

Approved: _____

Phill Kline
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 15, 1995 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee: See bills on which hearings were held.

Others attending: see attached list

Chair opened hearings on:

HB 2108 - Property tax exemption for business machinery and equipment

HB 2167 - Property tax exemption for certain commercial and industrial machinery and equipment.

Proponents: Rep. Clyde Graeber (Attachment 1)
Charles H. Gregor, EVP, Leavenworth C of C (Attachment 2)
Ross Markle, Pres., Harris Bros. Cleaners, Leavenworth
Roland Smith, Exec. Dir., WIBA, Wichita (Attachment 3)
Vernon McKinzie, Kansas Pest Control Assn, Emporia
(Attachment 4)
E. M. Boyce, JEM LP Gas Co., Emporia (Attachment 5)
Monte Milstead, VP, HeetCo., Lawrence
Dave Slyter, Pres., Slyter Distributing Center, Inc., Paola
(Attachment 6)

Written Testimony distributed for:
Bernie Koch, Wichita Area C of C (Attachment 7)
Jamie Adams, Kansas Grain and Feed (Attachment 8)
Art Brown, Mid-America Lumbermens Assn. (Attachment 9)

Opponents: Gerald C. Frantz, Sedgwick County Appraiser (Attachment 10)

The hearings on **HB 2108** and **HB 2167** will continue on February 16.

Adjournment.

The next meeting is scheduled for February 16, 1995.

TAXATION COMMITTEE GUEST LIST

DATE: 2/15/95

NAME	REPRESENTING
Nathan H. Jackson	WIBA
Wm Cox	WIBA
Pat & Larry Gonsolver	WIBA
Odelia Bryer	WIBA
Dewey Garrison	WFBA
Tom P. Shille	WFBA
Thomas Steele	WIBA
BEV BRADLEY	KS Assoc of Counties
Donald Snodgrass	Ks Food Dealers Assn
Sherry Ray	Johnson Co. Comm City of Ourland Park
Judy Clay	Ks County Appraisers
Robert Gardner	Wy. Co. Appraisers
ALAN ANDERSON	WESTERN ASSOCIATION
Doug Sallee	WIBA
Jay Stubbins	KBIA
Bill Brown	Mid-Am Cumberland Assn
Bob Totten	Ks Contractors Association
Karl Peterjohn	KS Taxpayers Network
Gay O'Mayurek	WIBA

TAXATION COMMITTEE GUEST LIST

DATE: FEB 15 1995

NAME	REPRESENTING
ROSS MARKLE	SMALL BUSINESS
CHARLES GREGOR	LEAVENWORTH LANSING CHAMBER
Bruce Janese	BOEING
Sen. Carolyn J. Wilson	
Rebecca Fin	Cessna
Martha New	KMHA
ALAN COBB	KS Assoc. For Small Business
Bernie Koch	WICHITA AREA CHAMBER of Commerce
Willie Mactue	Sedgewick County
Harold Franley	Sedgewick County
GM Boyce	JEM LP Gas Co.
Lee Eisenhauer	PMAR
Monte Miltstead	Hectia, Inc.
Wolby T. Brown	WIBA
Christine Sheets	WIBA
Jim Sheets	WIBA
Mal F. Cook	WIBA
Starla Cunningham	WIBA
LONNIE HEFNER	WIBA

TAXATION COMMITTEE GUEST LIST

DATE: 2-15-95

NAME	REPRESENTING
Pam Somerville	KS AUTO DEALERS ASSN
Bob Corkins	Ks Chamber of Commerce & Ind.
Howard Redburn	Wichita Independent Business
Hal Hudson	NFIB/KS
Roger Bowles	WIBA - Wichita Ks.
Dave Dwyer	Small Business - Perola, Ks
Colin Smith	WIBA Wichita
Charlie Kregor	Leavenworth Chamber of Commerce
Ross Markle	Leavenworth Chamber of Commerce
Gary C. Ackerman	WIBA - Wichita, KS
Steve Stotts	KDOR
Deon McKinzie	KS. Pest Control Association
Kevin Robertson	KS. LOGGING ASSN.
Laura Denny	Student - East High (Wichita)
Albert Denny	WIBA - WICHITA, KS
Dwight Loundan	WIBA Wichita

TESTIMONY IN RE HB2108
Rep. Clyde Graeber

In late 1993 the Property Valuation Department Director sent a memorandum to all county appraisers calling attention to the fact that appraisers should review Personal Property Tax Renditions and make sure that taxes were being collected properly on all business personal property subject to taxation.

As a result some counties began audits and some even hired tax ferrets on a contingency fee basis. This action brought forth knowledge that personal property taxes had been put on the back burner by county appraisers across our state and neglected. Many business taxpayers who felt they were preparing their renditions properly and who, in many cases, had relied on county appraisers for advice and help in preparing their returns, found they were not in compliance and that they owed many dollars in penalties and interest along with the tax itself.

Many of you legislators have learned from your local business owners of the massive detail and work involved in preparing the required renditions and returns. Examples of these will be shown you today by business owners from the Leavenworth area. We hope this information will garner your support for this legislation which would establish a deminimis amount or threshold of \$2500 before any property acquired by a business, at that dollar amount or less, would have to be listed on their renditions or any personal property tax paid thereon.

HB2108 would exempt from property taxes any item of machinery, equipment, materials or supplies used exclusively for business purposes if its original retail cost, when new, is \$2500 or less. This bill would greatly simplify operations for small businesses across our state and I urge your favorable consideration of this legislation to help business in Kansas.



Leavenworth-Lansing Area Chamber of Commerce

TESTIMONY OF CHARLES H. GREGOR, JR
EXECUTIVE VICE PRESIDENT, LEAVENWORTH-LANSING AREA CHAMBER OF COMMERCE
HOUSE TAXATION COMMITTEE
FEBRUARY 15, 1995

RE: House Bill No. 2108 and House Bill No. 2167

Mr. Chairman, members of the committee, thank you for the opportunity to come before you today to speak on behalf of two important, even critically so, bills that deal with business personal property taxes.

As you are aware, as ably reviewed by Representative Graeber, the Leavenworth County experience with business personal property taxes began in the fall of 1993 and almost literally exploded into the spring and early summer of 1994. I have provided some insight into that period by attaching a copy of a letter provided other Chambers of Commerce in Kansas.

Setting aside the County's incredibly bad judgement in hiring an out-of-state auditor on a contingent fee basis, an ignorance that can no longer be visited on Kansas citizens by virtue of legislative corrective action, the Leavenworth County experience is potentially very valuable to all of us who are concerned with our state, for it reflects a microcosm of what the vast majority of the other counties of the state will experience in 1995 and 1996.

Full compliance with current business personal property tax laws within Kansas, applied with the diligence and at the standard applied in Leavenworth County, and that will be the case in all counties, will create huge costs for the taxpayer, excluding actual taxes and any penalties, huge cost increases for the county assessor's office in most counties, and substantial cost increases for the Department of Revenue as it, PVD, and the Board of Tax Appeals deal with the problems created by unfair and, albeit unintentional, ridiculous and costly requirements.

The two bills we discuss here today will do much to make our tax laws fair without significant cost, if any real cost at all, to our counties or to the State of Kansas. I would like to present to you for his comments on the taxes and his experiences and the results of his research, Mr. Ross Markle, president and owner of Harris Brothers Cleaners in Leavenworth.

COMMENTS OF MR. ROSS MARKLE (attached)

Mr. Markle's figures and experiences speak for themselves. These two bills are good law, good public policy. They remove a great deal of the paper clip counting syndrome and related inefficiencies of existing law that now cost so much time, real money, and aggravation to our businesses.

Passage of these bills will result in little or no loss of revenue when that potential real revenue is calculated realistically, using both sides of the equation, i. e., revenue and costs associated with its collection.

The fact is that most of the counties in Kansas today are in the position of Leavenworth County in 1993, i. e., they have not applied the business personal property tax laws to the standard literally required by law and to the standard Property Valuation Division of the Department of Revenue will require in 1995 audits of businesses. These counties do not know what levels of revenue will be generated or the costs associated with the collection of those revenues. Leavenworth county, to use the vernacular, has "been there - done that", and in fact, "done that" much more assiduously than than any other county, given the onerous ten percent contingent fee involvement. Leavenworth County figures, based on real life experience, with real life businesses, and a real life county assessor's office, as Mr. Markle has pointed out, show that no decline in revenue would take place, that it would be essentially revenue neutral, or might even increase revenues slightly. At the same time, these bills lift a tremendous burden, involving administrative, accounting, and legal costs, from the back of our small businesses. I urge your favorable approval of HB No. 2108 and HB No. 2167.



Leavenworth-Lansing Area Chamber of Commerce

JULY 19, 1995

Dear Chamber of Commerce President:

In October 1993 the Leavenworth Board of County Commissioners took an action that has precipitated a chain of events that promises to have statewide impact. My purpose here is to provide you with a quick background on the issue, let you know how it may impact your business members, and suggest (and solicit) some possible solutions.

