

Approved \_\_\_\_\_

3/16/89

Date

MINUTES OF THE House COMMITTEE ON Taxation

The meeting was called to order by Representative Keith Roe at \_\_\_\_\_  
Chairperson

9:00 a.m. ~~pm~~ on March 14, 1989 in room 519-S of the Capitol.

All members were present except:

Representative Smith, excused                      Representative Crowell, excused  
Representative Aylward, excused                      Representative Roy, excused

Committee staff present:

Tom Severn, Research  
Chris Courtwright, Research  
Don Hayward Revisor's Office  
Lenore Olson, Committee secretary

Conferees appearing before the committee:

John Luttjohann, Director of Taxation  
Herb Whitlow, KS Plb, Htg and Clg Contractors Association  
James Mylmek, National Electrical Contractors Association  
Robert Carley, National Electrical Contractors Association  
Representative Bowden  
Jerry McCoy, Sedgwick County Treasurer  
Sergeant Terry Maple, Kansas Highway Patrol  
Ron Hoyler, Kansas City, Kansas, Police Officer

John Luttjohann testified in support of HB 2518, stating that this bill will simplify sales tax reports for contractors, without a loss of revenue to the state. (Attachment 1)

Herb Whitlow testified in support of HB 2518, stating that enactment of this bill will resolve the majority of problems. (Attachment 2)

James Mylmek testified in support of HB 2518, stating that the Kansas Sales Tax Regulation as it now exists, is very confusing, cumbersome, and creates problems. (Attachment 3)

Robert Carley testified in support of HB 2518, stating that present regulations appear to require at least eight different sets of entry records to identify sales actions. (Attachment 4)

Chairman Roe closed the hearing on HB 2518.

Representative Bowden testified in support of HB 2531, stating that this bill would help reclaim lost revenue from those who are not paying their fair share of registration and property taxes on motor vehicles. (Attachment 5)

Jerry McCoy testified in support of HB 2531, stating that this bill addresses many gray areas in the current law which makes the prosecution of a Kansas resident with out-of-state tags very difficult and inconsistent throughout the State. (Attachment 6)

Terry Maple testified in support of HB 2531, stating that it would provide criteria for determining if a person is a "resident" for the incorporation into the vehicle registration statutes and would also clarify where certain vehicles are required to be registered. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation,  
room 519-S, Statehouse, at 9:00 a.m.~~pm~~ on March 14, 1989

Ron Hoyler testified in support of HB 2531, stating that he has seen the need for additional legislation to more clearly define some grey areas of the law. This bill will assist law enforcement in better prosecution and conviction of violators. (Attachment 8)

Written testimony was submitted by Mary Ladesic, Wyandotte County Treasurer, who was unable to attend the meeting. (Attachment 9) Her written testimony was in support of HB 2531.

Chairman Roe concluded the hearing on HB 2531.

A motion was made by Representative Wagnon and seconded by Representative Adam to amend HB 2021 with a substitute bill striking all but the reporting provisions and amending the effective date to the Statute Book instead of January 1, 1990. The motion carried.

A motion was made by Representative Wagnon and seconded by Representative Snowbarger to pass HB 2021 favorably as amended. The motion carried.

The minutes of March 3, 1989, were approved.

The meeting adjourned.

