

Approved WED. 5-6-92
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at
Chairperson

11:00 a.m. ~~xxxx~~ on Friday, April 3, 1992 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Bill Edds, Revisor's Office
Don Hayward, Revisor's Office
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Anzek

Conferees appearing before the committee:

Chairman Dan Thiessen called the meeting to order at 11:08 a.m. and said we would work previously heard bills today, and he turned attention to HB3110.

HB3110: Taxation exemption provided for cooperatives of school district interlocal cooperatives.

Senator Phil Martin moved to favorably pass HB3110, 2nd by Senator Janis Lee. The motion carried.

HB2938: Income tax credit for equipment used to make products from post consumer wastes.

Senator Phil Martin moved to strike the House Amendment by the House Committee of the Whole, which amends K.S.A. 91, Section 2, 2nd by Senator Fred Kerr. The motion carried.

Senator Phil Martin moved to favorably pass HB2938 as amended, 2nd by Senator Marge Petty. The motion failed.

HB2816: KS real estate ratio study act.

Senator Phil Martin moved to favorably pass HB2816, 2nd by Sentaor Jack Steineger. The motion carried.

HB2779: Authority to impose local sales taxes to fund local health care services.

During committee discussion Tom Severn passed and explained a copy of suggested amendments by the League of Municipalities. (ATTACHMENT 1)

Senator Don Montgomery moved to amend HB2779 to allow a 1¢ additional authority for health care for Wilson County, 2nd by Senator Fred Kerr. On a division call the motion carried 5-4.

Senator Fred Kerr moved to amend ½¢ for the City of Independence, 2nd by Senator Audrey Langworthy. The motion carried.

Senator Marge Petty moved to amend HB2779 by including the suggested amendments by the League of Municipalities, 2nd by Senator Lana Oleen.

Senator Fred Kerr made a substitute motion to have the proposal by the League of Municipalities be sent for interim study, 2nd by Senator Phil Martin. The motion carried.

Senator Don Montgomery moved to favorably pass HB2779 as amended, 2nd by Senator Audrey Langworthy. The motion carried.

SB721: Local assessment of certain radio common carrier by property taxation purposes.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m./~~pm~~ on Friday, April 3, 1992.

Senator Lana Oleen passed hand-outs regarding **SB721** and said, there have been several questions raised regarding paging equipment and if they are indeed a public utility. She said, the material she passed out is testimony from a previous meeting in regard to that. (**ATTACHMENT 2**) which includes testimony from First Page, Inc., a list of paging providers, and a letter to her from Weary, Davis, Henry, Struebing & Troup.

After committee discussion on the above listed testimony;

Senator Lana Oleen moved to favorably pass **SB721**, 2nd by Senator Don Montgomery. On a division call the motion carried 6-5.

Chairman Dan Thiessen announced to the committee that we will be meeting next Monday, April 6th, in room 519-S and he adjourned the meeting at 11:57 a.m.

LOCAL SALES TAX OPTION AMENDMENT
Proposed By League of Kansas Municipalities

HOUSE BILL No. 2779

By Representatives Chronister, Amos, Baker, Bradford, Brown, Corbin, Cornfield, Crowell, Dawson, Douville, Empson, Flottman, Flower, Fuller, Gatlin, Glasscock, Hayzlett, Heinemann, Hendrix, Jennison, King, B. Lawrence, Lloyd, Long, Lowther, Mead, Miller, O'Neal, Pottorff, Praeger, Ramirez, Roe, Samuelson, Scott, Sluiter, Snowbarger, Weimer and Wells

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14 AN ACT relating to city and countywide retailers' sales taxes; al-
15 lowing rate increases for funding of local health care services;
16 amending K.S.A. 12-187 and 12-189, 12-189 and 12-192 and
17 repealing the existing sections.
18

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

20 Section 1. K.S.A. 12-187 is hereby amended to read as follows:

21 12-187. (a) (1) No city shall impose a retailers' sales tax under the
22 provisions of this act without the governing body of such city having
23 first submitted such proposition to and having received the approval
24 of a majority of the electors of the city voting thereon at an election
25 called and held therefor. The governing body of any city may submit
26 the question of imposing a retailers' sales tax and the governing body
27 shall be required to submit the question upon submission of a pe-
28 tition signed by electors of such city equal in number to not less
29 than 10% of the electors of such city.

