Approved: ______________________
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 18, 1998 in Room 519-S of the Capitol.

All members were present except: Rep. Clark Shultz
Rep. Terry Presta

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

Conferees appearing before the committee:
Rep. Ted Powers
Robert Dunlap, Equity Standard Coins, Wichita
Rep. Jack Wempe
Rep. Dennis Wilson
Don McNeely, Kansas Auto Dealers Assn
Bill Dvorak, AT&T
Michael Murray, Spring
Shirley Sicilian, Department of Revenue
Jack Glaves, Duke Energy
Tom Tunnell, Kansas Grain & Feed Assn

Others attending: See attached list

Chair opened hearing on
HB 2852 - Sales tax exemption for coins and bullion

Proponents:
Rep. Ted Powers (Attachment 1)
Robert Dunlap, Equity Standard Coins, Wichita (Attachment 2)

Written testimony from:
Diane Piret, Industry Council for Tangible Assets (Attachment 3)
Gary Strutridge, American Numismatic Assn. (Attachment 4)

Closed hearing on **HB 2852**

Opened hearing on

HB 2695 - Motor vehicle sales tax exemption

Proponents:
Rep. Jack Wempe (Attachment 5)
Rep. Dennis Wilson (Attachment 6)
Don McNeely, Kansas Auto Dealers Assn (Attachment 7)

Closed hearing on **HB 2695**

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on March 18, 1998.

Opened hearing on

HB 2643 - Sales tax definitions and exemptions

Proponents:

Bill Dvorak, AT&T (Attachment 8)
Michael Murray, Sprint (Attachment 9)

Jack Glaves, Duke Energy

Mr. Glaves expressed his concern that reference to Code 13-30 which relateds to liquid extraction had been eliminated from the bill and requested that the reference be amended back into the bill.

Shirley Sicilian, Department of Revenue (Attachment 10)

Ms. Sicilian enumerated the proposed changes for clarification. On question, she stated it was not their intent to change the present law.

Opponent:

Tom Tunnell, Kansas Grain & Feed Assn (Attachment 11)

Closed hearing on **HB 2643.**

Moved by Representative Franklin, seconded by Representative Shore, committee introduce a bill on prepaid calling cards with sales tax applied at point of purchase and place it on the consent calendar. Motion carried.

The next meeting is scheduled for March 19, 1998.

Adjournment

Attachments - 11

TAXATION COMMITTEE GUEST LIST

DATE: March 18, 1998

NAME	REPRESENTING
Bill Lauree	BOEING
Erika Unger[illegible]	Steve Montgomery
Gay Beth Moore	Haskell Co. - Kansas Farmers (KFB)
Helen Norris	Sumner Co - Ks Farm Bureau
Jackie Clark	Hallmark
Ashley Sherard	Overland Park Chamber
Christy Caldwell	Topeka Chamber of Com.
Bernie Koch	Wichita Area Chamber
[illegible] Holthaus	Western Resources
[illegible]	KS AUTO DEALERS ASSN.
RICK Scheibe	KDOR

TAXATION COMMITTEE GUEST LIST

DATE: March 18, 1998

NAME	REPRESENTING
William Drořák	AT&T
Virginia Stam	AT&T
Nikki Reecht	AT&T
Tom Hatten	KDR
Don Schnacke	KIOGA
Doug Wareham	Ks. Grain & Feed Assn. Ks. Fertilizer & Chemical Assn.
Tom Tunnell	KS GRAIN & FEED ASSN. KS FERT & CHEM ASSN
Joe Lieber	KS. Co-op Council
Kathy Peters	Peters & Assoc
Jack Glaves	Opy Duke & G-N
Tom Whitaker	Ks Motor Carriers Assn
Bill Watts	KDOT
Erik Sartorius	Pete McGill & Assoc.
Heather Randall	Whitney Damron, P.A.
Kelly Kultala	City of Overland Park
Bert Brown	Mid-Am Lumbermans

STATE OF KANSAS

TED POWERS
REPRESENTATIVE, 81ST DISTRICT
HAYSVILLE • MULVANE
1492 N. POWERS DR.
MULVANE, KANSAS 67110
(316) 777-4310

ROOM 175-W CAPITOL BLDG.
TOPEKA, KANSAS 66612
(913) 296-7653

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
EDUCATION
GOVERNMENTAL ORGANIZATION AND ELECTIONS
TRANSPORTATION
INTERIM ON CHILDREN AND FAMILIES