HOUSE COMMITTEE ON TAXATION

DATE 3/14/89

NAME	ADDRESS	REPRESENTING
Ron Hoxton	2849 N 75th Kc	HOUSE Bill 2531
LEROY GREEN JR.	9400 STATE K.c.k.	House Bill 2531
HAROLD PITTS	Topeka	observer
TERRY MAPLE	TOPEKA	Ks. Hwy. Patrol
BILL JACOBS	" "	" "
Gerhard Metz	"	KCCI
Jeff Roberts	"	Ks. Assoc. for Small Bus.
Tom Slattery	Topeka	AGC of Ks
Kelly Arnold	Lawrence	City of Lawrence
Don Hollister	Topolka	KRIZ-DAVIS CO
Alan Steppat	Topeka	Pete McMill & Associates
ED DE SOIGNIE	TOPEKA	Ks. CONTRACTORS ASSOC.
BUD GRANT	"	KCC
JANET STUBBS	"	HBAK
Harb Whitlow	"	KPNCC
Jim Smith	"	College Hill Plb + Htg
Ruth Welkin	"	LW
Rick Bowden	GOODARD, Ks	LEGISLATIVE DIST #93
JERRY McCoy	WICHITA, KS	H.B. 2531 <sup>Sgt. Co.</sup> <sub>Treasurer</sub>
WM. E. O'BRIEN	DEATHE	JOHNSON COUNTY TREASURER
Lyndall C. FORD	6000 Lamar Mission Ks	Johnson County MVD
Jim Mlynek	3508 <sup>TOP</sup> <sub>SE 21</sub> Ks	K JOHNSON ELEC - NEG
Raf Marney	Topeka	MEK




KANSAS DEPARTMENT OF REVENUE

*Division of Taxation*

Robert B. Docking State Office Building  
Topeka, Kansas 66625-0001

**MEMORANDUM**

TO: THE HONORABLE KEITH ROE, CHAIRMAN  
HOUSE COMMITTEE ON TAXATION

FROM: JOHN R. LUTTJOHANN   
DIRECTOR OF TAXATION

RE: HOUSE BILL 2518

DATE: MARCH 14, 1989

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Thank you for the opportunity to appear today in support of House Bill 2518.

This bill would allow a contractor who maintains an inventory of materials to be treated in the same manner as other retailers under our sales tax law.

Currently there's a good deal of confusion among contractors about how the sales tax law applies to their businesses. We believe this provision would simplify sales tax reporting significantly. We indeed worked with Representative Aylward in drafting the language in the bill.

Under current law, a contractor is not permitted to purchase materials without tax, even if the materials are for resale. This is due to the fact that a contractor is deemed to be the consumer of the materials he purchases. If a contractor is going to "mark-up" the materials when he resells them to his customer, he must either deduct from the invoice the amount of sales tax he's already paid to his supplier, or he must take a credit on his sales tax return for the amount of tax he paid when he originally bought the goods.

Under this proposal, a contractor will be able to simply bill his customer for the sales tax due, and remit that amount to the state.

A contractor who only performs new construction work, where labor services are not subject to sales tax, will be allowed to continue to pay tax on his materials when he purchases them, and will not have to register for sales tax purposes.

I would also mention that we have a sales tax information guide nearly completed which explains the application of our sales tax law to the construction industry. Should this proposal be passed, we will make the necessary changes to that guide, and anticipate its distribution later in the spring.

We believe this bill will simplify sales tax reporting for contractors, without a loss of revenue to the state. I would be happy to respond to any questions you may have.

3/14/89  
Attachment 1

KANSAS



NATIONAL ASSOCIATION OF  
PLUMBING · HEATING · COOLING CONTRACTORS

**PLUMBING, HEATING, COOLING CONTRACTORS ASSOCIATION, INC.**

320 LAURA, WICHITA, KANSAS 67211

PHONE 316 / 262-8860

March 14, 1989

TO: The Honorable Committee on Taxation:

RE: H.B. No. 2518, relating to sales tax and Contractors.

Mr. Chairman, Committee Members:

I am Herb Whitlow, representing the Kansas Plumbing, Heating, Cooling Contractors Association. In addition, I am a principal in the Topeka firm of Latta-Whitlow Plumbing and Heating. It is from that perspective that I appear today in support of House Bill 2518.

