

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Paul "Bud" Burke at \_\_\_\_\_  
Chairperson

11:00 a.m.~~pm~~ on January 26, 1984 in room 526-S of the Capitol.

All members were present except:

Committee staff present: Don Hayward, Revisor's Office  
Wayne Morris, Research Dept.  
Tom Severn, Research Dept.

Conferees appearing before the committee:

Bill Edds, Dept. of Revenue  
Senator Ben Vidricksen  
Pete McGill, R. J. Reynolds Tobacco Company  
Bill Mitchell, Tobacco Industry, Hutchinson  
Margie Braden, Kansas Manufactured Housing Institute

The committee held a hearing on SB 477 which deals with tax refunds and minimum payments.

Bill Edds explained that the present law contains a \$1 forgiveness threshold so payments or refunds under \$1 are not required. This law would change the tax forgiveness threshold from \$1 to \$5 for the income tax, inheritance tax, and the privilege tax on financial institutions. Mr. Edds suggested the bill be amended to extend the time from 60 days to 120 days before the state is required to pay interest on refunds.

Senator Vidricksen, who served as chairman of the Special Committee on Efficiency in State Government, said the committee proposed SB 477 as a cost saving policy to the state. He said the cost for processing these small refund payments amounts to around \$14 per check, and in 1983 they processed approximately 24,726 checks in the amounts of less than \$5.00. It would result in a savings of more than \$346,000, he said. Senator Vidricksen stated he had no objections to the Revenue Department recommendation to amend the bill, and would leave that up to the committee.

The committee held a hearing on SB 516 which permits a different number of cigarettes in a package.

Pete McGill testified he had some reservations about the bill after presenting his request to the committee and suggested an amendment to the bill. (Attachment #1)

Bill Mitchell, representing the tobacco industry, recommended to the committee that the amendment presented by Mr. McGill be adopted. Bill Edds stated that the Revenue Department does not support this bill because they would anticipate an increase in administrative problems. Implementing this bill as amended would require two separate inventories and stamps to deal with and would result in additional paper work for the Department. He said there also could be additional enforcement problems, but they could live with the bill. However, he suggested making the effective date later than July 1 if the bill is delayed in passing through the legislature.

Senator Allen moved and Senator Mulich seconded a motion to adopt the amendment (Attachment #1) to SB 516. The motion passed.

Senator Mulich moved and Senator Hayden seconded a motion to recommend SB 516 as amended favorable for passage. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 526-S, Statehouse, at 11:00 a.m./p.m. on January 26, 1984

The chairman recognized Margie Braden, KMHI, who requested that a bill be introduced which would eliminate the sales tax on a "used" manufactured home and reduce the sales tax on a new manufactured home to a level which would be commensurate with sales tax paid on the materials used in construction of any other home. (Attachments #2 and #3)

Senator Johnston moved and Senator Allen seconded a motion to introduce such a bill and have it referred back to the committee for consideration. The motion passed.

Senator Burke reported to the committee that he had received a letter from the Edwards County Clerk, Bea Coats, with a request to change KSA 79-2963 to require expression of the ad valorem tax levy in mills. (Attachment #4) It was suggested that the Research Dept. staff check with the Association of Counties to see if they are interested in such a change.

The chairman recognized Senator Kerr, chairman of a sub-committee, who presented a draft of a bill which would allow county appraisers to use their judgments in making proration of taxes in the event of a disaster. It would limit rebates to residences destroyed after January 1 but prior to August 15. For residences destroyed on or after August 15, a credit could be allowed against the next year's taxes. (Attachment #5)

Senator Kerr made a motion that such a bill be introduced and referred back to the committee. Senator Johnston seconded the motion and the motion was unanimously passed.

The chairman announced that the committee meeting scheduled for Friday, January 27, would be cancelled because of the 11 a.m. joint meeting of the legislature.

The chairman adjourned the meeting at 11:40 a.m. The next meeting of the committee will be Monday, January 30.



PROPOSED REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Assessment and Taxation

Recommends that Senate Bill No. 516

"AN ACT relating to the taxation of cigarettes; concerning the number of cigarettes in a package; amending K.S.A. 79-3301 and K.S.A. 1983 Supp. 79-3310 and 79-3310b and repealing the existing sections and also repealing K.S.A. 1983 Supp. 79-3310a."

Be amended:

On page 2, in line 76, after "which" by inserting "no more than 25";

On page 3, in line 115, by striking all before the period and inserting "\$.16 on each 20 cigarettes or fractional part thereof or \$.20 on each 25 cigarettes, as the case requires"; in line 119, by striking all before the period and inserting "\$.24 on each 20 cigarettes or fractional part thereof or \$.30 on each 25 cigarettes, as the case requires";

On page 4, by striking all in lines 133 and 134; in line 135, by striking "denomination" and inserting "\$.08 on each 20 cigarettes or fractional part thereof or \$.10 on each 25 cigarettes, as the case requires and \$.08 or \$.10, as the case requires";

And the bill be passed as amended.

