

Approved: February 23, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson David Adkins at 9:00 a.m. on January 26, 1999 in Room 519-S of the Capitol.

All members were present except: All present

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Mary Shaw, Committee Secretary

Conferees appearing before the committee: Jamie Clover Adams, Governor's Office
Bill Fredrick, Central Kansas Railroad
Doug Wareham, Kansas Grain and Feed Association
Joe Lieber, Kansas Cooperative Council of Topeka
John Bair, Collingwood Grain of Hutchinson
Patrick Breeding, Delphos Cooperative
Jere White, Kansas Corn Growers & Kansas Grain Sorghum
Producers Association
Bill Fuller, Kansas Farm Bureau
Rick Webb, South Kansas & Oklahoma Railroad (written)

Others attending: See attached list.

The Chairman opened the public hearing on:

HB 2037 - Sales tax exemption for railroad and grain storage facilities.

The Fiscal Note was distributed for **HB 2037** (Attachment 1)

Proponents:

The Chairman introduced Jamie Glover Adams, Proponent, Legislative Liaison, Governor's Office (Attachment 2). Ms. Adams mentioned that this bill is one of the Governor's tax proposals. She requested a technical amendment listed on page 2 of her testimony .

The Chairman introduced Bill Fredrick, Proponent, and President of the Central Kansas Railroad (Attachment 3). Mr. Fredrick requested an amendment on page 6 of his testimony.

The Chairman introduced Doug Wareham, Proponent, Vice President, Government Affairs for the Kansas Grain and Feed Association (Attachment 4). Mr. Wareham requested a balloon amendment shown on the last page of his testimony.

The Chairman introduced Joe Lieber, Proponent, Executive Vice President of the Kansas Cooperative Council (Attachment 5).

The Chairman introduced John Bair, Proponent, Vice President and Controller of Collingwood Grain, Inc., of Hutchinson (Attachment 6).

The Chairman introduced Patrick Breeding, Proponent, General Manager of the Delphos Cooperative in Delphos, Kansas (Attachment 7).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on January 26, 1999.

The Chairman introduced Jere White, Proponent, Executive Director of the Kansas Corn Growers Association and the Kansas Grain Sorghum Producers Association (Attachment 8).

The Chairman introduced Bill Fuller, Proponent, Associate Director, Public Affairs Division, Kansas Farm Bureau (Attachment 9). Mr. Fuller requested an amendment listed on page 2 of his testimony.

Written testimony:

Rick Webb, Proponent, South Kansas & Oklahoma Railroad, submitted written testimony (Attachment 10).

The Chairman closed the public hearing on **HB 2037**.

The Chairman opened the meeting for bill introductions.

The Chairman recognized Representative Edmonds who made a motion, and seconded by Representative Osborne, to request a committee bill that would increase the property tax exemption for each single item of commercial and industrial machinery, which levels are currently at \$250, to a \$1,000 exemption. Motion carried.

Representative Edmonds made a motion, and seconded by Representative Tomlinson, to request a committee bill regarding sales tax exemption on assistive technology, which primarily concerns people with disabilities and currently exempt are items that are acquired under prescription and this would automatically exempt items that are required under non-prescription basis. Motion carried.

The Chairman recognized Representative Gatewood who made a motion, and seconded by Representative Sharp, to request a committee bill that would dollar for dollar provide a tax refund for a certified instructor in Grades K through 12, for an accredited school for classroom materials, up to \$500. Motion carried.

The Chairman recognized Representative Flora who made a motion, and seconded by Representative Gilbert, to request a committee bill that would increase property tax homestead exemptions to \$40,000 from \$20,000, and would also extend to the year 2000. Motion carried.

The Chairman recognized Representative Minor who made a motion, and seconded by Representative Aurand, to request a committee bill for tax credit investments for certain agricultural items. Motion carried.

Representative Adkins made a motion, and seconded by Representative Aurand, to request a committee bill that would modify the appreciation schedule when dealing with semi-conductor manufacturing, with suggested language that it essentially recognizes that much of the equipment used in the manufacture of computer micro-electronic chips depreciates at a very quick pace, and as a result of that obsolescence, in order to be in a position to lure the semi-conductor manufacturers to our area, there is a need to have in place a depreciation schedule that is competitive and appropriate. Motion carried.

Representative Adkins made a motion, and seconded by Representative Sharp, to request a committee bill that would allow income tax credits for qualified endowment contributions patterned after a Montana law. Motion carried.

The meeting adjourned at 10:50 a.m.

The next meeting is scheduled for January 27, 1999.