30 (2) ~~The governing body of any city may submit the question of~~
31 ~~imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1%~~
32 ~~and pledging the revenue received therefrom for the purpose of~~
33 ~~financing the provision of health care services, as enumerated in the~~
34 ~~question, to the electors at an election called and held thereon. The~~
35 ~~tax imposed pursuant to this paragraph shall be deemed to be in~~
36 ~~addition to the rate limitations prescribed in K.S.A. 12-189, and~~
37 ~~amendments thereto. As used in this paragraph, health care services~~
38 ~~shall include but not be limited to the following: County Local health~~
39 ~~departments, city, county or district hospitals, city or county nursing~~
40 ~~homes, preventive health care services including immunizations, pre-~~
41 ~~natal care and the postponement of entry into nursing homes by~~
42 ~~home health care services, mental health services, indigent health~~
43 ~~care, physician or health care worker recruitment, health education,~~

or

This amendment could be revised to include an authorization for a .75% or 1% city or county wide tax for health care, as provided in HB 2779.

one or more of the purposes specified in subsection (h) of this section

Summary of Basic Provisions

(1) **Rate Increments.** City or countywide local sales tax rates would be authorized at .25% increments. The actual rate, as under present law, would be determined by the voters according to ballot propositions submitted by local governing bodies.

(2) **Increased Tax Rates.** All cities and counties would be authorized to hold referendums on the question of levying an additional .25% or .5% sales tax, above the present general limit of 1.0%, for certain purposes.

(3) **Purposes.** Revenue from the additional tax authority (from any .25% or .5% tax above the present general maximum of 1.0%) could be used only for a purpose or purposes specified in the ballot proposition. The authorized purposes are: (A) property tax reduction; (B) public safety and crime prevention; (C) health care services; (D) public infrastructure improvements, including buildings; and (E) economic development.

(4) **Term of Tax.** The city or county proposing the tax would be specifically authorized to specify the term of any proposed additional tax, to be included in the ballot proposition.

(5) **Distribution Revenue.** The distribution of the revenue, from countywide taxes, for one or more of the above cited purposes, could be determined by joint agreement of the governing bodies of the county and one or more cities containing at least half the population of all cities within the county.

The amendments do not provide for an additional .75% or 1% tax, as proposed in HB 2779. Further, while HB 2779 provides that all the revenue received from an additional countywide tax be used for health care, the amendments permit local agreements as to the distribution formula.

SENATE ASSES. & TAX
4-3-92
ATT. 1-1

SENATE ASSES. & TAX

4-3-92

ATT. 1-1

1 ~~emergency medical services, rural health clinics, integration of health~~
2 ~~care services, home health services and rural primary care essen-~~
3 ~~tial access community hospital initiatives health networks.~~

4 (b) (1) The board of county commissioners of any county may
5 submit the question of imposing a countywide retailers' sales tax to
6 the electors at an election called and held thereon, and any such
7 board shall be required to submit the question upon submission of
8 a petition signed by electors of such county equal in number to not
9 less than 10% of the electors of such county who voted at the last
10 preceding general election for the office of secretary of state, or upon
11 receiving resolutions requesting such an election passed by not less
12 than $\frac{2}{3}$ of the membership of the governing body of each of one or
13 more cities within such county which contains a population of not
14 less than 25% of the entire population of the county, or upon re-
15 ceiving resolutions requesting such an election passed by $\frac{2}{3}$ of the
16 membership of the governing body of each of one or more taxing
17 subdivisions within such county which levy not less than 25% of the
18 property taxes levied by all taxing subdivisions within the county.

19 (2) The board of county commissioners of Jefferson, Lyon, Mont-
20 gomery, Riley and Wyandotte counties may submit the question of
21 imposing a countywide retailers' sales tax and pledging the revenue
22 received therefrom for the purpose of financing the construction or
23 remodeling of a courthouse, jail or law enforcement center facility,
24 to the electors at an election called and held thereon. The tax im-
25 posed pursuant to this paragraph shall expire upon the payment of
26 all costs incurred in the financing of such facility. Nothing in this
27 paragraph shall be construed to allow the rate of tax imposed by
28 Jefferson, Lyon, Montgomery or Riley county pursuant to this par-
29 agraph to exceed or be imposed at any rate other than the rates
30 prescribed in K.S.A. 12-189, and amendments thereto.

31 (3) Except as otherwise provided in this paragraph, the result of
32 the election held on November 8, 1988, on the question submitted
33 by the board of county commissioners of Jackson county for the
34 purpose of increasing its countywide retailers' sales tax by 1% is
35 hereby declared valid, and the revenue received therefrom by the
36 county shall be expended solely for the purpose of financing the
37 Banner Creek reservoir project. The tax imposed pursuant to this
38 paragraph shall take effect on the effective date of this act and shall
39 expire not later than five years after such date.

