

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION

The meeting was called to order by Chairman Paul "Bud" Burke at  
Chairperson

11:00 a.m./~~p.m.~~ on March 7, 1983 in room 526S of the Capitol.

All members were present ~~except~~:

Committee staff present: Wayne Morris, Research Department  
Tom Severn, Research Department  
Don Hayward, Revisors' Office

Conferees appearing before the committee:

Chris McKenzie, Attorney/Director of Research, League of Kansas Municipalities  
Jerry Slaughter, Independent Amusement Machine Operators  
Frances Kastner, Director-Gov. Affairs, Ks. Food Dealers Ass'n, Inc.  
Dan Fast, Pickwick Foods, Hutchinson, Ks.  
Monty Morris, Kansas City, Ks.  
Richard Beems, Entertainment Services  
Tom Gaddie, Golddiggers  
Robert Porembski, Distributor  
Kim C. Dewey, Sedgwick Co. Commissioner  
Phil Martin

The committee held a hearing on SB 198 which requires that the operator of an automatic amusement device obtain a license from the Department of Revenue before operating an establishment and to register each automatic amusement device operated in the establishment. The bill calls for payment of a \$500 license fee for each establishment and \$100 registration fee for each machine. Senator Chaney, sponsor of the bill, explained the proposed legislation and told the committee the amount of the licensing fee was not necessarily the amount to be considered.

Chris McKenzie, Attorney/Director of Research, of the League of Kansas Municipalities, appeared in support of SB 198 as it is written, saying that city officials have viewed with concern the recent explosion that has occurred in automatic amusement devices. He said a number of cities have enacted licensing requirements similar to those contained in SB 198 and since most of the games' customers are teenagers or younger, municipalities have begun to re-examine their responsibility to regulate this industry. (Attachment #1)

Appearing in opposition to SB 198:

Jerry Slaughter, representing the Independent Amusement Machine Operators of Kansas, said they are absolutely opposed to the enactment of SB 198. He said there has not been a statewide call for regulation of this industry and he believes the only purpose for this bill is an attempt to raise revenue. He said almost every city in the state requires the payment of local taxes and privilege fees in order to operate video games and further taxation could have a crippling effect on this industry. He said this bill will deal a severe blow to scores of small businessmen around the state who are working to make a legitimate business be profitable in a very competitive environment. He also said their gross receipts are subject to the sales tax. (Attachment #2)

Frances Kastner, Director, Governmental Affairs, Kansas Food Dealers' Association, Inc., said the \$500 licensing fee per establishment will virtually eliminate the electronic amusement machines from all grocery stores. She said also many metropolitan areas already have a local fee which is paid on each machine. (Attachment #3)

Dan Fast, Pickwick Foods, Hutchinson, said he operates eight convenience stores in and around Hutchinson and said these games keep the kids occupied and sometimes serves as a babysitter for parents. He said if this bill

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MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION,  
room 526-S, Statehouse, at 11:00 a.m. ~~pm~~ on March 7, 1983

passes he couldn't afford to pay the taxing and licensing obligations and come out ahead so would have to do away with half of the locations he has now.

Monty Morris, Kansas City, Ks., said the cost of the machines are outrageous and may only last two or three months; they can't be traded and they are paying a \$50 fee per machine now in Kansas City, Ks. He said the ballooning of the industry is starting to fizzle out and putting a machine in a location doesn't guarantee it will be played.

Richard Beems, Entertainment Services, has a sizable vending route. He said in their particular business situation they operate about 60 locations of which they pay 50 percent of the proceeds out to the location owner. In the last three months serious financial situations came about and profit is down, income is down and volume is down. He's found it necessary to lay off three full time employees who are now drawing unemployment and in 1982 showed a loss, not a profit, and he thinks that is representative of the industry as a whole.

Tom Gaddie, Golddiggers, said he did have three arcades but has closed two locations because revenues are down. He said there is depreciation in the video game income in the past three months and revenues are down between 30 percent and 50 percent.

