Approved March 4, 1991
Date

MINUTES OF THE House COMMITTEE ON Taxation.

The meeting was called to order by Joan Wagnon at
Chairperson

9:10 a.m./~~p.m.~~ on Monday, February 25, 1991 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Tom Severn and Chris Courtwright, Legislative Research;
Don Hayward and Bill Edds, Revisors

Conferees appearing before the committee:

Chairman Wagnon called the committee to order at 9:10 a.m. for hearings on HB 2111, HB 2112 and HB 2113.

Rep. Larkin moved and Rep. Wiard seconded the introduction of a bill requested by the Dept. of Revenue to adjust the payment schedule of withholding taxes for larger taxpayers.

Mark Burghart, General Counsel for the Dept. of Revenue testified in support of HB 2111 (attachment 1).

Robert A. Anderson of the Kansas Mid-Continent Oil and Gas Assn. testified against HB 2111 (attachment 2).

Jeff Chanay, representing the Kansas Independent Oil & Gas Assn., testified against HB 2111 (attachment 3)

Ronald R. Hein, representing Mesa Limited Partnership, testified against any legislation that would accelerate collection of the severance tax. He suggested an amendment (attachment 4)

John McDonough of Lenexa testified against HB 2111 (attachment 5).

Written testimony in opposition to HB 2111 was submitted by Ross Martin, Executive Director of the Kansas Petroleum Council (attachment 6).

Hearings on HB 2111 were closed.

Mark Beshears, Secretary of Revenue, testified in favor of HB 2113 (attachment 7).

Sec. Beshears was asked several questions of clarification. When asked if he "wholeheartedly" supported HB 2113, he replied affirmatively. Sec. Beshears stated that the six additional employees provided for in the Governor's budget would be sufficient to enact HB 2113. When asked if taxes levied on a point-of-performance basis would also apply to intrastate services, he replied negatively. Sec. Beshears replied to a question that some regressivity in the tax system would be lost by reducing property taxes in concert with implementation of HB 2113.

Burghart testified in favor of HB 2112 (attachment 8).

Mark Tallman, Coordinator of Governmental Relation for the Kansas Assn. of School Boards, testified against HB 2112 and HB 2113 (attachment 9).

Paul Johnson, representing the Children's Coalition, testified in favor of progressive taxes and reexamination of spending priorities.

Larry Fischer, representing Kansans for Fair Taxation, Inc., testified in favor of HB 2113 (attachment 10).

Cedric Moege, member of the Silver Haired Legislature and Citizens for Responsible Government, testified regarding HB 2113 (attachment 11). Moege suggested the only real solution was to cap property taxes.

T.C. Anderson, Chair of Kansans for Tax-Free Services, testified against certain aspects of HB 2113 (attachment 12).

Roy Rysecamp, representing United Parcel Service, testified against certain aspects of HB 2113. He suggested amendments (attachment 13).

Steve Richards, Manager of Government Relations for Yellow Freight System, testified in opposition to HB 2113 (attachment 14).

Mary E. Turkington, Executive Director of the Kansas Motor Carriers Assn., testified against HB 2113 (attachment 15).

Jerry Simpson, Executive Director of the Kansas Lottery, testified against removal of the sales tax exemption on the sale of lottery tickets (attachment 16).

Bob Corkins, Director of Governmental Affairs for the Kansas Chambers of Commerce and Industry, testified against HB 2113 (attachment 17).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation,

room 519-S, Statehouse, at 9:10 a.m./~~p.m.~~ on Monday, February 25, 1991

Written testimony was submitted to the committee from John C. Peterson on behalf of the United Motion Picture Assn. (attachment 18).

The minutes for February 14, 15 and 19 were approved by unanimous consent.

The committee adjourned at 10:55 a.m.

GUEST LIST

COMMITTEE: Taxation DATE: 2/25/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
PATRICK J. HURLEY	TOPEKA	CESSNA
Elwaine F Pomeroy	Topeka	KS Collectors Ass'n
Catherine A. Deever	Topeka	Kansas Veterinary Medical Assoc.
[illegible]	Salina	RAAK
Bob Corkins	Topeka	KCCI
Wendell STROM	TOPEKA	AARP - CCTF
[illegible] McBride	Topeka	[illegible]
Shelley SUTTON	Topeka	KS Engineering Society
Alan Steppat	Topeka	Pete McGill & Associates
Anne Smith	Topeka	Ks. Assoc. of Counties
[illegible]	Topeka	KNEA
Mark Tallman	Topeka	KASB
Mary Ellen [illegible]	Topeka	KS. Lg. of Women Voters
Christy Young	Topeka	Topeka Chamber
FRANCES KASTNER	TOPEKA	Ks food Dealers Assn
Amy Johnson	Manhattan	Intern
James L. [illegible] Jr	Topeka	self
[illegible]	Topeka	KFFT
[illegible] SOMERS	Topeka	KSCPA
[illegible]	Topeka	KFFT
[illegible]	Meriden	KFFT
Jeff [illegible]	Topeka	KIOGA
Ken Peterson	"	KPC
Larry Fischer	"	KFFT

GUEST LIST

COMMITTEE: Taxation DATE: 2/25/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Marvin Webb	Topeka	Webb Assoc
Ross Martin	"	KPL
TC Anderson	"	KSCPA
Warren Parker	Manhattan	Ks. Farm Bureau
[illegible]	Topeka	K.C.C.T
Kristie Wardell	Topeka	A&L
Pat Higgins	Topeka	Gov. Office
Kristy Koscielny	"	Gov. Office
Deborah Sampson	Lawrence	KCICCA
ALISA DOTSON	Olathe, KS.	Taxation/Dept of Rev.
Trudy Aron	Topeka	AIA Kansas
Jean Barbee	Topeka	Travel Industry Assn.
George Barbee	Topeka	Ks Consulting Engrs
KAREN FRANCE	TOPEKA	Ks. Assoc. of REALTORS
LAURA KELLY	TOPEKA	KS RECREATION & PARK ASSN.
Harriet Lange	Topeka	Ks Assn Broadcasters
Dan Haas	Overland Park	KCPL
ROY RYSCAMP	OMAHA/LENEXA	UPS
Steve Richards	Overland Park	Yellow Freight Sys.
Mary E. Turkington	Topeka	Ks Motor Carriers Assn
MARK CIARDULLO	TOPEKA	REV
Cindy Gilpin	Topeka	Budget
Terry Guy	Meriden	Rev
Arvin Samuelson	[illegible]	Self

GUEST LIST

COMMITTEE: Taxation DATE: 2/25/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
JOHN McDONOUGH	LENEXA	CITIZEN
JANICE MARCUM	TOPEKA	DoR
Ron Hein	Topeka	Mesa Ltd. Partnership
MARK A. BURGHART	"	REVENUE
Ed Rolfs	"	PCG, Inc
Tom Whitaker	Topeka	Ks Motor Carriers Assn.

KANSAS DEPARTMENT OF REVENUE
Office of the Secretary
Robert B Docking State Office Building
915 SW Harrison St
Topeka Kansas 66612-1588

MEMORANDUM

To: The Honorable Joan Wagnon, Chairperson
House Committee on Taxation

From: Mark A. Burghart, General Counsel
Kansas Department of Revenue

Date: February 25, 1991

Subject: House Bill No. 2111

Thank you for the opportunity to appear in support of H.B. 2111. The bill contains one of the components of Governor Finney's property tax relief package. The bill provides generally for the acceleration of certain tax payments and also establishes a system of estimated tax payments for privilege taxpayers (banks and savings and loan institutions). The individual elements of the bill and their associated fiscal notes are set forth below:

1. Employers with annual withholding over $8,000 are required to remit the tax four times during each month rather than twice a month. The one-time effect of the accelerated payments is <u>$8.0 million</u>.

2. The liquor enforcement tax payment date is changed from the last day of the month following date of sale to the 25th day of the following month. The one-time effect of the accelerated payment is $.8 million.

3. The payment date for mineral severance tax is changed from the 20th day of the second month following the month in which the production is removed from the lease to the 20th day of the month immediately following the month in which the production is removed from the lease. The one-time effect of the accelerated payments is $6.5 million.

4. Privilege taxpayers are required to make estimated tax payments in the same manner as corporations for income tax purposes. Estimated tax payments would be made quarterly rather than have a single payment as required under current law. The creation of a system of estimated tax payments for privilege taxpayers has a one-time effect of $6.5 million. The bill should be amended to provide that the estimated payments would be effective for privilege tax years beginning after December 31, 1991.

The total revenue for the various accelerators would be $21.8 million. The proposed statutory changes would take effect upon publication in the state register.

I would be happy to respond to any questions you might have.

General Information (913) 296-3909
Office of the Secretary (913) 296-3041 • Legal Services Bureau (913) 296-2381
Audit Services Bureau (913) 296-7719 • Planning & Research Services Bureau (913) 296-3081
Administrative Services Bureau (913) 296-2331 • Personnel Services Bureau (913) 296-3077

HOUSE TAXATION
Attachment #1
02/25/91

STATEMENT BY ROBERT A. ANDERSON
OF THE KANSAS MID-CONTINENT OIL AND GAS ASSOCIATION
FEBRUARY 25, 1991

With regard to H.B.2111 I have been advised by industry tax personnel that it will be virtually impossible to accurately pay a gas Severance Tax by the 20th of the month following production. As you are aware, in the gas industry producers rely on statements from gas purchasers and/or pipeline companies for data necessary in calculating volumes, values, and taxes. In many situations, this information is not even available by the 20th day of the month following production. If this early due date is implemented, we would be forced to estimate volumes and values reported to the Department of Revenue and adjust on a month by month basis. This process leads to a great deal of inaccuracies and confusion, as well as a great deal of extra work for both the producer and the State of Kansas.

Recognizing the complexities involved in gathering and accurately reporting gas volumes, the State of Louisiana extended their due date for gas Severance Tax payments from the 30th of the first month to the 15th of the second month. In fact no major producing state has a due date as early as the one proposed in H.B. 2111.

Listed below are current due dates for Gas Severance Tax payments in several major producing states:

STATE	GAS PAYMENT DUE DATE
Kansas	20th day (2nd month)
Louisiana	15th day (2nd month)
New Mexico	25th day (2nd month)
Oklahoma	10th day (2nd month)
Texas	20th day (2nd month)
Wyoming	25th day (2nd month)

Needless to say industry opposes H.B. 2111 and will oppose any legislation which unrealistically attempts to accelerate the reporting deadline for gas Severance Tax payments.