\_\_\_\_\_  
Chairperson

*Atch. 1*  
*1/26/84*





**KANSAS MANUFACTURED HOUSING INSTITUTE**  
100 East Ninth Street • Suite 205 • Topeka, Kansas 66612 • (913) 357-5256

Testimony Before Senate Assessment and Taxation Committee

January 26, 1984

Subject: Sales tax on manufactured homes (new and used "mobile" homes)

Mr. Chairman and members of the committee. Thank you for taking time to hear my brief remarks regarding an extremely inequitable tax being imposed on some Kansas homebuyers, most of whom probably fall in the middle and lower income brackets.

As I'm sure most of you are aware, the manufactured home which is built on a steel frame with wheels and axles for transporting it to a homesite (and which is known to many of you as a "mobile" home) has long been subject to sales tax in Kansas. Because such homes have traditionally been classed (and in some areas of our statutes, still are) as "vehicles" for purposes of titling and taxation, the sales tax has been collected on the entire sales price of the home. And, again, because of the "vehicle" category, the sales tax has been collected on each subsequent sale of such a home if it has not been placed on a permanent foundation on the owner's property. Sales tax on a site-built home is only paid on the materials going into the home and never on the subsequent sale of the home. We not only have an inequity among types of housing, but an inequity within the manufactured housing industry since the sales tax is applied to all subsequent sales unless the home is on a permanent foundation and is being sold with land. I don't think there is much doubt that this is an unfair situation. I know that these are not the best economic times and I know that it is not extremely desirable to be asking for tax relief in such times, but I

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think most Legislators who now recognize this problem agree that it is placing one more roadblock in the way of homeownership for many citizens. Such homeownership has been the subject of much discussion in recent years. You have probably seen many of the reports, such as that of the President's Commission on Housing whose report issued in April, 1982, encouraged local units of governments and state legislatures to attempt to remove obstacles to homeownership which are not related to health and welfare. Further, this Commission specifically stated that manufactured housing should be given consideration since it may now be the only affordable housing for those in middle and lower income brackets. The National League of Savings Institutions, in three recently published position papers on Housing in the 80's, makes similar recommendations.

Several states have addressed this problem and in some, equity has been accomplished by removing the sales tax from the pre-owned (used) home and by reducing it to an amount based on a percentage of the sale price on new homes. Legislation recently passed in New Jersey applies the tax to one-half the retail sale price. In Texas, a method has been implemented for paying the tax through the manufacturer and thus is based on the manufacturer's price to the retailer. Minnesota has a similar system but a bit more complicated, depending on whether the sale is to a retailer or directly to a homeowner.

Basically, my request is that you introduce legislation which would (1) eliminate the sales tax on a "used" manufactured home and (2) reduce the sales tax on a new manufactured home to a level which would be commensurate with sales tax paid on the materials used in construction of any other home.

In a nutshell, I think you will agree this is an unfair sales tax. We are not asking for any special treatment nor for any total exemption--only that manufactured housing be treated the same as other forms of housing.

Nearly 20% of all new homes purchased in Kansas last year were manufactured homes--nationwide that figure is over 30%. And, with many middle and low income citizens being priced out of the site-built market, this figure will at least remain the same--more likely it will even increase.

We believe it is only fair to give the Legislature an opportunity to look at this situation and determine if there is some way to make the sales tax more equitable so that the low and middle income homebuyer is not being asked to bear such a large percentage of the sales tax burden. If you have not already done so, many of you may be hearing from more and more of your constituents regarding the problem. In some communities those persons working to defeat local sales tax issues have enlisted the assistance of persons living in manufactured housing, particularly in mobile home parks--thus more of the people who are paying this unfair tax are being made aware of the inequity.

I respectfully request that you introduce legislation which would give you and your fellow legislators an opportunity to correct this unfair situation which is a burden to the low and middle income homebuyer and, consequently, a detriment to an industry which is a valuable part of the Kansas economy. Specifically, to remove the sales tax from second and subsequent sales of manufactured homes and to apply the tax to only a portion of the retail sales price of a new manufactured home.

Respectfully,

Margie Braden  
Executive Director  
Kansas Manufactured Housing Institute

SENATE BILL NO. \_\_\_\_\_

AN ACT amending the Kansas retailers' sales tax act; exempting sales of certain mobile homes; amending K.S.A. 1983 Supp. 79-3606 and repealing the existing section.

