

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:10 a.m. on March 8, 2010, in Room 783 of the Docking State Office Building.

All members were present except:

Representative Kay Wolf- excused
Representative Tom Hawk- excused

Committee staff present:

Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Brandon Riffel, Kansas Legislative Research Department
Marla Morris, Committee Assistant

Conferees appearing before the Committee:

Richard Cram, Kansas Department of Revenue
Linda Sheppard, Director of Accident and Health Division, Kansas Insurance Department

Others attending:

See attached list.

There were no Bill Introductions.

Representative Melany Barnes served in the absence of Representative Hawk.

Included in the Committee packet is written testimony from John Todd (Attachment 1), who testified in opposition to **HB 2496** on March 3, 2010. Ken Daniels, Topeka Independent Business Association presented a document in rebuttal to the fiscal note on **HB 2682** (Attachment 2).

For the purpose of continuing testimony from conferees in opposition to **HB 2682** held over from March 5, 2010, Chairman Carlson opened the hearing on:

HB 2682 - Allowing employees to retain and receive contribution from employer on individual policies, requiring employer to provide cafeteria plan, and requiring administering carriers to provide health savings accounts and high deductible health plans

Richard Cram, Kansas Department of Revenue spoke in opposition to **HB 2682**. The Kansas Department of Revenue has concerns with the portion of **HB 2682** pertaining to subtraction modification, the Department feels the language of the modification amendment is not clear (Attachment 3). His testimony included a revised fiscal note on **HB 2682**. He stood for questions.

Linda Sheppard, Director of Accident and Health Division, Kansas Insurance Department, opposes **HB 2682**. The Kansas Insurance Department believes the bill would result in negative consequences for some employees in the small employer marketplace and the small employer marketplace as a whole in a number of ways (Attachment 4). Small companies will be able to drop small group coverage and require employees to find coverage on their own, passage of **HB 2682** could speed up the demise of small group insurance. She stood for questions.

Chairman Carlson closed the hearing on **HB 2682**.

Discussion and possible action on:

HB 2578 - Authorizing pooled money investment board to loan funds to county to refund taxes paid under protest of certain taxpayers

Staff Gordon Self, Office of the Revisor of Statutes offered a brief summary of **HB 2578**. **HB 2578** provides for the Pooled Money Investment Board (PMIB) to loan money to counties that have been required to refund

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on March 8, 2010, in Room 783 of the Docking State Office Building.

taxpayers who have protested a property valuation assessment, which exceeds five percent of the total county assessed valuation of property, and won on appeal. Revisor Self stood for questions.

Representative King moved to recommend **HB 2578** favorably for passage. The motion was seconded by Representative George.

Representative King circulated an amendment proposal to **HB 2578** (Attachment 5). Within the four amendments presented was a proposal to change the current cap of 10 percent or \$140,000,000 to 12 percent or \$170,000,000 of state moneys shall be paid.

Representative King moved to amend **HB 2578** consistent with the balloon amendments. Representative Powell seconded the motion. The motion carried.

Representative Schwartz moved a conceptual amendment to take the cap back to greater than 10 percent or \$140,000,000 to match the current law. Representative Powell seconded the motion.

Representative King withdrew his motion to change the cap to 12 percent of \$170,000,000. Representative George, the second to the original amendment agreed to the motion. Representative Schwartz's motion to amend carried.

Representative King closed on the main motion to recommend **HB 2578** favorably for passage as amended. The motion carried.

Chairman Carlson scheduled working **HB 2630** to Tuesday, March 9. The Taxation Committee Agenda will be revised to reflect the schedule changes for the week of March 8.

The next meeting is scheduled for March 9, 2010.

The meeting was adjourned at 10:30 a.m.

