Approved Saturday, April 27, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION.

The meeting was called to order by Senator Dan Thiessen at
Chairperson

11:00 a.m./~~p.m.~~ on Wednesday, March 27, 1991 in room 519-S of the Capitol.

All members were present except:

Committee staff present:
Don Hayward, Assistant Revisor
Tom Severn, Research Department
Chris Courtwright, Research Department
Lenore Olson, in the absence of the Committee Secretary

Conferees appearing before the committee:
Jonathan Small - Kansas Automatic Merchandising Association (KAMA)
David Allen - Hutchinson Vending Company
Kent Criser - Air Capital Vending, Wichita
Patricia Kuester - Cliff's Vending, Inc., Lawrence
Gerry Ray - Johnson County Board of Commissioners
Ben Craig - Chairman, Johnson County Airport Commission
Lee Metcalf - Executive Director, Johnson County Airport Commission
Gary George - Superintendent of Schools, U.S.D. 231, Gardner-Edgerton-Antioch
Dan Hosfield - Chairman, Johnson County Board of Commissioners
Patricia Baker - Associate Executive Director/General Counsel, Kansas Association of School Boards

Chairman Thiessen called the meeting to order at 11:07 a.m. and directed the Committee to turn to the minutes of March 4 and 5, 1991.

A motion was made by Senator Montgomery, seconded by Senator Martin, to approve the minutes of March 5 as presented and the minutes of March 4 with a correction to replace Senator Lana Oleen with the name of Senator Marge Petty as Chief Sponsor of SB 178 under the heading of Conferees appearing before the committee. The motion carried.

The Chairman then opened the hearing on SB 305.

> SB 305: AN ACT relating to coin-operated devices; prescribing fees for the operation thereof and providing authorities and duties for the department of revenue relating thereto; exempting sales of tangible personal property from coin-operated amusement and music devices.

Jonathon Small, KAMA, testified in support of SB 305, stating that KAMA has reason to believe that many operators of coin-operated machines do not pay sales taxes at all while many others pay less than the law requires. Mr. Small also stated that a resulting benefit of this bill could cause the state general fund to receive an increase of over $1 million in tax revenues. Mr. Small requested three amendments to SB 305 as shown on page 3 of (Attachment 1) Mr. Small agreed to a Committee request to provide information on tax rates for the states shown on page 3 of his testimony.

David Allen, Hutchinson Vending Company, testified in support of SB 305. He stated that the people in his company believe that the $50 decal will eliminate unfair competition from coin-operated games (both privately and commercially-operated) that currently are not paying any sales tax (or income tax for that matter). They also believe that the $50 decal would provide another benefit to the State of Kansas in the form of advance collection of sales taxes since the decals would be purchased in bulk at the beginning of each licensing period. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Wednesday, March 27, 1991.

Kent Criser, Air Capital Vending, testified in support of SB 305. He stated that although he enjoys his business as a whole, he is discouraged and discontented with the issues addressed in this bill, particularly vendors who do not pay sales tax. (NO WRITTEN TESTIMONY)

Patricia Kuester, Cliff's Vending, testified in support of SB 305, stating that a restructuring of the sales tax regarding sales through vending machines would be good for automatic vendors. She also stated that it would allow them the opportunity to compete fairly with each other in the marketplace by full compliance with Kansas tax laws. (Attachment 3)

The Chairman closed the hearing on SB 305 and opened the hearing on SB 399.

> SB 399: AN ACT concerning taxation; relating to certain airport authorities; exemption from taxation.

Gerry Ray, Johnson County Board of Commissioners, testified in support of SB 399. She stated that this bill will not cause a loss of revenue or reduction of the tax base, because the properties in question have never been on the rolls. (Attachment 4) Ms. Ray requested an amendment on page 2, line 20 to delete the words "and 50% of."

Ben Craig, Johnson County Airport Commission, testified in support of SB 399. He gave a historical perspective as the reason for this bill. He said that the problem they have is with the approximately 900 acres of land received with the industrial airport, which is suitable for conversion to an industrial park. The 1989 reappraisal of private industries caused hardship where the adjacent school district includes this property. (NO WRITTEN TESTIMONY)

Lee Metcalf, Johnson County Airport Commission, testified in support of SB 399, stating that they believe this legislation is balanced and protects both the taxpayers and the tenant businesses at their airports. He also stated that this bill has been discussed and approved in public meetings by both the Airport Commission and the Board of County Commissioners. (Attachment 5) Mr. Metcalf agreed with a Committee request to provide a list of property valuations of the airport properties.

Gary George, Superintendent of U.S.D. 231, testified in support of SB 399, stating that his Board of Education has endorsed this bill and believes it will gradually increase their tax base and result in more revenue for their school district. He also said that the Airport Commission will have some incentives that it can use to attract business. (Attachment 6)

Dan Hosfield, Johnson County Board of Commissioners, testified in support of SB 399. He stated that they believe this bill will bring about a solution to problems of the past while at the same time provide the authority to negotiate agreements that will attract new business to the state of Kansas. He also stated that it offers short term and long term benefits to the airport, the tenants and the school district. (Attachment 7)

Patricia Baker, Kansas Association of School Boards, testified that they have no official position on SB 399, but do have real concerns about all the issues involving the abatement of taxes, the reduction of a tax base and the subsequent effect on school finance throughout the state of Kansas. (Attachment 8)

The Chairman concluded the hearing on SB 399.

The meeting adjourned at 12:15 p.m.

