

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 7, 2008 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department  
Gordon Self, Office of Revisor of Statutes  
Ryan Hoffman, Legislative Research Department  
Scott Wells, Office of Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Wagnon, KDOR  
Secretary Kerr, KDOC  
Richard Cram, KDOR

Others attending:

See attached list.

Representative Joe Patton requested a committee bill to introduce legislation that would reduce property tax reduction dedicating the gaming money to reducing the state property tax load. Representative Wilk moved the request. Representative Owens seconded. The motion carried.

Representative McCray-Miller requested a bill introduction for a sales tax exemption for Mid-America Minority Business Development Association. Representative Menghini seconded the motion. The motion carried.

**HB 2762 - Corporate income taxation changes relating to apportionment of net income, business income and surtax on corporations.**

Chris Courtwright said that the committee had amended **HB 2762** and he explained the current bill contains: 1) New language in section 1 that would provide for greater apportionment of business income by authorizing the state to use the functional test in addition to the transactional test as a method for identifying such income; 2) A new provision in section 2 would clarify the definition of gross receipts to prevent companies from utilizing income "churning", and 3) the top corporation income tax rate that is 7.35 percent would be reduced to 6.85 percent. The combination of these changes makes the bill close to revenue neutral. These changes would be effective FY 2009.

Secretary Wagnon, Secretary Kerr and Richard Cram answered various committee questions during the meeting.

Gordon Self distributed a balloon amendment on **HB 2762** (Attachment 1). He pointed out that only the hi-lighted additions are new and the other language, as noted in the bill, was amended into the bill at the February 21<sup>st</sup> meeting.

Representative Wilk made a motion to adopt the additional language (highlighted) in the balloon. The changes include: 1) move enactment date to January 1, 2008; 2) corporate tax reduction from 6.85 percent to 7 percent; 3) amending HPIP by inserting a unitary clause, language in **SB 578**, which includes a retroactive provision; 4) included is a unitary clause that is included in **HB 2603**, which deals with the job and enterprise zone, and 5) included are the provisions in **HB 2288** as presented in the balloon they heard Wednesday. Representative Carlson seconded the motion. The motion carried.

Representative Holland offered a conceptual amendment that would include a research and development sales tax exemption, as specified on page 13, line6-9 in **HB 2739**. Representative Menghini seconded. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 7, 2008 in Room 519-S of the Capitol.

Representative Lukert made a motion to delete the contents of the HPIP unitary clause in **HB 2762** Representative McCray Miller seconded the motion.

Representative Owens made a substitute motion to delete the Unitary retroactive portion of the bill. Representative Davis seconded. The motion carried.

The Chairman advised the Committee that with the Owens substitute motion, which replaced Representatives Lukert's motion, they are back on the bill.

Representative Davis made a motion to amend language that would state in order for any one else in the unitary group to claim the credit they must have more than a sales presence in Kansas. Representative Menghini seconded. After discussion Representative Davis closed his motion. The motion failed.

Representative Kinzer made a motion to amend the corporate tax reduction from 7% to 6.85%. Representative Peck seconded the motion. The motion carried.

Representative Carlson made a motion that a substitute bill for **HB 2762** be passed out as amended, favorable for passage. Representative Siegfried seconded.

Discussion and clarification of the fiscal impact of the bill, FY 09 through FY 12, with Representative Kinzer's amendment, followed. Chris Courtwright provided data on a worksheet matrix (Attachment 2).

Representative Carlson closed on his motion. The motion carried. Representative Goyle voted yes.

The Chairman announced they will return to the issue of sales tax exemptions at the next meeting.

The meeting was adjourned at 10:40 a.m. The next meeting is March 10, 2008.