40 (4) The board of county commissioners of Finney and Ford coun-
41 ties may submit the question of imposing a countywide retailers'
42 sales tax at the rate of .25% and pledging the revenue received
43 therefrom for the purpose of financing all or any portion of the cost

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1 to be paid by Finney or Ford county for construction of highway
 2 projects identified as system enhancements under the provisions of
 3 paragraph (5) of subsection (b) of K.S.A. 1989 1991 Supp. 68-2314,
 4 and amendments thereto, to the electors at an election called and
 5 held thereon. Such election shall be called and held in the manner
 6 provided by the general bond law. The tax imposed pursuant to this
 7 paragraph shall expire upon the payment of all costs authorized
 8 pursuant to this paragraph in the financing of such highway projects.
 9 Nothing in this paragraph shall be construed to allow the rate of tax
 10 imposed by Finney or Ford county pursuant to this paragraph to
 11 exceed the maximum rate prescribed in K.S.A. 12-189, and amend-
 12 ments thereto. If any funds remain upon the payment of all costs
 13 authorized pursuant to this paragraph in the financing of such high-
 14 way projects in Finney county, the state treasurer shall remit such
 15 funds to the treasurer of Finney county and upon receipt of such
 16 moneys shall be deposited to the credit of the county road and
 17 bridge fund. If any funds remain upon the payment of all costs
 18 authorized pursuant to this paragraph in the financing of such high-
 19 way projects in Ford county, the state treasurer shall remit such
 20 funds to the treasurer of Ford county and upon receipt of such
 21 moneys shall be deposited to the credit of the county road and
 22 bridge fund.

23 (5) *The board of county commissioners of any county may submit*
 24 *the question of imposing a retailers' sales tax at the rate of .25%,*—or .5%
 25 ~~*.5%, .75% or 1% and pledging the revenue received therefrom for*~~—one or more of the purposes specified in
 26 ~~*the purpose of financing the provision of health care services, as*~~ subsection (h) of this section
 27 ~~*enumerated in the question, to the electors at an election called and*~~
 28 ~~*held thereon. The tax imposed pursuant to this paragraph shall be*~~
 29 ~~*deemed to be in addition to the rate limitations prescribed in K.S.A.*~~
 30 ~~*12-189, and amendments thereto. As used in this paragraph, health*~~
 31 ~~*care services shall include but not be limited to the following: County*~~
 32 ~~*Local health departments, city or county hospitals, city or county*~~
 33 ~~*nursing homes, preventive health care services including immuni-*~~
 34 ~~*zations, prenatal care and the postponement of entry into nursing*~~
 35 ~~*homes by home care services, mental health services, indigent health*~~
 36 ~~*care, physician or health care worker recruitment, health education,*~~
 37 ~~*emergency medical services, rural health clinics, integration of health*~~
 38 ~~*care services, home health services and rural primary care essen-*~~
 39 ~~*tial access community hospital initiatives health networks.*~~

40 (c) The boards of county commissioners of any two or more con-
 41 tiguous counties, upon adoption of a joint resolution by such boards,
 42 may submit the question of imposing a retailers' sales tax within
 43 such counties to the electors of such counties at an election called

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1 and held thereon and such boards of any two or more contiguous
 2 counties shall be required to submit such question upon submission
 3 of a petition in each of such counties, signed by a number of electors
 4 of each of such counties where submitted equal in number to not
 5 less than 10% of the electors of each of such counties who voted at
 6 the last preceding general election for the office of secretary of state,
 7 or upon receiving resolutions requesting such an election passed by
 8 not less than $\frac{2}{3}$ of the membership of the governing body of each
 9 of one or more cities within each of such counties which contains a
 10 population of not less than 25% of the entire population of each of
 11 such counties, or upon receiving resolutions requesting such an elec-
 12 tion passed by $\frac{2}{3}$ of the membership of the governing body of each
 13 of one or more taxing subdivisions within each of such counties which
 14 levy not less than 25% of the property taxes levied by all taxing
 15 subdivisions within each of such counties.

16 (d) Any city retailers' sales tax in the amount of .5% being levied
 17 by a city on July 1, 1990, shall continue in effect until repealed in
 18 the manner provided herein for the adoption and approval of such
 19 tax or until repealed by the adoption of an ordinance so providing.
 20 In addition to any city retailers' sales tax being levied by a city on
 21 July 1, 1990, any such city may adopt an additional city retailers'
 22 sales tax in the amount of .5%, provided that such additional tax is
 23 adopted and approved in the manner provided for the adoption and
 24 approval of a city retailers' sales tax. Any countywide retailers' sales
 25 tax in the amount of .5% or 1% in effect on July 1, 1990, shall
 26 continue in effect until repealed in the manner provided herein for
 27 the adoption and approval of such tax.