HOUSE TAXATION
Attachment #2
02/25/91

KIOGA

KANSAS INDEPENDENT OIL & GAS ASSOCIATION
105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202
(316) 263-7297 • FAX (316) 263-3021
1400 MERCHANTS NATIONAL BANK BLDG. • TOPEKA, KANSAS 66612
(913) 232-7772 • FAX (913) 232-0917

February 25, 1991

TO: House Committee on Taxation

RE: HB 2111

Madam Chairman and members of the Committee, I'm Jeff Chanay appearing on behalf of KIOGA in the absence of Don Schnacke who is in Washington, D.C. working on the national energy strategy as proposed by the Administration. He will return to Kansas later this week.

KIOGA does not have a position on the merits of the enactment of circuit breaker legislation, as we are not privy to the extent of the need for such legislation. This subject was contained in two bills during the 1990 session, HB 2620 and HB 2632.

KIOGA has appeared several times in the past objecting to the provision found in HB 2111 which would accelerate the collection of the severance tax as outlined on page 4, line 30.

This issue was debated at length in 1983 when the severance tax was enacted. A compromise of fifty days for payment of the tax was agreed to. Industry tried to allow for as much time as possible because of the need for adequate time to accumulate the data, calculate the volumes, its value, and the tax.

To accelerate the collection of severance taxes would lead to mistakes and confusion resulting in bad data being used by the State and the taxpayers.

KIOGA has survey several producers and they uniformly report that it is virtually impossible, particularly relating to natural gas production, to report and pay the severance tax within twenty days.

Last year, as I remember, after consideration by the Secretary of Revenue, the Governor's version of the circuit breaker legislation did not include accelerated payment of severance taxes. We would ask that you amend HB 2111 on page 4, line 30 by reinstating the word "second" which has been struck in this proposed amendment to existing statute.

HOUSE TAXATION
Attachment #3
02/25/91

Jeff Chanay
for KIOGA

HEIN AND EBERT, CHTD.
ATTORNEYS AT LAW
5845 S.W. 29th, Topeka, Kansas 66614
Telefax 913/273-9243
913/273-1441

Ronald R. Hein
William F. Ebert
Steven D. Rosel

**HOUSE TAXATION COMMITTEE
TESTIMONY RE: HB 2111**

**PRESENTED BY RONALD R. HEIN ON BEHALF OF
MESA LIMITED PARTNERSHIP
February 25, 1991**

Mr. Chairman, members of the committee:

My name is Ron Hein, and I am legislative counsel for Mesa Limited Partnership, an oil and gas producer with significant reserves in southwest Kansas, primarily in the Hugoton field.

We do not appear today as a proponent or opponent of the concept of accelerating tax collections.

However, we strongly oppose any legislation that would accelerate collection of the severance tax. When the severance tax was first enacted in 1983, it was pointed out by the industry the difficulty of determining the amount of tax to be paid, and the industry requested even more than the fifty days that is presently allotted to determine, calculate, and collect the tax.

I have been advised by the various departments at Mesa that our company simply cannot obtain the data in the time frame prescribed by HB 2111.

It is virtually impossible for the producers to close out production, pull the gas measurement charts, integrate the charts (the vast majority of which work needs to be done by hand), obtain the volume per well, obtain information from the transporter (pipe line) about the volume acquired, cut the invoice to be sent to the purchaser, allow the purchaser time to respond (which is set at ten days), then commence the accounting cycle, calculating the tax on an individual well basis, and then transmitting the tax and the supporting data to the Director of Revenue in twenty days as provided for in HB 2111.

We would strongly urge the Legislature to abide by the fifty day time period provided for by current law.

We would therefore urge you to delete Section 4 from HB 2111 in the event that this legislation is to be reported favorably.

Thank you very much for permitting me to testify today, and I will yield for any questions.

HOUSE TAXATION
Attachment #4
02/25/91

0159w

State and local taxes are $1,937 a person, Kansas figures show

1/3/91

The Associated Press

TOPEKA — Each Kansan paid an average of $1,937 in state and local taxes in fiscal year 1990, or 11.7 percent of personal income.

That is the second-highest percentage of personal income paid in taxes during the 1980s. The highest percentage, 11.8, was paid in 1988.

These figures were released Wednesday in the latest update of Kansas tax information from the Legislative Research Department.

They showed that all units of government in Kansas co"
$4.89 billion in ta~ ...
fiscal year 19~~ ...ollected
Ri~ ...x revenue in

...rector of
...aid one
...so high
...s the
...rose
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"Many localities have tried to hold taxes down because of pressure from their people."

— Richard Ryan, legislative research director

the pressure off property taxes to some extent, he said, and allowed local voters to decide w~
they wanted the ta~ ...
"Many lo~ ... whether
hol~ ...axes.
... localities have tried to ...d taxes down because of pressure from their people," he said.

Other revisions in the tax laws massively increased state aid for localities, mostly for education; mandated that the state pay for many county welfare programs; and mandated that the state t~ over the cost of ~ personnel of the ~
All the~
h~

And while Mom-And-Dad-Free-School are subsidized so lavishly -- we neglect the truly needy, the retarded, those without health insurance, the infrastructure and so ny more needs.

5-2

HOW MUCH IS TOO MUCH?

Family of 4. . .$7,748

$1,937 X 4 Per Home

State and local taxes

How much goes for free education? About $2,175. Plus $425 college subsidy. Total tax cost per home $2,600. Really big bucks, yearly. But not near enough for the school lobby crowd. Benefits to Mom-And-Dad-Free-School . . . $12.4 (yes) million, one family. Doesn't even pay annual year pupil cost. ($5,000)

True economic cost of $2,175 @10% is $4.3 million

You're liable to be renamed the "Anti-Economic Development Committee"---because you chase away so many jobs, trying to get the public school crowd off your back. No such luck. They'll always be there.

AT ARE OUR PRIORITIES TO B

1. More compassionate spending of available public funds.

2. Empowerment: Opportunities and CHOICE to minorities and the disadvantaged in such areas as schools, housing, working themselves off welfare and out of crime areas, and starting small businesses.

3. Reduce public school populations in favor of private schools, so that vast sums of public funds are available for compassionate aid.

Introduce TUITION at public schools for those able to pay.

$520 million for Kansas

And introduce the Epsom, N.H. school tax-credit plan.

$120 million for Kansas

4. Encourage economic development by resisting tax increase proposals that hurt job loss and creation.

5. Debate the principle of means-testing school benefits and other public programs at the state level.

House Tax
Att 5
2/25/91

Preser tatic , House + Senate 5/91 2/28/91

Tax Committees. State Capitol

By:
John McDonough
8530 Bradshaw
Lenexa, Kansas 66
(913) 888-4455

ABOUT TAXES AND JOBS

Taxpayers of Kansas Being Stung With Heavy Tax Load Already-- $7,748 state and local. And this taxation committee is intent on sticking it to us again and again-- Just lately:

Stick it to apartment people.

Stick it to us with more income taxes . . . for schools and cities.

Stick it to cigarette smokers

(A selective and brutal meanness)

Oil field property taxes.

Dozens more, for sure.

Now, again, the public school crowd is after you. Again. For a massive state-wide tax increase. Haven't they given you a bad enough name already? They got you into the classification mess, with tax hikes you keep ok'ing.

Kansas
Petroleum
Council

RE: House Bill 2111
TO: House Taxation Committee
DATE: February 25,1991

My name is Ross Martin. I am executive director of the Kansas Petroleum Council. HB 2111 would affect several of our member companies who pay severance taxes on Kansas oil and gas production.

My remarks are directed to the deletion of the word "second" in line 30 of Section 4, the provision for accelerated payments.

It would require payment of severance taxes a month earlier than under current law. We forwarded copies of the bill to company tax departments who told us that it would be extremely difficult, and sometimes impossible, to comply with a more restrictive time schedule.

The problem is especially acute with regard to natural gas, a product often sold to many different entities and at different prices. One reason is that severance taxes on natural gas are paid according to actual volumes sold. Sales on the spot market, which are made from a central point, require a return of information about volumes and values from transmission companies and/or those with working interests in the wells. Our companies tell us it generally takes as much time as current law allows just to gather this vital information.

If the bill is so passed, Kansas would afford us the least amount of time for reporting and paying state severance taxes. Other states, having recognized the complexities involved, allow payments during the second month following production.

We believe a shorter timeframe would result in repetitive reporting, more filings of estimated returns, and more requests for waivers. And, much inaccuracy and confusion might be added to the process for both the state and our companies.

For these reasons, we must oppose passage of HB 2111. That concludes my statement. Thank you for hearing our concerns.

HOUSE TAXATION
Attachment #6
02/25/91

(913) 234-0589 • SUITE 1005, MERCHANTS TOWER • 8TH AND JACKSON STREETS • TOPEKA, KANSAS 66612

KANSAS DEPARTMENT OF REVENUE
Office of the Secretary
Robert B. Docking State Office Building
Topeka, Kansas 66612-1588

TO: The Honorable Joan Wagnon, Chairwoman
House Taxation Committee

FROM: Mark Beshears
Secretary of Revenue

DATE: February 25, 1991

RE: House Bill 2113

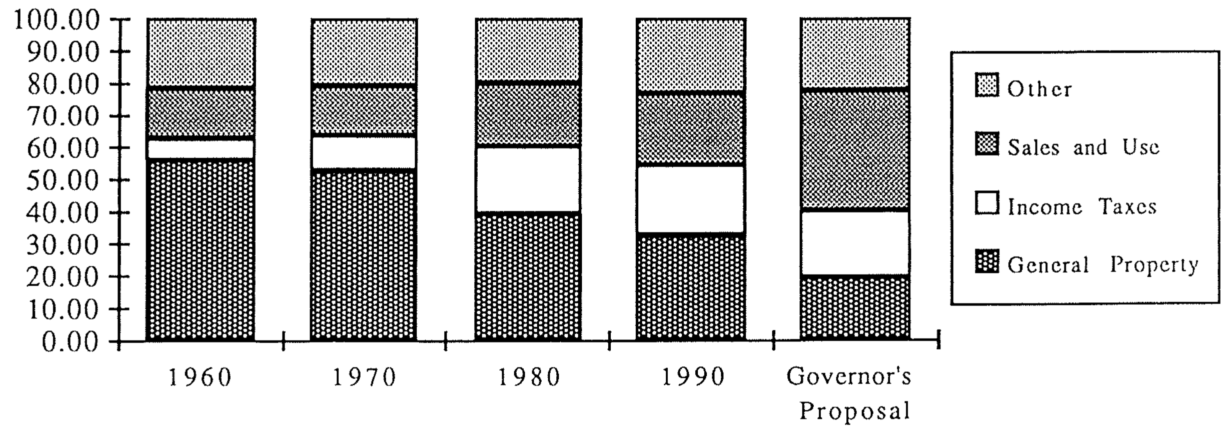
Background

The Governor's proposal to broaden the sales tax base by removing sales tax exemptions and the inclusion of most services, would allow Kansas to reduce its dependence on the property tax, allow the state to adequately fund its commitment to programs already in place, and bring ending balances into compliance with statutes. When fully phased in, this proposal would reduce the reliance on general property taxes by approximately 30%-35%.