# HOUSE TAXATION COMMITTEE

DATE: 3-7-08

NAME	REPRESENTING
Dina Fisk	Verizon
Lindsey Douglas	Hein Law Firm
Pan Murray	Federico Consulting
Cheryl Caldwell	Joplin Chamber
Shirley Jackson	KS Grain & Feed Assn.
KEVIN GREGG	KS MOTOR CARRIERS ASSN.
Jim Masz	Sprint Aero Systems
Sandra Beadon	KCPK, Hallmark
Mark A. Burchart	KCCIR
Kathie Damm	Sprint
Richard Sumner	AT&T
Rob May	LITTLE GOVT. RELATIONS
Pat Ford	Sprint
Rob Co	Sprint
Nicole Van Veken	KS Chamber
Manee Carpenter	KS Chamber
Tom Grotner	AT&T
Mike Murray	Eubank
Ben Cleaves	DOB

# HOUSE TAXATION COMMITTEE

DATE: \_\_\_\_\_

NAME	REPRESENTING
RONALD RICHEY	NARFE

HOUSE BILL No. 2762

By Special Committee on Assessment and Taxation

2-5

9 AN ACT concerning income taxation; relating to apportionment of net  
10 income; business income; corporations, surtax; amending K.S.A. 79-  
11 3285 and K.S.A. 2007 Supp. 79-3271, and 79-32,110, and repealing the  
12 existing sections. and 79-32,141  
13 and 79-32,154

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2007 Supp. 79-3271 is hereby amended to read as  
16 follows: 79-3271. As used in this act, unless the context otherwise re-  
17 quires: (a) ~~For the taxable year commencing after December 31, 2007,~~ tax years commencing prior to January 1,  
18 "business income" means income arising from transactions and activity 2008  
19 in the regular course of the taxpayer's trade or business and includes  
20 income from tangible and intangible property if the acquisition, manage-  
21 ment, and disposition of the property constitute integral parts of the tax-  
22 payer's regular trade or business operations, except that for taxable years tax  
23 commencing after December 31, 1995, a taxpayer may elect that all in- 2007  
24 come constitutes business income. For all taxable years commencing after  
25 December 31, 2006, "business income" means: (1) Income arising from activity  
26 transactions and activities in the regular course of the taxpayer's trade or  
27 business; (2) income arising from transactions and activities involving tangible and intangible  
28 property or assets used in the operation of the taxpayer's trade or business;  
29 or (3) income of the taxpayer that may be apportioned to this state under  
30 the provisions of the Constitution of the United States and laws thereof,  
31 except that a taxpayer may elect that all income constitutes business in- any election made under this subsection  
32 come. The election shall be effective and irrevocable for the taxable year tax  
33 of the election and the following nine taxable years. The election shall be  
34 binding on all members of a unitary group of corporations. in which the election is made and the  
35 (b) "Commercial domicile" means the principal place from which the following nine tax years and  
36 trade or business of the taxpayer is directed or managed.  
37 (c) "Compensation" means wages, salaries, commissions and any  
38 other form of remuneration paid to employees for personal services.  
39 (d) "Financial organization" means any bank, trust company, savings  
40 bank, industrial bank, land bank, safe deposit company, private banker,  
41 savings and loan association, credit union, cooperative bank, or any type  
42 of insurance company, but such term shall not be deemed to include any  
43 business entity, other than those hereinbefore enumerated, whose pri-

1 mary business activity is making consumer loans or purchasing retail in-  
2 stallment contracts from one or more sellers.

3 (e) "Nonbusiness income" means all income other than business  
4 income.

5 (f) "Public utility" means any business entity which owns or operates  
6 for public use any plant, equipment, property, franchise, or license for  
7 the transmission of communications, transportation of goods or persons,  
8 or the production, storage, transmission, sale, delivery, or furnishing of  
9 electricity, water, steam, oil, oil products or gas.

10 (g) "Original return" means the first return filed to report the income  
11 of a taxpayer for a taxable year or period, irrespective of whether such  
12 return is filed on a single entity basis or a combined basis.

13 (h) "Sales" means, *except as otherwise provided in K.S.A. 79-3285,*  
14 *and amendments thereto*, all gross receipts of the taxpayer not allocated  
15 under K.S.A. 79-3274 through 79-3278, and amendments thereto.

16 (i) "State" means any state of the United States, the District of Co-  
17 lumbia, the Commonwealth of Puerto Rico, any territory or possession  
18 of the United States, and any foreign country or political subdivision  
19 thereof.

20 (j) "Telecommunications company" means any business entity or uni-  
21 tary group of entities whose primary business activity is the transmission  
22 of communications in the form of voice, data, signals or facsimile com-  
23 munications by wire or fiber optic cable.