Robert Porembski, Distributor, said distributors buy from manufacturers and sell to operators and revenues and sales are down 30 to 40 percent. They don't accept trade-ins because they are of no value anymore, even to small towns, since the new hit games are everywhere.

Senator Chaney made a motion to report SB 198 favorable for passage.  
There was no second.

The committee held a hearing on SB 241. Senator Hess, a sponsor of the bill, said it had been introduced at the request of the Board of Sedgwick County Commissioners. This legislation would allow explanatory language to be put on the ballot stating that the revenue from the city retailers' sales taxes could only be used for the purpose intended so the taxpayers would know ahead of time what they were for, police or fire department, or whatever the request of the Sedgwick County Commissioners, and can't get out of the pledge. Kim C. Dewey, Sedgwick County Commissioner, spoke in support of the proposed bill. (Attachment #4) He said statutory language is needed to place explanatory language on the ballot and they need the authority to do that. The bill would also require a vote to change the pledge of sales tax revenue. Chris McKenzie, League of Municipalities, said he thinks the policy question is how difficult you make it for a governing body to undo. As to the pledge policy, he said there's not enough experience with that provision on a statewide basis and he feels concern for future governing bodies who would have to live with decisions made by their predecessors.

Senator Hayden moved and Senator Mulich seconded a motion to report SB 241 favorable for passage. Senator Montgomery said he believed the intent of the Resolution should be placed on the ballot but doesn't like mandating. Don Hayward said to amend the bill to merely provide for placing the explanatory language on the ballot, add lines 39 through 42 and restore the stricken language on lines 35 through 38.

Senator Hayden withdrew his motion.

The committee considered SB 181 which repeals the current sales assessment ratio and replaces them with appraisal assessment studies.

Senator Angell moved and Senator Hayden seconded a motion that SB 181 be amended by striking subsection (b), lines 37 through 43. The motion passed.

Phil Martin estimated that the fiscal note for this bill would be about \$500,000.

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Senator Angell moved and Senator Hayden seconded a motion to report SB 181 as amended favorable for passage. The motion passed.

The committee considered SB 183 which allows cigarette manufacturers to remit taxes on all sample cigarettes directly to the Revenue Department using a monthly report. The bill also relieves distributors of having to affix tax stamps to manufacturers' sample packs.

Senator Kerr moved to amend SB 183 on page 2, line 46, before "without" by inserting "containing less than 20 cigarettes". Senator Mulich seconded the motion and the motion passed.

Senator Kerr moved and Senator Mulich seconded the motion to report SB 183 as amended favorable for passage. The motion carried.

The committee considered SB 220 which deals with the valuation of railroad property for property tax purposes.

Senator Angell moved and Senator Mulich seconded a motion to report SB 220 favorable for passage. The motion failed to pass.

The committee considered SB 386 which deals with the taxation of gains from the liquidation of corporations. Since this bill was referred by an exempt committee, it was decided to delay consideration of this bill.

The chairman adjourned the meeting at 12:30 p.m. The next meeting of the committee will be held at 11 a.m. on March 10.

ASSESSMENT AND TAXATION

OBSERVERS  
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
MARCH 7	Mack Tracy	1208 N. Jefferson	Semi-Warrior
	BENE BRANDER	1411 15 <sup>th</sup>	
	Richard C. Beemis	Box 156, Grantville	Entertainment Services Inc.
	Ron Shuman	Box 47091 Topeka	E.S.I.
	PAT HUBBELL	TOPEKA	KANSAS RAILROAD ASSOC
	Duluth Dixon	Topeka	Natl. Assn. Retail Fed. Employees
	Ronald Messer	Topeka	Fed. Employees
	Chuck VanBebber	1601 FOREST KCMO	Philip Moss Co.
	Monty A. Morris	1301 W 22nd KCK 66102	INTERCITY MUSIC INC.
	JIMMY STAUGHTEN	TOPEKA	IADOK
	Wm. J. Clark	Liberal Ks	I.A.M.O.K.
	M. Bekhaar	Revenue	Topeka
	Bill Eds	"	"
	Phil Monte	"	"
	Chae R. Bouchard	"	"
	Janice Marcum	"	"
	Mae T. O'G	WITBW Topeka	WITBW
	Gwen Milligan	Topeka	Ks. Beer Retailers Assoc
	James Kastner	Topeka	KFDA
	L. Linsberger	"	UOI