The chart below shows the change in tax mix if the Governor's tax proposal is adopted. The general property tax component is reduced significantly from 32.3% to 20% of total state and local revenues, while total sales and use tax collections are increased from 22.6% to 39% of total state and local tax revenue.

HOUSE TAXATION
Attachment #7
02/25/91

Kansas Department of Revenue
Governor's Proposal
State and Local Tax Revenues as a Percent of Total



The Governor's proposal retains the current system of a retailers sales tax. Sales at the wholesale level, sales for ingredient, component parts and property consumed in production are not taxed. Also excluded are sales to governmental units.

The current exemptions which are retail-level exemptions, total about $419.8 million. If the philosophy of a retail sales tax is retained, the $419.8 million is the maximum amount of revenue that could be generated if all retail exemptions were repealed.

Significant property tax reduction is the Governor's goal, therefore, very few exemptions can be retained. The Governor's proposal retains 12 of the retail exemptions, which total $31.0 million; and removes 35 retail exemptions which generate $388.8 million. Of the 35 exemptions proposed to be repealed, $357.6 million of the $388.8 million is contained in only 10 exemptions.

Sales Tax Exemptions

The sales tax is considered to be a regressive form of taxation. Low-income citizens pay a larger proportion of their income in sales taxes than upper-income citizens. The repeal of the residential utility exemption and the motor fuel exemption increases the regressivity of the sales tax base. Many of

Attachment 7-2

the remaining exemptions are not as regressive and probably, in many cases, could make the sales tax system more progressive. Those exemptions which increase the progressivity of the sales tax include: original construction; manufacturing machinery and equipment; gas, electricity, and water consumed in production; and purchases of trucks and railroad rolling stock used in interstate commerce. Some of these exemptions are now enjoyed by industries which received the greatest benefits from reappraisal and classification.

Most exemptions are for specific types of industries and are not targeted to the whole population. Exemptions for farm machinery, manufacturing machinery and equipment, and equipment used in interstate commerce are for specific industries. The utilities' exemptions and sales tax on motor fuels are targeted to the population as a whole.

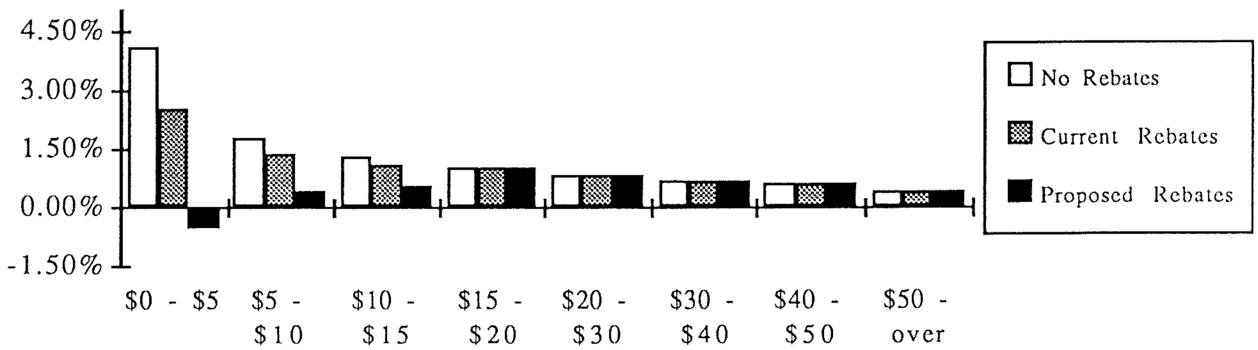
While most studies and reports concentrate on the regressiveness of the sales tax, if taxpayers are asked which tax they perceive as being the most fair, a large percentage believe the sales tax. The rational is because the sales tax is paid on a daily basis and at the taxpayers discretion; in addition, at the end of the year no forms are required and no remittances are made so the taxpayer can see the amount of sales taxes they have paid.

To offset the regressive feature of taxing utilities the Governor is proposing a utility rebate of $70 per household. The utility rebate would be offered in conjunction with an enhanced food sales tax rebate. This rebate could be as much as $120 for an individual with household income under $5,000. It would make the sales tax less regressive for those taxpayers with household incomes under $15,000. For taxpayers with household incomes over $15,000 the regressivity returns, but at a reduced rate of increase.

The chart below illustrates the change in regressivity for household incomes below $15,000 under the Governor's rebate proposal. The proposed rebate makes the sales tax on food and utilities progressive through household incomes of up to $20,000. Without the proposed rebate the sales tax on these items is very regressive even with the current food sales rebate.

The chart below also takes into account consumer expenditures for motor fuel and oil. The $70 utility rebate was recommended by the revenue transition team and is the estimated amount of sales tax paid by an average household in Kansas for utilities.

Kansas Department of Revenue
Sales Taxes as a Percent of Household Income
Spent on Purchases of Food, Utilities and Motor Fuel

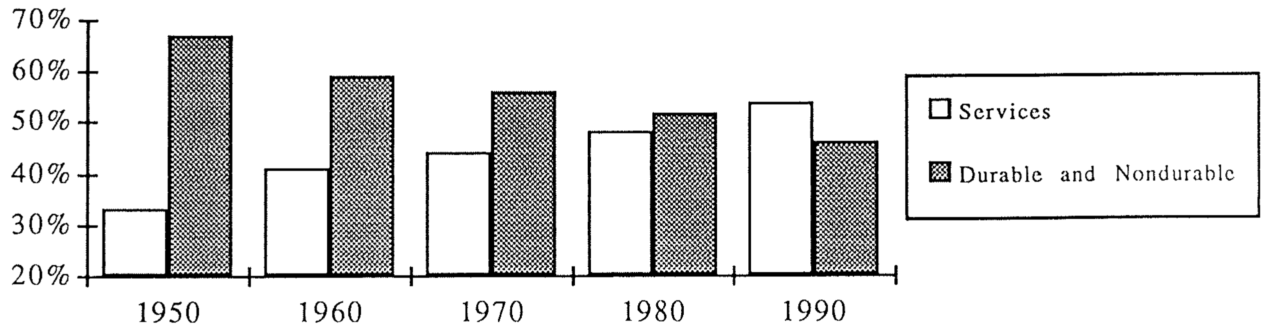


Sales Tax on Services

The Governor's proposal extends the Kansas retailer's sales tax to all services, except advertising, medical, social, health and educational services. Adding most services to the sales tax base is estimated to generate about $176.3 million during the first year. The annual estimate is $282.1 million.

Prior to the early sixties expenditures for services by the general population as a percent of total consumer spending was less than that of spending on nondurable and durable goods (tangible personal property). By 1980, consumer spending on services was about 48% of total personal consumption expenditures. In the first quarter of 1990, 54% of total consumption expenditures were for services. This trend toward increased spending on services is expected to continue through the nineties.

Kansas Department of Revenue
Total Consumption Expenditures
Services and Durable and Non-Durable Goods as a Percent of Total



The amount of consumer spending on tangible personal property has declined from 59% of total consumption expenditures in 1960 to 46% in the first quarter of 1990. If retail sales of all tangible personal property were subject to sales tax and no exemptions were ever enacted, the base would still decline, because each year American consumers are spending a greater percentage of their income on services. During the 1990's Kansas must broaden the sales tax base to include some or all services. This makes the sales tax base more elastic and helps to avoid tax rate increases in the future.

Further, it is believed that a higher percentage of services are purchased by upper income taxpayers. The taxing of services will add some progressivity to the sales tax system.

According to a recent study by the Federation of Tax Administrators, of those states with sales taxes, Kansas ranks about 13th in the taxation of services. Most of the services which Kansas currently taxes are in two areas: repairs and installation; and the personal services area. The services that Kansas currently taxes are the most regressive, for they are used predominantly by taxpayers in the middle and low income classes. Taxing services for repairs to property and admissions seem to be among the most regressive group of services which a state could tax. The Governor's proposal will make the current sales tax base more progressive in the area of the taxation of services.

Attachment 7-5

Use Tax on Services

This proposal contains a use tax on services to accompany the current use tax on the sales of tangible personal property. The use tax on services would require a business, dealing with a Kansas taxpayer, to charge and collect the service use tax. The use tax on services would work in the same way the current use tax works.

The use tax on services has been incorporated into this proposal to "level the playing field" for Kansas business in relation to their competition from neighboring states. The use tax concept will help protect in-state services providers from out-of-state competitors. The use tax on services would be applied by using two common tests, either the "point of performance" concept or the "beneficial use" concept. For the majority of taxable services, the "point of performance' concept could be used. Most services are performed in relation to tangible personal property and to real estate. Determining the situs of the service should not be difficult. The "beneficial use" concept would be used for a small number of services which, by their nature, could be performed in a number of different states: such as legal; accounting; engineering; and financial services. Many states which have attempted to broaden their sales tax base to include services have been unsuccessful because of the attempt to tax professional services. By including a use tax the proposal levels the playing field for Kansas business. The concepts of "point of performance" and "beneficial use" would assist the different types of taxable service businesses to determine how to charge their customers the services use tax.

Sales Tax on Services - Compliance Issues

A critical part of the Governor's proposal is the use tax on services. The use tax will eliminate the issue of businesses crossing state borders to avoid the collection of the service tax and the issue of consumers crossing the state borders to purchase a service on which a sales tax is not imposed.

Some of the issues the department will address regarding the taxation of services are discussed below:

Attachment 7-6

Education:

Inhouse Training - Department personnel will receive intensive training in order to adequately administer the new sales tax laws.

Taxpayer Assistance:

Telephone Inquires - The department will install additional telephones to answer question. The most qualified personnel will be used to assist and answer taxpayers questions. The department anticipates having these lines for at least four months.

Registrations:

Identification of New Taxpayers - The department will use licensing boards, associations, societies, and other state agencies to identify new registrants.

The departments field representatives will be used to identify and register new businesses by using telephone books, newspapers, local advertising, etc.

Processing of new applications and mailing the registration certificate, which currently take about three weeks to process, will be given a high priority. Current department personnel will be temporarily assigned to help process registrations. With the temporary reassignments we believe the turnaround time for a new registration can be ten days to two weeks.

Compliance:

The department currently has exchange agreements with our border states and other regional states. These exchange agreements have greatly enhanced the departments enforcement of the use tax imposed under current law. We already contend with compliance problems on the sale of tangible personal property, the addition of other types of transactions will not be overwhelming to our audit staff. The experience our audit personnel have with our current use tax will dramatically reduce the learning curve in regards auditing the use tax on services.