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

Section 1. K.S.A. 1983 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301, and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt, malt syrup and malt extract and motor vehicles as defined by K.S.A. ~~1982~~ 1983 Supp. 79-1017;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or nonprofit blood bank and used exclusively for state, political subdivision, hospital or nonprofit blood bank purposes, except when such state, political subdivision, or hospital is engaged or proposes to engage in a business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary

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school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state the total cost of which is paid from funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418, and amendments thereto, and K.S.A. 1982 1983 Supp. 79-3640, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging,

furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, public or private nonprofit hospital, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate be found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, hospital, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under

such a certificate for any purpose other than that for which such a certificate shall be issued without the payment of the sales or compensating tax otherwise imposed upon such materials shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 1982-Supp.---79-3615(4) 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate shall be issued without the payment of the sales or compensating tax otherwise imposed upon such materials shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties

provided for in subsection (g) of K.S.A. 1982--Supp.--79-3615(4)  
79-3615, and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal

property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 1982-Supp.--79-3603(e) 79-3603, and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, irrigation and in providing such services;

(o) all sales of animals, fowl and fish, the primary purpose of which is use in agriculture, the production of food for human consumption, the production of animal, dairy, poultry or fish products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) trade fixtures and equipment which is already installed and second-hand when sold by a person ceasing to do business where said fixtures or equipment is installed;

(q) all sales of prescription only drugs, as defined by K.S.A. 65-1626, and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626, and amendments thereto, by a licensed practitioner;

(r) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(s) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; but such term shall not include motor vehicles, accessories to be attached to motor vehicles or personal property which when installed becomes a fixture to real property;

(t) all sales of tangible personal property or services purchased directly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq., and amendments thereto, which property or services are used in the operation or maintenance of the district;

(u) all sales of used farm machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as said terms are defined by K.S.A. 8-126 and amendments thereto. For the purposes of this subsection "sales of used farm machinery and equipment" shall mean and include sales other than the original retail sale of such machinery and equipment. Each purchaser of farm machinery or equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that such purchaser is engaged in farming or ranching and that the farm machinery or



equipment purchased will be used only in farming or ranching;

(v) all leases or rentals of tangible personal property used as a dwelling where said tangible personal property is leased or rented for a period of more than 28 consecutive days;

(w) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization;

(x) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use;

(y) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(z) all sales of intrastate telephone and telegraph services for noncommercial use except noncommercial intrastate long distance telephone service;

(aa) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(bb) sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418, and amendments thereto; and

(cc) all sales of materials and services applied to

equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(dd) all sales of used mobile homes. As used in this subsection: (1) "Mobile homes" shall have the meaning ascribed thereto by K.S.A. 75-12<sup>26(e)</sup>~~32~~, and amendments thereto; and (2) "sales of used mobile homes" shall mean sales other than the original retail sale of such mobile homes; and

(ee) all sales of new mobile homes to the extent of 50% of the gross receipts received from such sale. As used in this subsection, "mobile homes" shall have the meaning ascribed thereto by K.S.A. 75-12<sup>26(e)</sup>~~32~~, and amendments thereto.

Sec. 2. K.S.A. 1983 Supp. 79-3606 is hereby repealed.

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

# EDWARDS COUNTY, KANSAS

KINSLEY, KANSAS 67547

Attachment #4

Marjory Scheufler, Belpre

FIRST DISTRICT COMMISSIONER

JACK H. MILLER, KINSLEY

SECOND DISTRICT COMMISSIONER

LLOYD BRITTON, KINSLEY

THIRD DISTRICT COMMISSIONER

PHONE: 316-659-2583

OFFICE OF:  
BEA COATS

COUNTY CLERK/ELECTION OFFICER

PHONE 316-659-3121

September 20, 1983

Senator Paul Bud Burke  
8229 Cherokee Circle  
Leawood, Kansas 66206

Dear Senator Burke,

I am very interested in trying to get K.S.A. 79-2963 changed to require expression of the ad valorem tax levy in mills. I believe this was changed from mills to dollars per hundred by the 1972 legislature. Rather than simplifying the process, this has added confusion, as we now must constantly switch back and forth from mills to dollars per hundred. You will notice that most of the media refer to mills, and the final irony is that the state certifies their levy to us in mills. Yet we county clerks are required to express the levy in dollars per hundred in our certifications.

I realize this may seem a trivial matter, with so many other important issues to address. However, we who are directly involved are concerned about the problems involved in following this statute. Please let me know your feelings on this. Would there be any possibility of making a change in next year's session or would it be a wasted effort? Thanks for your consideration.

Sincerely,



Bea Coats  
Edwards County Clerk

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ATTACHMENT NO. 5

The original attachment no. 5, which was a bill draft, has been lost. However, it was introduced, verbatim, as 1984 Senate Bill No. 597.



Thomas A. Severn

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1/26/84  
(See Above)