GUEST LIST

COMMITTEE: SENATE ASSESSMENT & TAXATION

DATE: MARCH 27, 1991 Wednesday

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
DONNA L WEST	LINCOLN	LINCOLN CO TREASURER
Betty McBride	Columbus	Cherokee Co. Treas.
NANCY WEEKS	SUBLETTE	HASKELL CO. TREAS.
Nancy Hempen	Lawrence	Douglas Co. Treas.
Richard L. Regnier	Leavenworth	American Vending Co. Inc
Duane Zarger	Leavenworth	American Vending Co
Terry Guy	Meriden	Revenue
Steve Stotts	Topeka	"
Gary R. George	Gardner, KS	USD 231
Dan Hasfield	Leawood KS	Johnson County Commission
GERRY RAY	Olathe, KS	Johnson Co Commission
Janet Swanson	Gardner	Gardner News
Jim Simpson	Leavenworth	American Vending
Barney Smith	K.C.	Imperial Bondware
Lawrence F Buccero	Leawood KS	KAMA
LEE SCHMIDT	TOPEKA, KS	LEE SCHMIDT VEND SALES
Charles Schmidt	TOPEKA, KS	LEE SCHMIDT VEND SALES
[illegible]	Tope	Leagued [illegible]
PAT KUESTER	LAWRENCE	KAMA
Georgia Oswald	Lawrence	Cliff's Vending
DAVID ALLEN	HUTCHINSON	HUTCHINSON VENDING Co
Michael C. MADdock	11656 W. 90th Pl. KS 66214	Superior OFFICE SNACKS
David Cunningham	Topeka	DOD
Marcia Criser	Wichita	Air Capital Vending
M. KENT CRISER	Wichita	Air Capital Vending

GUEST LIST

COMMITTEE: SENATE ASSESSMENT & TAXATION

DATE: March 27, 1991 Wednesday

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Ben Craig	16100 Outlook Stilwell, KS	JoCo Airport Commission
Lee Metcalfe	One Industrial Pkwy Industrial Airport KS 66031	" " "
Pat Baker	Topeka	KASB
FRANCES KASTNER	Topeka	Ks Food Dealers
Jonathan Small	TOPEKA	Kansas Automatic Merchandising Assoc
ALAN ALDERSON	TOPEKA	KANSAS AUTOMATIC MERCHANDISING ASS'N
Erika L. Dettweiler	Topeka	Intern for Sen. Lee
HAROLD PITTS	TOPEKA	AARP-CCTF

KAMA

KANSAS AUTOMATIC MERCHANDISING ASSOCIATION, INC.
5332 NW 25th St.
Topeka, KS 66618
(913) 232-1050

TESTIMONY
KANSAS AUTOMATIC MERCHANDISING ASSOCIATION
PROPONENT: 1991 SENATE BILL 305

I am Jonathan Small, attorney and lobbyist for the Kansas Automatic Merchandising Association (KAMA), which is a non-profit trade association of vending businesses from across Kansas. It strongly supports Senate Bill 305.

I. PROPOSED AMENDMENTS

Senate Bill 305 amends present sales tax policy on vending machine and coin-operated music and game machines as follows:

A. **All coin-operated music and game machines pay an annual fee of $50.00 per machine.** Sales tax would not be paid on games, music and related entertainment.

B. **Product vending machines pay an annual fee of $3.00 per machine.**

C. **All coin-operated machines will require an annual decal to be affixed to each machine.**

D. **Sales tax (4 1/4%) will be computed upon 135% of the net invoice cost of products sold through vending machines.** The tax would be derived thus: 4 1/4% of 135% x vendor's net invoice cost.

II. CHANGE IN TAX POLICY NEEDED

A. **Present sales tax program is inefficient and abuse is widespread:** Substantial tax revenues are lost to the state and local governments.

KAMA surveys lead members to believe many operators of coin-operated machines do not pay sales taxes at all while many others pay less than the law requires. It is estimated as many as 1 in 3 machines pay little or no sales tax.

A substantial amount is being lost each year which affects 3 categories of taxes to state and local governments: state sales tax, local property tax, state income tax.

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B. Present sales tax program's inconsistency creates a class which is discriminated against.

The honest vendor cannot compete against the vendor that pays no sales tax and likely pays little if any personal property tax or income tax due on the retail sales.

C. The coin-operated machine vendor is at a significant disadvantage because he cannot sell his products for the same amount as the regular retailer.

The automatic merchandising industry historically has suffered handicap under the sales tax method imposed in Kansas as compared to the traditional "over-the-counter retailer:" a vending machine does not allow for the collection of pennies which are easily and routinely collected by other retailers. The vending machine operator is required consequently to raise his prices by a whole nickel (the smallest denomination accepted by the machines) or else pay the sales tax himself. With the average machine only netting 3% to 4% profit annually, the increase in sales tax by just 1/2% has an immediate and painful consequence to the automatic retailer.

III. REASONABLY EXPECTED BENEFITS

A. The state general fund could receive an increase of over one million in tax revenues. See Exhibit A. KAMA estimates that the combined effects of the bill will produce approximately $1,386,175. The tax would keep pace with inflation.

The value of increased compliance by reporting personal property used in business to county appraisers cannot accurately be valued, but should increase substantially.

Further, increased reporting of income for income tax purposes should be realized as well.

B. Auditing capability by Department of Revenue could be enhanced substantially and the process should be simplified. The annual licensing requirements and decal will simplify the tracking of machines and locations which will give the department the added ability to determine who is reporting what amount of sales annually and from what machines. This should increase the department's ability to also audit the retailer by using the invoices from wholesaler to retailer. **This audit enhancement would carry over to the income tax unit as well.**

C. Local personal property tax reporting to county appraiser will be enhanced. The licensing requirements will also allow the Department of Revenue to share its information with county appraisers on the location and identification of machines.

