

Approved _____

3/23/89
Date

MINUTES OF THE House COMMITTEE ON Taxation

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

9:00 a.m./~~p.m.~~ on March 22, 1989 in room 519-S of the Capitol.

All members were present except:

Representative Lowther, 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

John Luttjohann testified in support of SB 221, stating that this bill would make an individual who is responsible for the collection or payment of any one of the various excise taxes administered by the Department of Revenue personally liable for the payment of such taxes should said responsible person fail to properly collect or remit the amount due. (Attachment 1)

Chairman Roe concluded the hearing on SB 221.

A motion was made by Representative Wagon and seconded by Representative Reardon to amend HB 2523 into SB 220. The motion carried.

A motion was made by Representative Fuller and seconded by Representative Shore to amend HB 2526 by striking the words "treated as the estimated tax may be" in line 161 of page 5; also amend HB 2526 to have the provisions of HB 2526 apply only to tax years commencing after December 31, 1988; also to include amended HB 2526 into SB 220. The motion carried.

A motion was made by Representative Fuller and seconded by Representative Wagon to report SB 220 favorably as amended. The motion carried.

Chairman Roe opened the hearing on SB 178. No one appeared to testify on SB 178 and Chairman Roe concluded the hearing on SB 178.

A motion was made by Representative Shore and seconded by Representative Pottorff to report SB 4 favorably. Representative Shore withdrew his motion.

A motion was made by Representative Fuller and seconded by Representative Pottorff to introduce a bill on contents of certificates of title for automobiles. The motion carried.

A motion was made by Representative Wagon and seconded by Representative Grotewiel to amend HB 2534 using the proposed amendment submitted by Representative Wagon. (Attachment 2) The motion carried with a vote count of 12 yes and 8 no votes.

A motion was made by Representative Wagon and seconded by Representative Vancrum to amend HB 2534 to allow the Board of Tax Appeals to waive the interest. The motion carried.

A motion was made by Representative Wagon and seconded by Representative Dean to pass HB 2534 as amended. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation,
room 519-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 22, 1989

A motion was made by Representative Smith and seconded by Representative Reardon to pass SB 221 favorably. The motion carried.

A motion was made by Representative Wagnon; seconded by Representative Branson to pass HB 2034 favorably.

A substitute motion was made by Representative Vancrum; seconded by Representative Dean to amend HB 2034 to require a withdrawal certificate showing documentation that the person who has the account is withdrawing funds for the intended purpose, and that a copy of such certificate is to be immediately sent to the Department of Revenue in Topeka. The motion carried.

A motion was made by Representative Crowell; seconded by Representative Dean to pass HB 2034 favorably as amended.

A substitute amendment was made by Representative Reardon; seconded by Representative Crowell to amend HB 2034 in line 143, page 4, by striking the words "deposited in," and inserting the words "withdrawn from." The motion carried.

A motion was made by Representative Crowell; seconded by Representative Dean to pass HB 2034 as amended.

A substitute motion was made by Representative Reardon; seconded by Representative Harder to amend HB 2034 by striking the words "other appropriate expenses" in line 157 on page 5. The motion carried.

A motion was made by Representative Roy; seconded by Representative Crowell to conceptually amend HB 2034 to include that monies in any such savings account may not be used as collateral for a loan. The motion carried.

A motion was made by Representative Dean; seconded by Representative Crowell to pass HB 2034 as amended. The motion carried.

The minutes of March 17, 1989, and March 20, 1989, were approved.

The meeting adjourned.



KANSAS DEPARTMENT OF REVENUE

Division of Taxation

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

MEMORANDUM

**TO: THE HONORABLE KEITH ROE , CHAIRPERSON
HOUSE COMMITTEE ON TAXATION**

**FROM: JOHN R. LUTTJOHANN, DIRECTOR OF TAXATION
KANSAS DEPARTMENT OF REVENUE**

RE: SENATE BILL NO. 221

DATE: MARCH 22, 1989

Thank you for the opportunity to appear before you today in support of Senate Bill No. 221.

As introduced, this bill would make an individual who is responsible for the collection or payment of any one of the various excise taxes administered by the Department of Revenue personally liable for the payment of such taxes should said responsible person fail to properly collect or remit the amount due.

This bill is similar in design to K.S.A. 79-3643 which became law July 1, 1986. The effect of K.S.A. 79-3643 was to impose individual corporate officer liability for delinquent sales and compensating use taxes.

I would be happy to respond to any questions which you may have.

*3/22/89
Attachment 1*

Proposed Amendment to HB 2534

On page 1, before line 22, by inserting two new sections to read as follows:

"Section 1. K.S.A. 1988 Supp. 79-201 is hereby amended to read as follows: 79-201. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All buildings used exclusively as places of public worship and all buildings used exclusively by school districts organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or school district purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that: (a) Any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any other political or taxing subdivision of the state or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property; and (b) any building, or portion thereof, used as a place of worship, together with the grounds upon which the building is located, shall be considered to be used exclusively for the religious purposes of this section when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, or when used to house an area where the congregation of a church society and others may purchase tracts, books and other items relating to the promulgation of the church society's religious doctrines.

