

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on January 30, 1997, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Bond,
Senator Goodwin, Senator Hardenburger, Senator Harris,
Senator Karr, Senator Lee, Senator Praeger,
Senator Sallee and Senator Steineger.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Higgins, Secretary to the Committee

Conferees appearing before the committee: Dan Hermes, Director of Governmental Affairs
Senator Pat Ranson
Shirley Sicilian, Department of Revenue
Gus Rau Meyer, Kansas City Builders Association
Dan Foltz, Associated General Contractors of Kansas
Donald R. Seifert, City of Olathe
Dan Norburg, Home Builders Association of Kansas City
Jake Schloegel, Nat'l Assn. of the Remodeling Industry
Bruce E. Moore, J.E. Dunn Construction Company
Mike Brocato, City Wide Remodelers
David Allison, Associated General Contractors of Kansas
Bob Corkins, Kansas Chamber of Commerce and Industry
Art Brown, Mid-America Lumbermens Association
Hal Hudson, National Federation of Independent Business
Janet Stubbs, Kansas Building Industry Association, Inc.

Others attending: See attached list

Dan Hermes, Director of Governmental Affairs in the office of the Governor, requested the introduction of a bill which would abolish local hearing panels on property tax appeals and replace them with regional hearing officers appointed by the Board of Tax Appeals.

Senator Sallee moved to introduce the bill, seconded by Senator Steineger. The motion carried.

Senator Langworthy began a discussion of a previously heard bill, **SB 22**, relating to a property tax exemption for industrial training centers located on college campuses.

Senator Steineger moved to amend **SB 22** on page 5, line 19, by inserting a comma after the word "owned" and inserting "leased," and by striking "pursuant to a lease-purchase agreement" on lines 20 and 21. Senator Hardenburger seconded, and the motion carried.

Senator Sallee moved to report **SB 22** favorable for passage as amended. Senator Praeger seconded, and the motion carried.

SB 44--Sales taxation; concerning the exemption of certain labor services used in conjunction with the remodeling of certain buildings and facilities.

SB 52--Sales taxation; exempting certain labor services associated with the remodeling of buildings and facilities therefrom.

Senator Pat Ranson, author of **SB 44**, explained that she represents a basically inner-city district in Wichita.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on January 30, 1997.

Although legislation which passed a few years ago eliminating sales tax on labor used in new construction has been helpful in her district, there is a limited area where new construction takes place. Her district, like many others in the state, consists of areas with older homes. The sales tax on labor for remodeling has been a burden on citizens in these areas who try to upgrade their property, not only for homes but also for older office buildings, strip malls, and small businesses. She has also heard from citizens from smaller communities who have the same complaint with regard to renovating older homes.

Senator Ranson explained that the language added on page 3, line 39, extends the exemption for sales tax on labor to "reconstruction, restoration, remodeling or replacement" of a building or facility. She suggested **SB 44** be amended on page 4, lines 24 through 27, to include a reference to subsection (p) to clarify that new additions that might be made during a remodeling project are not included. She had no objection to the inclusion of repairs as in a similar bill, **SB 52**; however, she suggested that "repairs" be carefully defined by the Department of Revenue.

Shirley Sicilian, Department of Revenue, briefed the committee on **SB 44** and **SB 52**. The fiscal note is the same for both bills. Ms. Sicilian said this section of the sales tax statute would be significantly easier to administer if "repairs" is included. She will submit a definition of "repairs."

The following conferees testified in support of both **SB 44** and **SB 52**:

Gus Meyer, Kansas City Builders Association, was in support of elimination of sales tax on labor for remodeling because it is a difficult tax to administer for construction companies, and it contributes to a significant increase in the cost to remodel. He supported the inclusion of repairs. (Attachment 1)

Dan Foltz, Associated General Contractors of Kansas, supported the bills as an economic advantage and an administrative burden relief for the construction industry. He emphasized the importance of not dissecting the legislation between residential and commercial construction. (Attachment 2)

Don Seifert, City of Olathe, supported the bills as a matter of fairness in affording remodeling services the same sales tax treatment as new construction and as a positive stimulus on neighborhood revitalization. (Attachment 3)

Dan Norburg, Home Builders Association of Kansas City, supported the repeal of the remodeling tax because it would result in savings for property owners, it would offer relief from the complicated chore of tracking costs throughout a project, and it would put Kansas at a competitive advantage with other states. He stressed the most important factor was a matter of fairness to families who want to improve or repair their homes. (Attachment 4)

Jake Schloegel, National Association of the Remodeling Industry, noted that Kansas is one of a few states that singles out homeowners with a burdensome tax for maintaining their homes. He said the inventory of older homes in Kansas is huge, and anything that can be done to save those homes and, thus, the neighborhoods in which they are located, should be done. (Attachment 5)

Bruce Moore, J.E. Dunn Construction Company, believed that sales tax on remodeling causes a remodeling project to be deferred, that it may be a significant factor in a business' decision to relocate to another state, and that a business may decide to undertake new construction instead of renovation work since a tax is not imposed on new construction. The economic effects in any of these situations are undesirable to the state. (Attachment 6)

Mike Brocato, City Wide Remodelers, said he found it necessary to hire a CPA to handle the proper reporting of sales tax. He felt this tax put his company at an unfair disadvantage because it raises his overhead. He believed the tax should be repealed as a matter of fairness. (Attachment 7)

David Allison, Associated General Contractors of Kansas, testified as a CPA with 95 contractors as clients, all of which consider sales tax on labor as an administrative burden. Mr. Allison listed several reasons why the tax on remodeling labor should be repealed. (Attachment 8)

Bob Corkins, Kansas Chamber of Commerce and Industry, stated his support for the bills and submitted written testimony concerning the distinction between the two proposals. (Attachment 9)

Art Brown, Mid-America Lumbermens Association, reaffirmed testimony he presented to the committee in the 1995 session. He considered both bills to be an enhancement of business opportunities in Kansas. (Attachment 10)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on January 30, 1997.

Hal Hudson, National Federation of Independent Business, supported the bills as a logical next step after previous approval of exemption of new construction labor by the Legislature. He questioned if services by heating and cooling contractors and exterminators would be exempt and suggested clarification. He encouraged the addition of "repairs." (Attachment 11)

Janet Stubbs, Kansas Building Industry Association, supported the bills as measures which will reduce the cost of providing safe, habitable and affordable housing for Kansans and which will simplify the collection and reporting of sales tax. (Attachment 12)

Senator Langworthy called attention to written testimony in support of the bills submitted by Trudy Aron of the American Institute of Architects (Attachment 13) and Frances Kastner of the Kansas Food Dealers Association (Attachment 14). With this, the hearing on **SB 44** and **SB 52** was closed.

The meeting was adjourned at 12:02 p.m.

The next meeting is scheduled for February 3, 1997.

SENATE ASSESSMENT & TAXATION COMMITTEE
GUEST LIST

DATE: January 30, 1997

NAME	REPRESENTING
Barry French	NARI
Tom Stanion	-
JAKE SCHWEGEL	NARI
DON SEIFERT	City of Olathe
Tom Hatten	KDOR
S. Sicilian	KDOR
MARK BECK	KDOR
Tom Slattery	Associated General Contractors Ks.
DAN FOLTZ	KANSAS BUILDING SYSTEMS, INC.
David Allison	Braunsdorf, Carlson & Clinkinbeard, CPAs
DAN MORGAN	Builders Association
Gus Meyer	Rau Construction Company
Dave Hottelhaus	Western Resources
Harriet Lange	Ks Assn Broadcasters
Hae Hudson	NEIB/KS
Bob Brown	Mid Am Lumberman
Jan Freed	Sen. Stan Clark
Jeff Bridges	DOIB
Walter Pen Smith	KMHA

SENATE ASSESSMENT & TAXATION COMMITTEE GUEST LIST

DATE: January 30, 1997

NAME	REPRESENTING
Bruce E. Moore	J. E. DUNN CONSTRUCTION CO.
Christy Caldwell	Topeka Chamber of Commerce
Janet Stubbs	Ks. Bldg. Ind. Assn.
STEVE KEARNY	KOMA
Tom PALACE	KOMA
KAREN FRANCE	Ks. Assoc. OF REALTORS
Bob Corkins	KCCI

**TESTIMONY BEFORE THE SENATE
ASSESSMENT AND TAXATION COMMITTEE**

**ARGUMENTS FOR THE REPEAL FOR THE
SALES TAX ON CONSTRUCTION SERVICES
USED IN CONJUNCTION WITH REMODELING
BY GUS RAU MEYER
RAU CONSTRUCTION COMPANY
JANUARY 30, 1997**

My name is Gus Rau Meyer and I am President of Rau Construction Company. Rau is a mid sized construction company founded in 1870, and doing business in the Kansas City Metropolitan area since the early 1900's. Our headquarters for over 35 years has been in Overland Park, being a pioneer during the early growth of this area. Our main focus is on commercial and industrial projects in the private sector.