28 (e) A class B city shall have the same power to levy and collect
 29 a city retailers' sales tax that a class A city is authorized to levy and
 30 collect and in addition, in 1990, 1991 or 1992, the governing body
 31 of any class B city may submit the question of imposing an additional
 32 city retailers' sales tax in an amount not to exceed 1% and pledging .25%, .5%, .75% or
 33 the revenue received therefrom for flood control projects to the
 34 electors at an election called and held thereon. Any additional sales
 35 tax imposed pursuant to this paragraph shall expire upon the payment
 36 of all costs incurred in financing such flood control projects.

37 (f) Any city or county proposing to adopt a retailers' sales tax
 38 shall give notice of its intention to submit such proposition for ap-
 39 proval by the electors in the manner required by K.S.A. 10-120,
 40 and amendments thereto. The notices shall state the time of the
 41 election and the rate and effective date of the proposed tax. If a
 42 majority of the electors voting thereon at such election fail to approve
 43 the proposition, such proposition may be resubmitted under the

(h) Any additional retailers' sales tax proposed to be levied by a city or county in accordance with the provisions of subsection (a)(2) or (b)(5) of this section, as amended, shall be levied only for one or more of the following public purposes:

- (A) Property tax reduction;
- (B) public safety and crime prevention;
- (C) public health care services;
- (D) public infrastructure improvements, including buildings; and
- (E) economic development.

The governing body of the city or county proposing to levy such an additional tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition. The governing body may, by resolution, establish the term of the proposed tax, and if a fixed term is provided for, the ballot proposition shall include a statement as to the date the additional tax shall expire.

1 conditions and in the manner provided in this act for submission of
2 the proposition. If a majority of the electors voting thereon at such
3 election shall approve the levying of such tax, the governing body
4 of any such city or county shall provide by ordinance or resolution,
5 as the case may be, for the levy of the tax. Any repeal of such tax
6 or any reduction or increase in the rate thereof, within the limits
7 prescribed by K.S.A. 12-189, and amendments thereto, shall be
8 accomplished in the manner provided herein for the adoption and
9 approval of such tax except that the repeal of any such city retailers'
10 sales tax may be accomplished by the adoption of an ordinance so
11 providing.

12 (g) The sufficiency of the number of signers of any petition filed
13 under this section shall be determined by the county election officer.
14 Every election held under this act shall be conducted by the county
15 election officer.

16 Sec. 2. K.S.A. 12-189 is hereby amended to read as follows: 12-
17 189. *Except as otherwise provided by paragraph (2) of subsection*
18 *(a) of K.S.A. 12-187, and amendments thereto,* the rate of any class
19 A or class C city retailers' sales tax shall be fixed in the amount of ~~.25%~~ ^{.25%, .75%}
20 ~~.5% or 1%~~ which amount shall be determined by the governing body
21 of the city. *Except as otherwise provided by paragraph (2) of sub-*
22 *section (a) of K.S.A. 12-187, and amendments thereto,* the rate of
23 any class B city retailers' sales tax shall be fixed in the amount of ~~.25%, .75%~~
24 ~~.5%, 1%, 1.5% or 2%.~~ ^{1.25%} The rate of any countywide retailers' sales
25 tax shall be fixed in an amount of either ~~1.5% or 1%~~ ^{.25%, .75%} which amount
26 shall be determined by the board of county commissioners, except
27 that: ^{1.75%}

28 (a) The board of county commissioners of Wyandotte county, for
29 the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187,
30 and amendments thereto, may fix such rate at ~~1.5%~~ ^{1.25% or}

31 (b) the board of county commissioners of Jackson county, for the
32 purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and
33 amendments thereto, may fix such rate at 2%; or

34 (c) the boards of county commissioners of Finney and Ford coun-
35 ties, for the purposes of paragraph (4) of subsection (b) of K.S.A.
36 12-187, and amendments thereto, may fix such rate at .25%; or

37 (d) the board of county commissioners of any county for the
38 purposes of paragraph (5) of subsection (b) of K.S.A. 12-187, and
39 amendments thereto, may fix such rate at a percentage which is
40 equal to the sum of the rate allowed to be imposed by a board of
41 county commissioners on the effective date of this act plus .25%,
42 ~~.5%, .75% or 1%,~~ as the case requires. — or