D. **Compliance with the sales tax law will be substantially improved.** All retailers will be forced to pay their share of the taxes lawfully due thereby significantly reducing the discriminatory affects of the present tax policy.

The industry, like as has happened in Oklahoma, will help the state enforce tax policy applying to the coin-operated industry. It is reasonable to expect that the visual nature of compliance with license requirements coupled with the simplified auditing needs will improve the department's enforcement efficiency.

IV. CHANGES TO SB 305

Some amendments have been suggested that will serve to improve the bill as introduced: Exhibit B (balloon).

A. Remove from the definition of a coin-operated vending device (page 1, line 38) the small class of machines which are substantially different in operation than other product machines: the machine which can be accessed by inserting the price of a single item which allows you to remove all the contents does not logically compare to the traditional product vending machine and should continue to be taxed in the present manner.

B. The (uu) provisions of the bill found at page 18 line 4 through 6 should be simplified to more accurately reflect the exclusions from the present sales tax program.

C. Change the effective date of the bill to January 1, 1992 to allow the department to provide time to provide for the proper phasing in of the change.

We ask that you bring fairness to a system that has for too long penalized the vending automatic retail industry. We do not ask for tax treatment which is precedent setting. See Exhibit D.

Well over half of the states in this country recognize the differences in retail marketing between the traditional over-the-counter retailer and the automatic merchandiser. Exhibit C. Kansas should address this competitive dissimilarity by the passage of Senate Bill 305.

KAMA, on behalf of its automatic retailers asks your help to balance the scales in the market place and give automatic retailers an opportunity to compete on a level playing field.

It makes this request sincerely believing that to pursue the suggested amendments will disadvantage none and will benefit all.

Your help is very much appreciated.

Respectfully submitted,

Jonathan P. Small
Attorney/Lobbyist
304 Capitol Tower Bldg.
400 W. 8th Street
Topeka, KS 66603
(913) 234-3686

AS0327T1

FISCAL NOTE
SALES TAX: 1991 SB 305

$ 146,700	Gross license fee for product vending[1]
1,630,000	Gross license fee income music/game vending[2]
1,847,475	Gross sales tax from product vending machines computed as follows: 32,200,000 x 135% x .0425 = 1,847,475[3]
3,624,200	Total revenue produced from operation of 1991 SB 305
462,000	Reasonably expected revenue increase from increased compliance[4]
4,086,175	Gross potential revenue to state
1,386,175	Net potential gain over present expected revenues for FY 92.[5]

1/ computed thus: 48,900 product vending machines licensed at $3.00 per machine

2/ computed thus: 32,600 game and music machines licensed at $50.00 per machine

The number of product vending machines is derived from a survey of machines actually licensed in Oklahoma; which is 98,000 machines. Demographically, Kansas should have 83% of that number which is 81,500 machines. It is estimated by the industry members that approximately 40% of this number represents music and games.

3/ Department of Revenue estimates gross receipts for FY 92 as 64,400,000. The average product mark up represents 50% of retail sales price. (NAMA Report)

4/ Industry survey conservatively estimates more than one in four product machines does not presently pay sales, personal property tax or income tax. Increased compliance could alone increase the amount of sales tax collected by as much as 25% of that collected presently (estimated gross for FY 92: $2,700,000) = $462,000.

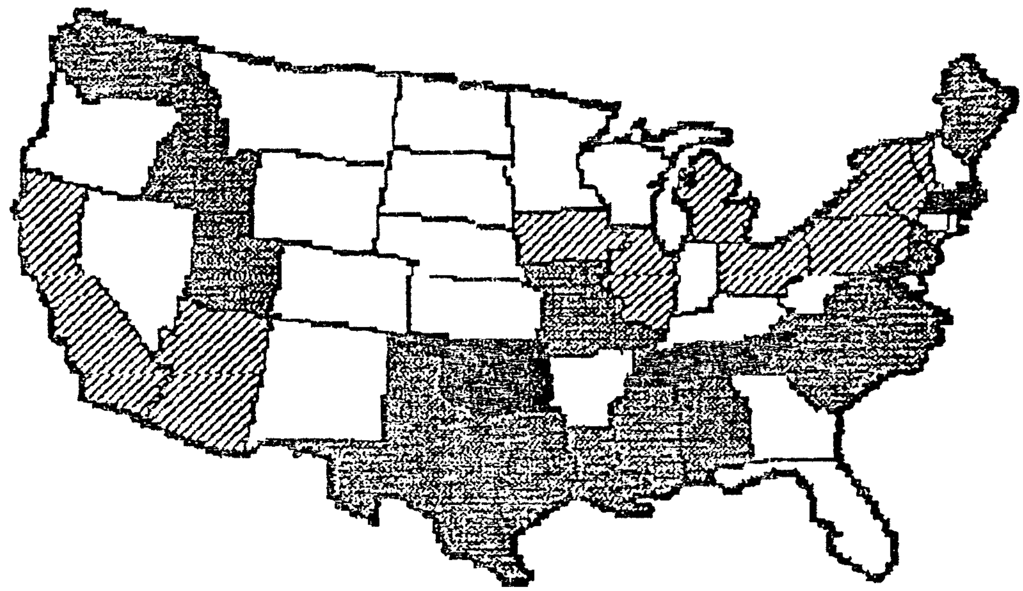
5/ Note: this increase does not attempt to take into account potential increase to state from income tax or increase to local taxing units from personal property tax.