KANSAS DEPARTMENT OF REVENUE
Office of the Secretary
Robert B Docking State Office Building
915 SW Harrison St
Topeka Kansas 66612-1588

MEMORANDUM

To: The Honorable Joan Wagnon, Chairperson
House Committee on Taxation

From: Mark A. Burghart, General Counsel
Kansas Department of Revenue

Date: February 25, 1991

Subject: H.B. 2112

Thank you for the opportunity to appear in support of H.B. 2112. The bill is another component of the Governor Finney's property tax relief package. It is designed to reduce the regressiveness of the sales tax if residential utilities and motor fuel are added to the sales tax base as proposed in H.B. 2113. The bill increases the amounts for the food sales tax refund and creates a separate utility refund in the amount of $70. Utilities are defined to include electricity, heat, water, natural gas, propane gas, L-P gas, coal, wood and other fuel sources. The household income limitation is also increased from $13,000 to $15,000.

The food sales tax refund amounts would be adjusted as follows:

	HEAD OF HOUSEHOLD		OTHER HOUSEHOLD MEMBERS	
HOUSEHOLD INCOME	FROM	TO	FROM	TO
Less than $5,000	$40	$50	$30	$40
$5,000 less than $10,000	$30	$40	$25	$30
$10,000 thru $15,000	$20	$25	$15	$20

The fiscal impacts for FY 1992 and 1993 are set forth below:

	MILLIONS	
	FY 1992	FY 1993
Food	$1.58	$1.77
Utilities	5.07	5.67
TOTAL	$6.65	$7.44

The Department would propose 2 technical amendments to the bill. On page 1, line 20 "1986" should be changed to "1991". On page 2, line 42, "$13,000" should be changed to $15,000.

I would be happy to respond to any questions you might have.

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KANSAS ASSOCIATION OF SCHOOL BOARDS
5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony on Tax Policy Issues
before the
House Committee on Taxation

by

MARK TALLMAN, COORDINATOR OF GOVERNMENTAL RELATIONS
Kansas Association of School Boards

February 25, 1991

Thank you for the opportunity to present comments on the various tax issues your committee is facing; in particular, the concepts proposed by Governor Finney and the recommendations of your Subcommittee II.

KASB has established as our highest priorities for the 1991 session the following: restoration of an equalized school finance formula, reduction in property tax reliance, greater tax equity, and real growth in USD budgets. These goals are interrelated; and we believe will require a substantial increase in state revenues to be achieved. We support an equitable balance of increases in taxes to accomplish these goals. We believe these steps are in the best interests of Kansas, and would be supported by the people of Kansas.

Kansas has wisely placed the administration of its public schools in local school districts and boards that remain close to and accountable to the people. A majority of USD funding comes from local property taxes. However, providing an equal educational opportunity for all Kansas students is ultimately a state responsibility. With the suspension of the School

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District Equalization Act this year, failure to equalize school spending and taxation is not only inequitable, it is under challenge in court.

The Interim School Finance Committee has proposed significant revisions to the SDEA formula which would restore - and in fact, improve - the principles of school budget and tax equity in state education funding. However, without substantial additional funding, this plan will result in massive shifts in state aid and mill levies.

Increasing state aid reduces property taxes for schools, which consume the majority of property taxes overall, and address what many Kansans believe is an over-reliance on the property tax. We contend that an appropriate way to target relief is through the SDEA, which will tend to increase aid to districts which lost valuation through classification.

In other words, increased state aid through a strengthened SDEA will address three important issues: constitutional school finance, general property tax reduction, and targeted tax relief. We suggest that a minimum benchmark for this effort should be increasing state aid and the income tax rebate to provide 50% of total USD general fund budgets.

Finally, we believe adequate funding must be provided from state and local resources to allow schools to meet the growing demands being imposed upon them. Put simply, Kansas schools cannot deal with increasing social, economic and technological pressures with frozen or even reduced budgets; especially with expensive mandates in such areas as special education.

We urge the committee to seek the best mix of revenue sources to address the issues presented today.

KANSANS FOR FAIR TAXATION, INC.

PO Box 3820
Topeka, Kansas 66604
273-0401
Designated Speaker--Larry Fischer

****

Honorable Chairperson and Members of the House Taxation Committee

****

I am speaking for a Topeka-based group of citizens, Kansans For Fair Taxation, Inc. (KFFT), concerned about high property taxes. We stand in favor of House Bill 2113 as a **temporary remedial approach** to control a taxation situation that has become confiscatory. Too many Kansans, especially those in urban counties, were blasted by tax increases of 100% to 600% or higher and could lose their property.

Since 1215 A.D. when the Magna Carta was signed, and perhaps earlier, people have written about three basic rights of humanity: (1) the right of security, (2) the right of liberty, and (3) the right to own and enjoy property. In American history, Senator **Rufus King**, a signor of the Declaration of Independence and a Federalist candidate for president against Monroe, said in the 1820 Congressional Debates "... that it was calculated to plant in the new country a population of **independent and unembarrassed freeholders.**" This becomes important when the term of "freeholder" is defined. Early law dictionaries say a **Freeholder** (is) a person who possesses a freehold estate. And a **Freehold Estate** (is) land which is the absolute property of the owner; real estate held in absolute independence, without being subject to any rent, service, or acknowledgement to a superior.

In a recent book, entitled <u>The Second American Revolution</u>, constitutional attorney Robert W. Whitehead relates "Private property has suffered greatly in the United States through two basic statist measures: zoning laws and real estate taxes...Virtually unknown in early America, real estate taxes are nearly universal in contemporary America. In reality, real estate taxes are a form of <u>rent to the state for use of the property</u>. (Consequently, one can) lose the land if (one) does not pay...property taxes. There is **no true private property** when the state can exercise this power. The **state owns everything and its authority is ultimate**" p. 209.

With King's and Whitehead's thoughts in mind, the cries of tens of thousands of property owners throughout the state have fallen on deaf ears. From all appearances it has been a battle of special interest groups vs. the ancient concepts of the social contract. James Madison in the Federalist No. 10 summed up KFFT's feelings when he said the protection of the right to own property by men with different abilities (all men) is "**the first object of government**".

KFFT feels the Kansas legislature has been delinquent in implementing an <u>academic approach to property tax reform</u>. We sense the need to get back to basics and that is to <u>reduce the dependence on property taxes in this state</u>. The solution is to follow expert advice including the National Conference of State Legislatures and The Federation of Tax Administrators. They are knowledgable sources on the trends and direction of modern tax policy.

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In conclusion, Kansans For Fair Taxation likes HB 2113 because it follows expert advice by:

1. expanding the sales tax base **follows** the **recommendations** of the National Conference of State Legislatures and the Federation of Tax Administrators concepts;

2. by following the concepts of an earlier Kansas study, the **Hodge report;**

3. by providing for **immediate property tax relief.** We would like to see this dollar-for-dollar for property tax reduction;

4. in recognizing the **trend towards a nationwide decrease in the use** of property taxes and documented in the NCSL literature and Research Report No. 135;

5. by **beginning to reverse a 25 year trend of narrowing the sales tax base** in Kansas whereupon a few businesses are asked to collect an unfair share of taxes;

6. by recognizing that sales tax is one of the few taxes that has enough "clout" to supply **sufficient revenue** to meaningfully reduce property tax burden, and in all likelihood will be the tax source for the 1990's;

7. by addressing the fact that **exemptions are not cost effective;**

8. by pointing out that expanding the sales tax base **further reduces any perceived regressivity** of the sales tax;

9. by recognizing that experts feel that **property tax is more regressive that sales tax;**

10. by recognizing that sales taxes
   - a. are the **least unpopular**
   - b. relatively **stable**
   - c. **exportable** to non-residents
   - d. contrary to most opinions, is **only slightly regressive over the lifetime of families.**
   - e. allows the state to tax the **federal treasury;**

11. by taxing consumption and **following more closely the "Design of Ideal State-Local Revenue Developmental Concepts"** spoken of in the NCSL literature;

12. and by being able to be implemented immediately **without a constitutional change.** This allows time for a working model to be studied before concepts are "set in stone" in a constructive property tax reform amendment.

Kansans For Fair Taxation, Inc. will endeavor to give testimony in the next two days to illustrate what national trends are, to show how special interests have levered favorable tax positions through exemptions at the expense of others, to show why services must and will be taxed, and otherwise show that committees and subcommittees do not have to reinvent the wheel to implement **meaningful temporary remedial property tax relief.**

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Ha. - Tax Comm. Testimony by Cedric Moege - 3045 Kentucky - , eta
Member SHL. - KFFT - Citizens for Resp. Govt. - 2/25/91

Chairperson Joan Wagnon's recent newsletter stated that ~~the~~ 1991 Legislature has discussed 3 approaches to property tax relief none of which will work for the following primary reasons

① Property tax rollbacks are a temporary, band-aid approach to tax relief. Experience has shown that increasing budgets by schools and government will erode the rollback in a few years and the end result will be greater spending than before and total taxes will be raised.

② Change of classification rates are not a property tax reduction but merely a shift of tax liability, also there is no mill levy protection in reclassification. Last Wed. my 3 Shawnee Co. women Senators voted for reclassification and to raise my tax rate in Topeka by 4 Mills. Is this property tax relief?

③ Property tax Lids will not work because too many Govt. elect to opt out from under the lid by charter ordinance or resolution. Example - in Topeka USD 501, Washburn and City Library opted out from the lid in 1990, so our Topeka taxes increased by 8 to 10% over the previous year. Schools and local Gov are aware that no one will go to the effort of getting 2% of previous election registered voters to sign a petition to force a vote on the issue.

School Districts have **NO** lid and they are our biggest tax problem

Local option taxes should not be levied until a way is found to guarantee those moneys will be used solely for property tax reduction.

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④ A fourth and more viable approach was offered over a year ago by Nestor Weigand and Sen. Yost which would place a Property Tax Cap or Freeze of 1% to 1½% of appraised value on all property real and personal. I am at a loss as to why this approach has not as yet received any favorable attention from the Legislature or the media. Perhaps it will take initative and referendum to get the Property Tax Cap that 130,000 Kansans voted for last August.

A property Tax Cap would involve all 3 present approaches in ~~that the~~ plan would ① Eliminate mill levy requirements ② provide a Property Tax Lid and ③ eliminate the need for reclassification since the only item of importance would be appraised values and discrepancies there could be handled by Tax Protest procedure.

Gov. Finney's campaign promises originally asked for repealing sales tax exemptions and taxing services to provide 750 Million tax relief but she never espoused a Tax Cap and has since watered down her revenue requests to provide a 35% rollback, which appears doomed.