Over the past 10 years we have seen new construction in the private sector decline. Although the repeal of the Sales Tax on new construction 2 years ago brought a noticeable increase in new construction, the volume of new projects in the private sector is still below the levels of the late 1980's. In contrast, the remodel of commercial and industrial facilities has been on the increase. This why I have a strong interest in this legislation. I feel there are three very compelling reasons for the Repeal of the Sales Tax on Construction Services concerning Remodeling. These reasons are as follows:

1. Ever since inception, this tax has been very difficult to administer. Definitely from a standpoint as a remitter, and I feel I am safe to say it is also difficult from a collection perspective. As a company who prides itself in exceptional accounting practices, we have found we always have a problem in this area during sales tax audits. The interpretation on what constitutes remodeling appears to be subject to change depending on the person making the audit.

It has come to my attention that there is discussion on "separating" commercial remodel construction from residential remodel construction, and leaving the tax on one of these entities and removing the tax from the other. As difficult as this tax currently is to administer, breaking commercial from residential remodel construction would be a "nightmare".

2. This is a significant economic development issue for the commercial real estate industry. Per the attached analysis of 2 recent remodel projects, approximately 3.07% of the total cost of the project goes to pay this tax. In an industry where a fraction of a percent in a rental rate may cause a tenant to choose a Kansas site over a Missouri site, over 3% difference in the remodel cost can be a significant difference.

3. The last item effects every city in the state. The largest growing sector of our work in the last 10 years has been the rehabilitation of older structures. In our experience there are two very major and pronounced hurdles encountered on these projects. These are meeting ADA requirements, and maintaining economic requirements.

*Senate Assessment + Taxation
1-30-97
Attachment /*

TESTIMONY BEFORE THE SENATE ASSESSMENT AND TAXATION COMMITTEE
ARGUMENTS FOR THE REPEAL FOR THE SALES TAX ON CONSTRUCTION
SERVICES USED IN CONJUNCTION WITH REMODELING

BY GUS RAU MEYER

JANUARY 30, 1997

We are not here today to discuss the negative impact of the Kansas ADA laws, but to discuss the economic impact of this tax. I feel further research into my calculation as to the impact of this tax on a rehabilitation project will prove the percentage of taxable work is larger on the renovation of an older building, than on the remodel for a tenant finish. This is due to the large amount of labor required on a rehabilitation of an older building. These projects typically border on not being economical, and the burden of this tax can be a deciding factor.

As I mention before, I am submitting with this testimony a projection of what the effect of the Sales Tax on Construction Services concerning Remodeling has on a hypothetical \$1,000,000 remodel project. Examples of a project of this size would be a 30,000 to 40,000 square foot tenant finish, or a renovation of a small to average size downtown building. This "hypothetical" project could be found in any area of the state, especially the renovation of an older building. The Sales Tax on Construction Services, paid by all Contractors on this hypothetical project would amount to \$30,681 or 3.07% of the cost of the project. This is in addition to the Sales Tax on Materials.

Although I am not an economist or an actuary, my own analysis of the this issue is every project which chooses another state to locate in or is not done because of these economics, are far more of a loss to the State than the loss of sales tax revenue. I feel the increase in other tax revenues (Sales Tax on Materials, Property Tax, Income Tax, etc) if the Sales Tax on Construction Services is eliminated due to project being done that would have not been constructed, or projects that were expanded due the additional money available, far outweigh the income realized by the State from this tax.

In conclusion, as a life long resident of Kansas, and a backer of its high quality of life and standard of living, I feel this Tax is a burden upon me and my State as it relates to its enforcement, and restriction to economic development as it effects small businesspeople to real estate developers. In addition, it is hurting the people who live and work inside the state boundaries and do not have a choice as to where to build their business by significantly increasing their cost. Is also, and more importantly, driving people who have a choice, away from Kansas.

As a final note, in comparing Senate Bill 44 and 52, Senate Bill 52 included "repair" of buildings and facilities as part of this bill to be repealed, where Senate Bill 44 did not. I can not address if there was a reason for this omission, or an oversight, but I feel "repair" of buildings and facilities should be included in this repeal.

I thank you Madam Chairman and members of this committee for allowing me to appear before you today. I appreciate your consideration and ask for your support in repealing this Tax. If you have any questions, I would be glad to address them.

Jan. 30, 1997

Testimony before the Senate Assessment and Taxation Committee
 Arguments for the Repeal of the Sales Tax on Construction Services on Remodeling

By Gus Rau Meyer

	Project #1	Project #2	Average Project 1&2	% Labor	\$ Labor
General Conditions	\$38,790	\$27,061	\$32,925	85.00%	\$27,987
Demolition	\$32,100	\$34,047	\$33,073	75.00%	\$24,805
Sitework	\$4,797	\$5,840	\$5,319	25.00%	\$1,330
Flat Concrete	\$28,347	\$8,378	\$18,363	42.00%	\$7,712
Masonry	\$97,861	\$104,130	\$100,996	55.00%	\$55,548
Structural Steel	\$42,633	\$51,237	\$46,935	44.00%	\$20,651
Carpentry	\$32,945	\$49,021	\$40,983	50.00%	\$20,492
Millwork	\$55,303	\$24,976	\$40,140	40.00%	\$16,056
Roofing	\$20,082	\$12,923	\$16,502	27.00%	\$4,456
Sheetmetal	\$4,394	\$3,587	\$3,990	30.00%	\$1,197
Caulking	\$1,114	\$1,243	\$1,178	60.00%	\$707
Doors, Frames & Hardware	\$18,330	\$40,913	\$29,621	50.00%	\$14,811
Glass & Glazing	\$64,503	\$54,750	\$59,627	33.00%	\$19,677
Drywall & Ceilings	\$104,895	\$123,225	\$114,060	42.00%	\$47,905
Floor Coverings	\$29,112	\$33,550	\$31,331	25.00%	\$7,833
Ceramic Tile	\$643	\$0	\$322	33.00%	\$106
Painting & Wall Coverings	\$27,428	\$35,414	\$31,421	75.00%	\$23,566
Toilet Accessories	\$410	\$3,481	\$1,945	20.00%	\$389
Specialties	\$27,773	\$35,690	\$31,731	30.00%	\$9,519
Elevators	\$48,451	\$35,000	\$41,725	20.00%	\$8,345
Plumbing	\$94,283	\$85,823	\$90,053	45.00%	\$40,524
Fire Sprinklers	\$15,583	\$28,663	\$22,123	62.50%	\$13,827
HVAC	\$66,650	\$50,222	\$58,436	45.00%	\$26,296
Electrical	\$95,955	\$94,221	\$95,088	40.00%	\$38,035
	<u>\$952,381</u>	<u>\$943,396</u>	<u>\$947,888</u>		<u>\$431,773</u>
OH&P	\$47,619	\$56,604	\$52,111		
	<u>\$1,000,000</u>	<u>\$1,000,000</u>	<u>\$1,000,000</u>		

Amount Taxable by Remodel Tax

Labor	\$431,855	
Subcontractor OH&P	\$142,183	15% X \$947,888
General Contractor OH&P	\$52,111	
Total	<u>\$626,149</u>	

Remodel Tax - State \$30,681 4.9% X 626,149
 % of project cost 3.07%

Testimony in Support of Senate Bills 44 and 52

Senate Assessment Taxation Committee, January 30, 1997 by Dan Foltz

Madam Chairperson and Members of the Committee on behalf of the Associated General Contractors of Kansas, I appreciate the opportunity to be with you this morning in support of Senate Bills 44 and 52. My name is Dan Foltz. I am currently serving as Vice President of the AGC of Kansas and also President of Kansas Building Systems, Inc., a commercial building contractor located in Topeka, Kansas.

There are basically two topics we encourage you to consider with regard to those Senate Bills {ECONOMIC ADVANTAGE & ADMINISTRATIVE BURDEN RELIEF}.

1) ECONOMIC ADVANTAGE

The economic advantages for Kansas are:

- Reducing construction costs for Kansas homeowners and businesses
- Benefitting existing business expansions
- Attracting new business to the State
- Attracting existing companies to locate expansion within Kansas as opposed to facilities they may have in other states

Other people are better able to point out the economic advantages than I, so I will not elaborate on that point.

Today I am going to speak specifically on the topic I know a little bit more about from my 18 years of construction business administration experience in running the business affairs of contractors.

2) ADMINISTRATIVE BURDEN RELIEF

I will talk about the administrative burden of our current Sale Tax reporting system and the effect this legislation would have on relieving a large overhead cost.