AS0326T1

Exhibit A

1-5

SALES TAX TREATMENT OF SALES THROUGH VENDING MACHINES IN THE UNITED STATES



STATES IMPOSING SALES TAX BASED ON A PERCENTAGE OF WHOLESALE OR RETAIL PRICE

ALABAMA
IDAHO
LOUISIANA
MAINE
MISSISSIPPI
MISSOURI
NEW JERSEY
NORTH CAROLINA
SOUTH CAROLINA
TEXAS
UTAH
VIRGINIA
WASHINGTON

STATES EXEMPTING CERTAIN VENDED SALES OF FOOD PRODUCTS

ARIZONA
CALIFORNIA
ILLINOIS
IOWA
MICHIGAN
NEW YORK
OHIO
PENNSYLVANIA
VERMONT

STATES PROVIDING OTHER SIGNIFICANT SALES TAX TREATMENT

MARYLAND
MASSACHUSETTS
OKLAHOMA
TENNESSEE

Prepared by: NAMA, Department of Government Affairs

Exhibit B

AMENDMENTS ONLY TO PAGES 1 and 18.

Exhibit

Session of 1991

SENATE BILL No. 305

By Committee on Assessment and Taxation

2-25

AN ACT relating to coin-operated devices; prescribing fees for the operation thereof and providing authorities and duties for the department of revenue relating thereto; exempting sales of tangible personal property from coin-operated amusement and music devices; amending K.S.A. 79-3603 and 79-3606 and repealing the existing sections.

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

New Section 1. As used in this act:

(a) "Coin-operated amusement device" means any and all non-gambling mechanical or electronic machines which, upon the payment or insertion of a coin, token or similar object, provide music, amusement or entertainment, including, but not limited to, such games as pool, phonographs, video television, shooting galleries, pinball, foosball, bowling, shuffleboard or any other amusement device with or without a replay feature which can be legally shipped interstate according to federal law;

(b) "coin-operated music device" means any music device which is operated, motivated, released or played by or upon the payment or insertion of a coin, token or similar object, whether there is one or more devices on the premises for the reception of such coin, token or similar object. Coin-operated radio or television receiving sets in hotels, motels or tourist cabins for the use and benefit of the guests and visitors of such hotels, motels or tourist rooms or cabins shall be deemed a coin-operated music device;

(c) "coin-operated device" means coin-operated music devices, coin-operated amusement devices or coin-operated vending devices;

(d) "coin-operated vending device" means any and all machines or devices other than coin-operated amusement devices or coin-operated music devices which upon the payment or insertion of a coin, token or similar object, dispenses tangible personal property; and

without making the entire inventory within the device accessible to the purchaser by the payment of the purchase price for a single item

(e) "music device" means any and all mechanical devices which render, cause to sound or release music where the same may be heard by one or more public patrons. Each separate loudspeaker, phonograph, juke box or outlet from which such music emits shall organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986~~.~~; *and*

(uu) all sales of tangible personal property ~~*purchased for resale*~~ vending *through a coin-operated* ~~*music or amusement*~~ *device*~~*, and all sales of tangible personal property sold through such devices*~~.

Sec. 12. K.S.A. 79-3603 and 79-3606 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

EXAMPLES OF DIFFERENT POINT OF SALE

92-19-10.	Repossessed property
92-19-11.	Purchased for resale but used by purchaser
92-19-15.	Undertakers and funeral directors
92-19-16.	Gifts, premiums, prizes, trading stamps, coupons
92-19-43.	Tax due upon registration of a vehicle by a dealer
92-19-66.	Material removed from inventory by a contractor reported at cost
92-19-66c.	Contractor as final user or consumer of tools, equipment and machinery
92-19-23.	Existing Reg. on coin-operated devices

Exhibit D

THE HUTCHINSON VENDING COMPANY
ROBERT L. ALLEN
Phone 316-663-2113 416 N. Main
HUTCHINSON, KANSAS 67501

SENATE BILL #305

Good Morning! My name is David Allen and I am part-owner, with my father and brother, of Hutchinson Vending Company in Hutchinson. We operate coin-operated games, providing low-cost entertainment, primarily in convenience stores, bowling centers, and taverns. While our company also operates merchandise vending machines, I am here primarily to speak in favor of the $50 Amusement Device decal proposed in Senate Bill #305.

We feel that the $50 decal will eliminate unfair competition from coin-operated games (both privately and commercially-operated) that currently are not paying any sales tax (or income tax for that matter). For example, when the drinking age was increased from 18 to 21, many taverns became unprofitable and closed. Many other tavern/club operators acquired their own games in order to receive all the game revenue, rather than using a vending operator's machines (for which a 50/50 split is standard practice) to help offset the overall decline in their business. Nothing wrong here so far, except that "off the record" private surveys we have conducted show that many locations report none or only a portion of the income these machines take in. Obviously, it is quite hard for the State to verify these

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collections, if in fact, the machines can even be located. If all coin-operated games were required to display the $50 decal, or be seized by the State, the verification/tax collection problem would be eliminated and the playfield would be leveled between competitors in our industry.

The $50 decal would provide another benefit to the State of Kansas in the form of advance collection of sales taxes since the decals would be purchased in bulk at the beginning of each licensing period.

Therefore, we favor the $50.00 annual machine license for the following reasons:

(1) it will eliminate unfair competition from vending operators and private owners towards those of us who pay 100% of the sales taxes due the State;

(2) it will insure that the State of Kansas is receiving ALL the sales tax that is due from each coin-operated machine on location;

(3) the purchase of the required decal will be easily verified by enforcement personnel;

(4) the state of Kansas will benefit from the advance collection of sales taxes;

(5) it is very likely that substantial NEW revenue to the state will be generated from those privately-owned games not currently paying any, or only a portion of, the sales tax and income tax due.