The existing sales tax rules do not account for the type of retail sales business done by the vast majority of Contractors in the State of Kansas. Under the existing law, a retailer is defined as one who has a place of business which is open to the public for over-the-counter sales. Some plumbing, heating, cooling firms, including mine, have showrooms and sales counters for retail sales, but the preponderance of the business income is still derived from Contracting. Other firms do not maintain a specific retail sales area, however actively solicit retail sales of equipment, fixtures and materials at the location where work is being performed. This literally renders the Contractor a point of purchase retailer at the end user or consumers location. However, the existing law does not account for this type of retailer, resulting in a very difficult set of circumstances for the Wholesale supplier and the Contractor. This is further complicated by the fact that often large bulky items and/or large volumes of equipment or material are sold by the Contractor, then shipped directly from the Wholesale supplier to the Consumers site for installation by the Contractor. Only the paperwork reaches the Contractors inventory, but it is very much a retail sale.

All of this activity results in a very complicated and highly detailed monthly sales tax report for both the Wholesaler and the Contractor. Compliance for everyone involved, including the State Business Tax Bureau, is at best, very costly in both time and money.

The Kansas PHCC Association, and many others, have hosted meetings and worked diligently with the Kansas Business Tax Bureau toward compliance and possible solutions to the problems. We believe all are in agreement that the enactment of H.B. 2518, will resolve the majority of problems. For this reason we recommend the Bill and urge your support.

Thank you for your time and kind attention. If I may provide further information or answer any questions, I will be happy to do so.

Herb Whitlow, Legislative Chair  
Kansas Plumbing, Heating, Cooling Contractors Association

*3/14/89*  
*Attachment 2*



O. K. JOHNSON ELECTRIC CO., INC.  
3508 S.E 21ST. STREET

(913) 232-0067  
TOPEKA, KANSAS 66607

TESTIMONY BEFORE THE  
HOUSE TAXATION COMMITTEE  
MARCH 14, 1989 H.B. 2518

BY

JAMES E. MLYMEK, PRESIDENT

NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

AND

PRESIDENT O..K. JOHNSON ELEC. CO. INC.

Mr. Chairman and Members of the Committee:

My name is James E. Mlynek and I am here today on behalf of the Kansas (Topeka) Chapter of the National Electrical Contractor's Association and O. K. Johnson Electric Co., Inc.

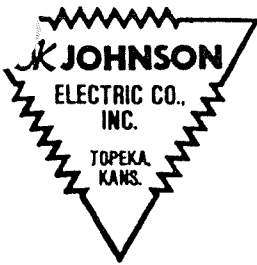
We are here to support House Bill 2518 or at least support what we think the result of House Bill 2518 will be.

The Kansas Sales Tax Regulation as it now exists, is very confusing, very cumbersome and not all sub-contractors or construction business's, suppliers, treat it the same and this I believe is due to the interpretation of the regulation.

For some past years, sub-contractors have paid Sales Tax on our inventory and material charged to a job when it was sold. Recently we were informed that we were going to have to pay sales tax when we received our material. This not only creates a cash flow problem for sub-contractors, is extremely confusing to our customers.

*3/14/89  
attachment 3*





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O. K. JOHNSON ELECTRIC CO., INC.

(913) 232-0067

3508 S.E 21ST. STREET

TOPEKA, KANSAS 66607

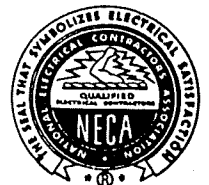
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It also increases the paper work of all sub-contractors. It makes it very difficult on our bookkeepers to determine; First, does the job fit a tax exempt status for material and/or labor. Then, have we paid sales tax on the invoice when we purchased the material. Then, when we mark up the material and show this sales tax on our invoice to the customer, the customer questions what this funny amount of tax is.

We would like to see a sales tax bill that let's us tax the customer when we sell our product, just like selling a can of beans at a grocery store.

We urge your support of House Bill 2518 and if you have any questions, I will be glad to try to answer them.