Committee Members, please take into consideration that the construction industry has a huge number of vendors in it across the State, and 95% of them are small or very small businesses. They do not have elaborate staffing or elaborate computer program systems within their accounting to allow them to easily handle the sales tax reporting complexities.

*Senate Assessment + Taxation
1-30-97
Attachment 2*

The existing reporting system with all the variables, from local tax rates, city,, county and size of project considerations. I am sure you are familiar with the many, many jurisdictions that have different tax rates. If you are operating in a reasonable driving distance from your home site (whether you are a small painting contractor or a general contractor) you can easily encounter 15 or 20 different tax rates within a 2-hour drive. That is the amount of territory most businesses in our industry try to serve.

The procedures that small businesses need to maintain for sales tax reporting is complex and very burdensome. When you compare sales tax reporting to all the other business reporting that you have to do (small businesses probably have 20 or 30 reporting forms to file), it is one of the most time consuming and costly to complete. Take a moment to look at a Sales Tax Reporting Form. Consider what it takes to accurately try to decipher the sales tax law and try to apply it the right way by: 1) Classifying your material costs accurately, 2) Considering the different taxing jurisdictions, 3) Then consider the size of project, whether it is <\$10,000 or >\$10,000. Our typical monthly backup paperwork is very lengthy as we analyze and categorize each project. Let me point out one thing that is unique about applying sales tax to construction services as opposed to retail business. If a retailer sells an item at retail for \$5000 they know exactly what amount of sale tax to remit. If a contractor bids and is awarded a \$5000 project, they do not know what the sales tax is going to be.

We are an estimate-based system. Our actual material purchases are almost always different than our estimated material purchases. In our calculations we subtract the amount of materials we purchased which we already paid sales tax on a time of purchase. We don't know what our total material costs are going to be until some time after the project is finished. We cannot say that a \$5000 job is going to have X amount of sales tax and remit that to the State. If our material purchases are greater than estimated, that decreases the amount of labor service dollars we pay tax on, and vice versa. There are many variables in determining what the actual amount of tax is going to be on any specific project, which in turn makes the process difficult to automate.

By enacting this legislation you would be lifting a major administrative burden off a huge number of small businesses that have to deal with the sales tax reporting of labor services. You would also be adding value to all construction customers, homeowners, businesses, municipalities and government entities. In the Value Chain concept, a reduction in administrative overhead will result in value to the customer in reduced prices. Reductions in construction prices will even appear on State of Kansas tax exempt projects. In the short run, the reduction in overhead costs may be reflected in business profits, but in the competitive market companies will quickly use the reduction in overhead costs to reduce prices in order to gain competitive advantage in the marketplace.

The final item I want to emphasize is the importance of not dissecting this legislation between residential and commercial construction. As you recall, a couple of years ago the state enacted a 2.5% sales tax on labor services on new construction. This compounded the administrative burden greatly, by adding yet another variable to the matrix for calculating project sales tax. Trying to differentiate sales tax between commercial and residential would wipe out any gains in administrative effectiveness and actually add to the burden of virtually all contractors. There are very few contractors that do only residential or only commercial. Many contractors do more of one type of work than the other, but just having to maintain the reporting system for a smaller number of projects does not reduce your administrative overhead costs significantly. Trying to distinguish between residential and commercial types of construction would actually lay a heavy burden on thousands and thousands of small businesses to just attempt to set up the system to handle the two classifications.

Other presenters will emphasize the economic impact of this legislation which is very important. I wanted to give you a more detailed view of how this legislation can be of great benefit to thousands of General Contractors and Specialty Contractors throughout the State by reducing the administrative burden of Sales Tax reporting. I will be glad to answer questions or provide any information I can to assist you in your analysis of these bills.



City of Olathe

MEMORANDUM

TO: Members of the Senate Assessment and Taxation Committee

FROM: Donald R. Seifert, Management Services Director *MS*

SUBJECT: Senate Bill No. 44 & Senate Bill No. 52 Sales Tax; Exempting Labor Services Associated with Remodeling

DATE: January 30, 1997

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of these bills which would repeal the sales tax on labor services associated with the remodeling of buildings and facilities. Historically, cities have often opposed legislation that would narrow the state sales tax base. However, the Olathe City Council supports repeal of this tax for several reasons.

First, as a matter of fairness the city believes that remodeling services should be afforded the same sales tax treatment as new construction. Four years ago, the city appeared in this room to support repeal of the sales tax on labor services associated with new construction, believing it was a deterrent to economic development efforts. Prior to actual repeal of this sales tax in 1995, the city tried unsuccessfully to exempt such new construction labor services from paying the local 1% sales tax.

The city of Olathe also supports these bills because it believes repeal of this sales tax will have a positive stimulus on neighborhood revitalization. The city has embarked on a comprehensive effort to encourage commercial and residential rehabilitation in a four square mile area in its central core. To promote enhancement of this area, the city has targeted capital improvements and is reviewing a number of financial incentives to encourage private investment. The city believes repeal of this sales tax will remove one barrier to revitalization at a modest fiscal cost.

Thank you again for the opportunity to appear today. The city urges the committee to report these bills favorable.

rc

*Senate Assessment + Taxation
1-30-97
Attachment 3*



**Home Builders
Association**
of Greater Kansas City



600 EAST 103rd STREET • KANSAS CITY, MO 64131 • PHONE (816) 942-8800 • FAX (816) 942-8367

Home Builders Association of Greater Kansas City
Testimony in Support of the Repeal of the Sales Tax on Remodeling
(S 44 and S 52)
Senate Assessment & Taxation Committee
January 30, 1997
Topeka, Kansas

Good morning. My name is Dan Norburg, and I own a residential and commercial remodeling company that operates in the Kansas City metropolitan area. I am here on behalf of the Home Builders Association of Greater Kansas City (HBA) to urge your support of the repeal of the remodeling tax.

I have been in business for 17 years, and my company is located in Kansas City, Missouri. This is important since, according to Kansas law, I pay less in taxes as an out-of-state contractor than do Kansas-based companies. Last year, my company generated \$1.6 million in revenue and paid approximately \$20,000 in remodeling taxes. Had my company been located in Kansas, I would have paid over \$32,000 in remodeling taxes.

HBA members support the repeal of the remodeling tax for the following reasons:

- According to Department of Revenue estimates, a repeal would result in savings of nearly \$26 million for property owners who remodel their homes and businesses.
- A repeal would offer much-needed relief from the complicated and cumbersome chore of tracking and coding costs throughout a project to determine what is and is not taxable. Costs are passed on to consumers. I must charge home owners for the actual tax-- which is assessed on *labor, profit, and overhead* -- and for the time and energy involved in administering it.
- Remodeling creates jobs and is important to the state's economy.
- Remodeling can help to revitalize and stabilize areas, creating an environment that invites residents and business owners to remain in the communities they have called home for many years.
- No surrounding states tax remodeling labor, profit and overhead. It puts Kansas at a competitive disadvantage compared to other states.

Senate Assessment & Taxation
1-30-97
Attachment 4

Page 2

Testimony of Mr. Dan Norburg
HBA of Greater Kansas City

- The tax creates an incentive for property owners to use out-of-state contractors for their remodeling projects. Why would the state wish to continue a policy that penalizes its “own”?
- Enforcement of the tax is left to individual contractors, who apply inconsistently since it is difficult to understand and interpret on case-by-case basis.

Perhaps most importantly, we support this repeal as a matter of **fairness**. The HBA seeks to eliminate unnecessary fees and regulatory costs that make homes unaffordable for families of all income levels. This tax simply adds cost and no benefit to homes that many families wish to improve or repair, and we urge you to repeal it.

I am happy to answer any questions you may have, and I appreciate this opportunity to speak to you today.

Thank you.

To: Senator Audrey Langworthy and the Committee on Assessment and Taxation

From: Jake Schloegel CR
2201 W 120th Terrace
Leawood, KS 66209

Re: Support for the repeal of the tax on remodeling services
Public Hearing, January 30, 1997

Madame Chairman,

Thank you for the opportunity to address this committee on the subject of repealing the state tax on remodeling. I support the repeal of this tax and hope that you Senators will feel the same.

I am the past president of the Kansas City chapter of the National Association of the Remodeling Industry (NARI). I currently serve as the Chairman of the Government Affairs Committee for our chapter. I have been a house captain for the past seven years in the home renovation program known as Christmas In October that is held annually in Kansas City. I have owned my own remodeling business since 1979. And most importantly I am a Kansas homeowner.

Over the past 18 years I have seen many sides of the home improvement industry. My company has installed luxurious master suites to bare essential bathroom maintenance projects. I have seen the cost of these home improvement projects rise in cost over the years to the point where they are now out of the reach of some homeowners. Particularly those with fixed or limited incomes. The people of Kansas constantly complain about this tax being oppressive rather than progressive.