March 18, 1998

TESTIMONY ON HB-2852

HOUSE TAXATION COMMITTEE

$1,000.00 Diminimus
Colorado SB-76
Bullion Silver, Gold, Platinum

Intra-State Sales Tax vs. Income Tax
Economic Development

1965 Federal Coinage Act (Intrinsic Value)
1979 Bunker Hunt Act

Since 1968 Shrinkage Local Coin Stores and Shows
Numismatic
Syndrome Louisiana - Blanchard - Colorado and
The Internet

No fiscal impact

Rep. Ted Powers

March 18, 1998

.mony as proponent of H.B. 2852
by
Robert Dunlap II owner
Equity Standard Numismatics Of Kansas
8237 East Kellogg
Wichita, Kansas 67207-1811
Ph. 316-689-8773

To: Committee on Taxation

Subject: Sales tax exemption for precious metals and rare coins

H.B. 2852 WILL CREATE EQUAL OPPORTUNITY FOR KANSAS BUSINESSES AND CONSUMERS

1. 19 states have sales tax exemption on precious metals and rare coins.
Illinois(a member of the midwest border compact which includes Kansas) and Texas are 2 of the 19.

2. 6 states not including Kansas are crafting or in process for an exemption.
Colorado is in the second house(Senate Bill 76). Missouri and Minnesota(also members of the midwest border compact) currently have Legislation being crafted for an exemption.

3. Kansas businesses are losing sales to out of state competition.
Kansas is at a competitive disadvantage with sales tax exempt states not only for sales of precious metals and rare coins but regional and national conventions for these products. Out of state companies use sales tax exemption as a powerful tool when advertising in Kansas taking revenue away from my business and businesses like mine, ultimately the state. The number of primary retailers for these products in Wichita alone is half what it was 10 years ago.

4.Kansas investors are at risk.
Kansas comsumers are motivated to buy out of state due to sales tax making them targets for telemarketing scams. Sales tax exemption would allow Kansas investors to buy locally overcoming the vulnerability of telemarketing scams and at the same time by buying locally crate revenue for the state that otherwise would be lost.

House Taxation
3-18-98
Attachment 2-1

Robert Dunlap II
District Delegate American Numismatic Association
International Society of Appraisers
Life Member #4227 American Numismatic Association

ICTA®

INDUSTRY COUNCIL FOR TANGIBLE ASSETS

TESTIMONY IN SUPPORT OF HB 2852

DIANE PIRET, INDUSTRY AFFAIRS DIRECTOR
INDUSTRY COUNCIL FOR TANGIBLE ASSETS (ICTA)

KANSAS HOUSE OF REPRESENTATIVES, TAXATION COMMITTEE
THE HONORABLE PHILL KLINE, CHAIRMAN

WEDNESDAY, MARCH 18, 1998

The Industry Council for Tangible Assets (ICTA) supports Kansas HB 2852 which will benefit both consumers and businesses in Kansas by keeping business within the state. HB 2852 provides an exemption from sales taxes for rare coin and precious metals investment products. ICTA is a non-profit national trade association representing dealers engaged in the rare coin and precious metals business.

HB2852 will:

1. PROVIDE A FAIR MARKET PLACE FOR THE WORKING PERSON who wishes to invest in precious metals and rare coins. Currently, Kansas residents are "forced" to spend their investment dollars with businesses outside their home state.

Being able to buy locally also means certain safeguards for the small investor who is no longer forced to buy out-of-state, and possibly become vulnerable to telemarketing scams, which always prey on out-of-state buyers. [The problem of investment opportunity telemarketing fraud has become so serious that the 1995 Federal Trade Commission (FTC) Telemarketing Rule created special requirements for only two areas: prize promotions and investment opportunities.

When sales taxes are applied to investment products, it is the small investor (who can least afford it) who is penalized.

A. For the smaller investor, who can only make small purchases for his portfolio, the Kansas state sales tax acts as a 4.9% penalty.

B. Sales taxes increase the cost of these investments, thereby interfering with their performance as profit-generating vehicles.

P. O. Box 1365 • Severna Park, Maryland 211
Telephone 410-626-7005 • Fax 410-626-7

C. The Taxpayer Relief Act of 1997 includes language that defines precious metals products as acceptable investments for Federal IRA programs.