HOUSE TAXATION COMMITTEE

DATE: March 8, 2010

NAME	REPRESENTING
Kent Eckles	KS Chamber of Commerce
Mark Tallman	IASB
Beverly Gossage	HSA Benefits Consulting
Michelle Butler	Cap. Strategies
Julie Hein	Hein Law Firm
Kendra Hanson	Hein Law Firm
Larry R. Bask	LKN
Ashley Ballweg	Dinegar, Smith & Associates
Linda Furd	KALC
LARRY BREE	CITY OF KC
Jim Bruning	OP Chamber
Walter Lee Smith	KUHA
Ron Caches	GSA
Dan Murray	NFIB
Natalie Bugh	WIBA
Melissa Way	KAE
Gene Meylon	KANSAS REPORTER

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March 3, 2010

Subject: My testimony presented before the Kansas House Committee on Taxation on March 3, 2010 in Opposition to House Bill No. 2496, the restoration of Historic Tax Credits.

Good Morning, Mr. Chairman, and members of the House Committee on Taxation. My name is John Todd. I live in Wichita, and I am here to speak as a private citizen in opposition to the passage of House Bill No. 2496, the restoration of Historic Tax Credits.

I quote from an article that appeared under "Kansas Views" in the March 1, 2010 edition of the Wichita Eagle that was reprinted from the Kansas City Star, "**Tax exemptions** --- An audit released to the Kansas Legislature showed 47 tax credits and two tax-refund programs cost the state \$669 million in 2007... Kansas has suffered a \$1 billion revenue drop and is facing an added \$400 million deficit in the next fiscal year. The Legislature Division of Post Audit recommends that lawmakers take a close look at tax exemptions and work out a consistent policy to make sure they benefit the state."

A letter to the Chair of this committee relating to a "Fiscal Note for HB 2496 by House Committee on Taxation" from the Kansas Division of The Budget notes, "The Department of Revenue reports that a total of \$10.5 million in credits were claimed from all sources in tax year 2008."

I believe there are more pressing needs in the FY 2011 state budget that deserves funding over Historic Tax Credits.

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My observation has been that Historic Tax Credits are a convenient funding tool that locally elected public officials use to reward their politically connected developer friends out of the state treasury.

I believe that positive economic development is and always has been driven by the private sector using their own financial resources, and not by government. For each tax dollar given by government for economic development, one is taken out of our economy and other potential private development projects that pay taxes, expand the tax base, and create jobs.

I believe your taxpaying constituents around Kansas would expect you to say no to economic development schemes that really amount to little more than the transfer of taxpayer-subsidized stimulus money out of the public treasury, and into the pockets of wealthy private developers.

I urge you to oppose the restoration of Historic Tax Credits.

Sincerely,

John R. Todd



Board Members

Tara Dimick, Chair
E² Communications

Tom Anderson, MD
St. Francis Hospital

Kevin Doel
TK Magazine

Ping Enriquez
Ad Veritas Construction

Rick Farrant
GreatLife Golf & Fitness

Webb Garlinghouse
National Electronic Type

Jim Hamilton, MD
Tallgrass Surgery

Scott Hamilton, DDS
Drs. Hamilton & Wilson

Scott Hughes
Silver Lake Bank

Marc Johnson
Kennedy & Coe CPAs

Rick Kendall
Kendall Construction

David Lippe
MACI Publishing

Larry Magill
KAIA

Risë Quinn
Lower's

Tim Royer
Fidelity State Bank

Marvin Spees
Capital City Oil

Matt Strathman
Strathman Sales

Director of Governmental
Affairs

Ken Daniel
Midway Wholesale

FISCAL NOTE ON HOUSE BILL 2682
By Ken Daniel, Topeka Independent Business Association

I. ABOUT INDIVIDUALLY WRITTEN HEALTH INSURANCE POLICIES

The huge majority (about 72%) are already tax-deductible under federal and Kansas law. (Line 29 on Schedule 1040).

Contributions to Health Savings Accounts, whether by the employer or by the employee, are already tax-deductible under federal and Kansas law. (Line 25 on Schedule 1040),

Every time one of these policies is sold, both the insurance company and its agent make profits that are then taxed by the federal government and the State of Kansas. The State gets an additional 2% premiums tax.

II. TAX EFFECTS OF HB2682

1. Calculate the tax effects on the existing individually underwritten policies.
2. Calculate the tax effects of small group policies being switched to individually underwritten policies.
3. Calculate the tax effects of increased number of new individually underwritten policies being paid by employers under a health reimbursement plan.