Through my involvement with Christmas in October, I have seen the effects of homes not being maintained and whole neighborhoods deteriorating. I have seen the once decent neighborhoods succumb to the drug houses, the tax bases vanish and the schools fall into despair.

As a business owner I have seen homeowners forgo maintenance because of the cost involved in keeping up what is usually their largest and most important investment.

Based upon information from the national office of NARI, Kansas is one of the few, if not the only state that singles out homeowners with a burdensome tax for maintaining their homes. There should be tax incentives for homeowners to improve and maintain their homes. Well maintained homes have higher values which in turn mean higher property taxes

As we enter the 21st century, remodeling is a \$120 billion industry that is larger than the new home industry and is still growing. The inventory of older homes in Kansas is huge.

Any thing that can be done to save these homes and the neighborhoods they are in should be done. An excellent way to start is to do away with this remodeling tax.

Well maintained homes make up viable neighborhoods that help reduce crime, maintain better tax bases, and create an environment that is conducive to attracting new business.

*Senate Assessment & Taxation
1-30-97
Attachment 5*

COMMENTS ON S.B. 44 & S.B. 52
Senate Assessment and Taxation Committee

by

Bruce E. Moore, CPA, CFO & Senior V/P
J. E. Dunn Construction Company
Kansas City, MO/Topeka, KS

January 30, 1997

J. E. Dunn Construction Company, one of the largest general contractors in the Midwest, and as a member of the Dunn Construction Group, one of the 50 largest general contractors in the U.S., applauds the efforts of S.B. 44 and S.B. 52 to remove from Kansas taxation the sales tax imposed on labor services in connection with remodeling, renovation, and restoration projects in Kansas. We believe the current tax is unfair and discourages important remodeling, renovation and restoration projects from occurring in the state of Kansas. Our business is commercial construction (versus residential), so my remarks will be directed from the commercial (or business) perspective.

At a minimum, we believe the tax may cause a substantial remodeling project to be deferred or even eliminated. On the other hand, the tax may be a significant factor in a business' decision to relocate to another state, where such a tax does not exist, thus either resulting in bottom line savings to the business or in it obtaining "more bang for the buck". Somewhere in between those options, a business may decide to undertake new construction instead of renovation work, once again based on the "more bang for the buck" rationale, since the tax is not imposed on new construction. In any of these situations, the near-term and long term economic effects are obviously undesirable to the state. In the extreme situation, Kansas can lose both jobs and tax revenues to neighboring states. In other situations, this tax may

*Senate Assessment & Taxation
1-30-97
Attachment 6*

contribute to suburban flight or the decay of older buildings and the communities in which they are located.

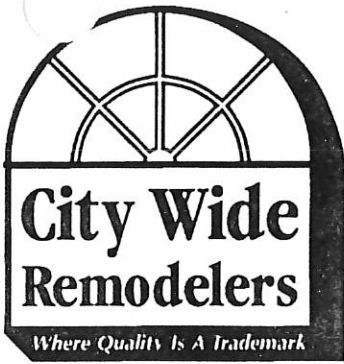
To illustrate the effects of this tax on a project, take the following hypothetical situation. Assume that a building owner can choose between spending \$5 million in labor renovating his existing building or \$5 million in labor to construct a new building in a neighboring community (whether or not in Kansas). Included in the decision-making process will be such things as local property taxes/incentives offered by the respective communities, the cost of relocation/moving, and the sales tax on remodeling. In this case, the sales tax on remodeling would approximate \$337,500 ($\$5,000,000 \times .0675$). If the business can be moved and other costs can be held to less than \$337,500, why not relocate to a flashy new building? Meanwhile, it may be difficult to find an occupant for the now-vacant former site because any new occupant would also face the add-on of the sales tax if a renovation is necessary.

While there are obviously many factors involved in the statistics I am about to give you, let me point out that, over the 3-year period of 1994 through 1996, J. E. Dunn has completed only 18 remodeling and renovation projects (excluding tenant improvements and expansions) in the state of Kansas totaling \$24,000,000. During the same period we completed 48 remodeling/renovation projects (again excluding tenant improvements and expansions) in Missouri totaling nearly \$148,000,000.

In addition to the economic effect on the state I have described, the tax also has some potentially adverse ramifications to contractors themselves. Several areas of the existing law

are extremely difficult to interpret, such as distinguishing between remodeling (taxable) and expansion (non-taxable) in a typical “expansion” project. Also, there are numerous difficulties that arise in calculating the taxable base and in applying the percentage-of-completion rules for reporting the tax when long-term contracts are involved. Any or all of these “technical difficulties” can cause a contractor to lose profits if the Department of Revenue disagrees with the contractor’s interpretations. To underscore the difficulty, please note that the Department of Revenue publication “Sales and Use Tax for Contractors, Subcontractors and Repairmen” consists of 28 pages of text and examples.

I want to point out that J. E. Dunn does not have a strong opinion as to whether “repairs” should be included or excluded from the tax, but we firmly believe the tax should be removed from remodeling, renovation, and restoration contracts (both residential and commercial). Excluding commercial projects from the repeal of this tax is, in our view, unfair, and still costly to the Kansas taxpayer, who would continue to “pay” the tax through the increased cost of goods and services that would indirectly result from the taxation of commercial projects. Thus, we urge you to repeal the tax on all such projects, whether residential or commercial.



Professional Remodeling Since 1955

9736 Wornall • Kansas City, MO 64114
(816) 942-1993 FAX (816) 942-3131

As Heard on Toby Tobin

**Testimony in Support of the Repeal of the Sales Tax on Remodeling
(S 44 and S 52)**

Senate Assessment & Taxation Committee
January 30, 1997
Topeka, Kansas

GOOD MORNING. I am Mike Brocato, the owner of a full service remodeling company located in Kansas City, Missouri. I personally live in Overland Park, Kansas and am here as a remodeler and as a homeowner to ask your support for the repeal of the remodeling tax.

First, as a remodeler we have been in business since 1955. Our operations are computerized and have the latest accounting software. Up until 1995, we did our accounting in house until I decided we were spending too much of our time complying with a complicated and cumbersome reporting task. I felt it was necessary in 1995, to hire a CPA to handle our accounting including payroll taxes, Kansas Sales Tax and Use Tax. I did this not only because of the complexities of reporting these taxes, but mainly because of the fear of reporting them improperly.

This tax also puts my company at an unfair competitive disadvantage, since it raises my overhead and therefore the taxes I pay. The remodeling tax also gives those contractors who do not comply a huge bidding advantage. Since there is no required contractor licensing in Kansas, there is no way to monitor non-complying contractors.

As a Kansas homeowner, if nothing more than a matter of fairness, why should I, pay more to remodel my house, than my neighbors on the Missouri side.

Because of the above reasons I urge your support for the repeal of the remodeling tax. Thank you for your time and this opportunity to speak to you today.



*Senate Assessment + Taxation
1-30-97
Licensed and Insured For Your Protection*

Attachment 7





GERRY F. CARLSON, CPA
 STEVE CLINKINBEARD, CPA
 MICHAEL E. RUHLMAN, CPA
 DAVID N. ALLISON, CPA
 D. THAD SULLIVAN, CPA
 KIRK W. WIESNER, CPA
 DENISE J. PETERSON, CPA
 MICHAEL D. SCHIRMER, CPA
 GARY D. BASOM, CPA

EDWARD D. FENTON, PRINCIPAL

Braunsdorf, Carlson and Clinkinbeard
CERTIFIED PUBLIC ACCOUNTANTS
A PROFESSIONAL ASSOCIATION

990 SW FAIRLAWN • TOPEKA, KANSAS 66606-2384
 913-272-3176 • 1-800-411-9698 • FAX 913-272-2903

SANDRA S. BONJOUR, CPA
 MARGE S. CARLSON, CPA
 DOUGLAS W. GLENN, CPA
 PAULA S. HINMAN, CPA
 JAMES F. HOWES II, CPA
 LYNN M. JENKINS, CPA
 ANTHONY B. KRAMER, CPA
 RONALD L. LININGER, CPA
 CHERYL J. PAGE, CPA
 MARY E. RAMOS, CPA
 JAMES R. SHOWALTER, CPA
 DEANNA L. WARD, CPA

RONALD V. MOORE, ENROLLED AGENT
 DOUGLAS K. STACKEN, ISC

TO: MEMBERS OF SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: DAVID N. ALLISON, CPA, AND BOARD MEMBER OF THE ASSOCIATED
 GENERAL CONTRACTORS OF KANSAS, INC.

RE: SALES TAX ON REMODEL CONSTRUCTION

DATE: JANUARY 30, 1997

Madam Chairman and Committee members,

I am David Allison. I grew up in Kansas City, Kansas, graduated from Kansas State University in 1980, worked in Kansas City, Missouri for two years with a small public accounting firm, and I have worked for a 50-person public accounting firm and lived in Topeka, Kansas since 1983.

