

(Approved 2/11/87)

Minutes of the House Taxation Committee. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on February 10, 1987, in room 519 South at the Capitol of the State of Kansas.

All members were present.

Committee staff present: Tom Severn, Legislative Research
Chris Courtright, Legislative Research
Don Hayward, Revisor of Statutes
Millie Foose, Committee Secretary

Representative Rolfs distributed copies of an amendment proposed by Representative Braden - "AN ACT relating to sales taxation; exempting sales of property purchased pursuant to community-based mental retardation programs; amending K.S.A. 1986 Supp. 79-3606 and repealing the existing section." (Attachment 1) Representative Fuller moved, second by Representative Smith, that the bill draft requested by Representative Braden be introduced and passed. The motion carried.

Representative Bill Brady spoke as a proponent for HB-2080, which authorizes a county-wide retailers' sales tax for the purpose of financing the construction or remodeling of a courthouse, jail, or law enforcement center facility. (Attachment 2) He emphasized that he believes a sales tax is fair because everyone pays it and the entire burden does not fall on real estate taxpayers. There were further discussions and questions by committee members.

Representative Empson also testified, corroborating Representative Brady's testimony. She emphasized that this extra tax would be deleted when the jail is paid for.

Hazel Allison, Coordinator Montgomery County Jail Advisory Committee, spoke as a proponent and emphasized that several Kansas counties have to construct new jail facilities to meet Constitutional standard. (Attachment 3) She also believes that the preferred method of financing jails is with a county-wide retailers' sales tax. Montgomery County hopes to put the jail question on the April ballot so a special election can be avoided.

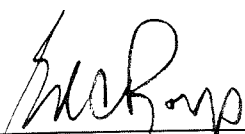
Bev Bradley, Legislative Coordinator Kansas Association of Counties, spoke in support of HB-2080. She said that Boards of County Commissioners need a method of funding specific improvements such as financing the construction or remodeling of law enforcement facilities, and this method seems most appropriate. (Attachment 4)

Raymond Caldwell, representing Montgomery County, also emphasized the need for a new jail in Montgomery County as well as several other counties. He answered questions from committee members about the size that would be required and the probable cost per client that would be needed. He emphasized that it would be constitutional construction with no frills. It will be replacing a 50-year old facility and he believes a sales tax is the fairest way to finance it. There was a question whether the construction could be financed by home rule -- but Mr. Don Hayward said that it could not.

Representative Sandy Duncan spoke as a proponent for HB-2165 - AN ACT relating to taxation; concerning exempt sales. This bill has been revised to include the wording "tissue or organ" in addition to the blood bank. These were not available when the bill was originally passed. The committee agreed to run the bill on the consent calendar and hold it until next session.

The minutes of the February 6 meeting were approved.

There being no further business to come before the committee, the meeting was adjourned.


E. C. Rolfs, Chairman

HOUSE BILL NO. _____

By Representative Braden

AN ACT relating to sales taxation; exempting sales of property purchased pursuant to community-based mental retardation programs; amending K.S.A. 1986 Supp. 79-3606 and repealing the existing section.

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

Section 1. K.S.A. 1986 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, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, and motor vehicles as defined by K.S.A. 79-1017 and amendments thereto;

(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: (1) Such state or hospital is engaged or proposes to engage in any 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, or (2) such political subdivision is engaged or proposes to engage in

the business of furnishing gas, water, electricity or heat to others and such items of 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 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. 79-3640 and amendments thereto, "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 are 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 is 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. 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 is 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. 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. 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 are 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 such 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 if such 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) all 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;

(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. 75-1226, and amendments thereto; and (2) "sales of used mobile homes" shall mean sales other than the original retail sale of such mobile homes;

(ee) on and after January 1, 1987, all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a qualified business facility located within an enterprise zone, which will qualify for an income tax credit under K.S.A. 79-32,153, and amendments thereto, and the sale and installation of machinery and equipment purchased and installed in conjunction with the original establishment of such a facility. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such facility, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment 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 owner of the qualified business facility 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, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, 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. 79-3615, and amendments thereto; and

(ff) on and after October 1, 1986, all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture; and

(gg) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto.