HOUSE TAXATION COMMITTEE
GUEST LIST

DATE: Jan. 26, 1999

Tom TUNNELL	KANSAS GRAIN & FEED ASS N
Doug Wareham	Kansas Grain & Feed Assn.
PATRICK BRUBAKER	NELSON'S CO-OP ASSN.
John L Bair	Collingwood Grain, Inc
Joe Lieber	Ks Co-op Council
Bill Fuller	Kansas Farm Bureau
GEORGE PETERSEN	Ks TAXPAYERS Network
David L Ross	Commerce & Housing
Tom WHITAKER	Ks MOTOR CARRIERS ASSN
PAT HUBBELL	Ks RAILROADS
Rich McKee	Ks Livestock Assoc
Jason Finson	Intern for Rep. Clay Auer
Virginia Stau	Federico Consulting
Marty Vanier	Ks Ag Alliance
Larry Kleiman	League of Ks Municipalities
Ann Dukes	DEPS
Wayne Fitzhugh	Western Resources
Verda Jean Smith	KMHA
W.A. FREDERICK	CENTRAL KANSAS RAILWAY

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

Topeka, Kansas 66612-1575

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Bill Graves
Governor

Duane A. Goossen
Director

January 25, 1999

The Honorable David Adkins, Chairperson
House Committee on Taxation
Statehouse, Room 448-N
Topeka, Kansas 66612

Dear Representative Adkins:

SUBJECT: Fiscal Note for HB 2037 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2037 is respectfully submitted to your committee.

HB 2037, which is part of the Governor's tax reduction package submitted to the 1999 Legislature, would expand the sales tax exemption to include materials and services used to improve shortline railroad infrastructure and commercial grain storage facilities. Under the provisions of this bill, improvements for shortline railroads include construction, renovation, repair, and replacement for tracks and facilities used directly in interstate commerce. If the sales tax exemption is exercised, but the track or facility is not operational for five years after the improvement is made, the amount of the exemption allowance would be due the Department of Revenue, subject to any rules or regulations adopted by the Secretary of Revenue.

The sales tax exemptions on materials and services for commercial grain storage facilities include those for original construction, reconstruction, repair, and replacement. Current law already exempts labor costs for new construction on grain storage facilities with a five million bushel capacity.

Estimated State Fiscal Impact				
	FY 1999 SGF	FY 1999 All Funds	FY 2000 SGF	FY 2000 All Funds
Revenue	--	--	(\$787,670)	(\$830,000)
Expenditure	--	--	--	--
FTE Pos.	--	--	--	--

HOUSE TAXATION
1-26-99
ATTACHMENT 1

The passage of HB 2037 would have a negative fiscal impact on state revenues by decreasing sales tax receipts in FY 2000 and each subsequent fiscal year. According to the Department of Revenue, HB 2037 would decrease state revenues by a total of \$830,000 in FY 2000, including a \$787,670 decrease in State General Fund receipts. Additionally, State Highway Fund receipts would decrease by \$42,330 in FY 2000 if this bill passes.

The fiscal impact of this bill for FY 2001 would be a decrease in total receipts of \$941,673, with the State General Fund decreasing by \$893,647 and the State Highway Fund decreasing by \$48,026. The fiscal impact for each subsequent fiscal year is estimated to be a 4.0 percent per year decrease in total receipts. The fiscal impact associated with HB 2037 is included in *The FY 2000 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "Duane A. Goossen". The signature is written in a cursive style with a large, looping initial "D".

Duane A. Goossen
Director of the Budget

cc: Lynn Robinson, Revenue

STATE OF KANSAS

BILL GRAVES, *Governor*
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OFFICE OF THE GOVERNOR

LEGISLATIVE TESTIMONY

TO: Chairman David Adkins and Members of the House Taxation Committee

FROM: Jamie Clover Adams, Legislative Liaison

DATE: January 26, 1999

BILL: House Bill 2037 – Governor’s Grain Storage and Transportation Sales Tax Exemptions

Mr. Chairman and members of the Committee, thank you for the opportunity to appear today in support of H.B. 2037, the Governor’s Grain Storage and Transportation Sales Tax Exemption. This legislation provides a sales tax exemption for materials and services purchased by shortline railroads for the construction, renovation, repair or replacement of railroad track and facilities, as well as a sales tax exemption for materials and services used for construction, reconstruction, repair or replacement of commercial grain storage facilities.

Background

Kansas agriculture joins American agriculture as the most productive and efficient in the world. However, this competitive advantage has begun to erode with the deterioration of the infrastructure that stores and moves Kansas commodities to market in a low cost and efficient manner. In the last two years, more grain has been stored on the ground for longer periods than at any time in recent memory. This problem was caused by the convergence of several factors including slow foreign markets, low prices, and increased demands on railroads.

No major change is forecast for 1999. Prospects for exports are lackluster with corn exports forecast to remain fairly weak historically. World corn consumption is expected to remain less than production, boosting ending stocks for the third straight year. Forecasts for wheat show large supply and weak demand with current wheat carryover stocks at their highest level since 1990. These conditions require adequate storage capacity and reliable rail transportation which is currently inadequate in many parts of Kansas.

Last year, Governor Graves appointed a Grain Transportation and Storage Task Force to discuss short- and long-term solutions to grain storage and transportation issues. Lt. Governor Sherrer and Agriculture Secretary Allie Devine served as co-chairs of the group. H.B. 2037 is a direct result of task force suggestions. While the group suggested additional options, the Governor balanced the needs in the agricultural community with available resources and determined a sales tax exemption for materials and services best targets the needs of the system.