24 (k) "Distressed area taxpayer" means a corporation which: (1) Is lo-  
25 cated in a county which has a population of not more than 45,000 persons  
26 and which, as certified by the department of commerce, has sustained an  
27 adverse economic impact due to the closure of a state hospital in such  
28 county pursuant to the recommendations of the hospital closure com-  
29 mission; and (2) which has a total annual payroll of \$20,000,000 or more  
30 for employees employed within such county.

31 (l) For the purposes of this subsection and subsection (b)(5) of K.S.A.  
32 79-3279, and amendments thereto, the following terms are defined:

33 (1) "Administration services" include clerical, fund or shareholder ac-  
34 counting, participant record keeping, transfer agency, bookkeeping, data  
35 processing, custodial, internal auditing, legal and tax services performed  
36 for an investment company;

37 (2) "distribution services" include the services of advertising, servic-  
38 ing, marketing, underwriting or selling shares of an investment company,  
39 but, in the case of advertising, servicing or marketing shares, only where  
40 such service is performed by a person who is, or in the case of a closed  
41 end company, was, either engaged in the services of underwriting or sell-  
42 ing investment company shares or affiliated with a person who is engaged  
43 in the service of underwriting or selling investment company shares. In

1 the case of an open end company, such service of underwriting or selling  
2 shares must be performed pursuant to a contract entered into pursuant  
3 to 15 U.S.C. §80a-15(b), as in effect on the effective date of this act;

4 (3) "investment company", means any person registered under the  
5 federal Investment Company Act of 1940, as in effect on the effective  
6 date of this act, or a company which would be required to register as an  
7 investment company under such act except that such person is exempt to  
8 such registration pursuant to §80a-3(c)(1) of such act;

9 (4) "investment funds service corporation" includes any corporation  
10 or S corporation headquartered in and doing business in this state which  
11 derives more than 50% of its gross income from the provision of man-  
12 agement, distribution or administration services to or on behalf of an  
13 investment company or from trustees, sponsors and participants of em-  
14 ployee benefit plans which have accounts in an investment company;

15 (5) "management services" include the rendering of investment ad-  
16 vice to an investment company making determinations as to when sales  
17 and purchases of securities are to be made on behalf of the investment  
18 company, or the selling or purchasing of securities constituting assets of  
19 an investment company, and related activities, but only where such activ-  
20 ity or activities are performed:

21 (A) Pursuant to a contract with the investment company entered into  
22 pursuant to 15 U.S.C. §80a-15(a), in effect on the effective date of this  
23 act; or

24 (B) for a person that has entered into such contract with the invest-  
25 ment company;

26 (6) "qualifying business income" is business income derived from the  
27 provision of management, distribution or administration services to or on  
28 behalf of an investment company or from trustees, sponsors and partici-  
29 pants of employee benefit plans which have accounts in an investment  
30 company; and

31 (7) "residence" is the fund shareholder's primary residence address.

32 Sec. 2. K.S.A. 79-3285 is hereby amended to read as follows: 79-  
33 3285. The sales factor is a fraction, the numerator of which is the total  
34 sales of the taxpayer in this state during the tax period, and the denomi-  
35 nator of which is the total sales of the taxpayer everywhere during the tax  
36 period. *For taxable years commencing after December 31, 2008, in the*  
37 *case of sales of business assets, other than sales of tangible personal prop-*  
38 *erty sold in the ordinary course of the taxpayer's trade or business, only*  
39 *the net gain from such sales shall be included in the sales factor.*

40 Sec. 3. K.S.A. 2007 Supp. 79-32,110 is hereby amended to read as  
41 follows: 79-32,110. (a) *Resident Individuals.* Except as otherwise provided  
42 by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is  
43 hereby imposed upon the Kansas taxable income of every resident indi-

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1 vidual, which tax shall be computed in accordance with the following tax  
2 schedules:

3 (1) *Married individuals filing joint returns.*

4 If the taxable income is:	The tax is:
5 Not over \$30,000 .....	3.5% of Kansas taxable income
6 Over \$30,000 but not over \$60,000 .....	\$1,050 plus 6.25% of excess over \$30,000
7 Over \$60,000 .....	\$2,925 plus 6.45% of excess over \$60,000

8 (2) *All other individuals.*

9 (A) For tax year 1997:

10 If the taxable income is:	The tax is:
11 Not over \$20,000 .....	4.1% of Kansas taxable income
12 Over \$20,000 but not over \$30,000 .....	\$820 plus 7.5% of excess over \$20,000
13 Over \$30,000 .....	\$1,570 plus 7.75% of excess over \$30,000

14 (B) For tax year 1998, and all tax years thereafter:

15 If the taxable income is:	The tax is:
16 Not over \$15,000 .....	3.5% of Kansas taxable income
17 Over \$15,000 but not over \$30,000 .....	\$525 plus 6.25% of excess over \$15,000
18 Over \$30,000 .....	\$1,462.50 plus 6.45% of excess over \$30,000

19 (b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas  
20 taxable income of every nonresident individual, which tax shall be an  
21 amount equal to the tax computed under subsection (a) as if the nonres-  
22 ident were a resident multiplied by the ratio of modified Kansas source  
23 income to Kansas adjusted gross income.

24 (c) *Corporations.* A tax is hereby imposed upon the Kansas taxable  
25 income of every corporation doing business within this state or deriving  
26 income from sources within this state. Such tax shall consist of a normal  
27 tax and a surtax and shall be computed as follows:

28 (1) The normal tax shall be in an amount equal to 4% of the Kansas  
29 taxable income of such corporation; and and all years thereafter

30 (2) ~~(A) for tax year 2008,~~ the surtax shall be in an amount equal to 3%  
31 ~~3.35%~~ of the Kansas taxable income of such corporation in excess of  
32 \$50,000; or

33 ~~(B) for the tax year 2009, and all tax years thereafter, the surtax shall~~ Attachments A, B and C  
34 ~~be in an amount equal to 2.85% of the Kansas taxable income of such~~  
35 ~~corporation in excess of \$50,000.~~ and 79-32,141

36 (d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable  
37 income of estates and trusts at the rates provided in paragraph (2) of  
38 subsection (a) hereof. and 79-32,154

39 Sec. ~~4.~~ K.S.A. 79-3285 and K.S.A. 2007 Supp. 79-3271 and 79-32,110  
40 are hereby repealed. 7

41 Sec. ~~5.~~ This act shall take effect and be in force from and after its  
42 publication in the statute book. 8



Section 4. K.S.A. 79-32,141 is hereby amended to read as follows:

79-32,141 The director may allocate gross income, deductions, credits, or allowances between two or more organizations, trades or businesses (whether or not incorporated, or organized in the United States or affiliated) owned or controlled directly or indirectly by the same interests, if the director determines such allocation is necessary to prevent evasion of taxes or to clearly reflect income of the organizations, trades or businesses.

(b) Credits claimed under subsection (e) of K.S.A. 2007 Supp. 79-32,160a, and amendments thereto, by a taxpayer that is a member of a unitary group filing a combined report shall be allowed to be claimed by other members of the group included in such combined report, to the extent the credits exceed the tax imposed by the Kansas income tax act on the Kansas taxable income of such taxpayer first claiming the credit. The provisions of this subsection shall be applicable to (1) any taxpayer that is a member of a unitary group that has filed or will file an original return for tax years commencing prior to January 1, 2008 claiming a credit under subsection (e) of K.S.A. 2007 Supp. 79-32,160a, and amendments thereto, which credit exceeded the tax imposed by the Kansas income tax act on the Kansas taxable income of the taxpayer in the unitary group first claiming the credit, (2) any taxpayer that is a member of a unitary group that has requested an informal conference or perfected an appeal in order to sustain such filing position set forth in (2) above, and (3) any taxpayer that is a member of a unitary group for tax years commencing on and after January 1, 2008.

(c) Any refund claimed pursuant to subsection (b) of this section shall be subject to the statute of limitations in subsection (c) of K.S.A. 79-3230, and amendments thereto.

Section 5 K.S.A. 2007 Supp. 79-32,154 is hereby amended to read as follows:

79-32,154:

As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Facility" shall mean any factory, mill, plant, refinery, warehouse, feedlot, building or complex of buildings located within the state, including the land on which such facility is located and all machinery, equipment and other real and tangible personal property located at or within such facility used in connection with the operation of such facility. The word "building" shall include only structures within which individuals are customarily employed or which are customarily used to house machinery, equipment or other property.