James E. Mlynek





3<sup>RD</sup> FLOOR  
WICHITA, KANSAS 67211  
(316) 265-7067

KANSAS (WICHITA) CHAPTER

NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

HOUSE BILL NO. 2518  
COMMITTEE ON TAXATION

Committee Members: We are here today to lend our support to House Bill #2518. My name is Robert L. Carley. I have been an owner of Southwestern Electrical Co., Inc. for 25 years. I am also President of the Wichita Chapter of the National Electrical Contractors Association. I am representing both parties here today.

The Southwestern Electrical Company is an electrical retailer/contractor with several hundred thousand dollars in retail sales yearly. We have a retail sales counter with showroom, we perform service work, repair and remodeling. We also do major electrical contracting on new construction. A sizable inhouse inventory is maintained to service all of these sales area. Our regular customer base includes schools, churches, non-profit organizations, home building contractors, mechanical contractors, general contractors and the general public.

Many of these customers have sales tax exemption numbers issued by the State of Kansas. Our construction sales amount to several million dollars yearly. These sales are made from both the inhouse inventory and direct purchases from manufacturers and wholesalers. In some cases, we buy out of state, install and sell materials out of state. The law should allow the Contractor to order materials shipped directly to his job site or into his inhouse inventory without sales tax burden.

We would ask that the Sales Tax Regulations be amended to allow for an established Retailer/Contractor to charge and collect the Sales Tax from the end user if the Retailer/Contractor has applied and received a Kansas Retailer Registration number.

Our Sub-contractor sales are made to General Contractors who should collect the sales tax on the gross sale of all tangible personal property to their consumers. They should be allowed a tax exemption status on purchases from us. We suggest removing the words (and not for resale), Line 45.

We would suggest that the final action on changing the Sales Tax Act be made on the basis of requiring those of us who perform in dual business capacity under one identity be

3/14/89  
attachment 4



did not intend to collect Sales Tax from all customers unless a valid Sales Tax exemption certificate is presented.

Our recordkeeping for audit purposes would be simplified and errors could be minimized.

Our past sales tax audits have been conducted without problems. However, present regulations appear to require at least eight different sets of entry records to identify our sales actions.

1. Retail sale to a consumer who is exempted by the State Tax Law.
2. Retail sale to a holder of a tax exemption certificate for resale.
3. Retail sale to the company for maintenance and repair of company personal property.
4. Contract sales to General Contractors to whom we are under sub-contract to do a portion of a project.
5. Contract sales to an Owner who has received a project exemption certificate.
6. Materials returned to inhouse inventory from a completed exempted project.
7. Material and labor for service and repair work.
8. Sales of Engineering and design services.

This could lead to an enforcement nightmare, and is far too cumbersome and expensive for the Contractor. These regulations need revisions as Sales Tax audits are too costly and time consuming to both the State and the Contracting Industry.

We support the Sales Tax concept and only desire to make it workable and enforceable. We request your support and favorable vote on this bill.

Thank you,

Robert L. Carley  
P.O. Box 1602  
Wichita, Kansas 67201  
(316) 263-1264

RICK BOWDEN  
REPRESENTATIVE, NINETY-THIRD DISTRICT  
433 WALNUT  
GODDARD, KANSAS 67052



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER: EDUCATION  
MEMBER: GOVERNMENTAL ORGANIZATION  
LOCAL GOVERNMENT  
RULES AND JOURNAL

House Committee on Taxation

House bill 2531

Members of the House Taxation Committee. I would like to first of all express my Thanks to you and Chairman Roe for introducing this bill. HB 2531 is an attempt to resolve one of the problems that I constantly hear about in our state, i.e., individuals who live in Kansas but register their vehicles out of state. These individuals use our state, county and city roads but escape their responsibilities of supporting the cost of maintenance or improvements in them because they are not paying their property taxes or registration fees. Why should these individuals be allowed to continue to do this while forcing honest Kansas citizens to pay a higher tax burden? A fundamental question of fairness is involved and HB 2531 attempts to provide a set of standards that would be used by governmental units to identify these people.

