

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 10, 1998 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Rep. Bruce Larkin
Rep. Marti Crow
Larry Rhodes, Topeka
LewJene Schneider, Kansas Livestock Association

Others attending: See attached list

Chair opened hearing on:

HB 2785 - Inheritance tax distributee deduction amounts increased.

Proponents:

Rep. Bruce Larkin (Attachment 1)
Rep. Marti Crow (Attachment 2)
Larry Rhodes, Topeka (Attachment 3)

Opponents:

LewJene Schneider, Kansas Livestock Association (Attachment 4)

Chair announced continuation of hearing on **HB 2785** at February 11 meeting.

Written testimony on **SB 500** from Janet Stubbs, Kansas Building Industry Association, Inc. was passed out to the Tax Committee. (Attachment 5)

The next meeting will be held on February 11, 1998.

Adjournment

Attachments - 5

BRUCE F. LARKIN
REPRESENTATIVE, DISTRICT SIXTY-THREE
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TOPEKA

HOUSE OF
REPRESENTATIVES

AGENDA CHAIR

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: TAXATION
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MEMBER: EDUCATION
TOURISM

February 10, 1998

CURRENT INHERITANCE TAX taxes the higher of the inheritance tax or the pick-up tax.

Inheritance tax is a tax on the individual that receives money from an estate.

Pick-up tax is a tax on the estate - \$625,000 exemption under Federal law.

By using a level of exemption the inheritance tax can target relief to certain classes of heirs.

Kansas has 3 classes:

- A. Lineal Ascendents & Decendents, i.e., parents, grandparents, children, grandchildren, great grandchildren, etc.
- B. Brothers and sisters.
- C. All other.

Kansas law gives a \$30,000 exemption for Class A heirs and a \$5,000 exemption for Class B. This has not been raised for 20 some years.

The Governor's proposal would repeal the inheritance tax and leave the pick-up tax in place making all estates subject to the \$625,000 exemption.

New federal law gives an estate exemption of 1.3 million for qualified farms and small businesses. The Governor's plan has a fiscal note of \$23.1 million this year and \$54.6 million next.

The plan I would propose would raise the exemption level from \$30,000 to \$1 million for Class A.

Class B would be raised from \$5,000 to \$50,000 or \$100,000. The fiscal note for \$50,000 would be \$8 million this year and \$18.9 million next year. The

fiscal note for \$100,000 exemption would be \$8.2 million this year and \$19.3 million next year for a difference of roughly \$36 million.

This proposal would exempt over 99% of Class A heirs from the inheritance tax.

If the goal of inheritance tax reform is to make it easier to pass on the family farm or business to children and grandchildren, then this proposal accomplishes that goal.

The Governor's plan would grant a \$36 million tax cut for Class B & C heirs, many of whom live out of state.

From a public policy perspective, wouldn't it be better to use this \$36 million to reduce other taxes that would benefit all Kansans?

The exemption level could be raised to \$10 million for Class A heirs and it would only add \$1 million to the fiscal note. This is because nearly all heirs in this category would fall under the pick-up tax.

Spouses and charitable donations are exempt under current law.

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TOPEKA

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Testimony Before the House Committee on Taxation

February 10, 1998

House Bill 2785

I appreciate the opportunity to share my thoughts on House Bill 2785 and inheritance tax changes with you.

I have the opportunity, as a small town attorney, to talk to clients about estate planning questions. I also volunteer once an month on the Elder Law Hotline, so I know that many of our constituents are concerned about making proper arrangements for their family upon their death. An overriding concern I hear is to make provisions for children, parents, wives and husbands, grandchildren, sisters and brothers. I have heard from small businessmen and women who want to pass their business to their children or keep land holdings in the family. In my opinion the inheritance tax changes in HB 2785 are good for families, no matter what their family income.

I have also talked to my constituents about tax cuts. Of course, everyone has their favorite form of tax relief, but most of the people I have talked with want good tax policy, fair taxes that make sense. They want us to provide tax cuts to those who need relief and in places where the economy will be strengthened. HB 2785 provides common sense inheritance tax relief. It furthers a state policy of allowing families to provide for family members by exempting from taxes most bequests to parents, children (including adopted children and step-children), grandchildren, brothers and sisters, and all lineal descendants, including in-laws. This legislation targets tax relief to family members who inherit. Husbands and wives and charities are already exempt under current law. According to the lawyer in my firm who handles our probate cases, passage of this bill will eliminate inheritance tax for nearly every estate he handles.

This plan costs \$35 million less next year than if the inheritance tax is eliminated completely. An inheritance is a windfall when the beneficiary is a distant relative

or nonfamily member. It is not unreasonable to tax that windfall inherited wealth, especially when taxes are levied on hard-earned wages and necessities like food and medicine and homes. Given the choice, Kansans would rather we provide tax relief on their property, their businesses, their income, and their necessities instead of exempting distant relatives and nonfamily beneficiaries.

Thank you for the opportunity to testify before you today.