D. Unlike dollars that are **spent** on consumer products (which are appropriately taxed), investment dollars are "**working**" funds which should be exempt from such taxation.

2. **PROVIDE KANSAS SMALL BUSINESSES WITH A LEVEL PLAYING FIELD WITH THOSE 19 STATES THAT ALREADY HAVE THIS EXEMPTION.**

Kansas companies are losing business to neighboring states. In fact, many out-of-state companies direct their advertising to Kansas consumers citing "no sales tax" in the Yellow Pages and other print media.

In addition to Kansas, six other states are currently examining exemption legislation: Colorado, Florida, Michigan, Missouri, Minnesota and Nevada.

3. **PROVIDE ADDITIONAL TAX REVENUE FOR THE STATE** that will be generated via replacement taxes from increased sales of products that remain taxable, increased business income taxes, and new jobs in Kansas.

Without the exemption, Kansas not only does not collect any sales taxes on out-of-state transactions, but also loses sales taxes on other impulse purchase items that would remain taxable, such as jewelry, books and supplies.

ICTA has compiled recent sales tax collection statistics from Ohio that show sales tax collections in 1997 (**with** the exemption) were more than **double** those collected in 1989 (before the exemption.) A sales tax exemption for precious metals and rare coins has proven to be so successful in other states that these exemptions have been renewed upon review by the state legislatures.

4. **STOP THE EXODUS OF BUSINESSES AND TRADE SHOWS FROM KANSAS TO TAX EXEMPT STATES**, and the loss of related Kansas tax collections.

ICTA hopes this brief outline will be helpful in the Committee's consideration of HB 2852. We would be pleased to respond to any questions the Members might have.

The House of Stuart, Ltd.

Coins, Jewelry, Collectibles
5960 Lamar/Mission, KS 66202
Phone (913) 831-1684/FAX 831-3134

Serving The Collector
& Investor Since 1969.

March 17, 1998

Dear Committe Members,

As a full time coin dealer since 1964, I appreciate your taking the time to consider eliminating sales tax on collector/bullion coins. Unfortunately in the last thirty-five years I have seen two major negative trends. The first is a reduction in the number of collectors. The second is a closing of many of the "Mom and Pop" coin shops and a growing number of out of state "Mega Firms".

These Mega Firms in many cases offer coin prices that are competitive,(except for some telemarketing abuses), but of course, collect no sales tax. In fact, some out of state companies promote their no sales tax policy to our Kansas customers. I can show from wholesale prices on our national teletype system that the average dealers mark up on a one ounce gold American Eagle coin is approximately ten dollars per coin (approximately 3%). Gold is currently $295.00 per ounce which means that the current sales tax on that ounce of gold would be $22.00 including local taxes more than twice our charge for stocking and handling!

For a few dollars per year an interested buyer can subscribe to the leading national weekly coin paper that has hundreds of dealers offering collector and bullion coins without sales tax. It has been my experience that we make many sales of one and twos but the "big sales" typically go out of state for obvious reasons. It is my understanding that approximately 19 states currently have sales tax exemption for coins. If you could give us the same relief it would be appreciated. This tax relief could also be helpful in Kansas attracting some larger regional and national coin conventions.

Regards,

Gary Sturtridge
Life Member American
Numismatic Association
#645
Past President of
Professional Numismatic
Guild

Gary Sturtridge
Authorized PCGS Market Maker
Life Member ANA 645 Professional Numismatists Guild Inc

House Taxation
3-18-98
Attachment 4-1

STATE OF KANSAS

J. R. (JACK) WEMPE
STATE REPRESENTATIVE
895 MAIN, P O BOX 187
LITTLE RIVER, KANSAS 67457
(316) 897-6459
FAX (316) 897-6286

COMMITTEE ASSIGNMENTS
MEMBER: TAXATION
EDUCATION
TOURISM
STATEHOUSE: 284-W; (785) 296-7665

TOPEKA

House Tax Committee
March 18, 1998

Jack Wempe

Chairman Kline and members of the committee.

House Bill 2695, like any sales tax exemption bill, would further erode the tax base. But it would do so in a progressive manner. It would exempt the first dollars of a major purchase from taxation much like the first dollars of income are exempted by a standard deduction.