In closing, I would just like to say that in these days of ever-increasing tax obligations, such as the recent drastic increase in real estate taxes, small family businesses such as ours are having increasing trouble surviving. We are not, however, asking for a handout or an exemption from sales taxes, but a more equitable system of taxation that will bring us up to the same level as other retailers in the State. We feel that senate Bill #305 will do just that for us.

David L. Allen

Cliff's Vending
Total Refreshment Services
"Over 25 Years of Serving the Finest"
Cliff's Vending, Inc./Total Refreshment Services
Ron Oswald, President
2200 Delaware Lawrence, Kansas 66046
Phone 1-913-843-3274

Thank you for this opportunity to meet with you to discuss a very important tax equity bill, Senate Bill 305. As a vending operator in the state of Kansas, I support Bill 305 for a number of reasons.

The vending company I represent has been operating since 1965. We have worked long and hard to build up a strong customer base in Kansas, and stable employment for our employees, who are all Kansas residents. The last five years has seen a dramatic decrease in the average net profit for National Automatic Merchandising Association operating companies in the $750,000 $1,500,000 sales category. The average net profit in 1989 for these companies was 1/3 of 1% before income taxes. This includes data from vendors operating in states where there are already tax equity laws in place. From 1985 to 1989 there has been a 75% decrease in profits. The reason for this decline is simple.

Automatic merchandisers are at a distinct disadvantage when sales tax percentages go up. History shows that the trend is for taxes to continually rise. When sales tax percentages go up, automatic vendors have three choices. They can raise their prices by $.05, risking loss of sales to other competitors who can adjust their prices by .01, like a grocery or convenience store. As you can see, we can't compete on the same level as a retailer. Another more common solution is for the vendor simply to absorb the tax increase. As we have seen, any increase in sales tax severely hurts profits. Or the vendor can simply not pay their fair share of sales tax. Everyday there are ads in the newspapers advertising a good cash business: a vending route.

A restructuring of the sales tax regarding sales through vending machines would be good for automatic vendors. It would put vending companies on a more even playing field with competitors who are able to raise prices by pennies. It would allow vending machine operators the opportunity to compete fairly with each other in the market place by full compliance with Kansas tax laws. A new tax basis for calculating sales tax would simplify vending operators administrative costs by eliminating the need to keep track of varying sales tax rates. Bill 305 would also help to equalize the tax burden within the industry by eliminating operators and owners who neglect to pay sales tax.

Bill 305 would also be good for the state of Kansas. This legislation will help the state and local governments to police the industry by using a new set of tools to reduce the abuse of the present sales tax system in Kansas.

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Vending operators provide a valuable service to our customers. These customers include offices, both government and private, factories, schools, hospitals and nursing homes. We deliver food to these locations, therefore offering employees an alternative to leaving the location for their meals. This translates into reduced gasoline usage, and we all benefit from that. Vending is an important industry, and vendors need to be taken seriously.

Bill 305 is not designed to give anyone a tax exemption, break, or advantage over anyone else. It would simply provide a different system that will at last give vending operators a fighting chance to compete fairly with the traditional retailer.

Thank you for your consideration, and I hope you will support Bill 305.

Sincerely,

Pat Kuester

Pat Kuester
Cliff's Vending Inc.

COMPOSITE ANALYSIS BY SALES VOLUME CATEGORIES FOR 1989[6)]

	DATA					YOUR COMPANY	ALL COMPANIES		TOP 25% IN PROFITABILITY[13)]
	Under $750,000 AVERAGE	$750,000-$1,999,999 AVERAGE	$2,000,000-$4,999,999 AVERAGE	$5,000,000-$9,999,999 AVERAGE	$10,000,000 Or More AVERAGE		1989	1988	1989
Retail Sales[3)]	100.0%	100.0%	100.0%	100.0%	100.0%		100.0%	100.0%	100.0%
Cost of Retail Sales	49.8	50.0	47.4	49.3	44.3		45.4	45.0	44.5
Gross profit	50.2	50.0	52.6	50.7	55.7		54.6	55.0	55.5
Operating expenses	43.3	48.2	49.0	47.0	53.4		52.0	51.1	52.7
Operating profit	6.9	1.8	3.6	3.7	2.3		2.6	3.9	2.8
Interest expense	(1.4)	(1.6)	(1.3)	(.9)	(.6)		(.8)	(.4)	(.4)
Other income - net	.1	.1	1.3	.8	1.7		1.5	1.4	2.0
Profit before income taxes	5.6	.3	3.6	3.6	3.4		3.3	4.9	4.4
Operating expenses:									
Commissions to locations	4.7	5.6	6.1	6.9	8.2		7.7	7.7	8.5
Employee compensation for route and location personnel	6.8	9.4	9.9	8.3	10.1		9.9	9.3	9.0
Employee compensation for maintenance and repair	2.1	2.0	2.3	2.5	2.3		2.3	2.5	2.6
Employee compensation for administrative, warehouse personnel and all others	4.0	6.5	6.0	4.9	5.5		5.5	5.1	5.2
Employee compensation for supervisory personnel	1.1	2.0	2.0	2.3	2.3		2.2	2.7	2.4
Fringe benefits and payroll taxes	1.7	3.7	3.7	3.8	5.1		4.8	4.6	5.0
Depreciation and/or rent on buildings	1.4	1.2	1.2	.8	.8		.8	.8	.8
Depreciation and/or rent on vending machines	5.5	5.4	4.4	4.0	4.1		4.2	3.8	4.2
All other depreciation and/or rent	.6	1.0	1.5	1.2	1.4		1.3	1.3	1.3
Sales, use or occupational taxes	4.3	2.6	2.9	3.7	3.4		3.4	3.6	3.4
All other taxes except income (federal and state) and payroll	.4	.5	.6	.3	.5		.5	.5	.5
Vending machine maintenance and repair expenses	1.4	1.3	1.4	1.2	.9		1.0	1.0	1.0
Vehicle expense	2.1	1.9	1.8	1.7	1.6		1.7	1.5	1.6
Insurance premiums	1.3	1.2	1.0	.8	.7		.7	.7	.6
Corporate overhead expense	2.3	.2	.7	1.4	2.3		2.0	1.9	2.4
Other operating expenses	3.6	3.7	3.5	3.2	4.2		4.0	4.1	4.2
Total operating expenses	43.3%	48.2%	49.0%	47.0%	53.4%		52.0%	51.1%	52.7%
Vending sales per vending employee — 1989	$84,741	$106,352	$113,276	$113,138	$107,572		$106,481	—	$109,136
1988	$81,081	$98,933	$111,795	$108,108	$103,423		—	$102,909	—
Number of Reporting Companies	25	53	51	27	22		178	163	—