In October 1993 the Leavenworth County Commission entered into a contract with an out-of-state firm for the conduct of business personal property tax audits of 100% of the approximately 1,200 businesses in Leavenworth County. There was no consultation with, nor any advice sought from, any local chamber of commerce or business organization within the county.

Historically, as is the case in most Kansas counties, the standards of application of state business personal property tax laws were a function of the county assessor's office and local businesses and evolved over decades of experience. Because the audit firm hired by the Leavenworth County Commission was engaged on a flat fee plus a 10% contingent fee on an all taxes collected basis, the standards for application of business personal property tax laws changed abruptly and dramatically. In response to the motivation offered by the 10% contingent fee, the audit firm applied each and every provision of any and all applicable tax laws literally and without exception.

The results of the initial audits were dramatic. By March 16, 1994, twenty-one businesses had been audited. Taxes, penalties and interest "discovered" through the audits totaled \$1,693,200.12, most of which was previous years' taxes with associated penalties and interest. There was a predictable uproar, and businesses threatened to close or leave the county, citing the state of Missouri as a preferable business location. Some did so.

In response to what was a genuine crisis to businesses of the county, and in response to the threat of substantial loss of the county's economic base, our state legislators introduced and managed to get passed several pieces of legislation that provided relief, or the prospect of relief, from the unprecedented tax hit on our businesses. Additionally, tax audits on a contingent fee basis are now prohibited.

Efforts to convince the County Commission to stop the audits became an intense and often bitter struggle. Petitions, public meetings, overt threats and quiet persuasion all failed. The audits finally were stopped in late March. By then the County Commission was attempting to shift responsibility for the audit fiasco to the state legislature, "bad" tax laws, the Property Valuation Division (PVD) of the Kansas Department of Revenue and

even their own County Assessor's office. By this time, the Governor had become involved (attached letter), as was the director of PVD.

By the end of March it became clear that the key player, albeit initially a reluctant one, in the business personal property tax issue had become PVD. PVD is the organ of state government responsible for oversight of the county assessor's office and the assessor's implementation of business personal property tax laws. It was, in fact, the county assessor who terminated the tax audits in Leavenworth County, with the encouragement and blessing of the PVD director.

Several things have emerged from this issue that should be shared. They will impact all of us:

- * Audits of business personal property will begin again in 1995 in Leavenworth County and will be required of county assessors in all counties of the state.

- * Your county assessor is supervised by, and responsible to, PVD. PVD, by virtue of its intense and detailed involvement in the Leavenworth County audits, and the standards applied in those audits, will insure all business property tax audits in all counties are conducted in full compliance with state law.

- * Full compliance with state law, in most counties, involves a completely different standard of application of state business personal property tax law than previously experienced. It is expected that for most businesses this will lead to "discovery" of items not listed, or listed improperly, for tax purposes. Once this occurs, the law requires audit of past years' tax returns, usually resulting in a tax bill of several years' worth of taxes, penalties, and interest. This usually comes to a considerable sum of money.

- * Business personal property tax laws in the State of Kansas, including language in the State Constitution, are confusing, vague, contradictory, open to subjective interpretation, and, if applied with literal diligence, onerous to some classes of business.

This Chamber of Commerce remains extremely concerned for its members. The current cessation of business property tax audits in this county is a brief respite. A considerable and potentially damaging tax burden looms ahead, damaging not only to our businesses, but to our economy as a whole as businesses close their doors, move out of the county and/or state, jobs are lost, and those remaining within the tax base find the tax burden heavier. The attraction of new business and industry to such an environment has become more difficult.

This is not a Leavenworth County issue. This is a state issue. It will visit your members. Its impact will vary, depending on the characteristics of your area's economic base. However, the impact can be traumatic.

Various approaches to the problem have been discussed. Substantial changes to business personal property tax law could require an amendment to the Constitution. Revenue lost by elimination or reduction of business personal property tax revenues must be made up from another source, e.g., state income tax increase, sales tax increase, elimination of sales tax exemptions, etc., or any combination of these and others. A "county option" approach has been mentioned, as has a "floor" value for taxation of property. Any potential solution must consider fairly the interests of the wide variety of Kansas communities and their economies.

I ask you to share this letter with your leadership and your state legislators. Many of them will be familiar with the issue as a result of the extraordinary efforts of the Leavenworth County delegation in getting relief legislation passed this session.

This Chamber of Commerce is requesting the Kansas Chamber of Commerce and Industry (KCCI) for assistance in the development of approaches to the problem. To this end you may be invited to attend a session to discuss the issue - or otherwise participate and provide input. I urge you to participate as fully as possible.

Sincerely,



CHARLES H. GREGOR, JR.
Executive Vice President

Testimony of Ross E. Markle
Regarding House Bill No. 2108
before the House Taxation Committee
February 15, 1995

My name is Ross Markle, I am President of Harris Bros. Cleaners, Inc. of Leavenworth, KS. My wife and I purchased this company fifteen years ago.

In the past, I have served as chairman on the Community Development Advisory Board for the city of Leavenworth, President, Leavenworth / Lansing Area Chamber of Commerce and President, Heart of America Fabricare Association. I currently serve on the board of our local United Way and I am an active member of the Leavenworth County Blue Collar Coalition. I am also a member of the Guardian Advisory Council for the National Federation of Independent Business.

I am testifying today as a small business owner regarding the \$2,500.00 exemption level as proposed in HB 2108.

INTRODUCTION

In an attempt to show the impact of exempting items of business personal property at levels of \$5,000.00, \$2,500.00, \$2,000.00, \$1,000.00 and \$500.00, we analyzed the returns from four existing companies. The object of the analysis was to determine the affect each level of exemption would have on the number of line items reported and the resulting reduction in tax.

The first Company is a dry cleaning, laundry operation.

Exemption	Reduction in line items	Reduction in tax
\$5,000.00	95%	42%
\$2,500.00	86%	25%
\$2,000.00	85%	23%
\$1,000.00	79%	13%
\$ 500.00	73%	10%

The second company is a construction company.

\$5,000.00	78%	19%
\$2,500.00	75%	14.5%
\$2,000.00	73%	14%
\$1,000.00	56%	7.4%
\$ 500.00	37%	2.6%

The third company is an excavating contractor.

\$5,000.00	79%	13.7%
\$2,500.00	69%	7 %
\$2,000.00	60%	6.8%
\$1,000.00	49.4%	3.8%
\$ 500.00	26.4%	1.2%

The fourth company is an auto mechanic shop.

\$5,000.00	93%	49%
\$2,500.00	83%	28%
\$2,000.00	78%	20%
\$1,000.00	71%	13%
\$ 500.00	57%	7%

Average impact on number of line items and taxes

	Items	Tax
\$5,000.00	86%	31%
\$2,500.00	80.5%	18.6%
\$2,000.00	74%	16%
\$1,000.00	63.7%	9.3%
\$ 500.00	47%	5.2%

Impact of Audits

Change in taxes paid as a result of voluntary compliance between 1993 & 1994.

Company number one. Business personal property taxes rose by 32%. This figure would have been higher had the appraisers office not added back an item listed as "fixtures and equipment" valued at \$23,000.00 that the company had eliminated in 1990.

Company number two. Business personal property taxes rose by 31.7%

Company number three. Company was in compliance both years - no significant change.

Company number four. Business personal property taxes dropped by 10.4%. The drop in this company's taxes occurred when they realized that they had been paying for exempt hand tools for years. The appraisers office never informed them of this exemption.

The true average change in taxes collected between the four companies is a plus 13.33%, however, when you eliminate the unlikely reduction experienced by company number four, the average is plus 15.9%

**Leavenworth County
Comm. & Ind. Mach & Equip
Assessed Value**

<u>1993</u>	<u>1994</u>
\$8,037,460.00	\$11,419,984.00

Assessed values increased by \$3,382,524.00 (+30%) from 1993 to 1994 due to the audits and voluntary disclosure. These figures include very little penalty and interest as a result of the bill that allowed commissioners to waive most of these penalties. Further, these figures will continue to increase as future discovery takes place.

**Leavenworth County
Appraiser
Budget & Expenses**

1993 - 1995

	<u>1993</u>	<u>1994</u>	<u>1995</u>
Budget	347,381.00	462,174.00	572,698.00
Spent	330,545.37	598,803.01	?
Deviation	- 16,835.63	+136,629.01	?

If the appraisers office hold the line on it's 1995 budget, their cost for collecting taxes since 1993 will have risen by \$242,153.00 (a 57.7% increase).

Letter from Department of Revenue (D.P.V.) dated 9 January, 1995, Subject: Legislators request - Personal Property Exemption. (page 6)

Comments

1. The exemptions level was lowered to \$2500.00 since this letter was sent.
2. In order to compare apples to apples, we used an assessed value (25%).
3. Other than changing the level of exemption to \$2500.00 question number two best describes what is being proposed in H.B. 2108.
4. Using the changes in 2 & 3, above Leavenworth counties response to question number 2 in the subject letter will show that an exemption level of \$2500.00 will reduce assessed value by \$2,650,411.00 or 25%. This is more than off set by the 30% increase in assessed values shown on page 3 between 1993 & 1994 as a result of ongoing audits.