III. FISCAL NOTE ON EXISTING INDIVIDUALLY UNDERWRITTEN POLICIES.

The fiscal note is ZERO compared to current law.

If a Form 1040 reports business income or loss on schedules "C" or "C-EZ", schedule "F", or schedule "E", and the insurance coverage is established under the business, the cost of the premium is already fully

deductible from adjusted gross income (1040 line 29). Therefore, the premium cost for an individually underwritten policy is already 100% deductible for these businesses.

The remaining individually underwritten policies are NOT deductible now, nor will they be if HB2682 is enacted. The state will collect taxes on them the same as it does now.

IV. REPLACING EXISTING SMALL GROUP POLICIES WITH INDIVIDUALLY OWNED POLICIES

According to AHIP, in 2007 individually owned single policies in Kansas cost \$2363 per year on the average while small group single policies cost \$3588 or 66% as much.

According to AHIP, in 2007 individually owned family policies in Kansas cost \$5011 per year on average while small group family policies cost \$9420 or 53% as much.

Assume that employees drop 5500 single and 4500¹ family small group policies and replace them with individually underwritten private policies. The State of Kansas will realize a **positive fiscal note of \$1.329 million** based on its "saved" deductions @5%.

V. NEW ENROLLMENTS IN INDIVIDUALLY UNDERWRITTEN HEALTH INSURANCE POLICIES BECAUSE OF REIMBURSEMENT DEAL.

Assume 10,000 additional non-insured, non-owner employees take advantage of the now-legal ability to make a health premium reimbursement arrangement.

5500 single policies @ \$2363 =	\$12,996,500
4500 family policies @ \$5011 =	<u>\$22,549,500</u>
TOTAL	\$35.546,000

At a 5% tax rate and a 2% premiums rate, the State will realize a **negative fiscal note of \$1.067 million.**

Note however, that the State will collect income taxes on any profits agents and insurance companies make, and will realize savings on

¹ These ratios were chosen because, in the State Employee Health Plan, 55% of plans are individual plans and 45% are family plans.

Medicaid, SCHIP, DSH payments and more because an additional 20,000 Kansans are now insured.

VI. SECTION 125 PLANS

Nationally, about 50% of all employees pay health insurance premiums through a Section 125 plan according to the Kansas Health Institute.

92% of employers with more than 200 employees offer a Section 125 premium-only plan.

Only 60% of employers with under 200 employees offer a Section 125.

Only a tiny percentage of businesses with under 20 workers offer a Section 125 because:

- The owners cannot use it.
- Families of the owners cannot use it.
- Key employees cannot use it.
- Highly compensated employees cannot use it.
- The high red tape burden on the employer.

Conclusion: The fiscal effects of Section 125 Plans will be minimal or even positive. If employees switch to individual policies, the total premium will be less and lowered Section 125 deductions will result in more income to the state. On the other side, because of the red tape, it will be years, if ever, that the minimal effects of Section 125 plans will be felt.

We estimate the fiscal note for this portion (Section 125 Plans) to be zero or positive.

House Taxation Committee

Richard Cram

March 5, 2010

Testimony in Opposition to House Bill 2682

Representative Carlson, Chair, and Members of the Committee:

Section 6 of House Bill 2682 amends K.S.A. 2009 Supp. 79-32,117 to provide for a subtraction modification from federal adjusted gross income for amounts paid for health insurance premiums for any individual insurance policy primarily providing health care coverage for the taxpayer, taxpayers spouse or dependents. The language of the modification amendment is not clear as to whether this includes all health insurance premiums paid by individuals for themselves and their families—whether the insurance is obtained through their employers, or purchased individually. If the subtraction modification language is intended to be that broad, then the fiscal impact of the proposal would be a negative \$108 million in fiscal year 2011. If the subtraction modification is intended only to apply to health insurance premiums on policies purchased by individuals and not obtained through their employer, then the negative fiscal impact would be reduced to a negative \$27.2 million in fiscal year 2011.

Either fiscal impact amount, \$108 million or \$27.2 million, is beyond what the State can afford. The monthly revenue report released by the Department of Revenue for February 2010 shows that for the month, revenues are \$71 million below the Consensus Revenue Estimate, and for Fiscal Year 2010 to date, revenues are \$105 million below the Consensus Revenue Estimate.