Second. All real property, and all tangible personal

3/22/89
Attachment 2

property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes, including property used exclusively for such purposes by more than one agency or organization for one or more of such exempt purposes. This exemption shall not apply to such property, not actually used or occupied for the purposes set forth herein, nor to such property held or used as an investment even though the income or rentals received therefrom is used wholly for such literary, educational, scientific, religious, benevolent or charitable purposes. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because an agency or organization: (a) Is reimbursed for the provision of services accomplishing the purposes enumerated in this paragraph based upon the ability to pay by the recipient of such services; or (b) is reimbursed for the actual expense of using such property for purposes enumerated in this paragraph; or (c) uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purposes of this paragraph; or (d) charges a reasonable fee for admission to cultural or educational activities or permits the use of its property for such activities by a related agency or organization, if any such activity is in furtherance of the purposes of this paragraph.

Third. All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.

Fourth. The reserve or emergency funds of fraternal benefit societies authorized to do business under the laws of the state of Kansas.

Fifth. All buildings of private nonprofit universities or colleges which are owned and operated by such universities and

colleges as student union buildings, presidents' homes and student dormitories.

Sixth. All real and tangible personal property actually and regularly used exclusively by the alumni association associated by its articles of incorporation with any public or nonprofit Kansas college or university approved by the Kansas board of regents to confer academic degrees or with any community college approved by its board of trustees to grant certificates of completion of courses or curriculum, to provide accommodations and services to such college or university or to the alumni, staff or faculty thereof.

Seventh. ~~For all taxable years commencing after December 31,~~ 1984, All parsonages owned by a church society and actually and regularly occupied and used exclusively as a residence by a minister or other clergyman of such church society who is actually and regularly engaged in conducting the services and religious ministrations of such society, and the land upon which such parsonage is located to the extent necessary for the accommodation of such parsonage.

Eighth. All real property, all buildings located on such property and all personal property contained therein, actually and regularly used exclusively by any individually chartered organization of honorably discharged military veterans of the United States armed forces or auxiliary of any such organization, which is exempt from federal income taxation pursuant to section 501(c)(19) of the federal internal revenue code of 1986, for clubhouse, place of meeting or memorial hall purposes, and real property to the extent of not more than two acres, and all buildings located on such property, actually and regularly used exclusively by any such veterans' organization or its auxiliary as a memorial park.

Ninth. All real property and tangible personal property actually and regularly used by a community service organization for the predominant purpose of providing humanitarian services, which is owned and operated by a corporation organized not for

profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign not-for-profit corporation if: (a) The directors of such corporation serve without pay for such services; (b) the corporation is operated in a manner which does not result in the accrual of distributable profits, realization of private gain resulting from the payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered or the realization of any other form of private gain; (c) no officer, director or member of such corporation has any pecuniary interest in the property for which exemption is claimed; (d) the corporation is organized for the purpose of providing humanitarian services; (e) the actual use of property for which an exemption is claimed must be substantially and predominantly related to the purpose of providing humanitarian services, except that, the use of such property for a nonexempt purpose which is minimal in scope and insubstantial in nature shall not result in the loss of exemption of such use is incidental to the purpose of providing humanitarian services by the corporation; (f) the corporation is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986 and; (g) contributions to the corporation are deductible under the Kansas income tax act. As used in this clause, "humanitarian services" means the conduct of activities which substantially and predominantly meet a demonstrated community need and which improve the physical, mental, social, cultural or spiritual welfare of others or the relief, comfort or assistance of persons in distress or any combination thereof including but not limited to health and recreation services, childcare, individual and family counseling, employment and training programs for handicapped persons and meals or feeding programs. Notwithstanding any other provision of this clause, motor vehicles shall not be exempt hereunder unless such vehicles are exclusively used for the purposes described therein.

~~The provisions of this paragraph shall apply to all taxable years commencing after December 31, 1986.~~

Tenth. Any building, and the land upon which such building is located to the extent necessary for the accommodation of such building, owned by a church or nonprofit religious society or order which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and actually and regularly occupied and used exclusively for residential and religious purposes by a community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

The provisions of this section, ~~except as otherwise more specifically provided,~~ shall apply to all taxable years commencing after December 31, ~~1987~~ 1988.

Sec. 2. K.S.A. 1988 Supp. 79-201a is hereby amended to read as follows: 79-201a. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All property belonging exclusively to the United States, except property which congress has expressly declared to be subject to state and local taxation.