Every purchaser of an automobile would be the recipient of the exemption. Yet, as a percentage cost of transportation, the advantage would rest with the purchaser of a vehicle with a value of 2,000 or less. A 98 dollar savings on a 2,000 dollar vehicle represents a savings of almost 5 percent. A 98 dollar savings on a 20,000 dollar vehicle represents a savings of about one-half of one percent.

This approach stands in stark contrast to the blanket exemptions we are asked to support including the sales tax on food. Even if one accepts the regressivity argument regarding sales tax, a blanket exemption is a terribly inefficient way to help those most hurt. Imagine the fiscal note if the sales tax was totally removed from vehicles.

And let us not forget the importance of transportation in the movement of people from public assistance to productive work. Years ago Gary Sherrer, Diane Gjerstad and I met regarding the problem people encounter as they attempt to become dependable employees and meet the barrier of undependable transportation. It was our desire to find an answer to the lack of public transportation and the difficulty poor people have in acquiring a dependable vehicle. This bill, of course does not accomplish that objective. But it does move in the right direction. It provides a fair way to make vehicles more affordable for people who find themselves in this position.

I hope you will fully consider this bill from a tax policy perspective. I'm well aware of the fiscal note which has now been moved to under 50 million. But perhaps it points a way for legislative action in the future. Perhaps progressivity can be introduced to the taxation of retail sales.

Thank you for your attention and I'll stand for questions.

DENNIS M. WILSON
REPRESENTATIVE, TWENTY-NINTH DISTRICT
10713 W. 118TH TERR.
OVERLAND PARK, KANSAS 66210
(785) 451-5795
OFFICE
STATE CAPITOL, 115-S
TOPEKA, KANSAS 66612-1504
(785) 296-7637

STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIR: INSURANCE
MEMBER: FISCAL OVERSIGHT

TO: CHAIRPERSON PHILL KLINE AND MEMBERS OF THE HOUSE TAXATION COMMITTEE

FROM: REPRESENTATIVE DENNIS WILSON

DATE: WEDNESDAY, MARCH 18, 1998

SUBJ: HB2695: SALES TAX EXEMPTION ON MOTOR VEHICLES

THANK YOU CHAIRMAN KLINE AND COMMITTEE FOR ALLOWING ME TO SPEAK ON BEHALF OF HB2695. IT IS WITH GREAT PLEASURE THAT I SUPPORT THIS BILL ALONG WITH REPRESENTATIVE WEMPE. THIS IS THE FIRST BILL THAT I CAN REMEMBER THAT I AND ONE OTHER REPRESENTATIVE HAVE SUPPORTED WITHOUT ANY OTHER SIGNATURES.

THE REASON I AGREED TO SUPPORT THIS BILL WITH REPRESENTATIVE WEMPE, IS BECAUSE I FEEL SO STRONGLY ABOUT THIS PARTICULAR SALES TAX EXEMPTION. IF WE ADDRESS THE NEED FOR FURTHER SALES TAX EXEMPTION, THIS WOULD BE ONE OF THE MOST CREATIVE IDEAS THE LEGISLATURE HAS EVER BEEN ABLE TO DO FOR ALL CITIZENS IN THE STATE OF KANSAS.

I'M SURE THAT MOST OF THE COMMITTEE KNOWS THAT THE GREATER PORTION OF MY WORKING CAREER HAS BEEN SPENT IN THE AUTOMOBILE BUSINESS. THERE IS NO DOUBT THAT NEW AND USED CAR DEALERS WOULD HAVE A TREMENDOUS ADVANTAGE WITH THIS BILL.

EVEN THOUGH NEW AND USED CAR DEALERS IN THIS STATE PRODUCE AS MUCH SALES TAX THAN ANY ONE ENTITY THAT I CAN THINK OF, THAT IS NOT THE LONE REASON FOR ME TO SIGN ON TO THIS BILL AND SUPPORT IT. IT IS THE FACT THAT IT TOUCHES EVERY ADULTS LIFE.