Anyone who drives around our State needs only to drive through any apartment complex or drive up and down our streets to see the magnitude of this problem. Literally millions of dollars in revenue is being lost to local units of government because of this problem. Wyandotte county has recouped \$7 million during the last 7 years from a program that seeks to identify these individuals. Officials in Sedgwick county believe as much as \$2 million a year is lost due to failure of some people to register properly their vehicles here in Kansas. At a time when we are again giving serious consideration to a major tax increase on motor vehicle fuels and registration fees I believe it is very appropriate to consider and pass legislation which would help us reclaim this lost revenue from those residents who are not paying their fair share of the registration and property taxes on motor vehicles. I encourage your favorable consideration and action on HB 2531.

3/14/89  
attachment 5



# SEDGWICK COUNTY, KANSAS

## TREASURER

Jerry McCoy

SUITE 107

COUNTY COURTHOUSE, WICHITA, KANSAS 67203-3703

PERSONAL PROPERTY TAXES/VEHICLE REFUNDS  
REAL ESTATE TAXES

268-7651  
268-7414

DISTRIBUTION AND BONDS  
CASHIER

268-7561  
268-7345

TESTIMONY BEFORE KANSAS HOUSE OF REPRESENTATIVES TAXATION COMMITTEE  
CONCERNING H.B. 2531 AT 9:00 A.M. ON TUESDAY MARCH 14, 1989

As a county treasurer of the most populous county in the State of Kansas, I fully support H.B. 2531. It was drafted after input from county treasurers, county commissioners, law enforcement agencies, state senators and representatives and the Department of Revenue. This bill addresses many gray areas in the current law which makes the prosecution of a Kansas resident with out-of-state tags very difficult and inconsistent throughout the State.

As taxes continually increase and with the current interest of the public on the impact of reappraisal, I believe that it is our responsibility as elected officials to maximize tax collections from those who utilize our public services, but are not paying their fair share. The simple definition of "resident" contained in H.B. 2531 and the elimination of the hopelessly complicated "reciprocal agreements" currently utilized, is a big step in the right direction to provide law enforcement and the courts the necessary tools to prosecute violators and to provide tax fairness on this issue to the citizens of our State.

In Sedgwick County, we are preparing to initiate a crackdown on out-of-state tags. H.B. 2531 will be of tremendous benefit to our efforts. I estimate that a minimum of \$3 million in escaped taxes will be collected in Sedgwick County alone with the enactment of this bill. This is 8 per cent of our total vehicle tax collections and is a conservative estimate.

In addition, the State will benefit by increased vehicle registration income and improved compliance with mandatory vehicle insurance requirements.

The broad-based support for action in this matter by elected and appointed officials is a result of increasing complaints from the public concerning these scofflaws and our frustration with the inability of current law to fully address the problem.

You now have the opportunity to close this loophole in the law and assist us in giving all taxpayers the opportunity to pay their fair share of taxes, but no more.

I urge your support of House Bill 2531.

3/14/89

Attachment 6

SUMMARY OF TESTIMONY

Before the House Taxation Committee

March 14, 1989

House Bill 2531

Presented by the Kansas Highway Patrol

(Sergeant Terry L. Maple)

Appeared in Support

The Kansas Highway Patrol supports House Bill 2531. As written, the bill would provide criteria for determining if a person is a "resident" for incorporation into the vehicle registration statutes and would also clarify where certain vehicles are required to be registered.

Currently, the statutes governing registration of vehicles contain only a definition of "nonresident" which is simply defined as "Every person who is not a resident of this state." This broad definition continually poses problems for vehicle owners, County Treasurers, law enforcement officers and courts alike when they must determine if a person is a resident of this state for the purposes of registering a vehicle.