## League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Senate Assessment and Taxation Committee  
FROM: Chris McKenzie, Attorney/Director of Research  
DATE: March 7, 1983  
SUBJECT: Senate Bill 198, Registration of Automatic Amusement  
Devices

Mr. Chairman and members of the Committee, I want to thank you for the opportunity to appear before you today on behalf of the League of Kansas Municipalities to indicate our support for Senate Bill 198. SB 198 would require that the operator of an automatic amusement device establishment obtain a license from the Department of Revenue before engaging in the business of operating the establishment and to register each automatic amusement device operated in the establishment. 97% of the \$500 license fee and the \$100 registration fee would be returned to the city or county in which the establishment and device are located.

Kansas city officials have viewed with some concern the recent explosion that has occurred in automatic amusement devices. The games can be found in shopping malls, roller rinks, theatres, restaurants, grocery stores and the increasingly popular video game establishment or parlor. Due to the rapid growth of this phenomenon, and the fact that most of the games' customers are teen-agers or younger, municipalities have begun to reexamine their responsibility to regulate this industry. Some of the typical concerns that local governing bodies may find brought to them include parental concern about improper adult supervision and school absences, general concern about the possibility of increased public disturbances due to large assemblies of young adults, and the potential for fire hazards in improperly designed establishments. As a result of these concerns, an increasing number of cities have enacted licensing requirements similar in many respects to those contained in SB 198. An annual license, priced anywhere from \$25 to \$500, is often required and individual machines are commonly registered. The League has received numerous inquiries within the last year from cities that have wanted to enact local licensing ordinances. While the volume of inquiries has diminished, the level of local interest in this subject remains high.

While we do support SB 198, I would be remiss if I didn't point out to you an alternative that would altogether avoid state involvement in the licensing of automatic amusement device establishments and machines. As you may know, K.S.A. 12-194 prohibits cities and counties from imposing an occupation tax or license fee which is based on the income or gross receipts of the licensee. By the action of its voting delegates at the 1982 annual convention, the League of Kansas Municipalities supports an amendment to

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K.S.A. 12-194 that would allow the imposition of such a license fee on the basis of the gross receipts of the licensee. Such an amendment would make it clear that local governments can act to impose a license fee on automatic amusement devices for revenue as well as for regulatory purposes. Furthermore, it would eliminate the need for the State of Kansas to become involved in the administration of the licensing program.

Thank you for your consideration of this measure. We appreciate Senator Chaney's efforts in addressing this area of considerable concern to the local units of government in Kansas.

Possible Alternative to SB 198

AN ACT concerning amusement devices; authorizing the use of gross receipts as a basis for a license fee or tax on such devices and establishments wherein such devices are used.

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

Section 1. (a) Notwithstanding the provisions of K.S.A. 12-194, a city license fee or tax on any automatic amusement device or any establishment in which such devices are used may consist of a percentage of the gross receipts derived therefrom.

(b) As used in this section, unless the context otherwise requires:

(1) "Automatic amusement device" means any machine or device, other than an automatic music dispenser, which upon the insertion of a coin, slug or similar object or by any other method operates or may be operated or used for game, contest or amusement purposes;

(2) "establishment" means any place or premises, other than a dwelling, in or at which an automatic amusement device is placed or kept for use or play or is on exhibition for the purpose of use or play.