I come here today as a Board member of the Associated General Contractors of Kansas, Inc. and as a 10-year Stockholder in the certified public accounting firm of Braunsdorf, Carlson and Clinkinbeard, CPA's, P.A.. I am a CPA who has more than 16 years of public accounting experience, where more than 80% of my time has been spent working with construction contractors. Our firm has more than 90 contractor and home building clients at the present time. The vast majority of our contractors have annual revenues of less than \$10 million and are family operated businesses. My firm and I have represented and consulted with numerous clients of our firm regarding the application of sales tax on construction projects, including original construction and remodeling issues.

After 16 years of working with contractors and home builders, I wholeheartedly support legislation to repeal the sales tax on remodeling construction. I believe the tax on remodeling construction should be repealed for the following reasons:

- 1: This tax gives an unfair advantage on contracts less than \$10,000 to contractors who are located in a city or county with little or no local sales tax. The Kansas law reads that a contract less than or equal to \$10,000 is to be taxed at the local rate where the contractor's office is located. For example, a \$9,000 project to remodel a home in Shawnee County is subject to 6.15% sales tax if you are a contractor located in the city of

Senate Assessment & Taxation
1-30-97

Attachment 8

Topeka, but the project is subject to 4.9% sales tax if you are a contractor located in rural Pottawatomie County.

2. Tax-exempt organizations (schools, churches, governments, not-for-profit organizations, etc.) do not believe they are subject to sales tax on construction projects. If they follow required procedures to apply for and receive project exemption certificates, their projects normally are not subject to sales tax. However, these organizations or the contractors many times will not follow proper procedures to apply for project exemption certificates because they believe the entity is exempt from sales taxes. Typically, even if the contractor bills sales tax to the tax-exempt organization properly, the organization will mark through the sales tax on the invoice and write "exempt from sales tax." Another common problem is a school or local government asking for repair services on an emergency basis (e.g., water line breakage) and there is not time to obtain an exemption certificate. The contractor does the work, bills for the project including sales tax, and the exempt organization will not pay for the sales tax. The reality is, at least with the clients I have worked with, that tax-exempt organizations will not pay sales tax on construction projects and the contractor will bear the cost of the sales tax, penalty and interest during an audit. The contractor typically cannot go back and obtain reimbursement from the tax-exempt organization because they refuse to pay it and it isn't worth the cost of litigation to pursue.
3. There are numerous instances of a noncompliance in billing and collecting sales tax on remodel contracts, especially by new contractors. The construction industry is one of the easiest to enter and exit. Virtually anyone with a pickup, hammer and saw can become a contractor. This lack of compliance with proper application of sales tax to remodel projects gives the contractor who complies with the sales tax laws a disadvantage compared to a contractor who does not comply with the law. The Robert Morris Association Annual Statement Studies survey of 1,081 commercial contractors show that the average profit before income tax was 2.4% for 1996. A contractor who does not comply with the sales tax law (whether intentionally or unknowingly) can have a significant advantage in obtaining a profitable bottom line.
4. The sales tax on construction projects is difficult to understand and comply with by most construction companies. When the sales tax on original construction was implemented, our firm performed numerous seminars (many with Kansas Department of Revenue representatives as speakers) on the requirements of the original and remodel sales tax law. We had more than one hundred contractors and their bookkeepers attend the seminars. A year after the seminar, a large number of contractors and their bookkeepers still did not understand the law. As of today, a large number of contractors and their bookkeepers still do not understand the law. There is large turnover in the bookkeeping departments of contractors and there is little education provided to office personnel by construction firms. I have no doubt that the vast majority of construction companies are not in full compliance with Kansas sales tax laws on remodeling projects.

The Kansas Department of Revenue does not understand construction accounting. When speaking in a public forum about the 2.5% tax on original construction, a representative of the KDOR was asked if sales tax could be reported under the completed contract method of accounting. He asked, "Can they do that for income tax purposes?" The KDOR is making rules when they don't know the business of construction.

5. It is difficult to determine when a contract is original construction or a remodeling project. It is very common for a contractor to believe the contract qualifies as original construction, but to have the facts and circumstances reinterpreted by the Kansas Department of Revenue as a remodel project. It is many times too expensive to fight the KDOR assessment and the contractor will pay the tax. These audits are a nuisance to our clients. To put yourself in their shoes in determining how a common person would classify a construction project, how would you classify the following construction projects (as original construction or remodel):

Western Resources project to replace 2 inch gas lines with 6 inch gas lines? Remodel. You do not remove the old line, but add a new line? Remodel.

Southwestern Bell project to run new fiber optic cable to replace existing telephone lines? Remodel.

A Kansas homeowner's project to replace siding on a house due to damage caused by hail, windstorm, rainstorm or snowstorm? Exempt if you read the regulations, but remodel if you read the statutes. Fire, flood, tornado, lightning, explosion or earthquake? Exempt.

A Kansas homeowner finishing off a basement in a residence previously occupied by another family? Remodel. A Kansas homeowner finishing off a basement in a residence he bought as a speculative house built by a home builder without a buyer at ground breaking with no original plans drawn for finishing the basement? Remodel. A Kansas homeowner finishing off a basement in a residence he had custom built with plans to finish the basement, but was not able to complete for two years because he ran out of money? Remodel.

A new building addition is added to the Goodyear plant in Topeka? Original construction. The addition requires the heating system to be replaced with a larger HVAC unit? Original construction. Goodyear decides to add heating to existing areas of the plant while this project is underway? Partial remodel and partial original construction. How do you determine how much of the contract is subject to tax? What happens when the KDOR disagrees with your allocation method?

6. There is inconsistency in the application of the law by Kansas Department of Revenue agents. In my opinion, there is a propensity for the auditors to write up an item as taxable and force the taxpayer to negotiate a settlement with the KDOR legal department. Many

times their audit approach is not appropriate for contractors, because contractors build on a project by project basis (some taxable, some not), while auditors are trained to go through vendor files A to Z. Consequently, the auditors are not able to cross-reference to exempt projects. They then expect the contractor to do the rest of the work for them.

There are numerous unpublished private letter rulings that have established Kansas Department of Revenue tax positions. These interpretations would be helpful to contractors, attorneys and tax practitioners, but they are never published. We are aware of instances where the KDOR has ruled regarding the facts and circumstances of one contractor one way and reverse themselves later on another contractor with similar facts and circumstances.

For example, Bernie's Excavation is a case that allowed bifurcation of certain types of contracts. Excavation contractors have been allowed to segregate their billings between taxable and non-taxable services. The KDOR has been unwilling to extend the ruling in Bernie's beyond excavation contractors. The KDOR has ruled that any services by a building clean up crew is fully taxable if they install anything as small as a light switch on the project. It should be proper to extend the bifurcation ruling to all trades, not just excavation contractors.

7. It is difficult to determine where a nexus is established on a construction contract. Nexus between states is a problem. We have had a general contractor purchase and take possession of materials outside of Kansas, transport and then install the materials in a remodeling project in Kansas? Is tax due to the other state or Kansas? Typically, both the other state and Kansas assess sales tax, penalty and interest to the contractor and the contractor must take each state's Department of Revenue to court to determine how the states are to divide the tax.

Nexus between local governments is a problem. It is difficult to track which city or county should receive credit for taxable sales. Imagine a contractor installing a fiber optic line or pipeline from Olathe through Kansas City, Kansas and ending in the city of Leavenworth. You pass through three counties and at least three cities. How do you allocate the contract amount to each government and charge sales tax? How do you determine the amount of sales tax when you bill monthly over a nine-month period on an even billing basis? Now consider you are a new bookkeeper without a college education and you are faced with figuring out this situation.

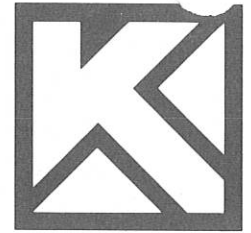
I am also a member of the National Electrical Contractors Association and the Kansas Contractors Association. I have other members of our firm who are members of the Kansas Home Builders Association. I and other BCC firm employees have attended sales tax seminars sponsored by these organizations. At each seminar, those in attendance are amazed by the common misunderstanding regarding who, what, where, when and how construction contracts are subject to sales tax. The guest speakers (usually Kansas Department of Revenue provided

speakers) say the law is not understood by those who must bill and collect it. Those speakers suggest that the contractors write their representatives and ask for the repeal of the sales tax on remodeling projects. I, too, speaking as an AGC of Kansas board member and as a practicing CPA who deals with contractors every day, ask that you repeal this law to be fair to all of the taxpayers and contractors in Kansas.