It is our belief that the criteria for determining residency and the other language contained in House Bill 2531 would help eliminate existing confusion in this area and would greatly enhance the ability to determine if a vehicle legally requires Kansas registration or is in fact properly registered in this state.

It is with this consideration in mind that we ask for your favorable consideration of House Bill 2531.

3/14/89

Attachment 7

Memo To: House Taxation Committee

From: Ron Hoyler

Date: March 14, 1989

Re: H.B. 2531

My name is Ron Hoyler. I am a Kansas City Kansas Police Officer. I am here today in support of H.B. 2531.

As a career law enforcement officer of 28 years, I have seen the need for additional legislation to more clearly define some grey areas of the law. When this Bill becomes law, it will assist law enforcement in better prosecution and conviction of violators.

I have been with the Kansas City Kansas Police Department for the last fourteen years and prior to this I was a Kansas Highway Patrol Trooper for eight years. Since 1985, I have been assigned to the Kansas City Kansas-Wyandotte County Tag Crackdown Program.

We find the law, as it currently exists, allows violators to take advantage of the grey areas in the law. H.B. 2531 addresses the area of residency requirements as well as defining the time frame in which a vehicle must be titled and registered in the state of Kansas.

In my present position with our tag enforcement program, it has been my experience that judges have dismissed cases for lack of more clearly defined statutes concerning residency as it applies to registration.

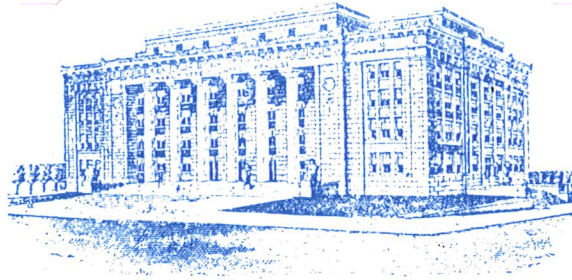
Our goal, as law enforcement officers, is to enforce the law fairly for everyone, not to enhance revenue collections, but to see that everyone is treated in a just manner. I personally feel that many individuals have been skirting the law for as many as twenty years, therefore leaving the tax burden to those who voluntarily comply with the law.

On behalf of myself and other law enforcement officers, I respectfully request your favorable support on H.B. 2531.

I appreciate this opportunity to express my concerns and support of this bill to the committee. Thank you.

3/14/89

Attachment 8



573-2823

OFFICE OF  
**MARY P. LADESIC**  
COUNTY TREASURER  
WYANDOTTE COUNTY COURT HOUSE  
KANSAS CITY, KANSAS 66101



TESTIMONY TO: The House Taxation committee  
The Honorable Marvin Smith, Chairman

DATE: March 13, 1989

RE: HOUSE BILL NO. 2531

My name is Mary Ladesic, I am the Wyandotte County Treasurer. I am in support of House Bill No. 2531.

Our County borders the state of Missouri, and in fairness to our honest constituents, we found it necessary to create a program which would identify the thousands of Wyandotte countians who were registering their vehicles elsewhere. The program we developed is now known as the "TAG CRACKDOWN" program.

This program began in November of 1984. Since that time, Wyandotte county has realized over 7 1/2 million dollars additional revenue in personal property taxes alone; this does not include registration fees and sales tax revenues.

The merits of the program are indisputable. Recently five other Kansas counties have adopted a similar program patterned after ours in Wyandotte county. In the day-to-day operation of the program it became obvious the statutes needed to be more clearly defined.

During an interim study of the Joint Transportation committee, it was suggested by Chairman Senator Morris that legislation was needed for this purpose.

We feel House Bill No. 2531 clarifies the issue of who registers what, where, and when. All of which will greatly assist us in implementing the laws of the state of Kansas concerning vehicle registration more equitably and justifiably.

For these reasons, I strongly request your support of the much-needed House Bill No. 2531.

Thank you for your time and attention.

MPL:sc

*not present*

*3/14/89  
Attachment 9*