(b) "Qualified business facility" shall mean a facility which satisfies the requirements of paragraphs (1) and (2) of this subsection.

(1) Such facility is employed by the taxpayer in the operation of a revenue producing enterprise, as defined in subsection (c). Such facility shall not be considered a qualified business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue producing enterprise, the portion employed by the taxpayer in the operation of a revenue producing enterprise shall be considered a qualified business facility if the requirements of paragraph (2) of this subsection are satisfied.

(2) If such facility was acquired by the taxpayer from another person or persons, such facility was not employed, immediately prior to the transfer of title to such facility to the taxpayer or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue producing enterprise and the taxpayer continues the operation of the same or substantially identical revenue producing enterprise, as defined in subsection (f), at such facility.

(c) "Revenue producing enterprise" shall mean:

(1) The assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;

(2) the storage, warehousing, distribution or sale of any products of agriculture, aquaculture, mining or manufacturing;

(3) the feeding of livestock at a feedlot;

(4) the operation of laboratories or other facilities for scientific, agricultural, aquacultural, animal husbandry or industrial research, development or testing;

(5) the performance of services of any type;

(6) the feeding of aquatic plants and animals at an aquaculture operation;

(7) the administrative management of any of the foregoing activities; or

(8) any combination of any of the foregoing activities.

"Revenue producing enterprise" shall not mean a swine production facility as defined in K.S.A. 17-5903, and amendments thereto.

(d) "Qualified business facility employee" shall mean a person employed by the taxpayer in the operation of a qualified business facility during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed:

(1) A person shall be deemed to be so engaged if such person performs duties in connection with the operation of the qualified business facility on: (A) A regular, full-time basis; (B) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (C) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. The number of qualified business facility employees during any taxable year shall be determined by dividing by 12 the sum of the number of qualified business facility employees on the last business day of each month of such taxable year. If the qualified business facility is in operation for less than the entire taxable year, the number of qualified business facility employees shall be determined by dividing the sum of the number of qualified business facility employees on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment, the number of qualified business facility employees employed in the operation of such facility shall be reduced by the average number, computed as provided in this subsection, of

individuals employed in the operation of the facility during the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

~~(2)~~ For taxable years commencing after December 31, 1997, in the case of a taxpayer claiming a credit against the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79 article 11 of the Kansas Statutes Annotated, "qualified business employee" shall not mean any person who is employed in the operation of a qualified business facility in the state due to the merger, acquisition or other reconfiguration of the taxpayer unless such employee's position represents a net gain of total positions created by the taxpayer and the employee's position was not in existence at the time of the merger acquisition or other reconfiguration of the taxpayer.

(e) "Qualified business facility investment" shall mean the value of the real and tangible personal property, except inventory or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the qualified business facility, or which is used by the taxpayer in the operation of the qualified business facility, during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. The value of such property during such taxable year shall be: (1) Its original cost if owned by the taxpayer; or (2) eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The qualified business facility investment shall be determined by dividing by 12 the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the qualified business facility is in operation for less than an entire taxable year, the qualified business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment the amount of the taxpayer's qualified business facility investment in such facility shall be reduced by the average amount, computed as provided in this subsection, of the investment of the taxpayer or a related taxpayer in the facility for the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(2) In the event taxpayer is a member of a unitary group filing a combined report, then qualified business facility employee shall include a person employed by any member of the combined group, provided that such employee was engaged or maintained in employment as a direct result of the investment made by a member of the combined group.

(3)

In the event taxpayer is a member of a unitary group filing a combined report, then qualified business facility investment shall include the investment made by any member of the combined group which results in the engagement or maintaining in employment of the required qualified business facility employees by a member of the combined group except that the provisions of this sentence shall not apply to subsection (e) of K.S.A. 79-32,160a, and amendments thereto.

(f) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the qualified business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue producing enterprise in which the taxpayer intends to use the qualified business facility.