43 Any county or city levying a retailers' sales tax is hereby prohibited

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1 from administering or collecting such tax locally, but shall utilize
2 the services of the state department of revenue to administer, enforce
3 and collect such tax. Except as otherwise specifically provided in
4 K.S.A. 12-189a, and amendments thereto, such tax shall be identical
5 in its application, and exemptions therefrom, to the Kansas retailers'
6 sales tax act and all laws and administrative rules and regulations of
7 the state department of revenue relating to the Kansas retailers' sales
8 tax shall apply to such local sales tax insofar as such laws and rules
9 and regulations may be made applicable. The state director of tax-
10 ation is hereby authorized to administer, enforce and collect such
11 local sales taxes and to adopt such rules and regulations as may be
12 necessary for the efficient and effective administration and enforce-
13 ment thereof.

14 Upon receipt of a certified copy of an ordinance or resolution
15 authorizing the levy of a local retailers' sales tax, the state director
16 of taxation shall cause such taxes to be collected within or without
17 the boundaries of such taxing subdivision at the same time and in
18 the same manner provided for the collection of the state retailers'
19 sales tax. All moneys collected by the director of taxation under the
20 provisions of this section shall be credited to a county and city
21 retailers' sales tax fund which fund is hereby established in the state
22 treasury. Any refund due on any county or city retailers' sales tax
23 collected pursuant to this act shall be paid out of the sales tax refund
24 fund and reimbursed by the director of taxation from collections of
25 local retailers' sales tax revenue. All local retailers' sales tax revenue
26 collected within any county or city pursuant to this act shall be
27 apportioned and remitted at least quarterly by the state treasurer,
28 on instruction from the director of taxation, to the treasurer of such
29 county or city.

30 The director of taxation shall provide, upon request by a city or
31 county clerk or treasurer of any city or county levying a local retailers'
32 sales tax, a monthly report identifying each retailer having a place
33 of business in such city or county and setting forth the amount of
34 such tax remitted by each retailer during the preceding month. Such
35 report shall be made available to the clerk or treasurer of such city
36 or county within a reasonable time after it has been requested from
37 the director of taxation. The director of taxation shall be allowed to
38 assess a reasonable fee for the issuance of such report. Information
39 received by any city or county pursuant to this section shall be
40 confidential, and it shall be unlawful for any officer or employee of
41 such city or county to divulge any such information in any manner.
42 Any violation of this paragraph by a city or county officer or employee
43 is a class B misdemeanor, and such officer or employee shall be

1 dismissed from office.

2 **Sec. 3. K.S.A. 12-192 is hereby amended to read as follows: 12-**
3 **192. (a) Except as otherwise provided by subsection (b) or (d), all**
4 **revenue received by the director of taxation from a countywide**
5 **retailers' sales tax shall be apportioned among the county and each**
6 **city located in such county in the following manner: (1) One-half**
7 **of all revenue received by the director of taxation shall be appor-**
8 **tioned among the county and each city located in such county in**
9 **the proportion that the total tangible property tax levies made in**
10 **such county in the preceding year for all funds of each such gov-**
11 **ernmental unit bear to the total of all such levies made in the**
12 **preceding year, and (2) except as provided by paragraph (3), 1/3 of**
13 **all revenue received by the director of taxation from such coun-**
14 **tywide retailers' sales tax shall be apportioned among the county**
15 **and each city located in such county, first to the county that portion**
16 **of the revenue equal to the proportion that the population of the**
17 **county residing in the unincorporated area of the county bears to**
18 **the total population of the county, and second to the cities in the**
19 **proportion that the population of each city bears to the total pop-**
20 **ulation of the county, except that no persons residing within the**
21 **Fort Riley military reservation shall be included in the determi-**
22 **nation of the population of any city located within Riley county, or**
23 **(3) one-half of all revenue received by the director of taxation from**
24 **countywide retailers' sales taxes levied in Geary county in any year**
25 **shall be apportioned among the county and each city located in**
26 **such county, first to the county that portion of the revenue equal**
27 **to the proportion that the population of the county residing in the**
28 **unincorporated area of the county less the population residing on**
29 **a military reservation bears to the total population of the county**
30 **less the population residing on a military reservation, and second**
31 **to the cities in the proportion that the population of each city bears**
32 **to the total population of the county less the population residing**
33 **on a military reservation. All revenue apportioned to a county shall**
34 **be paid to its county treasurer and shall be credited to the general**
35 **fund of the county.**