Thank you for your time today to hear from one person speaking for an industry besieged by over regulation.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 44 & SB 52

January 30, 1997

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Assessment and Taxation

by

Bob Corkins
Director of Taxation

Madam Chair and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry, and I appreciate the opportunity to express our members' views in support of the repeal of the sales tax imposed on labor used in construction remodeling projects.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

KCCI's extensive involvement in the effort to repeal the sales tax on original construction services may still be fresh in the memories of some state lawmakers. Our Chamber, numerous times

*Senate Assessment & Taxation
1-30-97
Attachment 9*

in course of that ultimately successful three-year campaign, was questioned about its desire to repeal the tax on remodeling services as well. We often voiced KCCI's support, but always responded that original construction should be a higher priority in the large scale economic picture.

Good arguments have been made in favor of repealing the remodeling tax, many of which had previously been made in favor of repealing the tax on original construction. For example, the health of the construction industry is often a bellwether of the overall economy and tax administration in this area is particularly burdensome to both the state and taxpayers. We believe that the economic stimulus Kansas experiences from the 1995 tax reduction -- evidenced by the very healthy condition of state revenues -- can now be reinforced by repealing the remodeling tax. Consequently, KCCI maintains a consistent philosophy by now appearing in support of both SB 44 and SB 52.

We acknowledge the distinction between the drafts of these proposals. SB 52 would be a broader exemption by virtue of its additional reference to "repairs." There is merit to extending the exemption to this extent because the relevant subsection, KSA 79-3603(q) (regarding the application of tangible personal property), is a major reason why Kansas' sales tax base reaches a broader number of services than those of our nearby competing states. However, KCCI is not actively seeking this sales tax base reform at this time and respectfully defers to your judgment about the timing of the "repairs" issue.

We believe SB 44 matches the intent with which KCCI and most others have sought repeal of the remodeling tax. By omitting "repairs" from the proposed exemption and its cross-reference in subsection "q", SB 44 would be more likely to apply just to labor performed on real estate and fixtures, i.e. the construction industry. Again, it's a question of economic priorities and we believe that it's more important to address remodeling first.

KCCI thanks the Governor and the many senators who have steadily raised the profile of the remodeling tax issue. We encourage your favorable action on this matter and are hopeful that 1997 is the year it will be resolved. Thank you for your time and consideration.



800 WESTPORT ROAD • KANSAS CITY, MISSOURI 64111-3198
816/931-2102 FAX 816/931-4617

MID-AMERICA LUMBERMENS ASSOCIATION

TESTIMONY BEFORE THE SENATE ASSESSMENT AND TAXATION COMMITTEE

Senate Bills # 44 and 52

January 30, 1997

Madame Chair, and members of the Senate Assessment and Taxation committee, I appear before you today as a proponent of Senate Bills # 44 and # 52. My name is Art Brown and I represent the Retail Lumber and Building material dealers in Kansas through the Mid-America Lumbermens Association.

Basically, my testimony is a reaffirmation of the testimony I presented to this committee in the 1995 session when this issue was brought before this committee. For those of you new to the Committee I said at that time that we have a policy that absolutely would support any type of Legislation that would enhance our business opportunities in the State of Kansas. We have not changed our position since that time.

It should not be any mystery that removing the tax on labor services on remodeling projects would certainly improve our business in many areas particularly many rural areas, where the fixing up of older dwellings is more the rule than the construction of new housing.

There are some issues we would like to point out to the Committee in regards to these bills.

As it has probably been pointed out by this time, there



*Senate Assessment + Taxation
1-30-97*

IN PARTNERSHIP WITH THE NATIONAL LUMBER AND BUILDING MATERIAL DEALERS ASSOCIATION

Attachment 10

is a difference between the bills as it relates to the inclusion of the word "repair" in SB 52 (page 3 line 37) and the exclusion of same in SB 44, (page 3 line 40.) Certainly this must relate to a fiscal note difference or tax administrative decision that we would leave to the wisdom of the Committee to make a final determination as to which is more prudent. Noting that difference, we would have no problem with the adoption of either bill being passed out favorably.

As you know, we as retailers are not directly effected by the elimination of this tax, as we are not paying it now. We pay a tax on the materials, regardless of whether for new construction or remodeling. However, in simplifying the tax payment process, it would certainly be easier for our customers if they did not have to make a distinction between new construction and remodeling construction when paying their taxes to the State Dept. of Revenue.

Many think of this issue as a boon to the rural areas. It should be noted that one of the most profitable stores in the Sutherland Lumber chain in the Kansas City area is the one located in the Country Club district of Kansas City at 72nd and Wornall. For those of you not familiar with the area, the overall market of homes located in proximaty to the store are older homes, built in the 20's and 30's. This would indicate most of the sales from this store are focused on remodeling and upgrading of these homes. It should also be noted that the Johnson County "boom" began after World War II. Many homes built during that time are now in the "fix up" mode as not only the second, but third generation of home owners taking up residence in these still quality built homes from that era.

We also feel that in order to obtain the optimum result that we feel is the Legislative intent of this bill in providing the maximum amount of benefit to all that would be impacted by its passage, that both residential and commercial remodeling should be kept in the language of the bill, and in the final product.

One other positive, but otherwise unintended aspect of this bill, has to do with tax collected on repairs caused by acts of nature. No secret, this State gets its fair share of severe storms and tornados. These storms do not segregate urban from rural areas as Johnson County and Wichita can attest to in the past 5 years. Such "acts of God" bring hordes of out of State contractors and roofers to Kansas, depending on the size of the occurrence. Tax is collected by out of State contractors for the labor in repairing structures damaged by hail, tornados or the like. These parties pay us tax on the material utilized and collect tax from the consumer for the labor they provide. We as a membership have often wondered what percentage of the tax collected by these out of State entities for their labor services was ever sent to the State. It is a very thin form of consumer protection, but none the less, another positive aspect of this bill if this scenario is indeed as we envision it.

One last point, is that passage of this bill would put us in parity with other States who do not charge such a tax for labor services as mentioned in these bills.

In Politics, as well as many things in life, timing seems to be of the utmost importance. This issue has been discussed many times over the past few years, but with no forward movement out of any committees.

pg 4- Testimony to Senate Tax-SB #'s 44 & 52--January 30, 1997

Hopefully, this may be the right time for this Committee, and the Senate as a whole, to see this issue passed favorably.

We hope you agree with this assessment and would look favorably to pass out either of these bills from this Committee.

I thank you for this opportunity to visit with you today about this issue and would stand for any questions or comments.

LEGISLATIVE



The Voice of Small Business

TESTIMONY

**Testimony of Hal Hudson, State Director
Kansas Chapter of the National Federation of Independent Business
Before the Kansas Senate Assessment and Taxation Committee
On Senate Bill 44 and Senate Bill 52
January 30, 1997**

Madame Chairwoman and members of the committee: Thank you for allowing me to testify today in support of the exemption from sales tax for labor services in conjunction with remodeling.

My name is Hal Hudson, and I am State Director for the 8,000-member Kansas Chapter of the National Federation of Independent Business. Our small and independent business members wholeheartedly endorse the concept of sales tax exemption of labor services for the other portion of construction -- that of remodeling. This is the logical next step after exempting new construction labor, previously approved by the Legislature.

While we do not strongly favor one bill over the other, we do believe the addition of the word "repair" on page 2, line 37 of SB 52 broadens the definition of services to be exempt.

Still, a question of definition is haunting a few of our members. I would like to raise with you questions raised by NFIB members in two different types of business.

The first comes from a heating and cooling contractor. It is this: "If in the course of modifying the heating and cooling system for a building addition it becomes necessary to add a complete new furnace, what will be the exempt status of the new furnace installation?"

The second question, from an exterminator is: "If in the course of pre-treating a building addition it is discovered that the existing building is infested with termites and requires treatment of the entire structure -- what will be the sales tax exempt status of that service?"

We are not advocating exempt or non-exempt status for either of these services. We raise these questions only in an attempt to avoid ambiguity and conflict in the future. We want to make sure that operators in these two highly competitive fields are guided by the same rules and interpretation of the law.

We commend you for moving ahead with legislation to expand the exemption of labor services in the construction field. If you should decide the report SB 44 favorably, we would encourage you to add the word "repair" as indicated above.

We urge you to report one of these two bills favorably and to support its enactment on the floor of the Senate. Thank you.

