

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 22, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes
Richard Cram, Department of Revenue
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative David Huff
Representative Candy Ruff
Calvin Brown, Growth Unlimited, Corporation
John Walker, Growth Unlimited, Corporation
Jeff Elder, Attorney, Wamego
Phil Bradley, KS License Beverage Association
Secretary Joan Wagnon
Glenn Thompson, Stand Up For Kansas
Ron Cazal, Billiards and Games (written testimony only)

Others attending:

See attached list.

Representative Siegfried stated the report of the sub-committee regarding classes of cities was a recommendation that the House Taxation Committee not act on **HB 2467** and **HB 2490** this year. They also recommended the Committee take action on **HB 2023**, which would put the cities back into a couple of categories and increase their taxing ability, locally. There would be a follow-up requirement of a constitutional resolution that would expand the classes of cities to 10. The Chairman stated that they would take up that consideration at a date to be determined this year.

HB 2524 - Licensure and regulation of certain amusement machines

Mr. Self stated this bill is a new piece of legislation that relates to regulation, licensure and certain taxes imposed on amusement machines. The responsibility of the act is delineated to the Director of Alcohol Beverage Control. There are license requirements with regard to procedures dealing with both owners and vendors of the machines as well as regulations and licensure regard to the location of such machines. The bill outlines violations of the act, followed by detailed penalties, fines and actions that may be taken by the Director.

The Chairman opened the public hearing on **HB 2524** and invited Representative Huff to the podium.

Representative David Huff, sponsor of the bill, provided the background of **HB 2524** (Attachment 1). There are all types of amusement machines coming into Johnson County that pay out in tokens, vouchers, points, or tickets, redeemable for cash. After discussions with Secretary Wagnon, **HB 2524** was drafted to regulate and tax these machines that award winning players. Whether they do or do not act on this legislation to regulate and tax these amusement machines, it will not stop the status quo, and they will continue to expand across Kansas to the benefit of some out of state vendors. The bill would immediately have a \$1 million plus fiscal impact for our state. He stated there are currently 200 outlets that have these amusement machines.

Representative Candy Ruff stood in support of **HB 2524**. She stated that deciding legalities between games of chance and games of skill is what the bill is all about (Attachment 2). The bill says amusement machines are *games of skills* and gambling devices are *games of chance*. It will dictate the parameters by which amusement machines will be judged as well as taxed. As a game of skill, these amusement machines may continue if they bear a Kansas Department of Revenue sticker. Owners of the establishments in which these amusement machines already exist will be taxed for the privilege of having them under their roofs.

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Calvin Brown, Growth Unlimited, Corporation explained why Growth Unlimited Corp. supports **HB 2524**. He gave a brief history of amusement machine operation in Kansas that resulted in the development of a game of 100% skill named "Monkey Land". He distributed a chart on the projected annual state revenue for Kansas based on the number of machines, operators and locations in the state (Attachment 3). In response to a question on how many machines are currently in Kansas he estimated between 5,000 to 10,000.

John Walker, Growth Unlimited, Corporation distributed testimony that explained "How to play the Game" (Attachment 4). He reviewed the directions to play a game named "Speed Master" a game similar to "Tic-Tax-Toe".

Jeff Elder, Attorney, Wamego, appeared in support of **HB 2524** (Attachment 5). He suggested the proposed legislation deserves consideration for two important reasons:

- Businesses have no guidance from the State to assist them in determining whether a particular machine is a legal "amusement machine", or an illegal "gambling device", leaving businesses who distribute or operate the machines at the mercy of the opinion of law enforcement officials in each particular county. There is currently no regulation of these type machines and when the Attorney General has been asked to view other machines and give advance opinion on their legality, they have declined to do so.
- The regulation of legal "amusement machines" would generate significant revenue for the State. Based on experience in other states, they estimated that the monetary value to the State of Kansas, via annual distribution fees, operator licenses, and individual machine registration fees, to be over \$1 million annually.

Phil Bradley, KS License Beverage Association, testified in support of **HB 2524** (Attachment 6). He stated that this legislation is a well considered solution to the challenge of making sure that Kansas citizens are protected while at the same time assisting businesses in assuring that the recreation needs of the public are met in a safe manner. Additionally they support the suggested amendment by the KDOR to allow the entire Department to be responsible for the regulation, not just the ABC. In Section 4, the penalties are substantial and do not allow for enough judgement flexibility in cases of obvious vandalism or other uncontrollable circumstances. They requested the language be changed from *shall* to *may* on page 6, lines 29 and 39.