Sec. 2. K.S.A. 1986 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.



TOPEKA

HOUSE OF
REPRESENTATIVES

BILL BRADY
REPRESENTATIVE, SIXTH DISTRICT
LABETTE, MONTGOMERY COUNTIES
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COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER
PENSIONS, INVESTMENTS AND BENEFITS
MEMBER EDUCATION
JOINT COMMITTEE ON SPECIAL CLAIMS
AGAINST THE STATE
JOINT COMMITTEE ON LEGISLATIVE
EDUCATIONAL PLANNING

HOUSE TAXATION COMMITTEE

HB 2080 - Financing of County Jail

February 10, 1987

Statement by Rep. Bill Brady

Mr. Chairman, Members of the Committee, HB 2080 was requested by Montgomery County citizens as a means to obtain financing for a tax and bond laws. A similar bill SB 688 introduced late last year and passed the Senate but did not make it through the House.

The bill authorizes a county-wide retailers' sales tax for the purpose of financing the construction or remodeling of a courthouse jail or law enforcement center facility. The question of imposing the tax and pledging the revenue would have to be submitted to the electors of Montgomery County. The revenue received from the tax would be retained by the county and expended only for the purpose for which the revenue was pledged. The bill also calls for the tax to expire upon payment of all costs incurred in the financing of the facility. Additionally the bill allows the sales tax proceeds to be used for payment of bonds issued for the purpose of financing the construction or remodeling of a county courthouse, jail or law enforcement center facility. Finally for the bill exempts bonds issued for this purpose and paid for from the proceeds of a county-wide sales tax for the completion of the county's total bonded indebtedness.

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The bill provides a mechanism which is not currently available for financing the construction of a county jail. Although the bill was requested only by Montgomery County, it was written for use by all counties because of the widespread problem many counties are facing securing funds to build a jail that meets federal and state standards.

As counties continue to feel the effects of federal and state budget cuts, it is imperative that we develop means to help them continue to meet their obligations in carrying out their statutory duties.

HB 2080 provide such means and I urge your favorable construction of this measure.

Hazel Allison

House Taxation Committee

House Bill No. 2080 - Financing of County Jails

February 10, 1987

Statement by Hazel Allison, Coordinator
Montgomery County Jail Advisory Committee

Mr. Chairman, Members of the Committee:

Several Kansas counties must construct new jail facilities to meet Constitutional standards. Time is running out for many of them. Some face the prospect of having the courts take over operation of their facilities; some have lawsuits pending; and many are unable to obtain liability insurance.

The preferred method of financing jails is with a county-wide retailers' sales tax.

House Bill No. 2080 would allow counties to keep the entire tax proceeds raised for the purpose of constructing a jail or law enforcement center. At present one-half of any county sales tax must be shared with cities within the county. Thus, to pay for a five million dollar facility it would be necessary to raise twice that amount. This bill would mean a savings for taxpayers.

Montgomery county hopes to put the jail question on the April ballot so we will not have to go to the expense of a special election. As, according to law, the notice must be published two consecutive weeks and no less than twenty-one days prior to the election it is imperative that we get this bill passed by both the House and the Senate by March 1.

I urge your favorable consideration of this bill.

Kansas Association of Counties

Serving Kansas Counties

212 S.W. SEVENTH STREET, TOPEKA, KANSAS 66603 PHONE 913 233-2271

February 10, 1987

To: Representative Ed Rolfs, Chairman
 Members House Taxation Committee

From: Beverly Bradley, Legislative Coordinator
 Kansas Association of Counties

Re: HB-2080

Good Morning, I am Bev Bradley, from the Kansas Association of Counties. I appear today in support of HB-2080.

Boards of County Commissioners need a method of funding specific improvements such as financing the construction or remodeling of a courthouse, jail or law enforcement facility. With the end of Federal Revenue Sharing the depressed farm economy, low oil and gas prices, etc. alternative revenue sources must be sought and this one seems appropriate.

Kansas Association of Counties joins Montgomery County in urging your favorable consideration of HB-2080.