HOW TO CALCULATE YOUR COMPANY DATA:

Operating ratios — Using information on pages 20 and 24, divide the amounts you reported in items 2-24 by the amount of sales reported in item 1.

Vending sales per vending employee — Using information on pages 22 and 24, divide item 11, column C, by item 4 in the employee data section.

3.3

Johnson County
Kansas

MARCH 27, 1991

SENATE ASSESSMENT AND TAXATION COMMITTEE

HEARING ON SENATE BILL NO. 399

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL OFFICER
JOHNSON COUNTY BOARD OF COMMISSIONERS

Mr. Chairman, members of the committee thank you for taking time to consider Senate Bill 399. We realize the bill was introduced late in the session and apologize for that. However it did not become evident until a few weeks ago that a ruling from the Board of Tax Appeals on this issue, would not be forthcoming before the end of the Legislative Session.

It may seem out of character for Johnson County to ask for tax exemptions, considering our opposition over the years to the granting of exemptions. However this is a unique situation that requires unusual actions. The bill does not grant new tax exemptions but rather it clarifies what has existed in the past. It will not cause a loss of revenue or reduction of the tax base, because the properties in question have never been on the rolls.

This is an extremely important bill to Johnson County and the issues will be explained more fully by several people who are here today to offer testimony. I would like to introduce these people and then turn the testimony over to them. Ben Craig, Chairman of the Airport Commission; Lee Metcalfe, Executive Director of Airports; Gary George, Superintendent of the Unified School District 231 and Dan Hosfield, Chairman of the Board of County Commissioners.

Thank you and I will be available for questions anytime during the hearing.

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Office of County Administrator 100 E. Park, Suite 205 Olathe, Kansas 66061 (913) 782-5000 Ext 5251

BEFORE THE

KANSAS SENATE

COMMITTEE ON ASSESSMENT AND TAXATION

11:00 a.m., Wednesday, March 27, 1991

SENATE BILL 399

Comments of R. Lee Metcalfe, Executive Director, Johnson County Airport Commission

Ladies and Gentlemen of the Committee:

I would like to briefly review the history of the property tax issue at the Johnson County airports, relate that history to the provisions of the proposed legislation, and explain what the proposed legislation is intended to accomplish with regard to property taxes at the airports.

The Johnson County Airport Commission (the "Commission"), constituted under K.S.A. 3-301 et seq., is the agency of Johnson County government (the "County") responsible for the development and operation of the County's two public airports. Both airports are former military airfields transferred to the County under the Federal Surplus Property Act. Executive Airport was transferred to the County in 1967; Industrial Airport in 1973. In July, 1974, the Commission requested from and was granted by the state Board of Tax Appeals ("BOTA") an exemption from property taxes on all of the property acquired in the Olathe Naval Air Station (Industrial Airport) transaction. The ruling states that the property shall be "stricken from the tax rolls," and that it "be exempt from taxation so long as it is owned by (Johnson County) and used exclusively for county purposes." There is no expiration of the exemption provided for in the ruling. A similar ruling was received on Executive Airport in 1975.

Armed with this "blanket exemption" and the then commonly-held belief that development of former military airfields as "industrial" airports, as economic centers and as generators of fee revenue to offset tax support for the airports were legitimate government purposes, the Commission set about to recruit industry to the airports. This same strategy, based on the same assumptions, has been applied by the Salina, Topeka and Wichita airport authorities, among others. Based on a high level of comfort that what was being done was legally proper, the Commission has, since 1975, entered into long-term lease agreements with over thirty industrial and commercial tenants for land and buildings owned by the Commission. These lease agreements are based on the assumption that real property owned by the Commission and used to generate revenue for the airports is exempt from ad valorem taxes, thus the agreements do not specifically provide for the payment of those taxes by either the Commission or the tenant. Neither do these agreements provide for payments in lieu of taxes on these properties.

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Concurrently with the inception of some of these leases, the Commission, with County approval, sponsored revenue bond issues under both K.S.A. 12-1740 et seq. and K.S.A. 3-314 and 315. It was believed at the time that "airport development revenue bonds" under K.S.A. 3-314 carried the same property tax exemption eligibility as the classic "industrial development revenue bonds" under K.S.A. 12-1740, and leases on "airport revenue bond" projects were structured under the assumption that fifteen-year (before July 1, 1983) and ten-year (after that date) exemptions could be and were granted. These temporary exemptions were used as a bargaining tool with the businesses being recruited to locate at the airports, as they were intended by the legislature and as they have been used by local governments throughout the state. Our tenant businesses have made multi-million dollar, long-term commitments in their facilities at the airports under the belief that these exemptions were legitimate and properly in place. The various taxing entities in whose districts the airports lie have been aware of these negotiated exemptions, and in several cases, have participated in discussions of the development projects at the airports. The records of the public meetings of both the Commission and the Board of County Commissioners wherein these projects were formally approved indicate no opposition from any of the taxing entities affected by the proposed exemptions. The bonded-project leases do not provide for payments in lieu of taxes during the exemption period.