The Department's fiscal note is attached.

2010 House Bill 2682b Revised Fiscal Note

Introduced as a House Bill

Brief of Bill

House Bill 2682, as introduced, provides that a small employer who does not offer a group health insurance plan may contribute to the premium of an eligible employee's individually underwritten health benefit plan.

New Section 2 provides that an eligible employee may choose to retain their individually underwritten plan when such employee is entitled to enroll in a small employer health benefit plan. The small employer may, through the establishment of a health reimbursement plan, contribute to the premium of the employee's individual plan. The employer shall pay the employee the same amount the employer would have contributed to such employer's health benefit plan had the employee elected to participate.

New Section 3 provides that with an open enrollment period beginning in 2010, the administering carrier shall offer the option of health care coverage through a high deductible health plan and the establishment of a health savings account.

New Section 4 provides that any insurer who offers small group health benefit plans shall offer a high deductible health plan in conjunction with the establishment of a health savings account.

Section 5 amends KSA 40-2240 to provide that any health benefit plan may be offered through a section 125 cafeteria plan and offer all eligible individuals the option of receiving health care coverage through a high deductible plan.

Section 6 amends KSA 79-32,117 to provide for a subtraction modification from federal adjusted gross income of amounts paid for health insurance premiums for any individual insurance policy primarily providing health care coverage for the taxpayer, taxpayers spouse or dependents.

The effective date of this bill is on publication in the statute book for tax years beginning after December 31, 2009.

Fiscal Impact

Passage of this bill would reduce fiscal year 2011 state general fund revenues about \$27.2 million.

Information from a 2007 survey conducted by the Kaiser Family Foundation and the Health Research Educational Trust found that 60% of businesses with 3 or more employees offered their employees health care benefits. The average total premium was about \$4,500 for a single plan and about \$12,100 for a family plan in 2007. A single plan employee paid about \$700 for health benefits, a family plan employee paid about \$3,300 for health benefits and the employer paid the balance.

The fiscal impact that follows assumes that the language in section 6 of the bill allows a subtraction modification for only individually underwritten health insurance paid solely by the individual. Premiums paid by an employee for group health insurance provided by the employer would not be allowed to claim this subtraction modification.

Assuming 60% of Kansas taxpayers have health insurance through their employer, 15% have no health insurance, and the remainder have private insurance, using the average insurance costs mentioned above, the total health insurance premiums in Kansas would be about \$4.3 billion in 2007. Assuming 6% growth in 2008, 2009 and 2010, the total premiums would be about \$5.1 billion. Approximately 16% of all taxpayers will have no taxable income, so this deduction will have no impact for them and about 26% will be able to use a partial amount of this deduction. If 16% receive no benefit for this deduction and only 50% of the deduction can be used by 26% of the taxpayers, only about 71% of total premiums paid could be deducted from federal gross income.

The National Compensation Survey indicates that nearly 40% of private industry employees participate in health savings accounts and flexible spending accounts. Assuming that 40% of the estimated \$5.1 billion in premium expenditures are currently excluded from federal adjusted gross income and the remaining 60% could be deducted as a Kansas subtraction modification, the net impact of allowing all health insurance premiums to be deducted, using an average tax rate of 5%, is a \$108.6 million ($\$5.1 \text{ billion} \times 60\% \times 71\% \times 5\%$) reduction in state general fund revenues.

If the language in 79-32,117 is amended to clarify that the health insurance premium modification is only for individually underwritten health insurance paid solely by the individual, the reduction in state general fund revenues would be about \$27.2 million ($\$2.2 \text{ billion} \times 25\% \times 5\%$) in fiscal year 2011.

Administrative Impact

The estimated costs necessary to implement this bill are \$146,300 in fiscal year 2011. Those costs include about \$123,120, or 1,368 hours, of contract APA programming time. The estimated user testing resources necessary to implement the bill are \$20,880, or 720 hours, for testing the new programs. One times costs for form changes is about \$2,300

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON HOUSE BILL No. 2682

TAXATION COMMITTEE March 4, 2010

Chairman Carlson and Members of the Committee:

Thank you for the opportunity to testify today on behalf of the Kansas Insurance Department regarding House Bill No. 2682 pertaining to health reimbursement arrangements and individually underwritten health insurance plans. My name is Linda Sheppard and I am Director of the Department's Accident & Health Division.