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

TO: All County Appraisers
FROM: Ron Swisher, Bureau Chief, County Appraised Bureau. *RS*
SUBJECT: Legislators request - Personal Property Exemption
DATE: January 9, 1995

We have been requested to provide information concerning the impact on the tax base if all pieces of business machinery and equipment whose

- 1) appraised (retail cost new less depreciation) value is \$5,000 or less would be exempted

and/or ~~2) retail~~ cost new at \$5,000 or less would be exempted.

Your assistance has been requested in regards to the above and we would appreciate any help you can give us. All valuations should be indicated as 100% value rather than the 25% assessed value.

1. What valuation would have been eliminated from the 1994 tax base if individual pieces of commercial/industrial personal property with depreciated values of \$5,000 or less were exempted?

2. What valuation would have been eliminated from the 1994 tax base if individual pieces of commercial/industrial personal property with a retail cost new before depreciation of \$5,000 or less were exempted?

Please return this information on or before February 15, 1995.

If you have any questions regarding this request, you can contact the following individuals in the statistical section of this Division. Paula Moege at (913) 296-6641 or Vicki Lignitz at (913) 296-2150.

Thank you for your assistance.

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GENERAL COMMENTS

Our analysis of the four companies (page 1) shows that setting the exemption level at \$2,500.00 would drastically reduce (-80.5%) the number of line items accounted for while only reducing taxes by 18.6%.

Our analysis of the four companies (page 2) shows that this reduction in taxes is conservatively offset by an average 15.9% increase in collections resulting from audits in 1994. (Audits are on-going).

The conservative nature of this increase in collections is further demonstrated by the increase in assessed values (+30%) from 1993 to 1994 (Page 3).

The responses by the counties to the Department of Revenue's letter, if properly analyzed, will support all of the above.

The costs to administer the business personal property tax law, as it is currently written, has risen drastically for business, the counties (up 57.7%) and the state since 1993.



Harris Bros. Cleaners, Inc.

501 South Fifth Street • Leavenworth, Kansas 66048 • (913) 682-3535

31 January, 1994

The Honorable Robert Dole
US Senator
141 Hart Senate O.B.
Washington, D. C. 20510

Dear Senator Dole:

As a matter of introduction, I worked on your last campaign with former Senator Ed Reilly and last talked with you during your reception at Rosemary and Ed Wettig's here in Leavenworth.

I am writing to you as the Co-owner of a small business in the dry cleaning industry, who has finally reached the point of saturation regarding government interference and demand on my time and resources.

In order to give you some idea of what I mean by "small business", I need to briefly describe our company. My wife, Ellie, and I are co-owners of Harris Bros. Cleaners, Inc. Our company operates a production plant and three outlets, employing 17 full time and 7 part time employees, not counting Ellie or I.

Between OSHA, EPA, the IRS and numerous other federal, state and local agencies, we are being forced to make a choice between compliance and financial success. Unlike big business, we can not afford to staff for training facilitators, safety engineers, compliance coordinators, mechanics and administrators. We must take all of this out of our hide. I estimate that the administrative burden alone is costing us the equivalent of two full time employees. Our outside accounting costs were over \$6,000.00 for 1993, most of which is mandated by government. Again, unlike big business, we can not afford to staff for training during a normal 40 hour work week. Our training is accomplished in an overtime status.

It is becoming increasingly clear that each bureaucracy has it's own agenda, having no appreciation of what we are already doing or what other bureaucracies are requiring us to do. Following are two examples:

OSHA - Under OSHA's "Right to Know", we are required to create and maintain a file of MSDS's (material Safety Data Sheets) on every chemical in our plant. This not only includes the chemicals we use in our process, it also includes the dish soap in our break room and the correction fluid on a desk. The intent is to make this information available to all employees. The problem is that a typical MSDS contains so much extraneous information, written at the college level, that the average employee can not understand it even after being trained on how to use it. We are further required to label each container with the

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information the employee needs to know, such as chemical name, hazards and what to do if exposed and how to avoid exposure. The MSDS and labeling requirements under this program are not a one time thing, they are ongoing. We have 50+ different chemicals in our plant at any given time and they change. To be found with a MSDS on file for which the chemical is no longer available would result in a sizable fine. The same thing happens if a careless employee fails to replace a missing label. There are many other OSHA programs too numerous to mention here. Each requires daily monitoring and maintenance.

EPA - The retroactive liability aspect of EPA's "Superfund" has literally devalued our business by tens of thousands of dollars while at the same time exposing us to possible total financial ruin. The fact that we have complied with every aspect of the law has no bearing on our exposure.

EPA's new clean air standards, just announced in November of 1993, requires us to modify or replace our 6 year old dry to dry cleaning machine by mid 1996. This machine was "state of the art" when we purchased it at a cost of \$38,000.00. The resale value of that machine dropped from \$20,000.00 to \$5,000.00 once the new standards were announced. The modification required by EPA would cost \$10,000.00 in order to bring us into compliance. This modification, by the way, will not reduce our emissions, nor will it recover any more solvent than our current system does. It would cost \$50,000.00 to replace this equipment should we decide to go that route. The act also included the usual dose of new ongoing maintenance requirements, record keeping and reporting.

Senator Dole, businesses, big and small, have long carried the load for government, collecting and administrating all forms of taxes, subsidizing social security, funding unemployment, insuring for workman's compensation, and the only compensation we get is the liability we incur even when an honest mistake is made. New programs don't replace old ones, they add to them and the load is getting heavier. The most recent example I can give you is the one I have enclosed titled "Notification of Requirement of Participate in the Survey of Occupational Injuries and Illnesses - 1994". This is a prime example of a bureaucracy arbitrarily tasking a small business with total disregard or understanding for the burden it is creating.

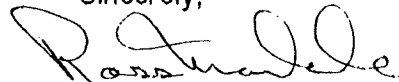
With the exception of this latest requirement from the Department of Labor, I don't want you to get the impression that we are against what government is trying to achieve. We care about our environment. We care about our employees welfare and safety. The problem is that the programs being forced on us are not user friendly. They are cumbersome, repetitious,

threatening, unfair and unrealistic. They cause us to spend more time "feeding the system" than fixing the problem

I am asking you to do two things: First, sponsor legislation that would monitor and limit the total demand for time and resources that could be imposed on businesses without compensation by all levels of government. And secondly, fix the retroactive liability aspect of "Superfund".

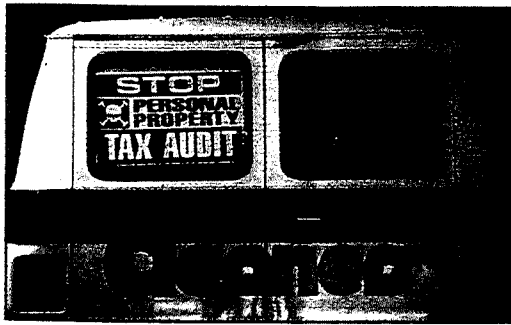
Please, Senator Dole, we need help out here!

