral. Seconded by Representative Davis. Vote was taken motion passed.

Representative Larkin proposed to amend the hybrid fund into the general fund. This was seconded by Representative Flora.

Representative Huff asked Mr. Courtwright what this would do. He explained that this is the hybrid fund which is on the spread sheet except the general fund is now zero. \$36 million will be produced for the State General Fund and the Secretary of States Office would collect \$3.8 million for franchise fee, the Department of Revenue would collect \$32.2 million of franchise taxes and put them in the general fund and set the cap at \$36,000.

Representative Siegfried expressed the opinion that in discussing this with businesses in his district, he was already concerned that we are in the process of doing another tax increase on a segment of business. It is feeling that this amendment exacerbates that tax increase by expanding the cap even more. He stands in opposition to this amendment.

Chairman Edmonds explained that this would create a tax shift and not a tax increase.

Representative Siegfried stated that he understood that this was a technically a tax shift, however, it was a tax increase on businesses that are seriously in trouble, however, if you are the one being burdened it becomes a tax increase.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 12, 2004 2nd Meeting in Room 519-S of the Capitol.

Representative Huntington concurred with Representative Siegfroid.

Representative Kirk feels that this is a huge burden on small businesses. She feels that we need to make some type of an adjustment to take the large burden that we place on our local small businesses and redistribute it.

Representative Brunk agrees with Kirk that we need to remove the burden on the smaller businesses. He also agrees with Representative Siegfroid.

Representative Brunk made a substitute motion that all of the contents of **HB 2842** be repealed and that the contents of **HB 2529** be added in. Representative Goico made a second to the motion.

Representative Brunk explained that **HB 2529** is the existing franchise tax structure as it is now rolling it back to the way it was a couple of years ago.

Representative Larkin does not agree with Representative Brunk. He feels that it would cost the state much more down the road.

Representative Jack supports the amendment. He has a problem with franchise tax. He would rather see an increase in income tax than to have a franchise tax.

Representative Siegfroid opposes the amendment.

Representative O'Malley supports the amendment.

Representative Kirk stated that she can't support the amendment because it offers no help to small businesses.

Representative Schwab will support the amendment.

Representative Faber made a motion to table the bill until 9:00 Monday morning. The motion was seconded by Representative Flora. Vote taken. Motion failed.

Representative Davis rose to say that he cannot support the motion.

Chairman Edmonds stated that the substitute motion is flatly irresponsible. He urged the committees' opposition.

Representative Brunk closed his motion.

Vote was taken. The substitute motion failed.

Those wishing to have their votes recorded are:

Representative Schwab	yes
Representative Goico	yes
Representative Goering	yes
Representative Jack	yes
Representative Siegfroid	yes
Representative Brunk	yes

Chairman Edmonds returned to the motion by Ranking Member Larkin to amend the hybrid plan into **HB 2842**.

Representative Brunk made a substitute motion that all the contents of **HB 2842** be repealed and that the contents of **HB 2529** be added in with the exception that rather than taking the cap from \$5,000 back to \$2500, to leave it a \$5,000. He would purpose that it go from \$2 per thousand to \$1 per thousand.

The Chairman offered that Representative Brunk would be offering **HB 2529** as a gut and go with the cap at

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MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 12, 2004 2nd Meeting in Room 519-S of the Capitol.

\$5000.

The motion was seconded by Representative Goering.

Representative Larkin gave the opinion that we don't have the money in the budget to support Representative Brunk's motion.

Representative Brunk closed his motion leaving his cap at \$5000. The only change is on the smaller companies.

Vote was taken. The motion failed.

Chairman Edmond returned to the Larkin amendment.

Representative Brunk made a motion that the bill be tabled until the next 9:00 meeting. The Chairman informed Representative Brunk that a motion to table at the time he designated was not in order, however, he would entertain another time.

Representative Brunk made a motion to table the bill until 9:05 at the next 9:00 meeting. This was seconded by Representative Goering. Vote was taken. Motion failed.

Once again the Chairman returned to the motion by Representative Larkin.

Representative Owens indicates that he cannot support the motion.

Representative Schwab concurred with Representative Owens.

Representative Thull supports the Larkins amendment.

Representative Siegfroid continues to oppose the amendment.

Representative Davis supports the amendment.

Representative Huntington will not support the amendment.

Representative Jack opposes the amendment, but supports **HB 2842**.

Representative Sawyer supports the amendment.

Representative Goico opined that Wichita has lost population. The increases in taxes on businesses is a related factor and he opposes the amendment.

Representative Huff stated that in looking at all three ways to go, he still would like to return to **HB 2842**.

Returning to the Larkin amendment, Representative Larkin closed on his motion. Vote was taken. Motion passed with a count of 11 to 10.

Chairman Edmonds returned to **HB 2842** as amended.