WE ARE A NATION THAT DEPENDS ON MOTOR VEHICLES AS A FORM OF TRANSPORTATION. IN A LIFE TIME, MOST, IF NOT ALL ADULTS WILL OWN A MOTOR VEHICLE. THIS BILL WILL TOUCH THE LIVES OF EVERY CITIZEN BY REDUCING THE FIRST TWO THOUSAND DOLLARS OF ALL MOTOR VEHICLES, From Sales Tax

THE SECOND, AND MAYBE THE MOST IMPORTANT REASON, IS THAT WE ARE ASKING WELFARE TO WORK RECIPIENTS TO BE MORE RESPONSIBLE FOR FINDING AND KEEPING A JOB. IT IS VERY EXPENSIVE FOR THE FIRST TIME EMPLOYEES TO MAINTAIN THE NECESSARY ITEMS, LIKE CLOTHS, OR TOOLS OR NOW CARS TO GET A JOB AND TO GET TO WORK ON TIME. MOST OF THESE PEOPLE WILL NOT BE ABLE TO AFFORD A VERY EXPENSIVE AUTOMOBILE, SOME LESS THAN $3000.00. THIS BILL WOULD PROVIDE FOR A TREMENDOUS SAVING TO EACH INDIVIDUAL WHO NEEDS TO HAVE TRANSPORTATION TO AND FROM WORK.

THIS IS ONE OF THE MOST CREATIVE IDEAS THAT I HAVE HEARD IN THE FOUR YEARS I HAVE BEEN UP HERE. THIS BILL WOULD HAVE A POSITIVE IMPACT ON THE LIVES OF ALL KANSAS CITIZENS.

THANK YOU VERY MUCH FOR THE TIME YOU HAVE ALLOWED ME AND I ASK AGAIN IF YOU CONSIDER MORE SALES TAX CUTS THAT YOU SUPPORT HB2695. I AM MORE THAN HAPPY TO STAND FOR QUESTIONS.

KANSAS AUTOMOBILE DEALERS ASSOCIATION

To: The Honorable Chairman Phill Kline
and the Members of the House Taxation Committee

From: Don L. McNeely, KADA Executive Vice President

Re: HB 2695 - Support

Date: March 18, 1998

Good morning Chairman Kline and Members of the House Taxation Committee. My name is Don McNeely and I serve as the Executive Vice President of the Kansas Automobile Dealers Association (KADA) representing the franchised new car and truck dealers in Kansas. I appear before you this morning in support of HB 2695.

As the Members of the Committee are aware, KADA is very much of an advocate of lower motor vehicle taxes, whether they are sales or property taxes, as was evidenced by our involvement in the Motor Vehicle Property Tax Reduction Act of 1995. As a side note to the property tax reduction legislation, I am pleased to inform the Members of the Committee that new vehicle registration in Kansas increased 5.6% in 1996, three times the national average, and we are expecting a similar increase for 1997, when the numbers for the year are calculated. Yes, we have been fortunate to have a strong economy in Kansas, but the economy of the country has also been strong. We believe a large portion of this increase can be directly attributable to lower taxes.

I would like to compliment Representatives Wempe and Wilson for bringing this proposal to the Committee's attention. It is no secret that the escalation of both new and used vehicle prices over the past 10 years have been excessive. The average used vehicle sold for $11,600 in 1996, a 96.6% increase from 1986, while the average new vehicle retail selling price increased 67.9% from a decade earlier. Two of the primary beneficiaries of the escalation in new and used motor vehicle retail prices have been the state of Kansas and the local taxing jurisdictions.

On behalf of the Kansas Automobile Dealers Association, I would like to thank the Committee for allowing me to appear this morning, and I would stand for any questions the Committee may have.

House Taxation
3-18-98
Attachment 7-1

800 S.W. Jackson, Suite 1110 • Topeka, K

Telephone (913) 233-6456 • Fax (913) 23

William A. Dvorak
Assistant Tax Director
External Tax Policy

Suite 900
919 Congress Avenue
Austin, TX 78701
512 370-1012

TESTIMONY ON BEHALF OF AT&T BEFORE THE HOUSE TAXATION COMMITTEE HOUSE BILL 2643 MARCH 18, 1998

Mr. Chairman and members of the committee:

My name is William Dvorak and I am an Assistant Tax Director for AT&T's External Tax Policy organization. I am here today to ask for your consideration and approval of an amendment to House Bill 2643 that would change the current sales tax policy for prepaid telephone calling cards.

A popular new product that is being offered by the telecommunications industry is a form of prepaid telephone service commonly referred to as a prepaid calling card. It is used for individual service and usually takes the form of a plastic or paper card sold in convenience stores and other retail outlets. Prepaid calling cards work on the basis that the user has paid in advance for a certain amount of phone time and can use it at his or her convenience.