It was not until 1989, when the County Appraiser added all of the airport properties to the tax rolls, that the Commission realized there was a problem with the presumed exemptions. Because the Appraiser's records were not clear on which properties were supposedly exempt and which were not, he apparently was legally bound to put all the airport properties on the tax rolls and then require the Commission to go through the prescribed process for having the appropriate properties exempted off. The Commission filed with the Appraiser numerous applications for exemption for those properties which were historically believed to be entitled to exemption, either based on the 1974 BOTA ruling or based on "revenue bond exemptions." Per the prescribed procedure, the Appraiser processed these applications and forwarded them to BOTA in May, 1990. Hearings on these applications were conducted by BOTA in October, 1990. Rulings on these applications are still pending as of this date.

In accordance with K.S.A. 79-213(i), payment of taxes assessed on property on which exemptions are being sought is stayed during the pendency of the applications. Consequently, taxes on the properties which are the subject of the exemption applications have not been paid for 1989 and 1990. This has caused a problem for the School District and other taxing entities of the airports' tax districts. Because the properties are officially on the tax rolls until exempted off, the valuation of the disputed properties was included in the total valuation certified for mill levy calculation purposes. Thus the mill levies were calculated and assessed on property which, in our opinion, was not taxable in 1989 and 1990. The School District's problem is further aggravated by the fact that the disputed properties were included in the School District's "wealth" for state aid purposes, thus reducing their revenue from that source.

The proposed legislation is designed to resolve the historical questions of which properties were taxable and which were not, and whether the revenue-bonded project exemptions were administratively perfected or not. It provides for "phasing in" to 100% taxability airport properties leased for non-aviation private uses. It also establishes clear policy on how future tax exemptions or abatements are to be handled, and assures a minimum revenue stream to the School District and other taxing entities at the airports during the exemption or abatement periods.

If I may, I will briefly summarize the key provisions of the bill in "historical" order:

Section 3 of the bill: adds to K.S.A. 79-201a a Seventeenth section, which clarifies that all property owned by the County and/or Commission (K.S.A. 3-301 et seq.) at the airports which is used for government or proprietary purposes, or is leased to any person or business for airport operations or aviation-related purposes, has been and shall be exempt. This is in keeping with the historical understanding on these properties, and is in keeping with legislation already adopted in favor of the Salina and Topeka airport authorities, and currently being pursued by the Wichita airport authority. Seventeenth also confirms that all airport property leased for non-aviation private uses, except that on which taxes or payments in lieu of taxes have been levied and paid in the past, shall be exempt through 1990, and then shall be phased onto the tax rolls in 20% increments beginning in 1991, achieving 100% taxability in 1995. This provision implements the Johnson County Board of County Commissioners' policy that County property at the airports leased for purposes other than those directly related to the airport should not be exempt. This policy differs from the policies at the Salina and Topeka airports, where all airport property is exempt, regardless of use.

Section 3 also amends K.S.A. 79-201a Second to clarify that revenue-bonded projects at Johnson County airports (under K.S.A. 3-314 and 315) shall be exempt in accordance with the terms of the applicable lease agreements for not to exceed 15 years for projects initiated prior to July 1, 1983, and not to exceed ten years for projects initiated after July 1, 1983. This is in keeping with the historical understanding we have had with our tenant businesses and enables us to perform on contractual agreements without protracted litigation.

The historical issues having been addressed, Sections 1 and 2 of the bill establish future policy for exemptions and abatements at the airports:

Section 1 of the Bill: amends K.S.A. 3-307b to confirm that the Airport Commission, with Board of County Commissioners' approval, may grant property tax exemptions under K.S.A 79-251, the "economic development" provision.

Section 2 of the Bill: amends K.S.A. 3-307c to prescribe that K.S.A. 79-251 be followed in the consideration of any future exemptions and to require that a minimum payment-in-lieu-of-taxes of 20% of the annual tax levy for the subject property be contracted for, and that such payment be distributed to the taxing entities within the airports' tax districts in the same proportion as each entity's levy bears to the whole. This provision also excludes the valuation of the exempted property from the school district's "wealth" calculation for state aid.

You have before you proposed legislation which cures a long-standing problem that we believe is primarily administrative in nature. It clarifies and validates historical understandings, resolves a very complex set of issues currently before the state Board of Tax Appeals, and provides a long-term solution to the tax base/revenue dilemma faced by Gardner-Edgerton-Antioch Unified School District 231. This bill does not change history, but merely validates, for purposes of current and future interpretation, past practice which was based on the then-current interpretation of applicable laws. It also establishes a structure for future property tax implementation at the Johnson County airports.

We believe that this legislation is balanced and protects both the taxpayers and the tenant businesses at our airports. We have reviewed the bill in detail with the Board of Education of District 231, and have the full support of the Board. Superintendent Gary George is present and plans to address the Committee directly. This bill has been discussed and approved in public meetings by both the Airport Commission and the Board of County Commissioners. We believe this legislation embodies sound public policy and request the Committee's favorable recommendation of the bill, as drafted, to the Senate.

Thank you for your attention to this matter.

Testimony of
Gardner-Edgerton-Antioch
Unified School District No. 231

Before the Assessment & Taxation Committee
of the Kansas Senate

March 27, 1991

Presented by:

Gary R. George, Ed.D.
Superintendent of Schools
Unified School District No. 231

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I want to thank you for allowing me to speak with you today regarding S.B. 399.