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

*Jerry Slaughter*

#2



Crosby Place  
717 Kansas Avenue  
Topeka, Kansas 66603  
913/234-3103

Statement of the Independent Amusement Machine Operators  
of Kansas Concerning SB 198

Mr. Chairman and Members of the Committee,

The Independent Amusement Machine Operators of Kansas is a relatively new organization representing the businesses that operate and distribute coin operated amusement and vending machines in Kansas. We appreciate the opportunity to appear as you consider SB 198.

We are strongly opposed to SB 198. The imposition of new taxes and registration requirements on any segment of the Kansas business community are issues that cannot be taken lightly. Before any action is taken to further tax and regulate this industry, a thorough study of its impact should be considered. At the outset it should be pointed out that as nearly as we can tell, there has not been a statewide call for regulation and restriction of this industry. Apparently then, the only impetus for this bill is an attempt to raise revenue, not merely to regulate the small businesses which own, operate and distribute coin operated amusement machines. Before any regulatory legislation is passed, which includes a substantial tax, it should be demonstrated that a public problem exists, and that the proposed regulatory scheme, and taxation, will provide an effective solution to the problem. We do not believe such a problem exists, and see no merit in imposing regulatory headaches on an already heavily taxed and regulated industry.

In fact, almost every city in the state requires the payment of local taxes and privilege fees, in order to operate video games. These fees range to as high as \$50 per machine in some areas; and in other areas an operator's fee as high as \$100 per year is required. Additionally, every operator currently collects and remits sales tax to the state on the total receipts from video games. Further taxation could have a crippling effect on this industry in Kansas.

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If SB 198 is enacted, many more operators will be forced out of business. As operators decline and unprofitable games and locations are pulled, sales tax collections will also fall. This bill could actually result in less revenue raised.

Overall, the business statewide is off 30 to 40% from last year. Several operators have gone out of business, and the trend is expected to continue. It is doubtful that the "boom times" of a year ago will ever return, and predictions are that the coin operated game market will experience a flat growth stage, and will probably show a decline in the total number of games through the next couple of years. The saturation of current game locations, which has severely reduced return on operators' investment, will undoubtedly continue to slow demand for new games. The number of arcades operating will probably continue to decline from increased competition from retail locations, such as grocery stores, service stations, convenience shops, etc.

The effects of SB 198 will not only be felt by operators, but also by those retail establishments which have come to count on the revenue from video games to stay in business. In fact, this bill could result in the removal of video games from up to 50% of such locations especially in rural areas, since the income derived would not even pay the annual tax and registration fee. This represents a severe hardship to many of these small retail operations.

The taxes and registration fees contained in SB 198 are unreasonable, and would have a severe effect on the retail establishments, operators, distributors and suppliers who are all a part of this industry. New taxes should not be imposed on businesses just because they happen to be involved in an industry that appears to be profitable at a particular time. When the peak business time has ended, as it definitely has in Kansas, the high taxes remain, and at the level in SB 198, the effect will be even more devastating.



We urge you to report SB 198 unfavorably. There has not been a call for regulation of this industry statewide, because there is adequate regulation at the local level. The industry already pays a substantial tax bill, in the form of sales tax, game license fees and operator license fees. The bill will deal a severe blow to scores of small businessmen around the state who are working hard to make a legitimate business be profitable, in a very competitive environment. Thank you for your consideration.



# Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205  
PHONE: (913) 384-3838

March 7, 1983

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SYRACUSE

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**DIRECTOR OF  
GOVERNMENTAL AFFAIRS**

FRANCES KASTNER

SENATE ASSESSMENT & TAX COMMITTEE -- SB 198

EXECUTIVE DIRECTOR  
JIM SHEEHAN  
SHAWNEE MISSION

The Kansas Food Dealers Association OPPOSES SB 198. The licensing fee of \$500 per establishment will virtually eliminate the electronic amusement machines from all grocery stores. In the grocery stores you may find one or two machines, and according to the fee schedule outlined it would cost \$500 for the initial application and \$100 for each machine -- and this is just for the state license. Many metropolitan areas already have a local fee which is paid on each machine.