(g) "Qualified business facility income" shall mean the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility. If a taxpayer has income derived from the operation of a qualified business facility as well as from other activities conducted within this state, the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility shall be determined by multiplying the taxpayer's Kansas taxable income by a fraction, the numerator of which is the property factor, as defined in paragraph (1), plus the payroll factor, as defined in paragraph (2), and the denominator of which is two. In the case of financial institutions, the property and payroll factors shall be computed utilizing the specific provisions of the apportionment method applicable to financial institutions, if enacted, and the qualified business facility income shall be based upon net income.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in connection with the operation of the qualified business facility during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in K.S.A. 79-3281 and 79-3282, and amendments thereto.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as qualified business facility employees, as determined under subsection (d), at the qualified business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in K.S.A. 79-3283, and amendments thereto.

The formula set forth in this subsection (g) shall not be used for any purpose other than determining the qualified business facility income attributable to a qualified business facility.

(h) "Related taxpayer" shall mean (1) a corporation, partnership, trust or association controlled by the taxpayer; (2) an individual, corporation, partnership, trust or association in control of the taxpayer; or (3) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of this act, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at

least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of all other classes of stock of the corporation; "control of a partnership or association" shall mean ownership of at least 80% of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least 80% of the beneficial interest in the principal or income of such trust.

(i) "Same or substantially identical revenue producing enterprise" shall mean a revenue producing enterprise in which the products produced or sold, services performed or activities conducted are the same in character and use, are produced, sold, performed or conducted in the same manner and to or for the same type of customers as the products, services or activities produced, sold, performed or conducted in another revenue producing enterprise.

Section 6. (a)(1) Sales tax paid pursuant to K.S.A. 79-3603, and amendments thereto, on the sale of telecommunications machinery and equipment by a person providing services taxable pursuant to subsection (b) of K.S.A. 79-3603, and amendments thereto, shall be refunded as follows:

(A)  $\frac{1}{4}$  of said tax paid by such person on the sale of telecommunications machinery and equipment during the period July 1, 2009 through June 30, 2010 shall be refunded;

(B)  $\frac{1}{2}$  of said tax paid by such person on the sale of telecommunications machinery and equipment during the period July 1, 2010 through June 30, 2011 shall be refunded;

(C)  $\frac{3}{4}$  of said tax paid by such person on the sale of telecommunications machinery and equipment during the period July 1, 2011 through June 30, 2012 shall be refunded; and

(D) all of said tax paid by such person on the sale of telecommunications machinery and equipment on and after July 1, 2012 shall be refunded.

(2) Any claim for refund shall be submitted within one year from the date of payment of the tax. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund the amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee. No interest shall be paid on refunds granted pursuant to this section. In no event shall any city or county sales tax paid on the sale of telecommunications machinery and equipment be refunded pursuant to this section. The secretary of revenue is hereby authorized to adopt rules and regulations to administer the provisions of this act.

(b) For purposes of this section, "telecommunication machinery and equipment" means machinery, equipment and network software that is used directly and predominantly for the purpose of sending, receiving or storing voice or data communications and all equipment that is used to enable, facilitate, maintain or monitor such machinery, equipment and network software. "Telecommunications machinery and equipment" includes, but is not limited to: antennas, towers, amplifiers, poles, wires, cables, fiber optic cable, rectifiers, duplexers, triplexers, multiplexers, receivers, repeaters, transmitters, power equipment, modems, routers, storage devices, closures, conduits, controllers, filters, input devices, insulators, microwave equipment, output devices, pedestals, power converters, radio channels, terminals, timing units, transformers, bridges, network computers, cross connects, plug in circuitry, oscillators, network software, servers, power transport equipment, test equipment, connectors, attenuators, circuit switches, analog electronic switches, digital electronic switches and switches for operator assistance.

## 2008 Corporate Tax Package

	FY 08	FY 09	FY 10	FY 11	FY 12
HB 2762 (Business/Non-Business and Sales Factor--2008 Effective Date)	\$7 million	\$22.5 million	\$22.5 million	\$22.5 million	\$22.5 million
HB 2762 (Corp. Tax to 7%)					
SB 578 (HPIP Unitary)					
HB 2603 (Jobs and Enterprise Zone Unitary)					
HB 2288 (Telecom Sales Tax Refund-5-year phase in—July 1, 2009 effective date)					
HB 2750 (Sales Tax Exemption for R&D)					
Other					
Other					
<b>TOTAL</b>					