While scrambling to replace the revenue lost thru a tax cap schools and Gov't may uncover new ways to reduce SPENDING.

A repeal of State income tax exemptions on Lines A7 & A8 of the KS. Inc. Tax Form would bring in millions of new revenue.

I have NO qualms about raising Corporate Income Taxes. Corporations are a legal entity with NO heart, which use people to obtain ~~cap~~ corporate profits and when no longer useful, they dump these people on the "junk-heap" of humanity, as we have seen many examples of in recent years.

Perhaps it is time to discard consideration of the 3 approaches given to date and try a new idea which I feel many Kansans support and should be enacted into law and/or subject to referendum.

KANSANS FOR TAX-FREE SERVICES

P.O. Box 5654 • Topeka, Kansas 66605 • 913-267-6460
TOLL FREE IN KANSAS 1-800-222-0452

Testimony on

House Bill 2113

Presented to the

House Taxation Committee

by

T. C. Anderson

Chair

Kansans For Tax-Free Services

HOUSE TAXATION
Attachment #12
02/25/91

February 25, 1991

Representative Wagnon and

Members of the House Taxation Committee:

I am T. C. Anderson appearing before you today as Chairman of Kansans For Tax-Free Services, as well as the Executive Director of the Kansas Society of Certified Public Accountants, in opposition to certain aspects of HB 2113.

Kansans For Tax-Free Services was organized last May by a number of organizations and companies concerned with expansion of the current sales tax base in this state. Our steering committee includes representatives from the Independent Insurance Agents of Kansas, the Kansas Association of Broadcasters, Kansas Chamber of Commerce and Industry, Kansas Bar Association, Kansas Consulting Engineers, The Kansas Chapter of the American Institute of Architects, State Advertising Federation, Kansas Engineering Society and the Kansas Society of CPAs.

On behalf of these and the 27 additional organizations listed at the end of this testimony which have joined our fledgling coalition, I appreciate the opportunity to reflect upon some of the hazards we see associated with the further taxation of services and the removal of sales tax exemptions which are service oriented or have a direct impact on economic development.

In the essence of time, Bob Corkins' testimony will cover our concerns with removal of exemptions. We will limit our comments to the area of imposing the sales tax on currently non-taxed services.

As you begin these three days of hearings please remember, as with any new tax, that tax is paid by Kansas citizens. Barbers, lawn mowing services, or snow removal companies don't pay the tax, the user of the service does.

In an attempt to bring the imposition of any new sales tax into perspective, the fact that Kansas is already a heavy taxer of services should be a great consideration. According to the material offered to the Interim Tax Committee several months ago by Harley Duncan, Kansas ranks 14th in the nation in the number of services already taxed. While Kansas taxes 64 services, Colorado taxes 12, Nebraska 40, Missouri 24 and Oklahoma 33.

The imposition of new service taxes on Kansas citizens has been rejected by this legislature in the past and for good public policy reasons. I hope as you listen to the testimony from those supporting and opposing the taxation of services, you keep these in mind.

Any new service tax base has a profound effect on small business.

Businesses that purchase services are placed at a competitive disadvantage in relation to businesses that provide taxable services in-house. Small businesses are more likely to contract for legal, accounting and other support services while large businesses won't, because they have the capability of developing them in-house. Based upon the results of a survey I just conducted, 73 percent of Kansas CPAs fees are paid by small business. The Department of Revenue projects a sales tax on accounting and tax services would produce nearly $12 million. That means small business in Kansas would pay $8,760,000 of that portion of the proposed sales tax expansion. And let us remember it's the new small business that provides the greatest opportunity for job expansion in this state.

Any new service tax base will create a pyramiding of new taxes on to the Kansas consumer.

Application of the sales tax on professional and business services can result in multiple taxation or pyramiding. For example, the "sale for resale" exemption under the short-lived Florida services tax was narrowly defined so that the costs of subcontractor's services were taxed two or more times. What impact on the Kansas consumer of goods and services will an expanded services tax have. I'd expect small retailers would pass on to the consumer the additional cost of all new sales taxes they would have to pay under HB 2113.

Any new service tax base will harm Kansans as it impacts multistate business patterns.

Sales tax statutes relating to business and professional services engender certain problems given the realities of multistate business activity. The Florida tax was controversial because it used an apportionment approach to reach services that were performed outside the state. The alternative is to apply the tax only to services performed within the state. While that approach avoids the Florida controversy, it creates clear incentives to shift service -related activity out-of-state. This incentive would be particularly significant in the many border counties of the state in which 39 percent of the Kansas population lives.

Any new service tax base will have an impact on Kansas employment.

Increases in the price of a service will result in some reduction in the demand for the service. I may suffer through the preparation of my own tax return rather than pay a professional to do it or if I live near the state border take it out of state for preparation. Service providers may leave the state or transfer some of their major operations to offices in states which do not tax services. As an example several Topeka CPA firms do work nationwide for various franchisers. They could transfer these operations to offices they already have out-of-state. The loss of jobs in this instance would not be great, but would number 50 to 60. It is interesting to note South Dakota taxes CPA services; North Dakota does not. South Dakota (799,000) has more population than North Dakota (745,000). Yet there are over 500 more CPAs in North Dakota than in South Dakota.

James W. Wetzler, State Tax Commissioner of the state of New York, was quoted in the January 30, 1991, issue of the New York Times. He urged great caution in entering the area of service taxes. "In looking at the tax system," he said, "it's important to be mindful that just as manufacturing firms have the option of leaving, it's just as possible that service firms might leave." As you'll recall, the state of New York rejected an expansion of the sales tax base to business services last year.

Any new service tax base will have an impact on administration and compliance.

As you will hear from other conferees, there are serious concerns connected with compliance. By imposing a sales tax on services, the administrative costs to businesses would increase because such a tax would create a different set of requirements than for normal retail "point of sale" collection procedures.

The impact on government maybe even greater. While the Governor's Budget contains some $500,000 and five or six new positions to administer this proposed sales tax base expansion, let me share with you the Florida experience.

In Florida, tax officials informally reported that the Department of Revenue was overwhelmed by the thousands of letters it received requesting technical advice, and could not respond effectively. The state appropriated 240 new positions for collection and enforcement of the tax. In addition, many experienced employees were reassigned to assist taxpayers on the complexities of the new law.

Further, the collection of use tax by out-of-state vendors for services performed for in-state purchasers would be difficult to levy and costly to enforce.

I hope you will keep these major policy considerations in mind as you weigh the testimony you will hear on HB 2113. I further hope, as you compare that testimony with the policy considerations you will concur that expansion of the sales tax base by adding a number of new services is not in the best interest of Kansas.

Thank you for the opportunity to address you today and I'll be happy to stand for questions.

KANSANS FOR TAX-FREE SERVICES

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KFTFS

POSITION STATEMENT

We believe:

1. Further taxation of services will impose greater costs on consumers; lower demand on sales and production; and ultimately result in the loss of jobs and general fund revenue for Kansas; and

2. Further taxation of services will impose substantial administrative collection burdens not only upon service providers, but also the state; add to the size, complexity and cost of government; and effectively tax only those consumers upon whom the tax can be most easily enforced, i.e., businesses; and

3. Further taxation of services and the loss of statutory sales tax exemptions will cause significant damage to Kansas' economic development efforts; harm small businesses in particular since they must purchase many services which larger firms can provide internally; discourage larger businesses from contracting any services out to small businesses; discourage all service oriented firms from locating in or expanding in Kansas; and add to the already high level of service taxes in this state.

Therefore, KFTFS adopts the following positions:

1. KFTFS supports an overall state tax structure which is competitive with our neighboring states; and

2. KFTFS opposes the taxation of any additional services; and

3. KFTFS opposes repealing any business related sales tax exemptions designed to promote economic development.

The members of Kansans for Tax Free Services hereby acknowledge their concurrence in the aforementioned beliefs and are in general agreement with the policies adopted by this organization.

Kansas Auctioneers Association

American Telephone & Telegraph

National Electrical Contractors Association

Kansas Podiatric Medical Association

Kansas Funeral Directors Association

Blue Cross and Blue Shield of Kansas

The American Home Life Insurance Company

Kansas Dental Association

Kansas Chapter, National Association of Master Appraisers

The Public Accountants Association of Kansas

Kansas Pharmacists Association

Motion Picture Association of America

Kansas Trial Lawyers

Kansas Collectors Association

Kansas Independent Oil & Gas Association

Kansas Insurance Associations

Home Builders Association of Kansas

American Society of Interior Designers

Professional Insurance Agents of Kansas

Associated Credit Bureaus

Kansas Lumber Dealers Association

Farmers Insurance Group of Companies

Kansas Society of Land Surveyors

Kansas Association of Non-Profit Organizations

Kansas Industrial Developers Association

Kansas City Chapter Independent Computer Consultants Association

Kansas Association of Personnel Consultants

UNITED PARCEL SERVICE

COMMENTS ON PROPOSED KANSAS SALES AND USE TAX AMENDMENTS

United Parcel Service is a nationwide and worldwide carrier of small packages. UPS submits these comments to the Committee on Taxation with regard to the proposal now under consideration for broadening Kansas' sales and use tax. These comments are based on the proposals embodied by House Bill No. 2113. UPS requests the Committee to make the following changes in the proposed bill:

1. Tax should not be imposed on transportation services;

2. An exemption should be provided for services rendered between affiliated entities;

3. The exemptions for fuel and for motor vehicles and parts therefor that are used by for-hire carriers in interstate commerce should not be repealed.

HOUSE TAXATION
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FACTUAL BACKGROUND

UPS is a specialized transportation company which offers nationwide and worldwide transportation of small packages both by ground and by air. In its ground operations, UPS competes primarily with the parcel post service offered by the United States Postal Service. However, UPS's service was specifically designed to meet the needs of business shippers more effectively than parcel post. Among the superior features of UPS's service are automatic daily pickup calls; simplified documentation and weekly billing; pickup and delivery to and from every point in the United States; and a reliable delivery schedule -- all at a cost competitive with that of parcel post.

UPS handles over eleven million packages each day. The great majority of its customers are businesses and many businesses are heavily dependent on UPS for the quick, economical, and reliable distribution of products to customers as well as for the movement between offices of such items as supplies and repair parts.

In addition to its ground service, UPS offers next day and second day air transportation of small packages to and from every point throughout the United States and to and from much of the rest of the world. UPS's air service is critical for many businesses for the expedited transportation of small packages.