Testimony on House Bill 2785

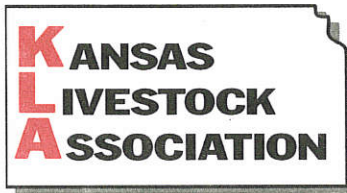
My name is Larry Rhodes, 5319 SW Lancaster, Topeka. I am retired from the Postal Service; and I am not one of the Topeka residents who feels called to protest every cent expended to conduct the business of government. I believe in government, and I believe in taxes -- fair, progressive taxes. The "life, liberty, and pursuit of happiness" in our Declaration of Independence is the basis of the social contract that we have between ourselves and our government. Let those who would repeal that social contract forego calling the fire department the next time their house is burning. Government services exist for the benefit of all, and they must be funded.

House Bill 2785 is a fair tax. It reduces the inheritance tax, and it applies most of its benefit to Kansas citizens. Kansas' inheritance tax has long been criticized for the burden that it has placed on the assets-rich, cash-poor family farm or small business. This bill with its realistic exemptions for Class A and B heirs would change that; and is something that should be done in any event. This bill also costs much less than the governor's proposal, an amount of money that could be used to benefit more Kansans.

I favor reducing, and eventually eliminating, the sales taxes on food. As long as there are families who must pay a major portion of their incomes for the means of life, it is a regressive tax that hurts citizens with lower-incomes and fixed-incomes the most. We've heard complaints of the difficulties of reducing or eliminating the food sales tax; but if Missouri and thirty-three other states could find a way to do it, surely Kansas can. The fallout of lowered food taxes may not be as harsh as forecast; because most families will spend what they save at the grocery store for taxable shoes, clothing, or school supplies. If they just spend it on more food, they increase the grocer's profits, which results in higher taxes from the business.

But that's not what is to be considered at this time. Please vote for House Bill 2785, and put Kansas on the road towards more equitable taxes.

Larry Rhodes
5319 SW Lancaster
Topeka KS 66604-2309
785-273-0786



Since 1894

Testimony

presented by

LewJene Schneider,
Director of Research and Legal Affairs

regarding

House Bill 2785

before the

House Taxation Committee

February 10, 1998

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 7,300 members on legislative and regulatory issues. KLA members are involved in all segments of the livestock industry, including cow-calf, feedlot, seedstock, swine, dairy and sheep. In 1996 cash receipts from agriculture products totaled over \$7.5 billion, with sixty percent of that coming from the sale of livestock. Cattle represent the largest share of cash receipts, representing ninety percent of the livestock and poultry marketings.

House Taxation
2-10-98
Attachment 4-1

Chairperson Kline and members of the House Taxation Committee, thank you for the opportunity to testify today. My name is LewJene Schneider. I am the Director of Research and Legal Affairs for the Kansas Livestock Association.

I am appearing as an opponent of House Bill 2785. Even though the bill increases the amount Class A heirs may inherit from \$30,000. to \$1,000,000., and allows Class B heirs to inherit \$100,000., rather than the current \$5,000, KLA does not support its passage and urges you to address the issue in ways presented previously to this committee.

KLA members believe the way to address this issue is to repeal the Kansas Inheritance Tax in total. Not increase the distributable estate exemption.

As you recall, I have appeared before you twice this year asking you to give favorable consideration to the House and Senate Bills which propose total repeal of the Kansas Inheritance Tax.

KLA members believe inheritance taxes are a major burden on all Kansans, especially those with family farms, ranches and small businesses. I question whether this bill's intent is to simplify the process, or treat middle and larger sized businesses in a manner that appears excessive and unjust. Is the intent of this bill to dissolve family businesses and farms and force redistribution of wealth that has been previously taxed?

Research indicates that roughly two-thirds (2/3) of the inheritance tax is paid on estates less than \$600,000. Therefore, I would argue that the Kansas Inheritance Tax is still a regressive tax under this bill, especially for Class B and Class C beneficiaries.

The Kansas Inheritance Tax taxes the beneficiaries. The actual amount of tax is determined by the relationship of the beneficiary to the decedent. Brothers and sisters would be allowed a \$100,000. exemption. Nephews, nieces and brothers-in-law continue to receive NO exemption, and pay at a rate of 10% to 15%. One's children would still be taxed at a top rate of .05%.

Of further interest is the provision that the property that is calculated in the exemption must be located in the state of Kansas. I question how mutual funds and stocks would be addressed.

I note that the amounts for Class A and Class B exemptions have NOT been "indexed" to keep up with inflation. I would encourage the bill be amended for indexing, if this bill should pass.

Further disappointment in this bill is the time requirement of the forms and calculations that must be made on the Kansas Inheritance Tax form and a Federal Estate Tax form. It does not appear that the best interest of the Kansas

resident has been considered in this bill. I make note that the current Kansas Inheritance Tax form for estates not required to file a federal estate tax return (IH-90) is 23 pages long and the instruction booklet is 18 pages long.

Those estates filing a United States Estate Tax Return (Form 706), the form is 39 pages long and the workbook 23 pages. The accompanying Kansas Inheritance Tax Form (IH-80) is 12 pages long and the instruction booklet is 21 pages long. It does not appear the Kansas resident's request for simplification has been addressed.