Secretary Joan Wagon expressed strong support for **HB 2524** (Attachment 7). The Department staff worked closely with Representative Huff and the Revisor in the development of this proposal. They recommend that the bill be amended to provide that the "Secretary of Revenue," instead of the "Director of Alcohol Beverage and Control," administer this program. Several areas of the Department (especially their licensing staff in the Division of Taxation) need to be involved to efficiently administer the program using existing resources, not Alcohol Beverage Control alone. She believed that these types of amusement machines are growing in popularity and offer the potential for a significant new revenue source for the state.

Written testimony from Ronnie Cazal, Billiards and Games, Inc. was submitted in favor of the bill (Attachment 8).

States that already have these type of machines are Ohio, Michigan, Georgia and Florida, with no taxes imposed on them. Texas, Nebraska and Iowa carry taxes.

Glenn Thompson, Stand Up For Kansas, stated that they oppose the expansion of gambling in Kansas (Attachment 9). He outline the following four reasons for their opposition:

- The machine that this bill proposes to regulate is simply a slot machine. It is a skill slot machine, not a lottery slot machine. Nevertheless, it is a slot machine.
- The difference between an illegal lottery slot machine and a legal skill slot machine is subtle and imperceptible to most people.

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- Taxing and regulating skill slot machines, as proposed by this bill, would sanction and encourage operation of the machines throughout the state.
- All slot machines are a public nuisance and should be prohibited.

In conclusion, he stated that the machines **HB 2524** would tax and regulate are simply slot machines, although technically legal. Passage of this bill would encourage the spread of such machines throughout the state. On numerous occasions, the legislature has taken the position that lottery slot machines would be a public nuisance and refused to pass bills permitting operation of such machines and he urged the committee to take a similar position on skill slot machines by amending this bill to prohibit these machines in Kansas.

In response to a question about gambling addiction, he stated that his research had shown no difference in the addictive nature of skilled or chance slot machines. Approximately 1 ½ percent of the people, within a 50 mile radius, that use these machines will become addicted and approximately 3 to 5 percent will become problem gamblers. The social costs would be similar to other kinds of gambling.

There being no other conferees the Chairman closed the hearing on **HB 2524**.

HB 2501 - Reauthorization of school district ad valorem tax levy and exemption therefrom.

Mr. Self explained a balloon amendment distributed by Chairman Wilk (Attachment 10). Commencing for the 2006-2007 school year and each year thereafter, the amount of money appropriated by the legislature for the Department of Education for general state aid shall not be less than the sum of: (1) The amount appropriated for the Department of Education for general state aid for the preceding school year; and (2) an amount equal to the growth in local effort from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto, attributable to estimated increases in assessed valuation of taxable tangible property.

Chairman Wilk moved to amend **HB 2501** with the balloon. Representative Gordon seconded the motion. The motion carried.

Representative Gordon made a motion that the House Taxation Committee move **HB 2501**, as amended, favorable for passage. Representative Owens seconded the motion. The motion carried.

SB 128 - Creating the oil and gas valuation depletion trust fund and providing for distribution of moneys therefrom.

Mr. Courtwright explained a chart from yesterdays hearing that provided a 10 year trend from 1996 through 2006, that listed data in the following categories; statewide natural gas production in thousands of mcfs, statewide gas service taxes in thousands of \$, statewide oil production in thousands of barrels and statewide oil severance taxes in thousands of \$. It reflected percentage changes for each year.

Representative George made the motion that **SB 128** be passed out favorably. Representative Hill seconded the motion.

Representative Larkin made a substitute motion to table **SB 128**. Representative Menghini seconded the motion. The motion passed (15-5) and **SB 128** was tabled.

HB 2525 - Retailers' sales tax in Neosho county

Representative Larkin made a motion to amend **HB 2525** to include language that would make it clear that prospectively from here forward, the process for approval of sales tax increases would have to have legislative approval before it went to a vote of the people. In view of time constraints, further discussion and consideration would be continued at a future date.

The Chairman adjourned the meeting at 10:25 a.m. The next meeting will be announced on the floor or by email to each Representative's office.

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