Senate Bill 399 deals with the Johnson County Airport Commission. Our Board of Education has carefully studied this bill and met with representatives of the county, and has endorsed the legislation.

We believe S.B. 399 is good public policy for several reasons:

1. Businesses which have paid taxes will continue to pay real estate taxes.

2. New businesses which would locate at the airport would make a payment in lieu of taxes until they come on the tax rolls. The school district would share in this distribution.

3. Some businesses which have not been paying real estate taxes would have to begin paying some taxes in 1991, and have to pay their full share of real estate taxes by 1995.

We believe this will gradually increase our tax base and result in more revenue for our school district. The Airport Commission will have some incentives that it can use to attract business. We believe that S.B. 399 balances a number of interests in an equitable fashion.

In closing, let me express my appreciation for the opportunity to speak to you on behalf of S.B. 399.

Johnson County
Kansas

March 27, 1991

TO: Senate Assessment & Taxation Committee

FROM: Dan Hosfield, Chairman
Johnson County Board of Commissioners

SUBJ: Senate Bill 399

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you in support of Senate Bill 399 pertaining to the Johnson County Airport.

The Board of County Commission supports the bill for the following reasons:

... It resolves the back-taxes issue and removes the uncertainty cast on the airport revenue bonds. If it is ruled that the tenants must pay back taxes, the issue is expected to remain in court for several years. During this process there will be no taxes collected and the legal fees will multiply. The bill provides a means to address problems created in the past in a manner that is in the best interest of all concerned parties.

... It provides a process whereby all existing tenants will be brought on to the tax rolls by 1995. This will fulfill the goal of the County Commission to attain fair and equitable taxing for all properties at the airport.

... It allows flexibility in the future to grant tax abatements for tenants up to ten years and provides that fees in lieu of taxes shall be imposed. Such fees will be distributed to the school district on the same formula basis as property tax.

The Board of Commissioners believes Senate Bill 399 will bring about a solution to problems of the past while at the same time providing the authority to negotiate agreements that will attract new business to the state of Kansas. Further it offers short term and long term benefits to the airport, the tenants and the school district.

For the above reasons the Johnson County Commission urges this committee to recommend Senate Bill 399 favorable for passage.

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Attachment 7

KANSAS ASSOCIATION OF SCHOOL BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony on S.B. 399
before the
Senate Committee on Assessment and Taxation

by

Patricia E. Baker
Associate Executive Director/General Counsel
Kansas Association of School Boards

March 27, 1991

Mr. Chairman, Committee members, thank you for the opportunity to appear before you to express the concerns of our nearly 300 member school boards.

KASB does not have an official position on the provisions of S.B. 399, but we do have real concerns about all the issues involving the abatement of taxes, the reduction of a tax base and the subsequent effect on school finance throughout the state of Kansas.

Attached to this testimony is a memo developed for our staff and members outlining some of the concerns this issue raises.

We ask your careful consideration of any measure dealing with erosion of the tax base and the subsequent effects on funding education.

Thank you.

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Attachment 8

MEMORANDUM ON TAX ABATEMENT ISSUES FOR SCHOOLS

School districts levy and expend over 50% of all ad valorem property taxes in Kansas. School districts do not, however, have any control over the tax base on which levies are made. Because of the operation of the School District Equalization Act, a change in the tax base in any school district has a ripple effect on school finances throughout the state.

The legislature is grappling with ways to deal with property taxes following passage of the Classification Amendment and the reappraisal of property throughout the state. Measures to reduce property taxes; reclassify property; limit spending by local governments are all pending in the legislature.

While the legislature debates these issues, another large number of measures are being introduced and heard on the other end of the spectrum. Measures which grant statutory exemptions to more property and measures which limit tax exemptions of the same kinds of property are before numerous committees in both houses. To my knowledge no one has looked at the effect on school finance of most of these measures. Our recommendation is that the legislature not act on all of these measures in isolation but study the effect in total.

Exemption of property taxes comes about in a number of ways including:

I. Constitutional exemptions

II. Statutory exemptions

III. Exemptions by cities and counties for economic development purposes

IV. Partial or total abatement through the use of industrial revenue bonds and tax increment financing

While the total dollar amount of tax loss varies significantly among school districts, each decision to remove property from the tax rolls will effect all school districts.

In some instances, agreements are reached and contracts signed between property holders and cities and counties for payments in lieu of taxes and this helps off-set the loss of revenue. But the practice varies statewide and there is little consistency in what schools receive in terms of a share of these payments.

With the exception of tax increment financing, school boards have no authority to approve or disapprove tax abatements, yet they are the body most affected by the decisions.

School boards do not object to the use of favorable tax treatment for economic development or for social policy reasons. But we do believe a statewide policy and direction is necessary as school finance is a statewide issue.

Below is a partial list of bills currently in the legislature which address the issue. There may be other measures which would affect the tax base as well.

Bill	Provisions	Location
Sub. S.B. 94	Voluntary payments in lieu of taxes	H. Taxation
S.B. 178	Exempts motor vehicles	S. Ways & Means
S.B. 224	Impact Aid	S. Education
S.B. 320	Levies approval	S. Assessment
S.B. 399	Airport authority to grant exemptions	S. Assessment
H.B 2194 (A)	Exempts Wichita airport authority	S. Local Gov.
H.B. 2247	School districts contracts for payments in lieu of taxes	H. Taxation
H.B. 2314	Affects contracts for exemption in Shawnee County	H. Local Gov.
H.B. 2544	Limits authority to grant exemptions	H. Taxation
H.B. 2545	In lieu of payments and IRBs	H. Taxation
H.B. 2351	Impact aid	H. Education