As you may know, under existing Kansas law, specifically the small employer health care act, employers with 2-50 full time employees have the opportunity to purchase health insurance for their employees on a guaranteed-issue basis, which means that a policy must be issued regardless of the employer's or an employee's claims history, pre-existing conditions, or health status. Therefore, every small employer that applies may purchase a policy at some price. At this time there are 22 insurance companies authorized to sell small group insurance in Kansas. A survey of just three of those companies indicates that as of February 28, 2010, there are over 290,000 individuals with coverage through their small employers.

Based on our understanding of this bill, which would permit small employers to contribute to the premium of an employee's individually underwritten health plan through a health reimbursement arrangement, we believe that HB 2682 would result in negative consequences for some employees in the small employer marketplace and the small employer marketplace as a whole in a number of ways.

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First, HB 2682 does not prohibit small employers who currently provide group insurance for their employees from terminating that group coverage in favor of contributing to the cost of individual coverage for their employees. If that were to occur, some of those employees who previously had coverage would lose that coverage and would then be unable to obtain individual coverage for the amount contributed by the employer, or at any price, depending on their age and/or health status.

This bill would also permit an employee who already has individual coverage to retain that coverage rather than enrolling in their small employer's health plan, with the employer contributing to the cost of that individual coverage. One of the criteria used by health insurers when they are marketing small employer health plans is the percentage of participation by the employees. This requirement permits the health insurer to spread the risk across all of the small employer's employees and impacts the cost of the coverage provided. If some employees elect to retain their own individual coverage paid for, in part, by their small employer, the employer may be unable to obtain small group coverage for the remaining employees because they no longer have a sufficient number of eligible employees willing to participate in the small group plan. Again, if that were to occur, some of the remaining employees would be able to obtain individual coverage but others would not.

Finally, HB 2682 would eventually weaken or destroy the small group market as it currently exists because of the potential impact on premiums for those employers who choose to remain in the small group market. The premium rate structure for small employer groups has two major components: the index premium rate and adjustments to that premium required because of specific characteristics of a small group. That index premium rate is calculated from a company's overall claims experience for all of the participants in a company's small employer

not to be used for
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"block" or "class" of business. That block or class generally includes all of the small employer groups that the company insures in Kansas. The more small groups and their employees in that block of business, with good and bad claims experience, the more reasonable the base rate. If individual, healthier employees, are no longer required to participate in their small employer's group plan, over time a couple of things are likely to occur: (1) the number of small groups, and their employees, in the small group market over which to spread the risk will be reduced, and (2) the small group employees who do remain in the small group market will most likely be those individuals unable to obtain individual coverage and who generate the highest number of claims. When this occurs the result will be a significantly higher index premium rate for those small employers who choose to remain in the small group market and a continuing loss of small employer groups in the market due to increasing premiums. With the cost of group health insurance already a burden on many small employers this increased expense could very well lead to even more uninsured Kansans.

For these reasons the Kansas Insurance Department opposes HB 2682 and I would be happy to stand for any questions you may have regarding this testimony.

Linda J. Sheppard, Director
Accident & Health Division, Kansas Insurance Department

HOUSE BILL No. 2578

By Committee on Taxation

1-28

9 AN ACT concerning property taxation; relating to refunds of taxes paid
10 ~~under protest~~; loans to counties by pooled money investment board,
11 terms; amending K.S.A. 2009 Supp. 79-2005 and repealing the existing
12 section.