36 **(b) As an alternative and in lieu of the apportionment formula**
37 **provided in subsection (a), all revenue received by the Johnson**
38 **county treasurer from a countywide retailers' sales tax imposed at**
39 **the rate of 1% after the effective date of this act may be apportioned**
40 **among the county and each city located in such county in the**
41 **following manner: (1) One-half of all such revenue shall be appor-**
42 **tioned in the manner prescribed by subsection (a) and (2) one-half**
43 **of all such revenue shall be apportioned as follows: (A) One-fourth**

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1 shall be apportioned among the county and each city located in
 2 such county in the proportion that the total tangible property tax
 3 levies made in such county in the preceding year for all funds of
 4 each such governmental unit bear to the total of all such levies
 5 made in the preceding year and (B) one-fourth shall be apportioned
 6 among the county and each city located in such county, first to the
 7 county that portion of the revenue equal to the proportion that the
 8 population of the county residing in the unincorporated area of the
 9 county bears to the total population of the county, and second to
 10 the cities in the proportion that the population of each city bears
 11 to the total population of the county and (C) one-half shall be
 12 retained by the county for its sole use and benefit.

13 (c) Except as otherwise provided by this subsection, for purposes
 14 of subsections (a) and (b), the term "total tangible property tax
 15 levies" means the aggregate dollar amount of tax revenue derived
 16 from ad valorem tax levies applicable to all tangible property located
 17 within each such city or county. The ad valorem property tax levy
 18 of any county or city district entity or subdivision shall be included
 19 within this term if the levy of any such district entity or subdivision
 20 is applicable to all tangible property located within each such city
 21 or county. The ad valorem property tax levy of any city in Johnson
 22 county levied for the purpose of providing fire protection service
 23 shall be included within the term "total tangible property tax levies"
 24 regardless of its applicability to all tangible property located within
 25 each such city.

26 (d) (1) All revenue received by any county treasurer from a
 27 countywide retailers' sales tax imposed pursuant to paragraph (2)
 28 of subsection (b) of K.S.A. 12-187, and amendments thereto, shall
 29 be retained by the county and expended only for the purpose for
 30 which the revenue received from the tax was pledged.

31 ~~(2) All revenue received by any county treasurer from a coun-~~
 32 ~~tywide retailers' sales tax imposed pursuant to paragraph (5) of~~
 33 ~~subsection (b) of K.S.A. 12-187, and amendments thereto, shall be~~
 34 ~~retained by the county and expended only for the purpose for which~~
 35 ~~the revenue received from the tax was pledged.~~

36 (e) All revenue apportioned to the several cities of the county
 37 shall be paid to the respective treasurers thereof and deposited in
 38 the general fund of the city. Whenever the territory of any city is
 39 located in two or more counties and any one or more of such
 40 counties do not levy a countywide retailers' sales tax, or whenever
 41 such counties do not levy countywide retailers' sales taxes at a
 42 uniform rate, the revenue received by such city from the proceeds
 43 of the countywide retailers' sales tax, as an alternative to depositing

The revenue from an additional countywide retailer's sales tax levied under the provisions of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, may be distributed in accordance with a joint agreement by the board of county commissioners and the governing bodies of cities therein. Such an agreement as to the distribution of the revenue for one or more of the purposes set forth in subsection (h) of such section shall take effect when approved by resolutions passed by the board of county commissioners and by the governing bodies of one or more cities within the county containing at least half the population of all cities within the county. Such resolutions shall be passed at least 10 days prior to the date of publication of the first official notice of the election to be held on the levy of the tax. The method of distributing the revenue provided for by the joint agreement may be included in the ballot proposition and the county clerk shall include in the official notice of the election a general description of the proposed distribution. If a majority of the electors voting thereon approve the levying of the proposed additional tax under a joint agreement, the county clerk shall promptly advise the director of taxation and request that all the proceeds therefrom be paid to the county treasury to be distributed according to the joint agreement.

1 the same in the general fund, may be used for the purpose of
2 reducing the tax levies of such city upon the taxable tangible prop-
3 erty located within the county levying such countywide retailers'
4 sales tax.

5 (f) Prior to March 1 of each year, the secretary of revenue shall
6 advise each county treasurer of the revenue collected in such county
7 from the state retailers' sales tax for the preceding calendar year.

8 (g) Prior to December 31 of each year, the clerk of every county
9 imposing a countywide retailers' sales tax shall provide such infor-
10 mation deemed necessary by the secretary of revenue to apportion
11 and remit revenue to the counties and cities pursuant to this section.

12 Sec. 3 4. K.S.A. 12-187 and ~~12-188~~, 12-189 and 12-192 are
13 hereby repealed.

14 Sec. 4 5. This act shall take effect and be in force from and after
15 its publication in the statute book.

Senator Lana Oleen
Senate Assessment Taxation Committee SB721

Fact I

The paging business in Kansas is classified as a public utility for purposes of assessment of their personal property, which means that they are taxed at 30% on personal property and intangibles, instead of 20%, straight line, seven year depreciation. This has an effect of increasing their tax liability by at least 30%.