Senate Assessment & Taxation

1-30-97

Attachment 11

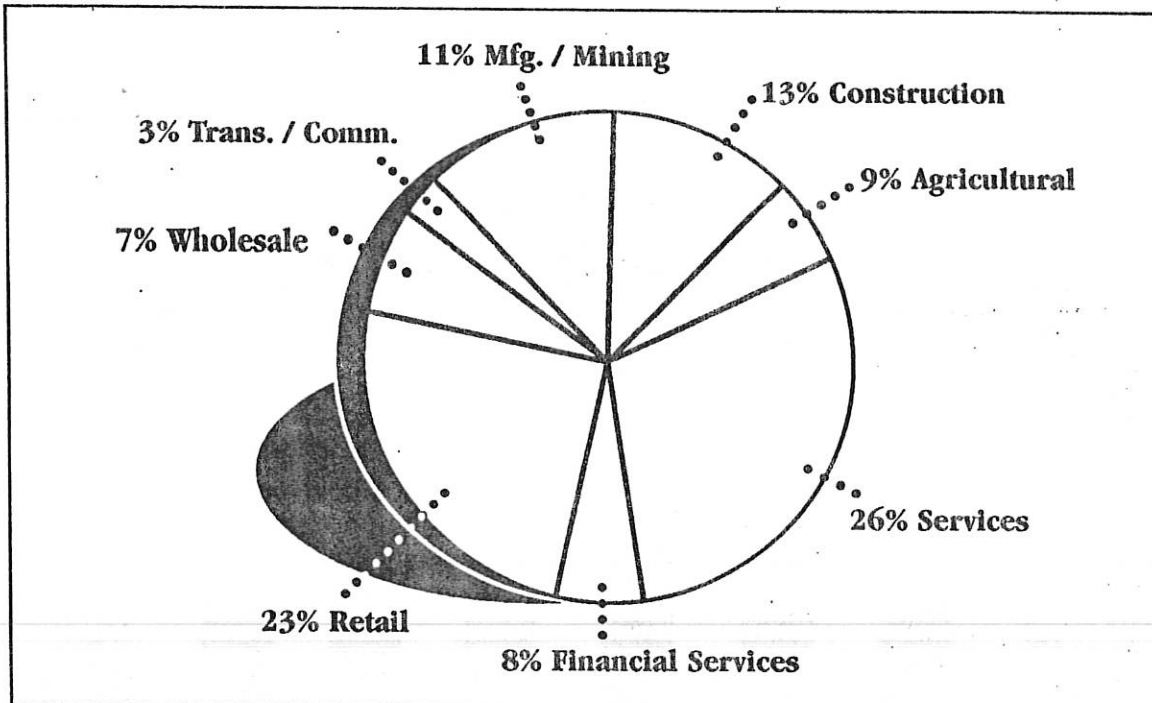
About NFIB / Kansas

Since 1943, business owners from all walks of commercial life have joined the National Federation of Independent Business to have a powerful, united voice in government decision making. Today, NFIB's Kansas chapter has more than 7,800 members, making it the largest small-business advocacy group in the state.

Each year NFIB/Kansas polls its entire membership on a variety of state legislative and regulatory issues. The federation uses the poll results to set its legislative agenda and aggressively promotes those positions approved by majority vote.

This democratic method of setting policy assures that the positions advanced by NFIB reflect the consensus views of the entire small-business community rather than the narrow interests of any particular trade group. Lawmakers wanting to know how proposed legislation and regulation will affect Main Street businesses can get the authoritative answer from NFIB's legislative office in Topeka.

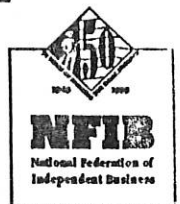
NFIB / Kansas Membership by Industry Classification



NFIB Federal Legislative Office
600 Maryland Ave. SW, Suite 700
Washington, DC 20024
(202) 554-9000

NFIB/Kansas
3601 S. W. 29th St., Suite 116B
Topeka, KS 66614-2015
(913) 271-9449

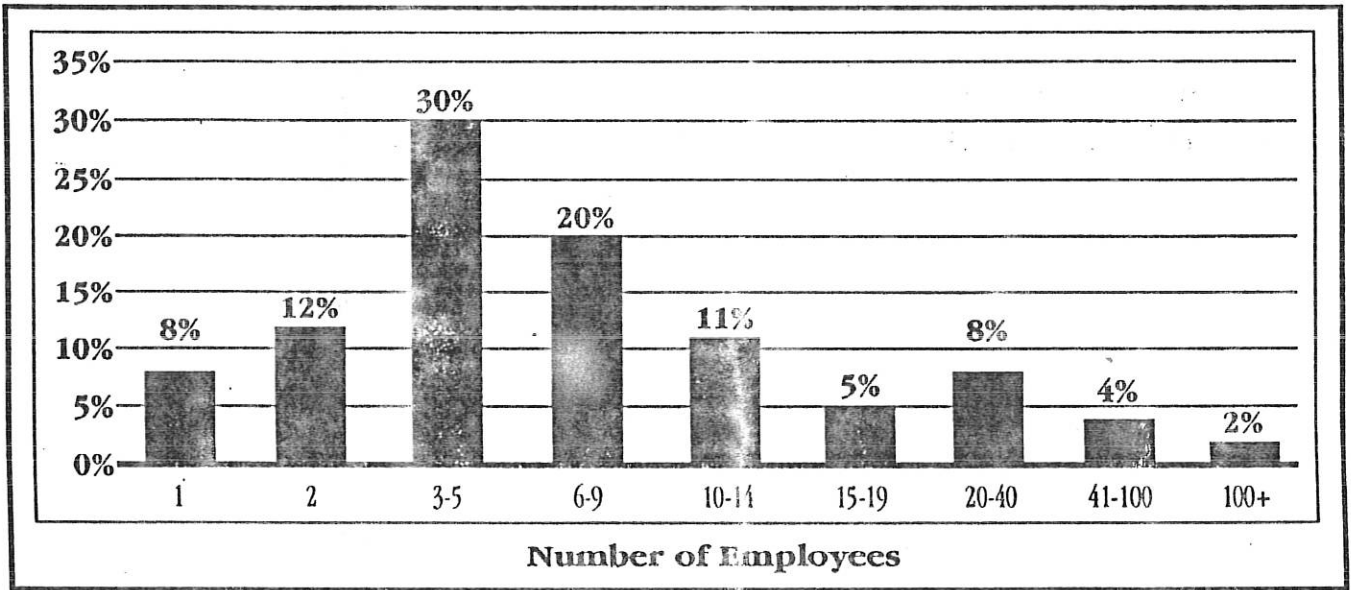
NFIB Membership Development
53 Century Blvd., Suite 205
Nashville, TN 37214
(615) 872-5300



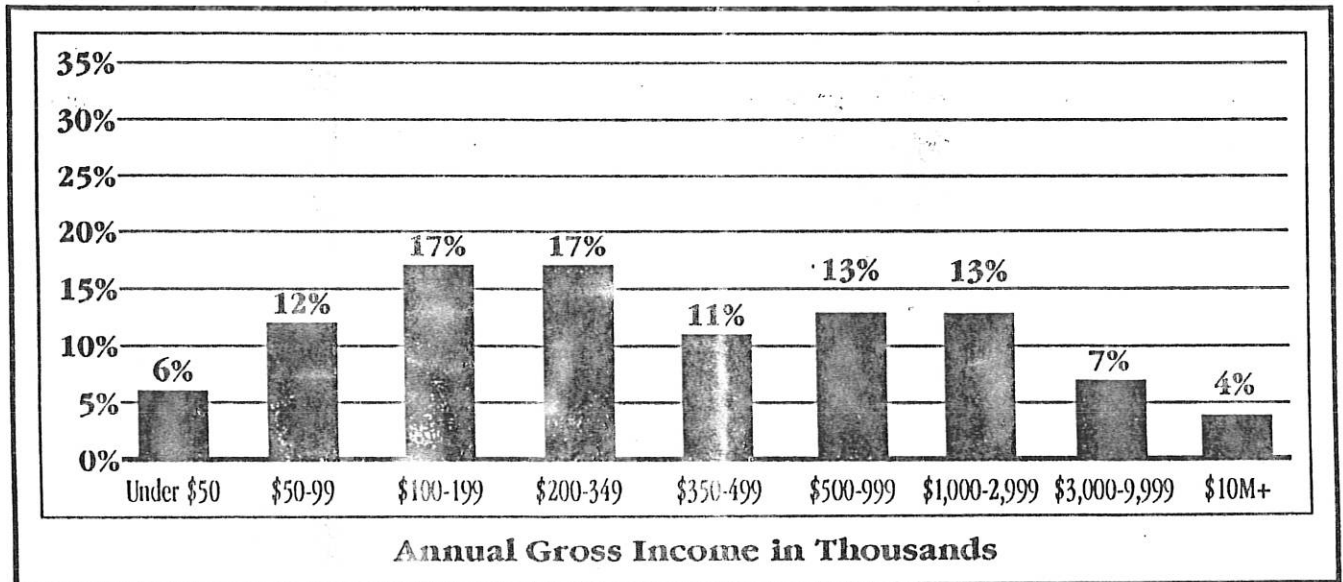
NFIB / Kansas Membership Profile

NFIB/Kansas represents the entire spectrum of independent business, from one-person home-based operations to enterprises employing more than 100 people. The typical NFIB/Kansas member is quite small, employing five workers and ringing up gross sales of about \$330,000 per year. Yet, in aggregate, the membership is a potent economic force, employing nearly 95,000 and earning more than \$8.5 billion (gross) annually.