UPS's services are provided through an integrated group of corporations the common parent of which is United Parcel Service of America ("UPS-America"). The domestic ground service is provided by two corporations, United Parcel Service, Inc., an Ohio corporation ("UPS-Ohio") and United Parcel Service, Inc., a New York corporation ("UPS-New York"). UPS-Ohio operates throughout thirty-seven western, southern, and middle atlantic states while UPS-New York operates in the remaining thirteen northeastern states. The air service is provided jointly by UPS-New York, UPS-Ohio, UPS Air Forwarding, Inc., and United Parcel Service Co. Each of the operating companies mentioned above has a contract with UPS-America under which they pay UPS-America a percentage of their gross receipts in exchange for certain management and other services. UPS-America, in turn, subcontracts the provision of those services to another subsidiary, United Parcel Service General Services Co.

UPS provides both ground and air service to and from every point in Kansas. UPS has 20 business locations in the state and employs approximately 3,500 people. UPS operates over 125 tractors and over 850 delivery vans that are based at Kansas locations.

AREAS OF CONCERN WITH HOUSE BILL NO. 2113

A. <u>Kansas Should Not Impose Its Sales and Use Tax On Transportation Services.</u>

1. <u>Insofar as it might apply to charges for air transportation, the tax would violate Federal law.</u> Section 1113 of the Federal Aviation Act, 49 U.S.C. §1513 forbids state gross receipts taxes on the sale of air transportation or the gross receipts derived therefrom. This prohibition applies to a sales tax on air transportation.

2. <u>Serious difficulties will be encountered in drafting a tax on interstate ground transportation services that will meet restraints imposed by the United States Constitution.</u> Under the Commerce Clause of the U.S. Constitution, a state tax that is imposed on activities in interstate commerce must be fairly apportioned. With regard to interstate sales of goods, the United States Supreme Court has held that a sales tax may be imposed on the full sales price by the destination state but that no sales tax may be imposed by the state of origin (or by any state through which the goods may pass in the course of delivery). With regard to interstate telephone calls, the Supreme Court has upheld a tax on the full

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price of a telephone call by a state in which is located both the telephone to which the call is billed and the origin or destination of the call. The Court expressed doubt that a state in which a call originated or terminated but in which the billing address was not located could constitutionally tax the call. Because no state has yet imposed a sales tax on interstate transportation services, there is no precedent for the type of apportionment that would be required. It is clear, however, that Kansas may not impose its sales tax on the full value of interstate transportation to or from Kansas. House Bill 2113, as it presently stands, has no provisions apportioning the tax.

3. The tax would impose a severe competitive burden on UPS to the detriment of Kansas businesses and residents. As stated above, UPS's primary competitor is the parcel post service offered by the U.S. Postal Service. Kansas could not require the United States Postal Service to collect sales tax. Although, users of parcel post might nevertheless be subject to the use tax on the value of parcel post services, it would be difficult for Kansas to collect such tax. Accordingly, UPS would be put at a disadvantage with respect to its primary competitor. Kansas shippers and consignees would be tempted to switch to parcel post in order to avoid the tax and the resulting loss of traffic could force UPS to reduce the level

of its Kansas activity and employment. The legislature should neither weaken a private sector employer vis-a-vis a governmental competitor nor adopt a law that will tend to put Kansas taxpayers in a position where they will be tempted to evade the tax.

4. In order to collect the tax, UPS would be required to make extensive and expensive changes to its billing system. UPS bills its customers weekly for all shipments during the preceding week. A single bill includes charges for all shipments regardless of the class of service (Next Day Air, Second Day Air, or ground) or the destination (intrastate, interstate, or foreign). Yet, as explained above, any constitutional Kansas sales tax on transportation services would necessarily apply differently to these various classes of packages. UPS would be forced to make fundamental changes in its billing system in order to be capable of collecting the tax. These changes would not only be extremely expensive to design and implement, but also could permanently render UPS's operations less cost-efficient. For example, UPS would either be required to change its billing method nationwide or be faced with nonuniform billing methods as between Kansas and other states. The cost of the necessary changes and the collateral effects thereof could very likely exceed the revenue to be generated by the tax itself. It is bad tax policy for the

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legislature to impose compliance costs on a taxpayer that exceed the revenue generated.

5. A tax on transportation services would result in double taxation. The Kansas sales tax statute already provides that the tax applies to the amount of transportation charges in many cases. Kansas sales tax, in the case of sales of tangible property, is imposed on the "gross receipts" received therefrom. KSA §79-3603(a). "Gross receipts" is defined as the total "selling price" received from sales at retail. KSA §79-3602(h). "Selling price," in turn, is defined to include "freight and transportation charges from retailer to customer." KSA §79-3602(g). Accordingly, whenever a seller of tangible property includes the amount of transportation charges (whether separately stated or otherwise) in his bill to his customer, Kansas sales tax applies to that amount. For the legislature now to impose another sales tax on the transaction between the shipper and the transportation company would constitute double taxation.

6. A tax on transportation services is inconsistent with the theory of sales and use taxation. The sales and use tax is intended to apply only to the final (retail) sale of goods and not to intermediate sales as goods move through the distribution chain from raw material supplier to manufacturer

to wholesaler to retailer. This "one tax" effect is achieved by means of the "resale" exemption (KSA §79-3602(e) insures that the tax is imposed only on sales "for use or consumption and not for resale") and the "manufacturing" exemption (KSA §79-3606(m) exempts sales of property that becomes an ingredient or component part of property being produced; KSA §79-3606(n) exempts sales of property that is consumed in the course of a production process). Neither the resale exemption nor the manufacturing exemption is proposed to be repealed by House Bill 2113.

It has been estimated that goods are transported an average of seven times in the course of the production process and before their final retail sale. As stated above, the great majority of UPS's customers are businesses. Any sales tax imposed on UPS's services would be pyramided many times as each layer of tax became a cost at the next level of the production and distribution process. The legislature should not violate the fundamental theory of sales taxation by imposing such a tax.

B. Kansas Should Provide an Exemption for Services Rendered <u>Between Members of an Affiliated Group of Corporations.</u>

As described above, UPS's transportation service is provided by a number of corporations, each of which pays a fee for management services to their common parent, UPS-America. UPS-America, in turn, subcontracts its obligation to perform management services to United Parcel Service General Services Co. As drafted, House Bill No. 2113 would impose Kansas sales tax on one or both of these intercompany service transactions. An exemption should be provided to eliminate such tax.

Although there appears to be no language in the bill making clear that the tax is not intended to apply to services rendered by an employee to an employer, we assume that the legislature does not intend to tax such services. As an economic matter, services rendered between affiliated corporations are indistinguishable from those rendered by an employee to an employer. Businesses that choose to operate in a multi-corporate format should not be disadvantaged as against businesses that choose to operate through a single corporation.

Other states that tax services provide an exemption for services rendered between affiliated corporations. <u>See e.g.,</u> South Dakota Codified Laws §10-45-20.1; Conn. Gen. Stat. §12-412(62). Similarly, services between affiliated

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corporations were exempted from Florida's now repealed sales tax on services. Florida Laws Ch. 87-6, §3.

C. The Exemptions for Fuel and for Motor Vehicles and Parts Therefor That Are Used By For-Hire Carriers in Interstate Commerce Should Not Be Repealed.

KSA §79-3606(a) presently provides an exemption from sales and use tax for sales of motor fuel. KSA §79-7606(f) exempts vehicles and parts therefore that are used by a common carrier for movement in interstate commerce. Elimination of these exemptions is simply bad tax policy.

First, the price of fuel is perceived by the general public as an important indicator of the general level of price stability. Witness the furor over the rapid increase in gasoline prices since the start of the Persian Gulf crisis in August 1990. The addition of a new 4.25% tax on gasoline will have a significant negative political effect.

Second, repeal of these exemptions, like an extension of the tax to transportation services, violates the fundamental sales tax policy against taxation of intermediate steps in the production process. To a transportation company such as UPS, both fuel and vehicles and repair parts are business inputs the cost of which is reflected in the price of the transportation

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provided. To the extent that the sales tax is imposed on these items, the cost of UPS's services must rise and that increase will be borne by all those Kansas residents and businesses that rely on UPS.

Third, to the extent that UPS and other large purchasers of fuel, vehicles and parts may be able to avoid the tax by moving purchases out-of-state, Kansas suppliers of these items will be disadvantaged. Accordingly, the exemptions from sales tax for motor fuel and for vehicles and parts used in interstate commerce should be retained.

YELLOW FREIGHT SYSTEM, INC.
P.O. BOX 7270 • 10990 ROE AVENUE • OVERLAND PARK, KANSAS 66207
TELEPHONE: AREA CODE 913 345-3000

HOUSE TAXATION COMMITTEE
SALES TAX ON SERVICES
FEBRUARY 25, 1991

I am Steve Richards, Manager of Government Relations for Yellow Freight System. I am here today to express opposition to HB 2113 and its expansion of sales tax to transportation services.

Yellow is an interstate common carrier providing service to 624 communities in Kansas through a network of terminals located throughout the United States.

I. To impose a tax on transportation revenue derived in interstate commerce, the tax must relate to the services actually performed in the state. The U.S. Supreme Court has upheld the principle that a tax on interstate commerce must be fairly apportioned to the jurisdiction imposing the tax. This would require a fair apportionment of the revenue relative to the activity performed in the state of Kansas. Although miles may be a common denominator, it is not simply applying a mileage percentage to a carrier's total revenue.

II. To calculate a sales tax on transportation revenue for an interstate shipment, the tax would have to be computed for each and every shipment. Since the movement of freight will be different for shipments from Kansas versus a shipment destined to the state, a carrier must allocate revenue on each freight bill. This is further complicated by recognizing the local jurisdictions and their local sales tax rates. These administrative problems will be extremely burdensome for the motor carrier. Based upon the number of shipments Yellow handled during 1990, we have estimated the cost of administration to be $800,000, twice the amount of revenue generated from such proposal. This would simply be calculating the amount of tax and placing it on each bill.

III. Each of Yellow's 15 terminals in Kansas provides service to over 35,000 communities throughout the United States. To determine that portion of a freight movement applicable to Kansas would require a mileage database containing over three billion entries. This creates a monumental task for a carrier the size of Yellow but proportionately would have similar impacts on a small for-hire carrier with two or three vehicles regardless of the commodities being transported. Because of complexities involved in the proper apportionment of revenue, there will be a wide variance of compliance within the industry

HOUSE TAXATION
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depending upon each carrier's operating circumstances and their ability to deal with the administrative burdens such a tax would place upon them. I don't mean to suggest that there are unscrupulous taxpayers, but the enforcement of a tax on transportation services would be difficult at best. There are hundreds of carriers which may pick up or deliver freight to Kansas but have no real presence in the state. The only means to collect tax on these carriers would be through audit. I believe that the cost of administration to the state would also be disproportionate to the revenue collected.