The members we visited with who have these machines in their stores feel they are providing good clean amusement for the youngsters that are accompanying their parents to the grocery stores. If a measure like SB 198 is passed, it is very likely that the only place where these machines could be found would be in large game rooms which are frequented by young adults. Most parents would not permit their children to go there to play the popular electronic games, but they are comfortable letting them use the machines in our grocery stores.

We respectfully request that you NOT recommend SB 198 for passage. Thank you for the time to present our views, and if you have any questions, I will be happy to answer them.

Frances Kastner, Director  
Governmental Affairs

3310 SW 7th, # 2  
Topeka, Ks. 66606

(913) 232-3310

ALch. 3



# SEDGWICK COUNTY, KANSAS

## DEPARTMENT OF ADMINISTRATION

FOREST TIM WITSMAN  
COUNTY ADMINISTRATOR

COUNTY COURTHOUSE • 525 N. MAIN • WICHITA, KANSAS 67203-3703 • TELEPHONE 268-7575

TESTIMONY OF KIM C. DEWEY, SEDGWICK COUNTY  
SENATE ASSESSMENT & TAXATION COMMITTEE - SB 241  
MARCH 7, 1983

SB 241 was introduced at the request of the Board of Sedgwick County Commissioners. The concerns addressed by this legislation arise out of a recent attempt in Sedgwick County to enact a 1¢ Countywide sales tax.

The question was submitted to the voters in the 1982 August primary election. Sedgwick County, the City of Wichita, and most of the 2nd and 3rd class cities adopted ordinances or resolutions pledging the use of sales tax proceeds to direct property tax reductions, in the manner provided by current law.

The dedication of the tax revenues was a crucial factor in the decision of many voters to support the imposition of the additional sales tax. However, a much greater number were very concerned with the relative ease of repeal or amendment to the dedication resolution by some future commission. Since the current law provides that the resolution may be repealed or amended in the same manner in which it was adopted, i.e., by a 2/3 vote of the commission. Such an action to repeal would be subject to a protest petition, but this was not binding enough for many voters. Additionally, we found that there was no existing authority to place explanatory language on the ballot, referring to the dedicating ordinances or resolutions.

SB 241 would slow the local governing bodies to enact dedicating ordinances and resolutions which could only be changed or amended by first submitting them to a referendum. It would also allow ballot language referring to the dedicating ordinance or resolution.

We urge your favorable consideration of this measure.

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# KANSAS RAILROAD ASSOCIATION

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P.O. BOX 1738  
TOPEKA, KANSAS 66628

913-232-5805

PATRICK R. HUBBELL  
SPECIAL REPRESENTATIVE-PUBLIC AFFAIRS

March 4, 1983

MICHAEL C. GERMANN, J. D.  
LEGISLATIVE REPRESENTATIVE

TO: MEMBERS OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE  
RE: SENATE BILL 220

Senator Steineger stated or at least implied during the hearing on March 3 that 15 states currently assess railroads on a segregated basis.

Information compiled for the year 1982 shows that 37 of the 48 states in the continental United States appraise railroads on the basis of the total system (unit value) by use of some combination of system financial data and/or cost. In addition the majority of local appraisal districts in Texas in 1982 used a modified unit method for valuing railroad right of way and super-structure. Partial or nearly full exemption of right of way and other railroad property is authorized in Massachusetts, New Jersey and Pennsylvania. Application of an exemption factor to all property based on operating expenses and revenues is authorized in New York state. In lieu taxes based on gross receipts is imposed in Connecticut and Maine. Delaware imposes a flat in lieu fee on railroads. This leaves only the states of Rhode Island, Virginia and Vermont. I am advised that railroad property other than rolling stock is assessed locally in Rhode Island. It would appear state assessing authorities in only the states of Vermont and Virginia attempt to value all railroad properties on some basis other than utilization of a system (unit) value through some combination of financial data and/or cost data.

Pat Hubbell

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