Sincerely,

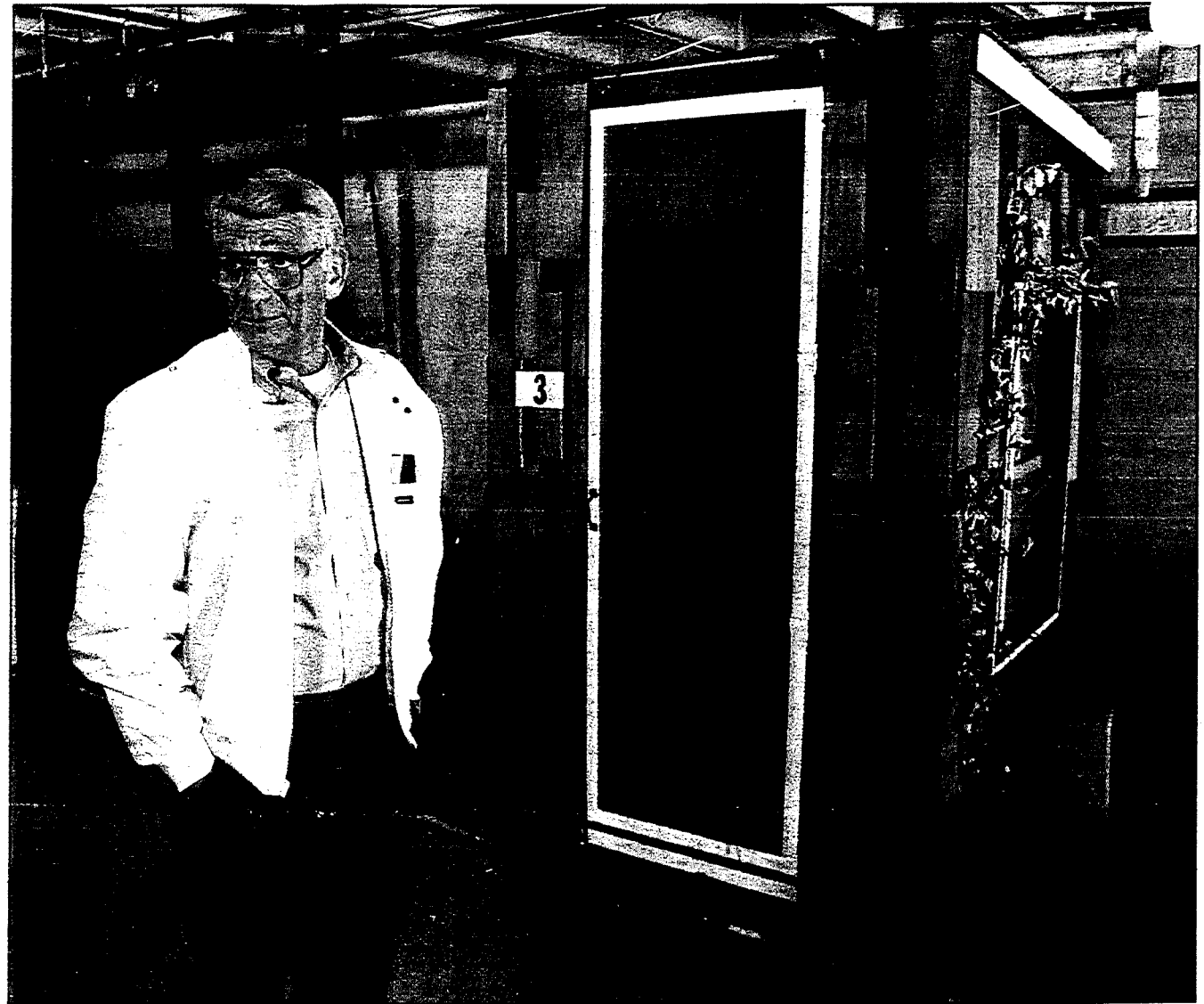


Ross E. Markle
President
Harris Bros. Cleaners, Inc.

cf: Senator Kassebaum
Representative Slattery



Leavenworth resident Ross Markle, right, said he will have to move the outhouse he stores in the basement of his business to make sure it does not end up on his property tax statement. Markle said the outhouse is used as a parade float for a civic organization, but under recently enforced tax assessments in the Leavenworth County it could be considered business property.



Leavenworth's tax woes could be preview for other cities

A revolting development

By JOE TASCHLER
The Capital-Journal

across the state reminding them there was more to their jobs than reappraising real estate.

The appraiser's office in Leavenworth County took the letter to heart and decided every business in the county needed to be audited in order to check compliance with personal property tax law requirements.

the audit. The firm was hired on a contingency fee basis whereby the firm would receive 10 percent of the revenue generated by the audit.

Referred to as a "bounty hunter," "head hunter" and "tax ferret" by angry business owners, the audit firm began by looking into the taxes paid by 21 county businesses. The

Everything from paper clips to wall clocks to trash cans to staplers to junked bus equipment was, suddenly, taxable. County residents began referring to the audit as a "paper clip tax."

"Believe it or not, paper clips are business personal property," said David Cunningham, director of the state's division of property val

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LEAVENWORTH — Ross Markle is standing in the basement of his dry-cleaning business complaining about the taxes levied

CLOSING

In closing my testimony I would like to emphasize the while taxes are an issue here, to the small business man and woman it is the demand on our time that is bringing us to our knees.

As the Personal Property Tax law is currently written, we are expected to account for items like the mini blinds on an office door, the used microwave and coffee pot we provide our employees, the pictures on our walls, and in short, anything else that is not part of a building.

Perhaps the best two examples I can give you are the "Mr. Leg's" trophy from the American Cancer Society and the Lions Club outhouse.

Brief Background

Quotes from letter to Senator Dole (1994)

Mr. Chairman, Ladies and gentlemen of the committee, please help those of us in business do what we do best - pay our fair share of taxes - create jobs - and provide goods and services. Please make this law "user friendly". To quote one of our since ousted county commissioners, "The only way to change a bad law is to enforce it." His problem was he didn't care who got crushed in the scuffle.

I respectfully request that you establish an exemption level of \$2,500.00 for business personal property tax in the State of Kansas.



WICHITA INDEPENDENT BUSINESS ASSOCIATION

Riverview Plaza Suite 103 • 2604 W. 9th St. N. • Wichita, Kansas 67203-4794

(316) 943-2565 FAX (316) 943-7631 1-800-279-WIBA or 1-800-279-9422

1995 WIBA OFFICERS

Gary Ackerman
President
Mid-America Building Maintenance

Ron Emmons
1st Vice President
Wich-Craft I.M.S.

Charles Schaefer
2nd Vice President
United Warehouse Co.

Bert Denny
Treasurer
Regier Carr & Monroe, CPA's

Walt Rogers
Secretary
Agin-Rogers Consulting

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Immediate Past President
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ROLAND E. SMITH, Executive Director

February 15, 1995

**STATEMENT TO THE KANSAS HOUSE COMMITTEE ON TAXATION
by Roland Smith, Executive Director**

SUBJECT: HB 2108 and HB 2167

Mr. Chairman, Members of the Committee and Staff, I want to thank you for this opportunity to discuss with you our concerns for the problems faced in the personal property area by many businesses and speak in support of HB 2108 and HB 2167.

I am Roland Smith, Executive Director of the Wichita Independent Business Association. WIBA is an association of around 800 independent businesses located in the Wichita trade area. There is serious concern on direction personal property audits are taking in the state of Kansas under the direction of the Kansas Department of Property Valuation and local units of government. It is our feeling that if the current trend continues that classification and reappraisal repercussion will be small in comparison to what this situation presents. The constitution calls for all non-real estate property to be classified as personal property. The exemptions abound with household, farm equipment, inventories, aircraft and other exemptions. It now boils down to commercial, business machinery and equipment. This should be fairness issue on who is to be taxed, but it is on how to tax those that are left and what is to be included. There needs to be a level playing field that everyone knows and understands what is taxable. This has not happened and many in good faith reporting may stand to lose a great deal in penalties and interest when they thought they were doing it correctly.

HB 2108 - Addresses the problem of what is the valuation based on? The purchase price should not include sales tax, transportation and installation. To eliminate the problem of tracking real small items and find a reasonable balance with lesser impact on local budgets, WIBA is willing if necessary, to support a lower threshold than the \$2500 contained in the bill. The proposed practice of using industry standards as a determination of the original price instead of purchase price will be eliminated with this bill as I understand it.

HB 2167 - The ill-concieved amendment in 1986 that sets a floor of 20% of the valuation is a terrible concept when equipment is no longer worth that much or is no longer in use as a profit producing piece of equipment. This bill helps in one of these areas when it exempts equipment no longer usable. A constitutional change is really in order to solve the other part of the problem.

We support both of these bills and ask that you pass them out of committee favorably.

Thank You! and I will attempt to answer any of your questions.

House Taxation
2-15-95
Attachment 3-1



WICHITA INDEPENDENT BUSINESS ASSOCIATION

Riverview Plaza Suite 103 • 2604 W. 9th St. N. • Wichita, Kansas 67203-4794
(316) 943-2565 FAX (316) 943-7631 1-800-279-WIBA or 1-800-279-9422

ROLANDE. SMITH, *Executive Director*

February 15, 1995

PRESENTATION TO THE SEDGWICK COUNTY/SOUTH CENTRAL KANSAS DELEGATION by Roland Smith, WIBA Executive Director

THANK YOU! ...for giving us the time today to discuss with you the WIBA concerns on specific issues and legislation in process. Because of limited time and limited resources, WIBA is not able to follow all the bills that might have an impact on our members or the independent business community, but we will review with you today those that we have focused on. These are the most important to us and ask that you consider our positions when voting. We feel the WIBA positions represent not only most of the WIBA member businesses view points but many independent businesses in the state of Kansas.

1. PERSONAL PROPERTY TAXES:

The current personal property tax situation in Kansas, if allowed to continue, promises to be a worse fiasco than was caused by reappraisal and classification across the state just a short time ago. YES.. fairness is the issue! Many proponents of the current activity direction are saying... "many businesses are evading the tax and some are not, so let's level the field", which sounds good and we agree in basic concept. However, at best, the field is not level when households, farm machinery, aircraft and inventories are all exempt. Those required to pay the tax should have a fair and clear way to determine what is taxable and pay their fair share, but on an equitable basis not a bureaucratic witch hunt as is about to happen if allowed to proceed. Personal property tax is directed to all non-real estate property which now has boiled down to only commercial, industrial machinery and equipment. The ill-conceived amendment in 1986 that placed a 20% of original cost floor on the evaluation is a very serious mistake. Insult is now being added to injury in the manner in which definitions and valuations are being placed on personal property. Many counties, especially Sedgwick County, are devising a set of industry standards that could skew actual personal property values and as a result will drive businesses away or out of business if used instead of purchase price. There is some legislation in process that will be a start to correct part of the problems.