In order to use a prepaid calling card, a user must call an 800 number, enter an authorization code and a "PIN" (Personal Identification Number). The customer will be told how much time or money is left on the card and will be given a warning when one minute is left on the card. Retail cards are usually sold in minutes or units in standard denominations of 10, 15, 20, 30, 60, 90 and 120 and can be used anywhere in the continental United States for either domestic or international calls.

There are several tax issues involved with the sale and use of prepaid calling cards, principally, whether the cards should be taxed based on usage of the service or at the point-of-sale. Along with that basic issue are the underlying problems of determining the proper tax basis, the type of tax that applies, which party should collect and remit the tax and the tax jurisdiction to which the tax should be remitted.

Under current Kansas law, the sales tax for prepaid calling cards is applied based on usage regardless of where the card is purchased. AT&T proposes that the sales tax should be collected and remitted by the retailer on the amount paid by the consumer at the point-of-sale. In advocating point-of-sale taxation, AT&T is not refuting the current method of taxation at the time of usage since the telephone service is the true object of the purchase; rather the cards should be taxed in a manner similar to tangible personal property at the point-of-sale for administrative ease.

Collecting sales tax on the retail sales price of the cards at the point-of-sale is easier for both the retailer and the taxing authority. The sale of prepaid calling cards would be treated as the sale of any other item of taxable property in the retailer's inventory. A sales tax on the retail price at the point-of-sale of the card also avoids the problems associated with determining where the cards are being used, an onerous record keeping burden. The retailer would have all the necessary information to impose the proper tax – the retail price of the card, the location of the sale and the applicable rate. This method will also simplify the audit process for tax authorities; in many cases it would otherwise be impossible to accurately track, record and tax prepaid calling cards calls.

Taxing the cards at the point-of-sale provides a better revenue option for taxing jurisdictions. A sales tax on the retail price of the card at the point-of-sale insures that tax revenue will be generated regardless of whether the card is used, or when and where the card is used. Even if the card is never used, or is used out of the state in which it was purchased, the taxing jurisdiction will still collect sales tax. Alternatively, if the tax were based on usage of the card, there would be less tax revenue generated if any or all of the value of the card is not used or expired.

Currently, twelve states and the District of Columbia tax prepaid calling cards on the retail sales price at the point-of-sale. Legislation is under consideration by 10 other states to tax prepaid calling cards in a similar manner. This trend towards simpler and more efficient tax collection and administration is a reasonable alternative to all of the compliance issues involved with taxing the underlying telecommunication services.

AT&T respectfully requests your support for this amendment. Thank you for the opportunity to address this issue and I am available to answer any questions you may have.

8-3

the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by federal law (U.S.C. Section 1504); For the purposes of this subsection, the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or authorization number;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property ~~except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon~~;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

4-8

computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided; and

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services.

(u) the gross receipts received from the sale of prepaid telephone calling cards or authorization numbers and the recharge of prepaid telephone calling cards or authorization numbers. As used in this section, a prepaid telephone calling card or authorization number means the right to exclusively make telephone calls, paid for in advance, that enables the origination of calls using an access number and/or authorization code, whether manually or electronically dialed. If the sale or recharge of a prepaid telephone calling card or authorization number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address.

Sec. 3. K.S.A. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, and motor vehicles as defined by K.S.A. 79-1017 and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state or hospital is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the

Sprint

Before the House Taxation Committee
Wednesday, March 18, 1998
Michael R. Murray, Director of Government Affairs, Sprint
HB 2643/Pre-paid calling card point-of-sale taxation

Mr. Chairman and Members of the Committee:

My name is Mike Murray, Director of Governmental Affairs for Sprint . We are seeking your approval of an amendment to House Bill 2643 enacting a sales tax at the point-of-sale on prepaid long distance calling cards. Also representing Sprint today at this hearing is Mr. Mark Beshears, Assistant Vice President, Sprint Tax Department.

Under current Kansas law, such prepaid calling cards are taxed on a usage basis. Regardless of where the card is purchased, it is taxed where it is used. Wherever the call is originated, that is the jurisdiction which receives the usage sales tax.