and limitations

75-4209 and

sections

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2009 Supp. 79-2005 is hereby amended to read as
16 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such
17 taxpayer's taxes, shall be required, either at the time of paying such taxes,
18 or, if the whole or part of the taxes are paid prior to December 20, no
19 later than December 20, or, with respect to taxes paid in whole or in part
20 in an amount equal to at least 1/2 of such taxes on or before December
21 20 by an escrow or tax service agent, no later than January 31 of the next
22 year, to file a written statement with the county treasurer, on forms ap-
23 proved by the state court of tax appeals and provided by the county trea-
24 surer, clearly stating the grounds on which the whole or any part of such
25 taxes are protested and citing any law, statute or facts on which such
26 taxpayer relies in protesting the whole or any part of such taxes. When
27 the grounds of such protest is an assessment of taxes made pursuant to
28 K.S.A. 79-332a and 79-1427a, and amendments thereto, the county trea-
29 surer may not distribute the taxes paid under protest until such time as
30 the appeal is final. When the grounds of such protest is that the valuation
31 or assessment of the property upon which the taxes are levied is illegal
32 or void, the county treasurer shall forward a copy of the written statement
33 of protest to the county appraiser who shall within 15 days of the receipt
34 thereof, schedule an informal meeting with the taxpayer or such tax-
35 payer's agent or attorney with reference to the property in question. The
36 county appraiser shall review the appraisal of the taxpayer's property with
37 the taxpayer or such taxpayer's agent or attorney and may change the
38 valuation of the taxpayer's property, if in the county appraiser's opinion
39 a change in the valuation of the taxpayer's property is required to assure
40 that the taxpayer's property is valued according to law, and shall, within
41 15 business days thereof, notify the taxpayer in the event the valuation of
42 the taxpayer's property is changed, in writing of the results of the meeting.
43 In the event the valuation of the taxpayer's property is changed and such

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1 - change requires a refund of taxes and interest thereon, the county trea-
2 surer shall process the refund in the manner provided by subsection (l).

3 (b) No protest appealing the valuation or assessment of property shall
4 be filed pertaining to any year's valuation or assessment when an appeal
5 of such valuation or assessment was commenced pursuant to K.S.A. 79-
6 1448, and amendments thereto, nor shall the second half payment of taxes
7 be protested when the first half payment of taxes has been protested.
8 Notwithstanding the foregoing, this provision shall not prevent any sub-
9 sequent owner from protesting taxes levied for the year in which such
10 property was acquired, nor shall it prevent any taxpayer from protesting
11 taxes when the valuation or assessment of such taxpayer's property has
12 been changed pursuant to an order of the director of property valuation.

13 (c) A protest shall not be necessary to protect the right to a refund
14 of taxes in the event a refund is required because the final resolution of
15 an appeal commenced pursuant to K.S.A. 79-1448, and amendments
16 thereto, occurs after the final date prescribed for the protest of taxes.

17 (d) If the grounds of such protest shall be that the valuation or as-
18 sessment of the property upon which the taxes so protested are levied is
19 illegal or void, such statement shall further state the exact amount of
20 valuation or assessment which the taxpayer admits to be valid and the
21 exact portion of such taxes which is being protested.

22 (e) If the grounds of such protest shall be that any tax levy, or any
23 part thereof, is illegal, such statement shall further state the exact portion
24 of such tax which is being protested.

25 (f) Upon the filing of a written statement of protest, the grounds of
26 which shall be that any tax levied, or any part thereof, is illegal, the county
27 treasurer shall mail a copy of such written statement of protest to the
28 state court of tax appeals and the governing body of the taxing district
29 making the levy being protested.

30 (g) Within 30 days after notification of the results of the informal
31 meeting with the county appraiser pursuant to subsection (a), the pro-
32 testing taxpayer may, if aggrieved by the results of the informal meeting
33 with the county appraiser, appeal such results to the state court of tax
34 appeals.

35 (h) After examination of the copy of the written statement of protest
36 and a copy of the written notification of the results of the informal meet-
37 ing with the county appraiser in cases where the grounds of such protest
38 is that the valuation or assessment of the property upon which the taxes
39 are levied is illegal or void, the court shall conduct a hearing in accordance
40 with the provisions of the Kansas administrative procedure act, unless
41 waived by the interested parties in writing. If the grounds of such protest
42 is that the valuation or assessment of the property is illegal or void the
43 court shall notify the county appraiser thereof.