Attached to my testimony is a letter from a CPA firm here in Topeka. Even with proper estate planning, pursuant to this bill, it is my opinion that an estate could be set-up to be non-taxable at the federal level, but would be taxable to Kansas if left to a beneficiary of any Class, if the estate was larger than the exemption.

The Inheritance Tax in Kansas is currently being paid by real property owners. I would suggest when many Kansas residents decease, their families are unaware of the Kansas Inheritance Tax Law if the deceased had assets, but no real property. Consequently, many times only people who own a home or land and must have "clear title" to sell their real estate pay this tax. Therefore, they must hire an attorney and file the forms. This will still be required under this bill.

Kansas has three different inheritance tax forms. The federal government has its own form. The estate or beneficiary incurs an expense in hiring an attorney or CPA to fill out the forms and file them. Therefore, it becomes rather obvious why estates without real property many times do not file the forms and will not file the forms and pay the tax. It is questionable whether this tax is being fairly collected and is a fair and equitable tax. I do not believe HB 2785 addresses this concern.

The repeal of the Kansas Inheritance Tax would require only one estate tax form be filled out and filed. That return would only be filed if a federal return was required. Not only would this simplify the procedure, it will reduce the cost of administration of an estate, and reduce the cost of the administration of the program in the Kansas Department of Revenue.

Please know, all money in a deceased's estate has been taxed at least once, either as personal income, personal property tax, corporate income tax, dividends or capital gains. Therefore, it hardly seems fair that Kansas would continue to require a beneficiary to pay an additional tax of up to 15%. Does Kansas believe in "taxing to death"? When is enough enough?

KLA respectfully requests complete repeal of the Kansas Inheritance Tax law and asks you to vote against House Bill 2785.

Thank you

The **BCC** Group

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February 2, 1998

Kansas Livestock Association
Lewjene Schneider
6031 SW 37th Street
Topeka, KS 66614-5129

Re: Kansas Inheritance Tax

Dear Lewjene:

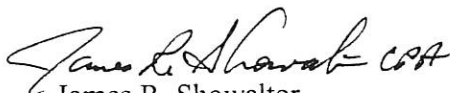
You recently asked if we had an example of a federal estate return and Kansas inheritance tax return that we prepared that was non-taxable by the federal government but taxable to Kansas. We do in fact have one. The facts follow below.

An area farmer died, leaving a gross estate of approximately \$1,400,000. Through proper estate planning this was not taxed at the federal level by using a marital trust and a family trust. The family trust consisted of farm property that will be distributed to the farmer's children when his wife dies. The children will continue to operate the farms, just as they did before the farmer's death. The bequests to the surviving spouse were designed to reduce the federal taxable estate down to approximately \$600,000. As a result, the maximum unified credit reduced the federal estate tax to zero.

The state of Kansas, however, looks at the family trust differently. Kansas assesses an inheritance tax based on the remainder interest. The remainder interest is computed by using the life interest tables based on the age of the survivor (in this case, the farmer's wife), who will receive the income of the family trust until her death. The remainder interest is applied to the children. In our client's case, this calculation resulted in inheritance tax payable to the state of Kansas in the amount of \$1945.01. Had the couple only had one child, the Kansas inheritance tax would have been \$6838.70. This trust only owns farm land, and the liabilities attributable to that land. My experience shows that farmers generally have their money invested in their land and equipment, and, therefore, do not have large amounts of cash readily available to pay taxes of this nature.

If you have any questions, please call me.

Sincerely,


James R. Showalter
Shareholder



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WRITTEN TESTIMONY
to
HOUSE ASSESSMENT & TAXATION COMMITTEE

I am Janet Stubbs, Executive Director of the Kansas Building Industry Association, Inc., representing approximately 1350 members of the residential and light commercial construction industry. We strongly support SB 500 for the portion giving an exemption from sales tax on remodeling for residential construction.

The KBIA has long had a policy in support of the repeal of the sales tax on labor, overhead and profit on remodeling just as we urged the repeal for this tax on new construction. We believe individuals who either cannot afford to construct a new home or choose not to move from their existing home, should be able to remodel and improve their home without paying sales tax on the cost of anything except the material used in the remodel project.

As local officials in communities throughout Kansas strive to provide affordable, habitable housing for the citizens of Kansas, State officials should support their efforts through reduction of the cost of rehabilitation of existing homes.

As government regulations increase housing costs, more families are priced out of home ownership and improved living conditions. The economic gains through increased employment and taxes generated from this activity should be an incentive to elected officials from all areas of Kansas. It is also our belief that the fiscal note on this exemption will be significantly less than the estimated amount for residential remodeling and restoration.

We recognize the desire to reduce the real estate property tax and fully support this effort. However, the removal of the remodeling tax could mean a great deal to a family wanting to improve their family's living conditions.

Thank you for your consideration of our brief comments. We urge your approval of the repeal of the sales tax exemption for at least residential remodeling.

House Taxation
2-10-98
Attachment 5-1

JANET J. STUBBS, Executive Director

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