- a. WIBA supports HB 2113 and HB 2107 that limits liability to 2 years from the current 4 years on unreported personal property.
- b. WIBA supports HB 2108 on personal property being valued on purchase price not including sales tax, installation, and shipping charges etc. In order to get the measure passed WIBA would even support a threshold amount of less than \$2500 if necessary.
- c. WIBA supports HB 2167 that removes machinery and equipment that is no longer being used for the production of income if it is clearly defined.

Tom Steele, the WIBA State Government Affairs Committee Chairman will follow me with a suggested constitutional amendment on personal property taxes that would correct many of the problems without having the possibility of the legislation being challenged in court.

2. CONTROL OF GOVERNMENT SPENDING:

WIBA has for years made a point of the need for spending controls on all levels of government. The federal government is trying to push on to the states more of the costs they previously covered and the states are trying to do the same on local governments. City and county governments are the creatures of the state and therefore the state has a responsibility in the way local government is operated and funded. Unfortunately the new Governor has said he wants all the lids off local government's ability to raise taxes or limit spending. If this happens and the expected results occur, there may be a reverse landslide the other direction the next election.

3-2

WIBA supports House Concurrent Resolution 5006 that limits spending on both state and local government to the percentage of growth of personal income.

WIBA opposes HB 2157 that would repeal local tax lids. The current law is only partially effective, but it is better than none at all. To repeal the lid will open the flood gates for higher taxes, which is bound to happen before the next local elections. Unfortunately, seldom are taxes ever lowered even with newly elected local officials.

3. UNEMPLOYMENT TAXES:

WIBA has participated in efforts to correct some of the unemployment problems from two directions.

a. ADMINISTRATIVE: There needs to be administrative directives to balance both the employee and employer interests. Several employers, large, medium sized and small ones represented by WIBA, have discussed this with the past administration officials on several occasions and contacted the new administration officials for discussions in this area. We will be meeting with the new Secretary next week on this subject.

b. LEGISLATIVE: WIBA supports Senate Bill 106 that has many of the needed changes in the statutes. Many more may be needed next session if the new administration does not move to correct the serious administrative problems that exist.

4. UNEMPLOYMENT TAX RATES: There is a surplus in the Kansas Unemployment Trust Fund and adjustments are needed so more funds will be available for business expansion and jobs rather than the state holding the funds.

WIBA supports HB 2305 that would place a two year moratorium on paying into the fund by those businesses with a positive balance. If unemployment should increase to a point that payments should begin before the two years are up.

This bill is more desirable than SB 26 and HB 2305 that have only a 20% reduction.

5. SALES TAXES:

There are many problems in the sales tax area. WIBA fought hard in 1987 and 1988 for some changes with some success, however many of the problems have reoccurred as the state continues to attempt to broaden the application of the sales tax statutes. Every time the administration changes the regulations change. So far legislators have not been willing to reopen the sales tax issue in depth, because of all the ramifications of time and red tape involved. Some WIBA member businesses have had some sad experiences with illegal decisions by the revenue department that they could not afford to take to court. In these cases you are guilty until proven innocent and you had better be able to afford to prove it. Maybe a review of the sales tax statutes would be in order for next years session after we see what the new administration is willing to do to help correct the situation. The exemptions run rampant in the sales tax area and are increasing every year.

To remove sales tax from new construction makes sense only if it is taken off remodeling too. Both are very complicated to calculate and enforce too. WIBA supports removal in both areas, however, the temptation to raise additional taxes in other areas is very real and it will go to the areas of least resistance and that is usually small business taxes of some kind unless government spending is reduced by the same amount.

6. AUTOMOBILE TAX REDUCTIONS:

WIBA supports some reduction in auto taxes that are more comparable with other states, but has not taken a position on any specific bill at this time.

7. PRIVATIZATION:

WIBA has been a long proponent of privatization on both state and local level wherever there are cost saving without lowering the quality of services provided.

WIBA supports SB 101 and SB 102 as a serious step in the right direction.

A special thanks to Senator Pat Ranson for her efforts in this area, it is appreciated.

In response to the ad placed in the Wichita Eagle concerning several issues by Senators Ranson, Harris and Lawrence, I was asked by the WIBA Executive Committee to do a 10% random sampling poll of WIBA members by FAX. Eleven of the questions in the ad were selected. We no more than got started on the process of sending the FAX on a Friday and the responses started coming back in and slowed the sending so we had to complete the process on Saturday.

The results are as follows:

1. Approve expanding the 1989 highway plan (expires 1997) for future needs. 84% yes 16% no
2. Lower the motor vehicle taxes. 79% yes 21% no
3. Vouchers to allow students to attend non-public schools. 69% yes 31% no
4. Removing state-mandated lid on property taxes for cities and counties. 92% no 8% yes
5. Constitution limit on state and local government spending. 90% yes 10% no
6. To further define worker disability in Workers Compensation statutes. 93% yes 7% no
7. Revise unemployment compensation law to balance the burden of proof. 100% yes 0% no
8. Having children in school 43%
9. Teach school K-12 4%
10. Approve the continuation of Q.P.A. 35%
11. Approve repeal of Q.P.A. 65%

If you have any questions... I'll try to answer them.

KANSAS

PEST CONTROL ASSOCIATION

INC



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FAX (913) 273-9200

February 15, 1995

RE: HB 2108 and 2167

Presented to: Kansas House Taxation Committee
By: Vernon McKinzie, Government Affairs Chairman
Kansas Pest Control Association

Thank you for the opportunity to appear before you to comment on HB 2108 and 2167. The Kansas Pest Control Association consists of about 150 member companies who provide over a million service calls annually to protect the health and environment of the citizens of Kansas. Most of our member companies are single individuals, and sole proprietorships; a small number are regional and national corporations. All of us are subject to the personal property tax laws of Kansas. We urge your support of both HB 2108 and 2167, which will allow us exemption in recording minor items of supplies and equipment.

Under current practice in the counties our personal businesses operate, once an item is purchased (regardless of cost) it goes on the tax roll. If it breaks or becomes obsolete and we no longer use it, but continue to keep it on our premises, it never depreciates below 20 percent of original purchase cost, regardless of age or function. We believe this is unfair!

Another current practice implemented recently is to remind us to include in inventory such things as letterhead stationery, envelopes, pencils, pens, paperclips, etc. In Lyon County we even were given a warning, failure to list such items would trigger a personal visit from the appraiser.

I don't want to give ideas to the Property Valuation Department, but in several instances our members buy pre-stamped envelopes from their local post office. If those items are to be listed with their purchase cost, then how long will it be before the year end balance of unused postage in our postage meters be included as personal property?

The present personal property tax practices create a significant burden for our members by requiring recordkeeping which results in pennies of tax dollars collected.

We urge your adoption of HB 2108 and 2167. Thank you. If there are questions, I will respond.

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Attachment 4

JEM LP GAS CO.
710 INDUSTRIAL RD.
EMPORIA, KANSAS 66801
FEBRUARY 15TH, 1995

MR. PHILL KLINE, CHAIRMAN, HOUSE TAX COMMITTEE.

Following is information I would like to present to your committee in regard to H.B. 2108

I am E.M. Boyce, owner of JEM LP Gas Co., Emporia, Kansas. We also have locations in Ottawa and Garnett. Our business is retail sales of LP Gas to Industrial and Residential customers in the state of Kansas.

H.B. 2108 effects the LP Gas business in Kansas very much. One of the services we and other propane dealers in the state offer is the leasing of LP Gas Tanks. These tanks are located at the home or place of business. This means each tank is in a different taxing district in the County in which it is located so it is necessary to fill out a Tangible Personal Property Ad Valorem Tax Return for each tank. At the present time we have about 300 tanks leased. To cover 300 tanks we fill out up to 200 returns. As near as I can figure it costs us about \$3.00 to \$4.00 per return. For the County then the figure is about \$10.00 per return. Together we are spending about \$2800.00 from beginning to end in bookkeeping and postage. The total tax the Counties collect per year is about \$400.00 on 300 tanks. Most of this equipment is old so the tax on some tanks is as low as \$.35. Most of them run a little over a dollar. These figures come from my returns in Coffey County.

I have complained to the appraisers over the years and they agree it's not a good deal but the law says do it so we have been doing it. They said if I didn't like it to get the law changed so here I am today. Please hear me.

You will find most of the dealers over the State are not complying with the law. One reason is it is hard to do.

At the present time the law is such that it can't be enforced properly. Now I understand starting this year 25% of all businesses will be audited each year for the next four years. Again to do this properly the assessor or his employee will be required to see and account for each tank to verify the number, size, age etc.