Second. All property used exclusively by the state or any municipality or political subdivision of the state. All property owned or operated by the state or any municipality or political subdivision of the state which is used or is to be used for any governmental or proprietary function and for which bonds may be issued or taxes levied to finance the same, shall be considered to be "used exclusively" by the state, municipality or political subdivision for the purposes of this act section. All property leased to the state or any municipality or political subdivision of the state shall not be considered to be used exclusively by the state or any municipality or political subdivision of the state for the purposes of this section. Any property constructed

or purchased with the proceeds of industrial revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 12-1740 to 12-1749, or purchased with proceeds of improvement district bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, or with proceeds of bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-3815a and 19-3815b, or any property improved, purchased, constructed, reconstructed or repaired with the proceeds of revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, or any property improved, reimproved, reconstructed or repaired with the proceeds of revenue bonds issued after July 1, 1963, under the authority of K.S.A. 13-1238 to 13-1245, inclusive, which had previously been improved, reconstructed or repaired with the proceeds of revenue bonds issued under such act on or before July 1, 1963, shall be exempt from taxation for so long as any of the revenue bonds issued to finance such construction, reconstruction, improvement, repair or purchase shall be outstanding and unpaid. Any property constructed or purchased with the proceeds of any revenue bonds authorized by K.S.A. 13-1238 to 13-1245, inclusive, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued on or after July 1, 1963, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property, all or any portion of which is constructed or purchased with the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, issued on or after July 1, 1963 and prior to July 1, 1981, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property constructed or purchased wholly with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property constructed or purchased in part with the proceeds

of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation to the extent of the value of that portion of the property financed by the revenue bonds and only for a period of 10 calendar years after the calendar year in which the bonds were issued. The exemption of that portion of the property constructed or purchased with the proceeds of revenue bonds shall terminate upon the failure to pay all taxes levied on that portion of the property which is not exempt and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 et seq., and amendments thereto. Property purchased, constructed, reconstructed, equipped, maintained or repaired with the proceeds of industrial revenue bonds issued under the authority of K.S.A. 12-1740 et seq., and amendments thereto, which is located in a redevelopment project area established under the authority of K.S.A. 12-1770 et seq. shall not be exempt from taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto for any poultry confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation.

Third. All works, machinery and fixtures used exclusively by any rural water district or township water district for conveying

or production of potable water in such rural water district or township water district.

Fourth. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safekeeping thereof, and for the meeting of fire companies, whether belonging to any rural fire district, township fire district, town, city or village, or to any fire company organized therein or therefor.

Fifth. All property, real and personal, owned by county fair associations organized and operating under the provisions of K.S.A. 2-125 et seq. and amendments thereto.

Sixth. Property acquired and held by any municipality under the municipal housing law (K.S.A. 17-2337 et seq.) and amendments thereto, except that such exemption shall not apply to any portion of the project used by a nondwelling facility for profit making enterprise.

Seventh. All property of a municipality, acquired or held under and for the purposes of the urban renewal law (K.S.A. 17-4742 et seq.) and amendments thereto except that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

Eighth. All property acquired and held by the Kansas armory board for armory purposes under the provisions of K.S.A. 48-317, and amendments thereto.

Ninth. All property acquired and used by the Kansas turnpike authority under the authority of K.S.A. 68-2001 et seq., and amendments thereto, K.S.A. 68-2030 et seq., and amendments thereto, K.S.A. 68-2051 et seq., and amendments thereto, and K.S.A. 68-2070 et seq., and amendments thereto.

Tenth. All property acquired and used for park purposes by the state park and resources authority under the authority of K.S.A. 74-4501 et seq., and amendments thereto.

Eleventh. The state office building constructed under

authority of K.S.A. 75-3607 et seq., and amendments thereto, and the site upon which such building is located.

Twelfth. All buildings erected under the authority of K.S.A. 76-6a01 et seq., and amendments thereto, and all other student union buildings and student dormitories erected upon the campus of any institution mentioned in K.S.A. 76-6a01, and amendments thereto, by any other nonprofit corporation.

Thirteenth. All buildings, as the same is defined in subsection (c) of K.S.A. 76-6a13, and amendments thereto, which are erected, constructed or acquired under the authority of K.S.A. 76-6a13 et seq., and amendments thereto, and building sites acquired therefor.

Fourteenth. All that portion of the waterworks plant and system of the city of Kansas City, Missouri, now or hereafter located within the territory of the state of Kansas pursuant to the compact and agreement adopted by chapter 304 of the 1921 Session Laws of the state of Kansas [See K.S.A. 79-205].

Fifteenth. All property, real and personal, owned by a groundwater management district organized and operating pursuant to K.S.A. 82a-1020, and amendments thereto.

Sixteenth. All property, real and personal, owned by the joint water district organized and operating pursuant to K.S.A. 80-1616 et seq., and amendments thereto.

The provisions of this section shall apply to all taxable years commencing after December 31, 1980 1988.;

By renumbering existing sections 1 to 3, inclusive, as sections 3 to 5, respectively;

On page 3, in line 95, after "Supp." by inserting "79-201, 79-201a and";

In the title, in line 16, after the semicolon by inserting "concerning exemptions therefrom;"; in line 18, after "Supp." by inserting "79-201, 79-201a and"; in line 19, by striking "section" and inserting "sections";