1 (i) In the event of a hearing, the same shall be originally set not later
 2 than 90 days after the filing of the copy of the written statement of protest
 3 and a copy, when applicable, of the written notification of the results of
 4 the informal meeting with the county appraiser with the court. With re-
 5 gard to any matter properly submitted to the court relating to the deter-
 6 mination of valuation of residential property or real property used for
 7 commercial and industrial purposes for taxation purposes, it shall be the
 8 duty of the county appraiser to initiate the production of evidence to
 9 demonstrate, by a preponderance of the evidence, the validity and cor-
 10 rectness of such determination except that no such duty shall accrue to
 11 the county or district appraiser with regard to leased commercial and
 12 industrial property unless the property owner has furnished to the county
 13 or district appraiser a complete income and expense statement for the
 14 property for the three years next preceding the year of appeal. No pre-
 15 sumption shall exist in favor of the county appraiser with respect to the
 16 validity and correctness of such determination. In all instances where the
 17 court sets a request for hearing and requires the representation of the
 18 county by its attorney or counselor at such hearing, the county shall be
 19 represented by its county attorney or counselor.

20 (j) When a determination is made as to the merits of the tax protest,
 21 the court shall render and serve its order thereon. The county treasurer
 22 shall notify all affected taxing districts of the amount by which tax reve-
 23 nues will be reduced as a result of a refund.

24 (k) If a protesting taxpayer fails to file a copy of the written statement
 25 of protest and a copy, when applicable, of the written notification of the
 26 results of the informal meeting with the county appraiser with the court
 27 within the time limit prescribed, such protest shall become null and void
 28 and of no effect whatsoever.

29 (l) (1) In the event the court orders that a refund be made pursuant
 30 to this section or the provisions of K.S.A. 79-1609, and amendments
 31 thereto, or a court of competent jurisdiction orders that a refund be made,
 32 and no appeal is taken from such order, or in the event a change in
 33 valuation which results in a refund pursuant to subsection (a), the county
 34 treasurer shall, as soon thereafter as reasonably practicable, refund to the
 35 taxpayer such protested taxes and, with respect to protests or appeals
 36 commenced after the effective date of this act, interest computed at the
 37 rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two
 38 percentage points, per annum from the date of payment of such taxes
 39 from tax moneys collected but not distributed. Upon making such refund,
 40 the county treasurer shall charge the fund or funds having received such
 41 protested taxes, except that, with respect to that portion of any such re-
 42 fund attributable to interest the county treasurer shall charge the county
 43 general fund. In the event that the state court of tax appeals or a court

1 of competent jurisdiction finds that any time delay in making its decision
2 is unreasonable and is attributable to the taxpayer, it may order that no
3 interest or only a portion thereof be added to such refund of taxes.

4 (2) No interest shall be allowed pursuant to paragraph (1) in any case
5 where the tax paid under protest was inclusive of delinquent taxes.

6 (m) Whenever, by reason of the refund of taxes previously received
7 or the reduction of taxes levied but not received as a result of decreases
8 in assessed valuation, it will be impossible to pay for imperative functions
9 for the current budget year, the governing body of the taxing district
10 affected may issue no-fund warrants in the amount necessary. Such war-
11 rants shall conform to the requirements prescribed by K.S.A. 79-2940,
12 and amendments thereto, except they shall not bear the notation required
13 by such section and may be issued without the approval of the state court
14 of tax appeals. The governing body of such taxing district shall make a tax
15 levy at the time fixed for the certification of tax levies to the county clerk
16 next following the issuance of such warrants sufficient to pay such war-
17 rants and the interest thereon. All such tax levies shall be in addition to
18 all other levies authorized by law.

appeals to the court of tax appeals pursuant
to the provisions of K.S.A. 79-1609, and
amendments thereto, or

19 (n) *Whenever a taxpayer pays taxes under protest related to one prop-
20 erty whereby the assessed valuation of such property exceeds 5% of the
21 total county assessed valuation of all property located within such county
22 and the taxpayer receives a refund of such taxes paid under protest, the
23 county treasurer may request the pooled money investment board to make
24 a loan to such county as provided in this section. The pooled money in-
25 vestment board is authorized and directed to loan to such county sufficient
26 funds to enable the county to refund such taxes paid under protest to the
27 taxpayer. The pooled money investment board is authorized and directed
28 to use any moneys in the operating accounts, investment accounts or other
29 investments of the state of Kansas to provide the funds for such loan. Such
30 loan shall be a zero interest loan. Such loan shall not be deemed to be an*

or a refund made pursuant to the provisions of K.S.A. 79-1609, and
amendments thereto