IV. The competitive nature of an interstate carrier will lead to opportunities where it will become difficult for the carrier to simply collect the tax. Consider for example a customer in Chicago receiving goods from a shipper out of Wichita and finding that the freight bill contains Kansas Sales Tax. This customer in many cases would refuse to pay the Kansas tax. There are many cases where rates may be negotiated for certain shippers and a 5 - 6% differential because of tax becomes critical. The carrier will end up absorbing the cost, which eventually results in higher freight costs for the consuming public.

V. Sales tax on transportation services results in a pyramiding of tax. It has been said that raw materials are transported five to seven times in the manufacturing process. Each time these goods are moved, tax would be imposed on the transportation costs. This would ultimately result in a 30% increase in the transportation costs of a final product. When goods are sold, the value of those goods subject to tax include the cost of freight to the consumer. This proposal will impose a tax on the freight cost as a product moves through the manufacturing process and again when it is shipped as the final product sold. This can only place Kansas manufacturers or retailers at a competitive disadvantage with their neighbors.

VI. To tax transportation services would be a major deviation from the principles of sales taxation. The tax would effectively become a gross receipts tax -- a tax imposed primarily on the provider of the service and not a sales tax imposed upon individual transactions. Sales taxes, by their nature, are imposed upon the consumer. The imposition of a tax on transportation revenue, will become a tax on Kansas motor carriers and place them in a competitive disadvantage. Of those states that impose sales tax on various forms of services, not one has chosen to tax interstate transportation revenue. Most recently, Massachusetts and Florida have recognized the burden and excluded this service from their broad based tax.

We urge this committee to exempt transportation revenues from any sales tax on services.

KANSAS MOTOR KMCA CARRIERS ASSOCIATION

February 25, 1991

TO: Rep. Joan Wagnon, Chairman; and
members of the House Taxation Committee

We are submitting for the hearing records, the attached four memorandums addressing proposed increases in Kansas sales tax collections. This information is summarized for your quick reading. We have presented this same information to members of your sales tax subcommittee. We can provide additional information if you wish to have more details from us. We strongly oppose the proposed increases in Kansas sales tax collections outlined in the memorandums.

Cordially,

Mary E. Turkington
Executive Director

MET/sc

attachments (4)

HOUSE TAXATION
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P.O. BOX 1673 • 2900 TOPEKA AVE. • TOPEKA, KANSAS 66601 • 913-267-1641

MEMORANDUM RE: K.S.A. 79-3606 (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;"

1. Motor fuel already carries a heavy tax responsibility in addition to the sharply accelerated cost of the product.

State and Federal Tax Summary

	Motor Fuel	Diesel
State	16¢	18¢ (includes 2¢ differential)
Federal	14	20 (includes 6¢ differential)
UST Fund	1 (state)	1
UST Fund	.1	.1
Total	31.1¢ per gallon	39.1¢ per gallon

State and federal taxes are a substantial part of fuel prices. Military operations in the Persian Gulf underscore the vulnerability of even more dramatic increases in the cost of this commodity so essential to every household in Kansas.

2. The trucking industry would be faced with a number of complexities if a sales tax is imposed on motor fuel.

3. Carriers who utilize bulk storage and buy in tank load quantities will pay less per gallon for the cost of fuel than those who buy at the pump. In terms of equity this clearly would discriminate against those who could not utilize bulk storage.

4. It is not clear at this time how the proposed sales tax would be applied. Will it be a tax on the existing taxes? Will a sales tax apply to all petroleum products (i.e., off highway use, et al)? However the pricing system is developed, there will be substantial increases in the administrative costs for retailers, consumers and the state.

5. For interstate carriers who operate in several jurisdictions and report fuel purchases and mileages in those several states, the imposition of sales tax again would present additional record-keeping costs. How would Kansas accommodate the carrier in Liberal, Kansas, who buys fuel in bulk from a Kansas supplier but operates a major portion of his total miles in other states?

6. None of our surrounding states collect sales tax on fuel. The impact on Kansas suppliers would be negative. Currently, Illinois on the east and Idaho on the west are the nearest sales tax on fuel states.

7. Sales tax dollars collected from motor fuel clearly are highway use taxes.

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Kansas Motor Carriers Association - 1/28/91

MEMORANDUM RE: K.S.A. 79-3606 (f)

"tangible personal property purchased by a railroad or public utility for comsumption or movement directly and immediately in interstate commerce."

1. This exemption applies to railroads and to "public motor carriers of property or passengers" who are declared to be common carriers within the meaning of the public utility laws of this state. In other words this exemption applies to the rolling stock of both railroads and "for-hire" public common carriers.

2. This exemption has applied to the purchase of equipment by such interstate motor carriers from the time it was adopted to serve the railroad industry as well.

3. Exemption of sales tax for the purchase of equipment used by such carriers in interstate commerce is allowed currently by 19 states. Presently 5 states do not impose a general sales tax. The surrounding states of Missouri, Iowa, Nebraska and Colorado exempt such interstate equipment sales and Oklahoma has a $10 cap on sales tax for vehicles with a combined laden weight of 54,001 pounds or more. Additional states have varying degrees of exemption from sales tax on interstate equipment sales.

4. For competitive reasons alone, Kansas carriers should continue to be eligible for this sales tax exemption on interstate equipment purchases both as to carriers in nearby and other states and with respect to non-discrimination against public motor carriers and the railroads. In other words, this exemption should continue to apply fairly to the motor carriers as well as the railroad industry.

5. Obviously this is a sound incentive for motor carriers to base their companies in this state. The motor carrier industry supplies directly some 78,000 jobs in Kansas. These jobs represent substantial tax contributions to Kansas in communities large and small. In many instances, a trucking company may be the major employer of a Kansas community. The jobs, the purchasing power and the tax contributions of that company would be important to the community. We need to encourage the retention and expansion of business in Kansas.

6. The motor carrier industry does pay substantial sales tax to Kansas. Companies who are exempt the sales tax on equipment purchases pay the tax on labor and any number of other kinds of supplies and products.

The Kansas Motor Carriers Association urgently requests the continuation of the sales tax exemption in 79-3606 (f).

Attachment 15-3

1-28-91
Mary E. Turkington, Executive Director
Kansas Motor Carriers Association

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MEMORANDUM RE: K.S.A. 79-3606 (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."

1. Removal of this sales tax exemption clearly would discriminate against Kansas equipment dealers.

2. The purpose of the exemption is clear.

3. We do not understand the fiscal note that indicates a projected collection of some $15.5 million annually. There simply would be no revenue from this source as we firmly believe there would be no sales.

4. We believe removal of this exemption would have a direct negative impact on Kansas businesses whose sales would be reduced if such sales taxes were imposed on out-of-state customers.

5. To our knowledge, no other state imposes a sales tax on such equipment sales delivered out-of-state.

The Kansas Motor Carriers Association strongly requests that this exemption be continued on behalf of existing Kansas businesses.

1-28-91

Mary E. Turkington, Executive Director
Kansas Motor Carriers Association

######

MEMORANDUM RE: Sales tax on Transportation Services

1. Kansas never has collected a sales tax on "for hire" transportation services. Carriers are permitted to charge only the amount approved by regulatory commissions on either intrastate or interstate traffic.

2. Yellow Freight System, Inc., has outlined the complexities of applying a sales tax to transportation services. The problems created for less-than-truckload general freight carriers would be shared by every type of carrier serving this state.

3. The cost to a carrier of collecting such a sales tax would far exceed any revenue to be collected.

4. The tax apparently would apply anytime commodities are moved. For example, livestock freight charges would be taxed when livestock is transported from the farm or pasture location to a feedlot; taxed again when livestock would be moved to a processing plant. The processed meat would be taxed when transported to its market location -- and the meat would be taxed at the time of retail sale to the consumer. Someone has to pay for all of these additional sales tax transactions -- and affected carriers would have to keep detailed records of the amount of sales tax due.

5. Kansas shippers and consumers obviously will be at a disadvantage from those in other states which do not apply a sales tax to transportation services.

6. The cost of administration and compliance to the state would be a sizeable, expensive undertaking. Such a tax on transportation services would be a strong dis-incentive for all kinds of businesses to locate in Kansas or for existing Kansas businesses to expand or remain here.

We strongly urge you to not impose this new tax on transportation services. Such a tax would be a handicap for the Kansas economy.

Mary E. Turkington, Executive Director
Kansas Motor Carriers Association
1-28-91

#####

Kansas Lottery

Joan Finney
Governor

CREATING JOBS FOR KANSAS

February 25, 1991

Members of the House Taxation Committee

On behalf of the Kansas Lottery, I speak in opposition to the removal of the sales tax exemption on the sale of lottery tickets.

Under our agreement with the Multi-State Lottery Association, the price of the Lotto*America ticket must be $1.00 (one dollar) <u>including</u> all applicable state and local taxes.

Further, 45 per cent of the sale price (45 cents) is allocated to the "prize fund."

Should a 4.25 per cent sales tax be levied on Lotto*America tickets, the actual sale price of the ticket would effectively be 95.75 cents. The calculations of the distribution of this 95.75 cents would be as follows:

<u>Lotto*America:</u> Prize fund 45% of 95 cents = (This is less than contract provides - would cause Kansas to dip into operating funds to cover 1.90 cents needed to contribute 45 cents to prize fund as all other lotteries.)	43.10 cents
State share 30% of 95.75 cents =	28.70 cents
Retailer commission 5% of 95.75 cents =	4.80 cents
Vendor commission 6.7% of 95.75 cents = (less than contract provides)	6.40 cents
Sales Tax	4.25 cents
This totals	89.15 cents

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128 N. Kansas Ave Topeka KS 66603-3638 (913) 296-5700

If, however, the agreement allocations are adhered to, the total distribution would amount to 91.5 cents, leaving just 8.3 cents for Lottery operations.

Based on $21,000,000 in Lotto*America sales, 8.5 cents = $1,785,000 for Lottery operations. Without sales tax $21,000,000 X 13.3% = $2,793,000. The sales tax would reduce Lottery operating funds by $1,008,000.

<u>Sales impact for other games:</u> Adding the 4.25 cent tax to the dollar would result in a price of $1.0425 for Kansas Lotto and instant tickets. In addition, in those municipalities and counties where additional fractional taxes are levied, the price would be $1.0525 for a lottery ticket. This raises the legal questions of discriminatory pricing, *i.e.*, $1.00 (including sales tax for Lotto*America) - $1.0425 for all other tickets across the state where no additional local tax applies and $1.0525 where a local tax applies.

Experience in the Saskatchewan, Canada, Lottery, resulted in a 13% drop in sales in four-and-a-half months in 1989 when a tax was imposed on lottery tickets. The tax was repealed because it resulted in a net loss to the province. (See attached memo from Saskatchewan Lottery.)

I would be happy to answer any questions or provide any additional information you require.