NFIB / Kansas Membership by Number of Employees



NFIB / Kansas Membership by Annual Gross Receipts





OFFICERS

President
ROGER SCHULTZ
2805 Claflin
Manhattan, Ks 66502
913-539-9599
Fax 913-539-9544

Vice President
JOHN SAMPLES
P.O. Box 259
Osage City, Ks 66523
913-528-4163
Fax 913-528-4795

Treasurer
MICHAEL STIBAL
8112 E. Greenbriar
Wichita, Ks 67226
316-686-3984

Secretary
JOHN YOUNG
1125 Garden Way
Manhattan, Ks 66502
913-539-4687
Fax 913-539-6419

H.B.A. ASSOCIATIONS
Dodge City
Hutchinson
Lawrence
Manhattan
Montgomery County
Salina
Topeka
Wichita

PAST PRESIDENTS
Lee Haworth 1965 & 1970
Warren Schmidt 1966
Mel Clingan 1967
Ken Murrow 1968
Roger Harter 1969
Dick Mika 1971-72
Terry Messing 1973-74
Denis C. Stewart 1975-76
Jerry D. Andrews 1977
R. Bradley Taylor 1978
Joel M. Pollack 1979
Richard H. Bassett 1980
John W. McKay 1981
Donald L. Tasker 1982
Frank A. Stuckey 1983
Harold Warner, Jr. 1984
Joe Pashman 1985
Jay Schrock 1986
Richard Hill 1987
M.S. Mitchell 1988
Robert Hogue 1989
Jim Miner 1990
Elton Parsons 1991
Vernon L. Weis 1992
Gilbert Bristow 1993
James D. Peterson 1994
Tom Ahlf 1995
R. Neil Carlson 1996

SENATE
ASSESSMENT AND TAXATION COMMITTEE
January 30, 1997

SB 44 & SB 52

MADAM CHAIR AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs, representing the membership of the Kansas Building Industry Association in support of the repeal of the sales tax on the labor, overhead and profit portion of contracts for remodeling.

Our membership strongly supports any measure which will reduce the cost of providing safe, habitable and affordable housing for Kansans AND simplify the collection and reporting of sales tax.

I am sure you have heard all the arguments regarding equity between new home buyers and those remodeling their existing residence because they cannot afford to purchase a new home, do not want to change locations, or just want to improve their home with new cabinets, new deck, etc.

However, when you are considering the loss of revenue figures, please consider that in 1995, the last year the U.S. Census Bureau collected data on remodeling permits, Kansas remodeling of residential property permits was just under \$75 million. Of that figure, we question whether some of the permits would not have been considered new construction in Kansas. However, using that \$75 million figure and considering 50% for LOP, you find that about \$1.84 million would be the figure for lost revenue on residential remodeling.

Senate Assessment + Taxation
1-30-97
Attachment 12



“Non-residential and non-housekeeping include additions, alterations, and conversions” making some of these figures qualify for “original construction” in Kansas and already exempt from sales tax on the LOP. However, that figure is stated to be \$337,587,000. Again, making the 50% assumption for LOP, would generate \$8.28 million revenue loss on commercial remodeling. Thus making a total revenue loss of approximately \$10.12 million on both residential and commercial permits.

If you doubt the accuracy of the figures regarding the residential remodeling dollars spent in Kansas, then double that figure and arrive at \$ 3.7 in revenue loss. Of course, we have not considered “repairs” in these calculations. Leadership of the KBIA has never considered that issue and, therefore, I have no official position to give you on exemption for “repairs”.

Kansas sales tax laws are extremely confusing. Complaints are heard constantly from the KBIA membership. I experienced this first hand when preparing a subcontractor’s report for the 4th quarter of 1996 last week. Calling my accountant did not resolve the questions. On the second call to the Dept., we finally agreed to complete the form by putting figures that reflect what was actually collected but did not accurately reflect a response to the question on the form, in my opinion.

The form to be used by contractors is now the one completed by other retailers and is very difficult to adapt to the construction business. Exempting the LOP on remodeling would simplify the recording and reporting process for the membership and would be a step in the right direction.

We continue to believe that a remodeling sales tax exemption would provide economic benefits via revenue on materials tax which might not otherwise be purchased and revenue from additional income tax from additional wages earned.

In areas near the borders of the State, we feel sales tax exemption on remodeling LOP would provide a level playing field for the Kansas members of the industry. Therefore, we urge the Committee to act favorably on the subject of repeal of the sales tax on the labor, overhead and profit portion of remodeling contracts.

AIA Kansas

A Chapter of The American Institute of Architects

January 30, 1997



President

Vincent Mancini, AIA
Garden City

President Elect

Alan M. Stecklein, AIA
Hays

Secretary

Gregory E. Schwerdt, AIA
Topeka

Treasurer

David G. Emig, AIA
Emporia

Directors

Neal J. Angrisano, AIA
Overland Park

Richard A. Bartholomew, AIA
Overland Park

Leslie L. Fedde, Associate AIA
Wichita

Robert D. Fincham, AIA
Topeka

Tod A. Ford, Associate AIA
Wichita

Sarah L. Garrett, AIA
Manhattan

John Gaunt, FAIA
Lawrence

Diana L. Hutchison, AIA
Topeka

Eugene Kremer, FAIA
Manhattan

Bruce E. McMillan, AIA
Manhattan

Wendy Ornelas, AIA
Manhattan

Charles R. Smith, AIA
Topeka

F. Lynn Walker, AIA
Wichita

John M. Wilkins, Jr., AIA
Lawrence

TO: Senator Langworthy and members of the Senate Assessment and Taxation Committee

FROM: Trudy Aron, Executive Director

RE: Support for SB 44 and SB 52

I am Trudy Aron, Executive Director, of the American Institute of Architects in Kansas (AIA Kansas.) Thank you for allowing me to testify in support of SB 44 and SB 52 which removes the sales tax on labor services for remodeling and renovation in building construction.

Our association represents over 600 architects throughout the State. Our membership includes architects in private practice offering architectural services to the public, well as those who are employed in education, industry and government.

Currently, the State of Kansas does not charge sales tax on the labor services involved in original construction, SB 44 & SB 52 would exempt all building construction from sales tax on labor services. We believe this change is long overdue.

In addition to bringing parity to the way labor services are treated in all building construction, we believe most property owners will use the tax savings to increase the overall budget for their projects which will have economic benefits for the State.

We urge you to act favorably on these bills.

I'll be happy to answer any questions you may have.

Executive Director

Trudy Aron, Hon. AIA, CAE

700 SW Jackson, Suite 209
Topeka, Kansas 66603-3757
Telephone: 913-357-5308
800-444-9853
Facsimile: 913-357-6450

Senate Assessment & Taxation
1-30-97
Attachment 13



EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

OFFICERS

PRESIDENT
MIKE BRAXMEYER
Atwood

1st VICE-PRESIDENT
DUANE CROSIER
Seneca

ASST. TREASURER
JOHN CUNNINGHAM
Shawnee Mission

BOARD OF DIRECTORS

CHAIRMAN
SKIP KLEIER
Carbondale

GLEN CATLIN
Herington

TOM FLOERSCH
Fredonia

ROY FRIESEN
Syracuse

ARNIE GRAHAM
Emporia

STAN HAYES
Manhattan

JOHN McKEEVER
Louisburg

LEONARD McKENZIE
Overland Park

GEORGANNA McCRARY
Russell

CLIFF O'BRYHIM
Overbrook

LEROY WARREN
Colby

J. R. WAYMIRE
Leavenworth

BILL WEST
Abilene

**DIRECTOR OF
GOVERNMENTAL AFFAIRS**

FRANCES KASTNER

January 30, 1997

**SENATE ASSESSMENT AND TAXATION COMMITTEE
SUPPORTING SB 44 AND SB 52**

Thank you for the opportunity to express the views of the Kansas Food Dealers Association. Our membership includes retailers, distributors and manufacturers of food products.

Allowing the sales tax exemption of remodeling and repairs to all buildings is a major boon for the businesses that can not afford to build a new facility. By eliminating the state sales tax you have in essence allowed the businessperson the opportunity to spend an additional 4.9% towards his effort to better serve his customers or improve efficiency in his own operation.

We respectfully request your favorable consideration of SB 44 os SB 52.

Frances Kastner, Director
Governmental Affairs, KFPA

Senate Assessment + Taxation
1-30-97
Attachment 14