Another business that is going to be effected will be the companies leasing these small TV Dishes. There are thousands of them being installed around the State and each one of them fall in the same category as the propane tank.

H.B. 2108 will not cost the State and Counties much revenue because of the saving's in cost of additional personnel and vehicle mileage.

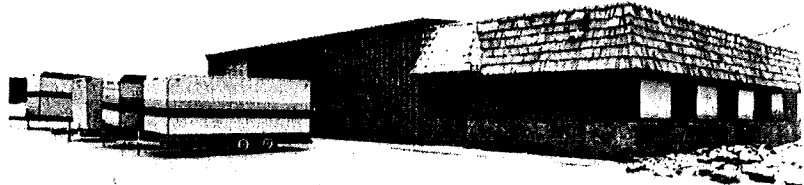
For the above stated reasons I request you give favorable attention to H.B. 2108


E.M. Boyce

"ROLL ON WITH PRODUCTS FROM..."

**SLYTER
DISTRIBUTING
CENTER, INC.**

29796 Hedge Ln 913-294-2594
Paola, KS 66071



Mr. Chairman and Members of Tax Committee:

I am asking for support of HB2108 to exempt reporting items costing \$2500 or less. These smaller dollar items are a costly nuisance to both my business and the county. Exempting them does not have a significant adverse effort on tax revenue.

In my case with \$2500 exemptions would reduce the number of items by 84% and the evaluation by only 25%, with 25% reduction in tax dollars. With a \$1000 exemption it would reduce number of item 60% and evaluation by 20% and 12% reduction in tax dollars.

32% of the items had an actual tax of less than \$2 each. I don't think it is prudent business for me or the county to pay for the bookwork to collect on these kinds of items.

In support of HB2167 I have several items that are fully depreciated and not being used. Example is an enclosed trailer that I used to use for delivery but haven't for several years. The axle is bent, the tires are flat and is not even road worthy. I use it to store personal trash waiting to go to the landfill. Also, I have an old copy machine which hasn't been used for 4 years but keep it for parts.

Dave Slyter, Pres.
Slyter Dist. Center Inc

HOUSE TAXATION COMMITTEE
TESTIMONY ON HB 2108 AND 2167
February 15, 1995

Bernie Koch
Wichita Area Chamber of Commerce

Mr. Chairman, members of the committee, I'm Bernie Koch with The Wichita Area Chamber of Commerce. Thank you for the opportunity to submit testimony this morning.

There is a lot of concern within the business community about what will happen with their personal property taxes. In considering what our position should be on this issue, my members did not talk about going after big tax reductions. Their concern was fairness and knowing what to expect.

Many business people will take an awful lot of regulation and taxation from government and put up with it. They're too busy trying to make a living to get involved. But what really makes this "silent majority" angry is when they don't know what to expect. They don't like it when you change the rules on them in the middle of the game.

With that in mind, we have a simple one-sentence position: ***"The Chamber supports a clarification of business personal property tax appraisal to a uniform and reasonable standard."*** We don't think that's too much to ask.

We don't think business personal property taxes in Kansas are clear right now, they don't appear to be uniform from county to county, and we don't think there's a reasonable standard because we don't think there is a standard.

It appears reasonable to us to put some definitions into the law. Business people just want to know what the rules are, and these bills clarify the rules.

Thank you for the opportunity to appear today.

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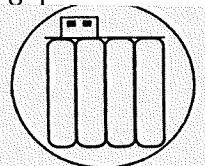
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**STATEMENT ON
H.B. 2108 & H.B. 2167
TO THE
HOUSE TAXATION COMMITTEE
REP. PHILL KLINE, CHAIR
FEBRUARY 16, 1995**

House Taxation
2-15-95
Attachment 8-1

KGFA, promoting a viable business climate through sound public policy for nearly a century.



The Kansas Grain and Feed Association

..... a voluntary state organization founded in 1896 providing governmental representation, educational opportunities and a wide variety of other services to the vast and indispensable grain and feed marketing system. The 1200 members of the KGFA include country elevators, subterminal and terminal elevators, feed manufacturers, grain merchandisers and allied industries such as railroads, grain exchanges, equipment manufacturers and insurance firms.

The following statement supporting H.B. 2108 & H.B. 2167 is submitted on behalf of the Kansas Grain and Feed Association (KGFA). KGFA is the state's professional trade association for the grain handling, merchandising and processing industry. Founded in 1896, the 1200 member firms are in every Kansas county and include country elevators -- both independent and cooperative -- subterminal and terminal elevators, feed manufacturers, grain merchandisers, equipment manufacturers and others who serve the industry.

With regard to the personal property targeted in H.B. 2108, the grain industry shares the concerns of other businesses in the state. Items required to be listed by our members include telephones, typewriters, copiers, computers, tools, calculators, fax machines, adding machines, desks, chairs and supplies. KGFA members also have items unique to the grain business. These include gram scales, moisture testers, grain dividers and portable grain augers. Setting a floor and removing these items from the personal property tax rolls would accomplish several things, the least of these being tax reduction. KGFA believes the floor established in H.B. 2108 would (1) relieve a clerical and paperwork burden; (2) clear the air with regard to compliance and relieve the anxiety level of those trying to be complete; (3) level the playing field between counties as some strictly enforce personal property tax reporting while others do not, and; (4) delete a provision that requires a great deal of effort for a relatively small return -- for both county officials if they are truly going to enforce and business owners when they try to be complete.

KGFA also supports the amended definition of "retail cost when new" to remove transactional costs, installation costs and freight or transportation charges from the taxable amount. A good example in the grain industry of the convoluted nature of including such things in the taxable amount is the installation of new scales. Members currently pay on not only the scales themselves but also the installation, freight and other taxes. Paying

personal property tax on sales tax already paid appears to be double taxation. Tax should be assessed on the item -- what the firm uses to produce income -- not on the intangibles associated with acquisition.

KGFA supports H.B. 2167. It draws a necessary line between property used to make income -- why KGFA firms are taxed as businesses -- and items that have outlived their usefulness. This is especially true today. The rapid advance of technology makes many items obsolete before they wear out and also strips away the market for the resale of these obsolete items more quickly. Removing items not used to produce income from the personal property tax rolls makes sense.

In closing, KGFA supports H.B. 2108 and H.B. 2167. Both bring a sense of reasonableness to the personal property tax scheme in Kansas. Any questions may be directed to Jamie Clover Adams, Director of Legislative and Regulatory Affairs, 234-0461.





MID-AMERICA LUMBERMENS ASSOCIATION

TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE

February 16, 1995

House Bill No. 2108

Mister Chairman, Members of the House Taxation committee, my testimony on this issue, House Bill 2108 will be very brief.

My name is Art Brown, and I represent the retail lumber dealers in the State of Kansas. I appear before you today as a proponent of this bill.

I really feel all of the "heavy lifting" on this bill has been done. It has been done not by the usual "cast of characters" you usually see testify at a committee hearing, but by every day business people, who we see as potraying the concern better than I ever could.

To that effect, this is merely a "me to" to the committee, that support the legion of business people in the State who implore you to head off a potentially devestating situation.

Due to the number of conferees you have had on this issue, and this bill in particular, my time for oral testimony would be at the pleasure of the chairman. Consider this as a written confirmation of the lumber dealers, should time not permit my spoken comments to be addressed to the committee. We see the need for this committee to act on this issue and to "nip"



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**pg. 2- Testimony to the House Taxation Committee HB 2108
February 16, 1995**

this concern in the bud," before the horror stories you heard about in Leavenworth County come home to roost in your district. We have seen the amount of support from the business people in Leavenworth County on this issue. It is well justified. It must be for these folks to come up to Topeka to address this committee. We can easily avoid several other Counties from this greif, and halt the parade of business owners and local leaders from coming to Topeka to protest the time involvement and money spent against dollars collected that are currently being employed in the area of Personal Property tax collection.

The solution is literally in your hands. We ask the committee to stand "shoulder to shoulder," with the conferees who have come to Topeka to voice support of this bill. We urge you to implement the \$2500,00 threshold on personal property used in businesses. We all love a parade. But the next group that may choose to parade to Topeka will be larger, more vocal, and probably include some businesses in the districts represented by many in this committee. We ask the committee to avoid such a "parade" by passage of House Bill 2108.

I thank the committee for allowing me the time to present the viewpoint of our membership, and would address your comments or questions at any time now, or in the future.



MID-AMERICA LUMBERMENS ASSOCIATION

TESTIMONY TO THE HOUSE TAXATION COMMITTEE

February 16, 1995

House Bill No. 2167

Mister Chairman, members of the House Taxation committee, my name is Art Brown, and I represent the retail building material dealers in the State of Kansas. I submit this testimony before you, either in writing or orally, depending on time constraints or the call of the chairman as a proponent of House Bill No. 2167.

This will be short, this will be sweet. There comes a time when a determination has to be made as to when the cost of collecting a tax is exceeded by the tax collected.