Gerald F. Simpson
Executive Director

May 2, 1990

MEMO TO: SAM GIAIMO
G TECH CORPORATION
TOPEKA KANSAS

FROM: PAUL BARNBY
SASKATCHEWAN LOTTERIES

RE: HOSPITAL TAX - TAX ON LOTTERIES

On July 1, 1989, the Government of Saskatchewan implemented a 10% tax on Lotteries to raise additional monies for hospitals in the Province of Saskatchewan.

This was not a popular tax with the purchasing public or the lottery retailers and was subsequently withdrawn on November 17, 1989.

During the time the tax was in place, sales at some locations were down as much as 35%. The fiscal year for Saskatchewan Lotteries runs from April 1st to March 31st. For fiscal 1988/89 sales in Saskatchewan totalled $107 million. For fiscal 1989/90 with the tax on for 4 1/2 months sales totalled approximately $92 million, a drop of approximately 13%. Profit lost on these sales amounted to about ($15 million x .35%) $5.25 million. The government collected approximately $2.9 million while the tax was on.

Sales after the tax was removed have recovered somewhat but are still considerably down from revenues achieved in the past. Current forecasts for fiscal 1990/91 are $95.7 million. It would appear it will take several years to restore consumers purchasing habits to the levels achieved in fiscal 1989/90.

By way of comparison, Saskatchewan is in partnership with two neighbouring provinces, Manitoba and Alberta. Neither one of these provinces imposed the 10% tax on their Lottery operations. All three provinces offer the same line-up of lottery games and utilize a common advertising program. This is done through the Western Canada Lottery Corporation. Sales in Manitoba and Albert were virtually the same as fiscal 1988/89, while Saskatchewan was down 13%.

If you need further information give me a call.

Attachment 16-3

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the Kansas State Chamber of Commerce, Associated Industries of Kansas, Kansas Retail Council

HB 2113 February 25, 1991

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Taxation Committee

by

Bob Corkins
Director of Taxation

Madam Chairman and members of the Committee:

Thank you for the opportunity to express our views to this committee. My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry and I would like to summarize our members' opposition to HB 2113 and its approach to property tax relief.

> The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.
>
> KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.
>
> The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

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The concept of this proposal is not new. Bills before the legislature last year originated the idea of substituting property taxes with a broadened sales tax base. Those proposals would have eliminated all sales tax exemptions, including those for wholesale-related purchases. Unfortunately, time has not improved upon that concept.

The push to repeal exemptions for wholesale transactions has appropriately died down. It was easy to compute the huge economic drawbacks that such a "value added," pyramid sales tax structure would bring. That, no doubt, is why today's proposal would retain the wholesale exemptions and instead create new sales taxes upon services and other business purchases. However, we believe the end result will be no different. The taxes in this proposal will still cause a pyramid in the costs of doing business and they will still constitute, in effect, a tax on the value added to retail goods and services. The result will just not be as immediately obvious or as simple to calculate.

Much of the substantiation for our position is contained in the booklet I distributed earlier to this committee entitled "Jobs-Related Sales Tax Incentives: Some Background Data." Highlights of this information are: (1) except for service taxes, our current sales tax base is virtually identical to that of each surrounding state, (2) with service taxes included, our sales tax base is now considerably broader than our neighbors', (3) Kansas businesses now pay roughly one-third of all sales taxes collected by the state, (4) the large majority of new sales taxes to be paid under HB 2113 will be paid by businesses, and (5) since 1970, the value of new exemptions granted to non-agricultural business has been exceeded by exemptions granted to retail consumers.

As I noted, the impact of this proposal upon businesses is not easy to quantify. However, consider that businesses pay slightly less than one-half of all property taxes, but will probably pay more than three-fourths of the revenue these taxes will generate (virtually all of the new compensating use taxes will come from businesses since they are the only taxpayers likely to be effectively audited). Therefore, regardless of the distribution scheme, the business community as a whole will be a net loser.

For some specifics of the business effect, I will refer to the results of a survey KCCI distributed to its full membership as outlined below. A copy of the survey has been attached to this testimony for your review.

82 RESPONSES

A. 27 (33%) indicate "no problem"
  1) a couple said slight increase in their fees
  2) a couple said slight decrease in their fees
  3) all would simply collect new sales tax
  4) examples: Topeka dentist; Hutchinson hotel; Lawrence dry cleaner; Salina supply company; Topeka campground; Wichita vending company; Colby water conditioning...

B. 16 (20%) indicate effects largely "unknown"

C. 39 (48%) indicate net negative effects "significant"
  1) reductions in sales: 15%; "major impact"; 10%; 60-70%; 25-35%; 50%; 35%; 2-5%; "reluctant clientele"; 25-50%; 80% (interstate transportation)...

  2) employee layoffs and payroll cuts:
     * 25 respondents say employees would be laid off
     * 10 respondents say payroll and salary cuts (e.g. overtime)
     * Number of employees to be laid off: 1-2; 3-5; 8-10; 90; 42-50 (50%); 16; 60; 22; 250; 20...

  3) other expenditure cuts:
     employee benefits; equipment purchases; advertising; repairs; education; charitable contributions; telephone expenses; computers; "no more cuts possible"...

  4) cancel or curtail expansion plans: 17 respondents --
     10-12 jobs; 18 jobs; 12-20 jobs; 450 jobs; 3-5 jobs; "overall growth slowed by 75%"; "cancel planned 25% expansion"...

  5) intent to relocate outside Kansas: 12 respondents --
     "very real possibility" - (10 employees)
     "could be only option" - (20 employees)
     "strong" - (2200 employees)
     "50/50" - (56 employees)
     "no other choice" - (120 employees)
     "very high intent" - (100 employees)
     "high" - (18 employees)
     "very strong" - (30 employees)
     "absolutely" - (10 employees)...

  6) examples:
     Topeka retailer; Sabetha manufacturer; Hiawatha fertilizing company; Overland Park construction company; Olathe engineering firm; major southeast Kansas employer; Wichita metal fabricator; Arkansas City printer; Garden City law firm; Larned farm equipment dealer; Wichita lumber yard; McPherson refinery; Leavenworth manufacturer...

Regardless of how representative our sample of respondents are of the entire business community, the potential losses they cite are not hypothetical. Jobs would be lost if this proposal is implemented, business expansion plans would be curtailed, and the income tax base, sales tax base and property tax base which stems from that growth would also be lost.

KCCI urges that you reject this proposal and prevent a property tax solution which is worse than the property tax problem. Thank you for your time and consideration.

Attachment 17-4

IMPORTANT QUESTIONNAIRE

HOW VALUABLE ARE SALES TAX EXEMPTIONS

TO YOUR BUSINESS?

Your opposition to the repeal of important business related sales tax exemptions is very clearly stated in policies overwhelmingly adopted by KCCI's Board of Directors. Now, our challenge is to provide the best arguments possible to help meet that objective.

Unfortunately, useful statistics from the Department of Revenue and other sources are limited. Our efforts require data which is much more specific and personalized than any now available. For example, most efforts to broaden the sales tax base will intend to raise new revenue for lowering property taxes, but we do not know how this trade–off will specifically affect different business types.

In responding to the questions below, assume that all business related sales tax exemptions, other than component parts and wholesale transactions, will be targeted for repeal. A list of the statutory business exemptions is enclosed for your review. Furthermore, assume that the full state sales tax rate of 4.25% (plus local tax of as much as 2%) would be applied.

1. How much money would your business save from a one–third cut in your total property tax bill? ______________________________

2. How much more in federal and state income taxes would you pay due to the one–third lower property taxes which you may claim as a deduction?

   ____

   ____

   ____

3. Sales taxes now paid by your business:

   a) Types of purchases: ______________________________

   ____

   b) Annual amount of sales taxes paid: ______________________________

4. Your business purchases now exempt from sales tax:

   a) Types of purchases exempt: ______________________________

   ____

   ____

   b) Annual amount of sales taxes from which your business was exempted:

   ____

5. What would be the degree to which these new taxes would cut your sales, if any?

   ____

6. How many people do you directly employ? ______________________________

7. How many employees might you be forced to lay off if these new taxes are imposed?

   ____

(Over, please)

8. What total additional fees would you charge on your goods or services to compensate or comply with the new taxes — **IF** you could do so and remain in business in Kansas? ____________________

____

____

9. Would the new taxes force you out of business entirely? ____________________

10. What is the strength of your intent to relocate your business outside Kansas if these new taxes are imposed? ____________________

11. What other business expenses might you cut to compensate for these new taxes, and what would be the implications of those cuts? ____________________

____

____

12. Would the new taxes cause you to cancel any plans for expanding your operations in Kansas? If so, to what degree (specific cites, cost or number of employees involved)? ____________________

____

____

____

13. What problems do you anticipate in collecting or otherwise complying with these new taxes?

____

____

14. Are there any examples of similar taxes you may have contended with in other states? If so, which taxes and what was their affect? ____________________

____

____

15. May KCCI disclose your business name or location in presenting your above responses to the legislature? If so, please identify:

____

____

Information on the above questions, or any other you might think of, would be appreciated. Please respond as concisely as possible, and preferably by **February 18, 1991**, to the address indicated below. We will use the data and opinions in a purely statistical, unattributed format unless you explicitly grant KCCI permission to disclose your name and/or location.

Thank you for your cooperation.

RETURN RESPONSES TO:

Kansas Chamber of Commerce and Industry
c/o Bob Corkins, Director of Taxation
500 Bank IV Tower
Topeka, KS 66603-3460

OR FAX to: (913) 357-4732

Attachment 17-6

HOUSE COMMITTEE
on
ASSESSMENT and TAXATION

TESTIMONY of UNITED MOTION PICTURE ASSOCIATION
John C. Peterson
1991 House Bill 2113
February 25, 1991

These remarks are being provided on behalf of the United Motion Picture Association, the trade association of the theater owners in Kansas. The current sales tax exemption contained in KSA 79-3606(i) reads as follows:

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

First, there has been a good deal of confusion because the proposed repeal of this exemption has been picked up in numerous press articles as repealing an exemption for "video rentals". Video rentals have always been subject to sales tax in Kansas as are motion picture theater tickets. That is precisely the reason that this exemption should remain in place. The exemption applies only when the motion picture exhibitor leases film from the production company, a wholesale type transaction since that same exhibitor then charges sales tax when the movie is shown to the public.

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We would draw your attention to the subcommittees briefing book and the detailed description of the impact of KSA 79-3606(i) where the staff has concluded under the heading "type of exclusion or exemption" that this exemption is:

> Definitional. This is the same as KSA 79-2602(e), wholesale sales.

It is clear that if wholesale or component sales are not going to be subject to a sales tax, that for consistency of tax policy exemption (i) should remain in place.

Thank you for your consideration of these thoughts.