We believe this approach is a net loser for the state of Kansas. And, it requires a costly and complicated recordkeeping system for long distance companies which sell such cards, calculate the usage taxes, and remit the taxes to the various states..

If you purchase a prepaid card in Kansas and use it to call someone in another state, the issuer of the card keeps track of the length of the call from its origination point to the termination point, and then computes the tax due the State of Kansas for that call.

However, if you use the card out-of-state, Kansas receives no revenue. The tax is calculated for the appropriate state's usage tax and the money sent there.

Other reasons Kansas fails to collect revenues from prepaid calling cards under the present system are that prepaid calling cards are collectible, and many people simply buy them for that purpose. No sales tax is collected on the card. In addition, many persons who purchase prepaid cards do not use the full amount of time on the card. And, if it's not used, it's not taxed.

Moving to a point-of-sale tax policy on prepaid cards will reduce or end two forms of double taxation. One occurs when long distance calls are made in a usage tax state on a prepaid card purchased in a point-of-sale state. The consumer pays tax twice.

The other occurs today in Kansas when stores collect the sales tax on the purchase of a prepaid card even though such cards are not subject to the sales tax. The consumer then pays the Kansas usage tax when the card is used to make long distance calls.

The prepaid calling card business is relatively new. As it relates to the method of taxation of such cards, the trend is to adopt the point-of-sale approach as have at least eleven states plus the District of Columbia. And that includes our neighbors of Missouri and Iowa.

We believe this amendment is a consumer friendly proposal, and we respectfully request your support. Thank you for your attention and consideration. We would be pleased to respond to any questions you may have.

TE O   ANSAS
Graves, Governor

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Office of Policy & Research

MEMORANDUM

TO:	Chairman Phill Kline, House Taxation Committee
FROM:	Shirley Klenda Sicilian, Director, Policy & Research
RE:	**House bill 2643**
DATE:	March 18, 1998

Chairman Kline and members of the House Taxation Committee, thank you for the opportunity to testify today regarding House Bill 2643. My name is Shirley Sicilian and I am Director of the Office of Policy & Research at the Kansas Department of Revenue. Provisions of House bill 2643 can be categorized into four types:

1. **Targeted exemptions.** Implements the Governor's proposals for exempting: Girl scout sales, Broadcast machinery & equipment purchases, humanitarian organizations fees and membership dues, PTA's & PTO's purchases and sales. At this point in the session, these provisions are being addressed elsewhere.

2. **Food sales tax refund expansion.** Increases the income eligibility for the food sales tax rebate from $13,000 to $25,000. The provision also increases the refund amount for various household sizes and incomes under the $25,000 limit. This provision is also being addressed in other bills.

3. **Non-controversial tax simplicity and fairness provisions.** These provisions are not addressed elsewhere.
   a. **Clarify lease payments for goods originally purchased with the proceeds of an IRB are exempt.** Before 1981, the law attempted to tax the lease of tangible personal property from the municipality to the business under an IRB arrangement. In 1981, the legislature exempted purchases of "equipment" and "furnishings" made with IRB proceeds. These 1981 changes provided the basis for the allowance in K.S.A. 79-3640 of a partial refund based on a ratio of IRB funding to total funding. We believe K.S.A. 79-3603(h) was possibly overlooked. 3603(h) taxes the leasing of personal property, except IRB related leases made prior to 1973. These sections are conflicting and have been interpreted differently over the years. For the last few years, it has been the department's policy to read the statutes on balance as providing an exemption. We believe this was the legislative intent. This bill would revise conflicting statute to clarify the lease of goods originally purchased with the proceeds of an IRB are exempt.
   b. **Exempt repair services performed on items that are shipped into and out of Kansas.** Expands current exemption for repair parts on items that are shipped into and out of Kansas to include the labor services involved in the repair as well. From a policy standpoint, it seems reasonable to exempt the repair services employed to install an exempt repair part. It is difficult for taxpayers to understand the basis for different treatment.
   c. **Exempt repair services performed on the rolling stock of motor carriers.** Expands current exemption for repair parts installed on the rolling stock of motor carriers to include labor services involved in the repair as well. The rationale is the same as for b. above.