We believe this bill adequately addresses that concern and gets the Property Valuation Department out of the activity of "stepping over dollars to pick up dimes."

We are hopeful you will agree, and urge your passage of House Bill No. 2167.

I will stand for questions or comments now, or at any time in the future that you may have on our testimony on this issue. We thank you for this opportunity to express our views.



9-3



SEDGWICK COUNTY, KANSAS

OFFICE OF THE APPRAISER

COUNTY COURTHOUSE ● 525 N. MAIN, ROOM 227 ● WICHITA, KANSAS 67203-3795 ● PHONE: (316) 383-7461 ● FAX: (316) 383-7457
REAL PROPERTY DIVISION ● 604 N. MAIN, SUITE F ● WICHITA, KANSAS 67203-9896 ● PHONE: (316) 383-7810 ● FAX: (316) 267-1658

TO: HOUSE TAX COMMITTEE

FROM: GERALD C. FRANTZ, SEDGWICK COUNTY APPRAISER

SUBJECT: HOUSE BILL 2108

DATE: FEBRUARY 14, 1995

House Bill 2108 exempts business personal property purchased for less than \$2,500. We estimate that as much as one third of all business personal property items currently on the tax rolls for Sedgwick County, the City of Wichita and the associated school districts was purchased for less than \$2,500. That converts to approximately \$10 million in revenue for those jurisdictions.

It is unlikely that the jurisdictions will decrease their budgets to account for the lost revenue. The tax burden will be shifted, therefore, to other classes of taxable real and personal property. In Sedgwick County more than 50% of the additional tax burden will be borne by residential and agricultural property owners. The remaining shift in tax burden will be borne by commercial/industrial real property accounts and those personal property accounts that were not exempted as a result of H.B. 2108.

This bill will benefit primarily service type businesses and retail establishments. Retail and office accounts have very little that cost over \$2,500 to purchase. Desks, chairs, tables, typewriters, shelves, personal computer equipment, cash registers and other office and retail business equipment, when purchased separately, cost less than \$2,500. Those businesses that are more capital intensive, such as manufacturing and heavy construction, have the majority of their taxable value in big ticket items, e.g. mainframe computers, machinery and heavy equipment.

The bill, as it is presently worded, places a greater workload on each appraiser's office by requiring the property owner to file exemption requests for the included properties. This creates more work/cost for local government to generate fewer ad valorem tax dollars.

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2-15-95
Attachment 10-1

"... To Be The Best We Can"

Lines 19 through 23 permit transactional taxes, installation costs and freight or transportation charges to be excluded from "retail cost when new". This is contrary to IAAO standards, normal appraisal standards and practices, and conventional accounting practices. Inclusion of this wording will establish, in our mind, a very undesireably precedent.

If it is the legislature's intent to simplify the business personal property rendition and taxing process, I would recommend exempting those items under \$100. That will take care of paper clips, staplers and other minutia without shifting the burden of taxation.

1995

Division of Property Valuation Personal Property Guide

Section III.

VALUATION OF
COMMERCIAL AND INDUSTRIAL
MACHINERY AND EQUIPMENT

SECTION II. Commercial & Industrial Machinery & Equipment, Cont.

Schedule 5 Retail Cost When New

Once the final information for schedule 5 is obtained, the county appraiser must determine the retail cost when new of each item. For items that are purchased used, this may entail estimating the retail cost when new by applying the "used factor" to the used purchase price. (See page 65 herein for the "Used Factor" schedule, Table II). However, if the actual retail cost when new of an item can be obtained from a reliable source (e.g., a copy of the original invoice from the seller), that figure should be used instead of estimating the retail cost when new by applying the used factor. The county appraiser may also find better estimates of the retail cost when new than the used factor provides. For example, an estimate of the retail cost when new of construction equipment is available from the *Dataquest Green Guide*.

Retail cost when new means the dollar amount an item would cost a consumer when the item is purchased new at the retail level of trade. It is not the used sales price and it is not a wholesale or manufacturer's cost. It is the total amount a purchaser would pay to acquire new property in order to use it to produce income over a period of years in a commercial or industrial setting.

For purposes of personal property taxation, the depreciable "retail cost when new" includes the cost of sales tax, freight and installation. The inclusion of these costs is consistent with widely recognized, uniform practices: (1) generally accepted accounting principles; (2) I.R.S. Publication 551; and (3) the cost approach to valuing commercial and industrial machinery and equipment. Generally, it can be assumed that sales tax, freight and installation costs are included in the "retail cost when new" figure reported by taxpayers because these uniform and widely used standards exist. In order to assure uniform and equal treatment of personal property within the Commercial and Industrial Machinery and Equipment subclass that is set forth in the Kansas Constitution, this guide recommends adhering to these general standards.

To determine the estimated retail cost when new of an item using Table II on page 65, select the proper multiplier and apply it to the used purchase price.* To select the proper multiplier, locate the row for the age of the item when it was purchased used (from the far left vertical line) and the column indicating the item's total economic life (from the top horizontal line). The proper multiplier is located where the row and column meet. For example, an item with an economic life of 5 years which was purchased when it was one year old would have a multiplier of .1250 or 125%. The 125% multiplier applied to a used purchase price of \$1,000 would yield \$1,250. Thus, it is estimated that one year ago, the item's retail cost when it was new was \$1,250.

* Do not apply the used factor to installation costs. Do not apply the used factor to the cost of freight unless there is proof that the cost of freight increased with the value of the item.

Schedule 5 Economic Life

The county appraiser must also determine the economic life of commercial and industrial machinery and equipment in order to determine the value. The economic life is used for depreciation purposes if the item has a seven year life or less. It is also *always* used to determine the proper "used factor" that is applied to the used purchase price in order to estimate the "retail cost when new." (See "Retail Cost When New" discussion immediately preceding). To determine the economic life of an item, the county appraiser should refer to the "Commercial and Industrial Machinery and Equipment Economic Lives" section herein. (See Table I, pages 55-64).

REF 3-1

Standard on Valuation of Personal Property

Approved August 1985

International Association of Assessing Officers

The assessment standards set forth herein represent a consensus of thought in the assessing field and have been adopted by the Executive Board of the International Association of Assessing Officers. The objective of these standards is to provide a systematic means by which assessing officers can improve and standardize the operation of their offices. The standards presented here are advisory in nature, and the use of, or compliance with, such standards is purely voluntary.

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5. name and address of the owner(s);
6. telephone number of the business;
7. name and title of the person supplying the information;
8. name, address, and telephone number of the party keeping records for the business;
9. beginning date of the business and business fiscal year;
10. for leased equipment, the name and address of the lessor, information on the equipment (including name of manufacturer, date of manufacture, description, model number, serial number, list price, and original cost if available), and lease number, terms of lease (if possible, a copy of the lease agreement itself should be obtained);
11. for loaned or consigned items (e.g., vending machines, amusement devices, and juke boxes), the name and address of their owner(s) and a brief description;
12. whether the business rents or leases items in its inventory as part of its normal operation, for such items may be assessable inventory;
13. the nature of any leasehold improvements, because these may be assessable as real property and care should be taken to avoid double assessment and taxation; and
14. a list of equipment owned by the business but located at another site within the jurisdiction, including a brief description and address.

5. Reporting of Personal Property

In an ideal world appraisers would physically list individual personal property items. Time and personnel constraints, however, usually dictate the use of a reporting form completed by the taxpayer or his agent, supplemented by periodic audits by the appraiser. Reporting forms should be mailed within sufficient time to allow their proper completion and return. A cover letter should accompany the form. This letter should identify the tax year, explain the purpose of the form, reference applicable statutes, state the required return date, contain instructions for completing the form, and include a telephone number for obtaining assistance.

Personal property reporting forms for machinery and equipment usually have one of two formats. One format is based on reporting original costs by type of property and by year of acquisition. This permits the appraiser to apply appropriate cost trending and depreciation factors against reported costs for each category of machinery and equipment. This format requires the property owner to recalculate total acquisition costs for each category each year. There is, though, no itemized list that allows the appraiser to verify complete reporting on an item-by-item basis.

The second, more extensive, format is based on an initial itemized listing of all items of machinery and equipment, including manufacturer, model number, serial number, and year and cost of acquisition. Items of the same type, however, can generally be grouped. The taxpayer then need report annually only new acquisitions and deletions, again along with appropriate descriptions and acquisition costs. This system promotes verification and valuation accuracy, since each item or grouping of similar items can be separately trended or depreciated or both. Such a system, however, also requires the assessor to maintain a permanent file of all line items of personalty.

With either format the instructions on the form should make clear which items are to be reported and which items are to be excluded. Special attention should be given to leasehold improvements, equipment leased from others, inventories, and equipment awaiting installation. The instructions should also specify whether reported costs should include freight costs, installation costs, taxes, or fees.

6. Verification and Auditing

6.1 Authority Statutes should give assessors and their representatives authority to examine the property, books, papers, and accounts of taxpayers. Statutes should also provide appropriate penalties for those who fail to file in a timely manner or who deny the assessor access to property and records.