Fact II

This industry is not regulated by the Kansas Corporation Commission as regards to rates, territory, policies, service area or services they provide. The KCC asserts no regulatory authority over this industry. The Federal Communications Commission likewise asserts no regulatory authority over this industry nationwide. The FCC does issue radio frequencies to the individual paging companies in the form of a Radio Common Carrier License much the same as they do to radio stations, but it's the only action performed by the FCC as it relates to the paging industry.

Fact III

A paging company makes no use of public rights of ways.

Fact IV

The seven categories expressly listed in 79-5A01(a) arguably can all be said to deal directly with the public interest and deal in "necessaries" of daily living, with the possible exception of the railroad transportation and water transportation.

Fact V

This same list of seven types of public utilities in 79-A01(a) includes businesses that either by statute or by economic reality are monopolies and substantially rely upon the use of public rights of way to serve its customers.

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Fact VI

They all require a franchise or some type of authority from the city/county governing body or the KCC to operate and also a prescribed area is designated for their service territory.

Fact VII

A paging company does not require a franchise, it is self-limited by its distance. Its signal can be received from its tower and repeater locations and has healthy competition from other paging companies in the area where the "low cost provider" is the successful winner of the consumer.

Fact VIII


Senator Steinger's comment that businesses that cross county lines are state assessed, is incorrect. I believe he used McDonalds as an example. In checking with the county assessor in Geary County and Shawnee County, this is not the case.

Fact IX

Senator Lee asked Bill Waters, attorney for the Department of Revenue, what the dollar impact of taxes would be on the state if paging companies were assessed by counties and he stated, two million dollars. This is incorrect. The amount of reductions would be approximately \$170,000 to \$250,000 annually.

Fact X

It would appear that the language in SB721 is needed to correct this rather broad definition of a public utility.


Richard L. Thiessen
Secretary

KANSAS PAGING PROVIDERS

AREA	LOCATION	PRIMARY SERVICE PROVIDERS	EST. STAFF
1	S.W. KANSAS	S.T. PAGING CUE PAGING	4
2	HAYS	S.T. PAGING	0
3	GREAT BEND	S.T. PAGING	0
4	WICHITA/HUTCHINSON	FIRST PAGE AIR SIGNAL ADVANTAGE COMMUNICATIONS MOBILFONE OF KANSAS ANSERCOM MOBILE ELECTRONICS SKY TEL ELECTRONIC SALES AND SERV. CUE PAGING	10 8 1 2 40 10 0 5 0
5	WINFIELD/ARK. CITY	FIRST PAGE K-PAGE CUE PAGING	0 3 0
6	SALINA	FIRST PAGE COMMUNITY PAGING COMMUNICATIONS SERVICE CO. CUE PAGING	1 2 5 0
7	CONCORDIA	FIRST PAGE	0
8	MANHATTAN/J.C.	FIRST PAGE MOBILFONE OF KANSAS CUE PAGING	8 1 0
9	EMPORIA	FIRST PAGE AIR SIGNAL MOBILFONE OF KANSAS CUE PAGING	0 0 0 0
10	OTTAWA/BURLINGTON	FIRST PAGE	0
11	TOPEKA/LAWRENCE	FIRST PAGE MOBILFONE OF KANSAS AIR SIGNAL METRO MEDIA CUE PAGING	2 8 1 0 0

12	KANSAS CITY	FIRST PAGE	9
		MOBILE RADIO COMM.	30
		AIR SIGNAL	12
		METROMEDIA	6
		ACME TELECOM	4
		SKY PAGE	0
		CHEAP BEEP	4
		ALL MED	4
		W Q COMMUNICATIONS	4
		CUE PAGING	0
		VOICE TEL	4
		SKY TEL	0
		MESSAGES IN MOTION	4
13	INDEPENDENCE/COFFEYVILLE	FIRST PAGE	0
		CUE PAGING	0
14	S.E. KANSAS	MOBILE ELECTRONICS	8
		CUE PAGING	0
		TOTAL	200

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March 11, 1992

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Ms. Lana Oleen
Senate Committee on
Assessment Taxation
State Capitol
Topeka, KS 66612

RE: Senate Bill No. 721

Dear Honorable Senators-Members of the Committee of Assessment Taxation:

I represent First Page, Inc., who is one of the proponents of Senate Bill No. 721, amending K.S.A. 79-5a01. I would like to clarify a few points to explain the need for this amendment.