31 indebtedness or debt of the state of Kansas within the meaning of section
32 6 of article 11 of the constitution of the state of Kansas. Upon certification
33 to the pooled money investment board by the county treasurer of the
34 amount of each loan authorized pursuant to this subsection, the pooled
35 money investment board shall transfer each such amount certified by the
36 county treasurer from the state bank account or accounts prescribed in
37 this subsection to the county treasurer who shall deposit such amount in
38 the county treasury. Any such loan authorized pursuant to this subsection
39 shall be repaid within ~~five~~ years. The county shall make not more than
40 ~~five~~ equal annual tax levies at the time fixed for the certification of tax
41 levies to the county clerk following the making of such loan sufficient to
42 pay such loan within the time period required under such loan. All such
43 tax levies shall be in addition to all other levies authorized by law.

Each loan shall bear interest at a rate equal to the net earnings
rate of the pooled money investment portfolio at the time of the
making of such loan. The total aggregate amount of loans under
this program shall not exceed \$50,000,000 of unencumbered
funds pursuant to article 42 of chapter 75 of the Kansas Statutes
Annotated, and amendments thereto.

four

1 (o) The county treasurer shall disburse to the proper funds all portions
 2 of taxes paid under protest and shall maintain a record of all portions
 3 of such taxes which are so protested and shall notify the governing body
 4 of the taxing district levying such taxes thereof and the director of accounts
 5 and reports if any tax protested was levied by the state.

6 (p) This statute shall not apply to the valuation and assessment of
 7 property assessed by the director of property valuation and it shall not be
 8 necessary for any owner of state assessed property, who has an appeal
 9 pending before the state court of tax appeals, to protest the payment of
 10 taxes under this statute solely for the purpose of protecting the right to
 11 a refund of taxes paid under protest should that owner be successful in
 12 that appeal.

13 ~~Sec. 2. K.S.A. 2009 Supp. 75-2005 is hereby repealed.~~

14 Sec. 3. This act shall take effect and be in force from and after its
 15 publication in the statute book.

See attached -- **Insert #1 z2578t1.pdf**
 Sec. 3. K.S.A. 2009 Supp. 75-4209 and 79-2005 are hereby repealed.
 Renumber remaining section accordingly

Sec. 1. K.S.A. 2009 Supp. 75-4209 is hereby amended to read as follows: 75-4209. (a) The director of investments may invest and reinvest state moneys eligible for investment which are not invested in accordance with K.S.A. 75-4237, and amendments thereto, in the following investments:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, on and after the effective date of this act moneys available for investment under this subsection shall not be invested in mortgage-backed securities of such enterprises and of the government national mortgage association, except that any such mortgage-backed securities held prior to the effective date of this act may be held to maturity;

(2) repurchase agreements with a bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

(3) commercial paper that does not exceed 270 days to maturity and which has received one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm; and

(4) corporate bonds which have received one of the two highest ratings by a nationally recognized investment rating firm.

(b) When moneys are available for deposit or investments, the director of investments may invest in SKILL act projects and bonds pursuant to K.S.A. 74-8920, and amendments thereto, and in state agency bonds and bond projects.

(c) When moneys are available for deposits or investments, the director of investments may invest in preferred stock of Kansas venture capital, inc., under terms and conditions prescribed by K.S.A. 74-8203, and amendments thereto, but such investments shall not in the aggregate exceed a total amount of \$10,000,000.

(d) When moneys are available for deposits or investments, the director of investments may invest in loans pursuant to legislative mandates, except that not more than the lesser of ~~10% or \$140,000,000~~ 12% or \$170,000,000 of the state moneys shall be invested.

(e) Interest on investment accounts in banks is to be paid at maturity, but not less than annually.

(f) Investments made by the director of investments under the provisions of this section shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(g) Investments under subsection (a) or (b) or under K.S.A. 75-4237, and amendments