6.2 Audit Program The assessor should establish an audit program designed to facilitate the full and proper listing of all personal property in the assessment jurisdiction. In general, emphasis should be placed on the audit of new accounts, major accounts, accounts with significant changes from the previous year, and accounts that are suspected of being improperly reported. All accounts should be audited periodically, however. The purpose of an audit is to verify that all personal property items have been reported and that the information given is accurate. A physical inspection will help to verify the completeness of reports.

In addition, the appraiser should examine a detailed plant ledger or similar record, if available, that provides such information on each item as description, serial number, manufacturer, date of purchase, date of installation, location, acquisition cost, depreciation charges, and retirement provisions. The appraiser should verify that assessable items have been completely and properly reported. It is important that acquisition costs include charges for freight, taxes, fees, and installation, if applicable.

In determining whether all assessable items have been reported, special attention should be directed to standby equipment, permanently idled equipment, retired or fully depreciated equipment, and uninstalled equipment. Regardless of book values, such equipment and inventory should be listed and valued unless specifically exempted. In general, the status of personal property as of the assessment date determines its assessability and situs for tax purposes.

The appraiser should compare total reported costs with those shown in the general ledger or balance sheet of the business in order to verify that all property has been reported.

The appraiser should verify that leased items, of which the business is either lessor or lessee, have been properly reported and assigned to the proper party. If leasehold improvements exist, the appraiser should ensure that they are being assessed on either the real property roll or the personal property roll.

Simultaneous review of real and personal property records can also help to assure complete assessment of property.

Time and cost considerations sometimes dictate that the appraiser may not be able to verify the proper reporting of each item of personal property at each site or business being audited. Often, verifying a sampling of major items listed in the detailed plant ledger, a walk-through inspection, and an examination of the general ledger, balance sheet, or other appropriate records will suffice. It may also be helpful to check a sample of recent invoices to see if the taxable assets have been properly reported. The overall objective of the audit and verification process is to promote proper reporting to the extent possible with available resources.

7. Valuation

7.1 Trade Level The appraiser should value personalty at the level of trade at which it is found. Such considerations are particularly important in inventory valuation. All approaches to personal prop-

6. Basis of Assets

Topics

This chapter discusses:

- Cost basis
- Adjusted basis
- Other basis

Useful Items

You may want to see:

Publication

- 378 Fuel Tax Credits and Refunds
- 525 Taxable and Nontaxable Income
- 544 Sales and Other Dispositions of Assets
- 551 Basis of Assets
- 908 Bankruptcy and Other Debt Cancellation
- 917 Business Use of a Car

Form (and Instructions)

- 8594 Asset Acquisition Statement

Basis is the amount of your investment in property for tax purposes. Use the basis of property to figure gain or loss from the sale or other disposition of property. Also use it to figure the deduction for depreciation, amortization, depletion, and casualty losses.

This chapter is divided into three sections:

- Cost Basis,
- Adjusted Basis, and
- Other Basis.

The basis for inventories is discussed in Chapter 8.

The basis of property you buy is its cost. If you use the asset in a trade or business or an activity conducted for profit, capitalize (add to basis) many direct and indirect costs.

Your original basis in property is increased or decreased (adjusted) for certain events. If you make improvements to the property, this increases your basis. If you take deductions for depreciation or casualty losses, this reduces your basis.

You cannot determine your basis in some assets by cost. This includes property you receive as a gift or inheritance. It also applies to property received in an involuntary exchange, and certain other circumstances. If you acquire property by inheritance, receive a gift of property, or have property transferred to you from a spouse or former spouse, see *Other Basis* in Publication 551.

If you sell or exchange your property, figure your gain or loss on the transaction. Compare the amount realized from the sale or exchange to the adjusted basis of the property you transferred. The amount realized is the money you received, plus the fair

market value of any other property you received. For information on sales and exchanges, see Chapter 22.

To figure depreciation, use "unadjusted basis." For information on unadjusted basis and depreciation, see Chapter 13.

As a partner, you must know the basis of your interest in the partnership to figure your allowable deduction for partnership losses. You also must know your basis if you dispose of all or part of your interest in the partnership. For information on partnerships, see Chapter 29.

If any of your debts were canceled by a creditor, or were discharged because you became bankrupt, the basis of your assets might be affected. For more information, see Publication 908.

Cost Basis

The basis of property you buy is usually its cost. The cost is the amount you pay in cash or in other property or services. Your cost includes amounts you pay for:

- 1) Sales tax,
- 2) Freight,
- 3) Installation and testing,
- 4) Excise taxes,
- 5) Legal fees (when required to be capitalized),
- 6) Revenue stamps,
- 7) Recording fees, and
- 8) Real estate taxes (if assumed for the seller).

In addition, the cost basis of real estate and business assets may include other items.

Loans with low or no interest. If you buy business or investment property on any time-payment plan that charges little or no interest, the basis of your property is your stated purchase price, less the amount considered to be unstated interest. You generally have unstated interest if your interest rate is less than the applicable federal rate. These rates are published monthly in the Internal Revenue Bulletin (I.R.B.). See *Unstated Interest* in Chapter 25.

Real Property

If you buy real property, certain fees and other expenses you pay are part of your cost basis in the property.

Real estate taxes. If you buy real property and agree to pay certain taxes the seller owed on it, treat the taxes you pay as part of your cost. You may not deduct them as taxes paid.

If you reimburse the seller for taxes the seller paid for you, you can usually deduct that amount. Do not include that amount in the cost of the property.

Settlement costs. Recording and legal fees are some of the settlement or closing costs

included in the basis of property. Some others are:

- 1) Abstract fees,
- 2) Charges for installing utility services,
- 3) Surveys,
- 4) Transfer taxes,
- 5) Title insurance, and
- 6) Any amounts the seller owes but which you agree to pay, such as back taxes or interest, recording or mortgage fees, charges for improvements or repairs, and sales commissions.

You must reasonably allocate these fees or costs between land and improvements, such as buildings, to figure the basis for depreciation of the improvements. Allocate the fees according to the fair market values of the land and improvements at the time of purchase. Settlement costs do not include amounts placed in escrow for the future payment of items such as taxes and insurance.

Points. Points such as loan origination fees, maximum loan charges, or premium charges are mortgage interest and generally are deductible.

For more information, see Publication 936.

Assumption of a mortgage. If you buy property and assume an existing mortgage on the property, your basis includes the amount you pay for the property plus the amount to be paid on the mortgage you assume.

Example. If you buy a building for \$20,000 and assume a mortgage of \$80,000 on it, your basis is \$100,000.

Constructing Assets

If you build nonbusiness property (i.e., a home), or build business property, or have assets built for you, the expenses you pay for this construction are part of your cost basis. Some of these expenses include:

- 1) Land,
- 2) Architect's fees,
- 3) Building permits,
- 4) Payments to contractors,
- 5) Payments for rental equipment, and
- 6) Inspection fees.

In addition, if you own a business and use your employees, material, and equipment to construct a business or nonbusiness asset, your cost basis would also include:

- 1) Employee compensation paid for the construction work,
- 2) Depreciation deductions on equipment you own while it is used in the construction,
- 3) Operating and maintenance costs for equipment used in the construction, and
- 4) The cost of business supplies and materials consumed in the construction.

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SEDGWICK COUNTY, KANSAS

OFFICE OF THE APPRAISER

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REAL PROPERTY DIVISION ● 604 N. MAIN, SUITE F ● WICHITA, KANSAS 67203-9896 ● PHONE: (316) 383-7810 ● FAX: (316) 267-1658

TO: HOUSE TAX COMMITTEE
FROM: GERALD C. FRANTZ, SEDGWICK COUNTY APPRAISER
SUBJECT: HOUSE BILL 2167
DATE: FEBRUARY 14, 1995

House Bill 2167 would exempt commercial and industrial machinery and equipment not classified within subclass (5) of class 2 of Section 1 of Article 11 of the Kansas Constitution and which is not being used for the production of income by the owner thereof. It is our interpretation that supplies and spare parts would be the property types primarily exempted.

Sedgwick County actively opposes this bill.

We believe that removal of this property would result in a loss of \$2 million dollars in taxes or 6% of the total taxes collected for personal property in Sedgwick County for 1994.

The question of equity or fairness in taxation must be considered. Whenever taxable property is removed from the tax roll, one of two situations will occur: either government services must be cut or the burden of paying the tax falls on the non-exempt property owners. The purpose of a broad based tax roll is to distribute the burden of taxation over as wide a base as possible. Shrinking the tax base is indeed a false economy.

As this office enters an era of aggressive discovery and auditing in personal property assessment, a program that will expand the equity and the assessed valuation, it is imperative not to reduce the classes of assessable commercial personal property.

If it is the intent of the legislation to exempt supplies used by businesses, or business personal property with a nominal value, we would recommend legislation exempting all business personal property with an acquisition cost of less than \$100.

"... To Be The Best We Can Be."

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