First of all, Mr. Waters from the office of the Director of Property Valuation indicated that some members of the paging industry are apparently not filing property tax renditions at all and thus are attempting to escape taxation. Certainly such a practice is not to be condoned, but it also has nothing to do with whether a paging company is or should be considered as a "public utility". The fact that some companies in an industry are illegally escaping taxation at the present time is not justification for imposing an excessive burden on the remaining members of the industry.

The real question in the disagreement between First Page and the Director of Property Valuation is whether paging companies fall within the definition of public utility in subsection (a) of K.S.A. 79-5a01 as it is presently written. We do not believe paging companies do and thus arguably adding an express exclusion in subsection (b) to cover paging companies should not be necessary. Unfortunately, the Director's office has asserted jurisdiction over paging companies and has chosen to treat them for tax purposes as public utilities, even though they are very unlike the other types of businesses that are listed as public utilities in subsection (a).

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The pending case to which reference was made in the hearing on March 9 was decided by Judge Conklin of the Shawnee County District Court and is on appeal to the Kansas Court of Appeals. However, Judge Conklin based his decision denying relief to First Page, Inc., upon its alleged failure to exhaust administrative remedies by proceeding through the Board of Tax Appeals and not upon the merits of its complaint that it is not a utility. However, he did express his opinion that the paging company is a "public utility" as defined in K.S.A. 79-5a01. It is the basis he gave for that opinion that should cause considerable concern to this committee because of the wide-ranging potential ramifications.

Judge Conklin noted that Chapter 79 did not contain any definition of "telephonic message," and thus he looked elsewhere for a definition. He found one in K.S.A. 66-104, which is in the chapter involving Corporation Commission regulation of public utilities. That section contains a definition of telephone messages, expressly only for use in chapter 66. The definition is extremely broad and is as follows:

"As used herein, the term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future."

As is apparent, that definition of "telephone messages" includes a lot of things that most of us would not generally think of as "telephone messages." Clearly, radio and television broadcasters and cable television systems and arguably even the print media including newspaper publishers, would transmit telephone messages as it is defined in K.S.A. 66-104 since they do transmit by "other means" voice, data, signals or facsimile communications. Neither radio and television broadcasters nor cable television systems are presently considered public utilities, either for regulatory or property tax purposes.

The breadth of the definition in K.S.A. 66-104 is not a problem for the Corporation Commission because there are other sections in Chapter 66 that limit what the Corporation Commission regulates. For example, K.S.A. 66-1,143 expressly takes radio common carriers (including paging companies) out from under Corporation Commission jurisdiction, with minor exceptions.

The policy decision which you are called upon to make is whether paging companies should or should not be considered, for tax purposes, within the definition of a "public utility". The things that set apart most of those businesses specifically listed in subsection (a) of K.S.A. 79-5a01 from paging companies are competition and use of the public rights-of-way. For the most part, businesses that are taxed as public utilities are also

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regulated by the Corporation Commission. Paging companies are not. For the most part, public utilities operate under government-issued franchises and utilize public rights-of-way, at least in part. Paging companies do not. For the most part, public utilities tend to be monopolies, either naturally or by design. Paging are highly competitive with each other.

The problem with Judge Conklin's opinion, even though it was not the holding in his case and thus is certainly not binding on anyone, is that it uses a definition of telephone messages that was not intended for use in Chapter 79 and, if carried to its logical conclusion, would bring a lot of industries that are not actually telephone companies within the jurisdiction of the Director of Property Valuation under K.S.A. 79-5a01. We do not feel that radio and television broadcasters should be taxed as public utilities (and they are not taxed as such at this time). However, if paging companies are, it is difficult to draw a distinction since both businesses are licensed by the FCC and transmit only one-way messages over radio frequencies.

The paging industry and certainly First Page are not asking for any special favors but are simply asking that their tax classification be clarified. Paging companies really were not in existence in 1969 when this statute was originally enacted and thus probably were not contemplated. It would be grossly unfair to punish those paging companies who do honestly report their property and pay their taxes and treat them as public utilities simply because some companies in the industry do not properly render their property. If, in fact, there are several paging companies who are not now paying any taxes at all, then clarifying the status of paging companies and treating them fairly and not as public utilities, but making certain that they are all taxed as any other business, may well be revenue-neutral or possibly even revenue-positive.

In any event, the matter ought to be addressed on its merits and whether paging companies are of the type of business that should be given public utility treatment.

Very truly yours,

David P. Troup

David P. Troup
Attorney for First Page, Inc.

DPT:ls