4. **Unsettled tax simplicity and fairness provisions.** Over a year ago, the department pulled together its auditors and asked them to identify the areas of statute which created the most controversy or confusion. Two of the top problem areas were the consumed in production exemption and the manufacturing machinery and equipment exemption. Our goal in drafting this legislation was to clarify these areas of the law. In some cases, clarification was best achieved with an expansion of the exemption. The intent was to clarify and expand, never to restrict. Over the last two months, the department has worked with the Tax Coalition on improvements to this part of the bill. We've made some progress, and have drafted proposed amendments which address the concerns the Coalition has expressed. A major change would be to eliminate reference to the SIC code as a means of determining which types of businesses are eligible for the exemption. From our view, these discussions have been very fruitful. However, we're not "there" yet. At this point, we would not want to go ahead with this portion of the bill until the taxpayers it was intended for are comfortable with the language.

   a. **Expand the exemption for manufacturing machinery and equipment.**
      - Expands the exemption from just that machinery which has a direct physical effect on the property being produced, to include any machinery which is part of a broadly defined integrated production process.
      - Expands the exemption for major component parts of such machinery to include all component parts. This would moot the recent Alsop decision.
      - Allows labor services on installation of such machinery to be exempt. This eliminates the requirement that taxpayers separate out installation from equipment costs.
      - Allows repair and replacement parts of such machinery to be exempt. This, together with changes below, closes the gap between property which is immediately consumed and property which is consumed over several years (the machinery itself).
      - Clarifies, without narrowing, the types of firms eligible to receive the exemption.

   b. **Expand the definition of "consumed in production."**
      - Expands the exemption for property which is "immediately" consumed to property which is consumed with-in one year. This eliminates confusion over what is meant by "immediately" consumed.
      - Clarifies the exemption applies to certain lubricants and catalysts.

There are two basic standards for exemption of manufacturing machinery and equipment. One standard, usually called the **Ohio rule**, requires that exempt machinery and equipment have a "direct and immediate effect" on the physical transformation of raw materials into new products. The second standard is the **integrated pant theory**, which merely requires that exempt machinery and equipment constitute an integral or essential part of the manufacturer's production process. As initially proposed in 1988, this statute would have limited the scope of the exemption to production line machinery and equipment, the Ohio rule. Before being enacted, the bill was amended to include other types of machinery and equipment. The result is an amalgam of the two different theories which has been difficult to interpret and administer consistently over the years. For example, one Kansas appellate court judge stated, albeit in dicta in an unpublished opinion, that Kansas has adopted the integrated plant theory; while at the same time writers for Tax Management, Inc., a portfolio of articles that provide in-depth tax analysis, classify Kansas as an Ohio rule state. These amendments would make it clear that Kansas is adopting a broadly defined integrated plant theory. It is important in doing so to be specific about the changes. There is no one single integrated plant theory. Each state that has adopted the integrated plant theory has its own view of what is encompassed by the theory. Specificity is needed so that the legislature and not the courts identifies the scope of the exemption. We would avoid the need for businesses to determine through litigation what the scope of the statute is supposed to be.

KANSAS GRAIN & FEED ASSOCIATION

Statement of the

Kansas Grain and Feed Association

to the

House Taxation Committee

Regarding H.B. 2643

Representative Phill Kline, Chair

March 18, 1998

House Taxation
3-18-98
Attachment 11-1

Chairman Kline and Members of the House Taxation Committee, my name is Tom R. Tunnell and I am President of the Kansas Grain and Feed Association (KGFA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of grain receiving, storage, processing and shipping industry in the state of Kansas. Our membership includes over 1,250 Kansas business locations and represents 99% of the commercially licensed grain storage in the state.

I appear today in opposition to House Bill 2643 in its current form. It is our understanding the Department of Revenue plans to offer amendments that may or may not change our position on this bill. However, we have already received some proposed amendments from the Department of Revenue and based on advice from our legal counsel, we are unable to embrace any in their entirety.

Our opposition to H.B. 2643 is based on past experience where our organization was involved in a similar case where disagreement regarding intent of statute language led to our organization being forced to seek recourse through the Kansas Board of Tax Appeals. In the aforesaid instance, the Kansas Department of Revenue appealed the case all the way to the Kansas Supreme Court at considerable expense to the business members of our organization.

Based on that experience, we can not support this bill and respectfully ask this committee to oppose H.B. 2643 until all pertinent questions and concerns have been properly addressed. Thank you for the opportunity to appear today and I would be happy to answer any questions you might have.