Representative Larkin recommended that **HB 2842** be passed out favorable as amended. Representative Davis made a second to the motion.

Representative Jack would be voting yes due to the fact that it would give some relief for small businesses.

Representative Siegfroid stated that he would vote no on this bill as could not stand by causing a division between the states' businesses.

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Representative Brunk voiced the opinion that he will vote no on the bill.

Vote was taken. Motion adopted.

Those wishing to have their votes recorded were:

Representative Goering	no
Representative Goico	no
Representative Schwab	no
Representative Siegfried	no
Representative Huntington	no
Representative Brunk	no

With no further business before the committee, Chairman Edmonds adjourned the meeting at 12:25 p.m.

Franchise Tax Major Feature Comparison -- Current Law, HB 2842, and HB 2894

	<u>Current Law</u>	<u>HB 2842</u>	<u>HB 2894</u>	<u>Hybrid Plan</u>
Rate	0.2%	0.1%	0.1%	0.1%
Base	shareholder equity or net capital accounts attributable to Kansas	for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)	for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)	for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)
Application of Exemption Threshold	None	First dollar of taxable equity is \$1 for taxable entities	First dollar of taxable equity is \$1,000,001 (First \$1 million exempt)	First dollar of taxable equity is \$1,000,001 (First \$1 million exempt)
Cap	\$5,000	\$20,500	None	\$36,000
Exemptions for banks, s & ls, ins companies	Yes	Yes	No (repeal exemptions)	Yes
Administered by	Sec of State	Dept of Revenue	Dept of Revenue	Dept of Revenue
FY 2005 SGF SGF Fiscal Note	\$36 million n/a	\$29.31 million (\$6.69 million)	\$44.72 million \$8.72 million	\$32.2 million (\$3.8 million)
Separate Franchise Fee Maintained by Sec of State for new Franchise Fee Fund	n/a	\$40 for for-profits \$40 for not-for-profits	\$40 for for-profits \$20 for not-for-profits	\$40 for for-profits \$20 for not-for-profits
Franch Fee Revenues	n/a	\$3.91 million	\$3.80 million	\$3.80 million
All Funds F Note	n/a	(\$2.78 million)	\$12.52 million	\$0
To Achieve Revenue Neutrality, Set Cap at	n/a	\$25,000	\$23,000	\$36,000

HOUSE TAXATION
Attachment 1
Date 3-12-04

Franchise Tax Major Feature Comparison -- Current Law, HB 2842, and HB 2894

2-1

	<u>Current Law</u>	<u>HB 2842</u>	<u>HB 2894</u>	<u>Hybrid Plan</u>
Rate	0.2%	0.1%	0.1%	0.1%
Base	shareholder equity or net capital accounts attributable to Kansas	for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)	for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)	for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)
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Franchise Tax Major Feature Comparison -- Current Law, HB 2842, and HB 2894

1-3

	<u>Current Law</u>		<u>HB 2842</u>		<u>HB 2894</u>
Rate	0.2%		0.1%		0.1%
Base	shareholder equity or net capital accounts attributable to Kansas		for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)		for only those entities with taxable equity or net cap accounts attributable to Kansas in excess of \$1 million (under \$1m exempt)
Application of Exemption Threshold	None		First dollar of taxable equity is \$1 for taxable entities		First dollar of taxable equity is \$1,000,001 (First \$1 million exempt)
Cap	\$5,000		\$20,500		None
Exemptions for banks, s & ls, ins companies	Yes		Yes		No (repeal exemptions)
Administered by	Sec of State		Dept of Revenue		Dept of Revenue
FY 2005 SGF	\$36 million		\$29.31 million		\$44.72 million
SGF Fiscal Note	n/a		(\$6.69 million)		\$8.72 million
Separate Franchise Fee Maintained by Sec of State for new Franchise Fee Fund	n/a		\$40 for for-profits \$40 for not-for-profits		\$40 for for-profits \$20 for not-for-profits
Franch Fee Revenues	n/a		\$3.91 million		\$3.80 million
All Funds F Note	n/a		(\$2.78 million)		\$12.52 million
Achieve Revenue Neutrality, Set Cap at	n/a		\$25,000		\$23,000

Franchise Tax Major Feature Comparison -- Current Law, HB 2842, and HB 2894

1-1

	<u>Current Law</u>	<u>HB 2842</u>	<u>HB 2894</u>
Rate	0.2%	0.1%	0.1%
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Franchise Tax Major Feature Comparison -- Current Law, HB 2842, and HB 2894

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Franchise Tax Major Feature Comparison -- Current Law, HB 2842, and HB 2894

9-1

	<u>Current Law</u>	<u>HB 2842</u>	<u>HB 2894</u>
Rate	0.2%	0.1%	0.1%
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