HOUSE TAXATION
1-26-99
ATTACHMENT 2

Shortline Railroads

Section 1, item (ccc) provides an incentive to Class II and Class III railroads – commonly known as shortlines. It also contains a stipulation that if the line is abandoned within five years, the forgone sales tax must be repaid to the State. The primary purpose of the exemption is to sustain the viability of grain-dependent shortline railroads. You will recall that short lines are operating thousands of miles of rural branchlines that might otherwise have been abandoned by the Class I railroads. Research shows that abandonment would have negative consequences on Kansas agriculture and rural communities. These consequences include:

- (1) higher road maintenance and reconstruction costs;
- (2) lower grain prices;
- (3) higher transportation costs and lower profits for rail shippers;
- (4) loss of market options for shippers; and,
- (5) lost economic development opportunities for rural areas.¹

Communities, regions, and the State as a whole are materially dependent upon agricultural endeavors and derive substantial financial benefit from the success of Kansas agriculture. Agriculture, in turn which relies on service from shortline railroads to efficiently transport agricultural products.

Research also shows that the most important profitability determinant is the number of carloads per mile of track.² The proposed sales tax exemption will assist in rehabilitation of track and therefore enhance shortline profitability.

I would suggest one technical amendment in line 29, page 13. Congress abolished the Interstate Commerce Commission and created a successor agency called the Surface Transportation Board. The Department of Revenue estimates the cost of this exemption at \$230,000 in FY 2000.

Commercial Grain Storage

Section 1, item (ddd) provides an incentive for construction, reconstruction, repair or replacement of commercial grain storage. Sluggish markets and increased carryover stocks dramatically increase the demand for storage space since farmers and elevators hold commodities longer to take advantage of better market conditions in the future. Storage of grain on the ground reduces the quality of grain and consequently its value. For example, we estimate a loss in crop value between \$4.6 - \$11.4 million from grain storage on the ground in 1998. Obviously, this is not a desirable option for Kansas producers or the State's economy. The Department of Revenue estimates the cost of this exemption at \$506,000 in FY 2000.

The Governor appreciates your consideration of this legislation. I would be happy to answer any questions you may have.

¹ Kansas State University, Long Term Profitability of Grain Dependent Short Line Railroads in the Midwest (Manhattan: Kansas State University, July 1997) 1.

² Marvin Prater and Michael W. Babcock, "Grain Dependent Short Line Railroad Profitability," Journal of the Transportation Research Forum (1997): 1-16.

CENTRAL KANSAS RAILWAY, L.L.C.

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TESTIMONY OF WILLIAM A. FREDERICK, PRESIDENT
CENTRAL KANSAS RAILWAY/KANSAS SOUTHWESTERN RAILWAY
BEFORE THE HOUSE COMMITTEE ON TAXATION

JANUARY 26, 1999

Chairman Adkins and Members of the Committee:

My name is William A. Frederick, and I am President of the Central Kansas Railway (CKR) and the Kansas Southwestern Railway (KSW). I am appearing today in support of 1999 House Bill No. 2037. Before discussing the specific provisions of that bill, however, I want to briefly provide the Committee with some background which prompted the bill's introduction, as well as to describe in general terms the operations of CKR and KSW.

CKR and KSW are two of the 13 railroads in the United States and Canada owned by OmniTRAX, Inc., a Denver-based holding company. Both CKR and KSW are headquartered in Wichita, and they currently have 101 employees. Combined, CKR and KSW operate 1,257 miles of track in Kansas and Colorado, and they comprise the third largest railroad in Kansas, outsized only by the two Class I railroads, Burlington Northern Santa Fe and the Union Pacific.

CKR and KSW are shortline railroads which operate over a system of what were formerly branch lines of Union Pacific and Burlington Northern Santa Fe. Here, I should note that "shortline" is a term of convenience, not definition. For purposes of the Uniform System of Accounts applicable to rail carriers subject to the Interstate Commerce Act, shortlines are Class III railroads, i.e., rail carriers having annual operating revenues of \$20,000,000 or less.

HOUSE TAXATION
1-26-99
Attachment 3

Shortline railroads represent an important and growing segment of the North American rail network. As the Class I railroads withdraw from the branch lines they formerly operated and move towards long haul, unit train type operations, both they and the shippers are becoming more and more dependent on shortlines providing service to and from the lighter density branch lines. This is particularly true in a state such as Kansas, a state with the fourth largest number of rail miles (5,580) in the United States. Thus, as is the case with most shortline railroads, CKR and KSW originate or terminate traffic on their lines and interchange that freight with the large Class I railroads at terminal locations.

The essential points of difference between Class I and shortline or regional railroads include the following:

- ◆ The Class I railroads are large, mainline railroads (167,000 miles in North America), generally operating in a "hook and haul" method with long trains over long distances.
- ◆ Class I railroads include such giants of the industry as Union Pacific, Burlington Northern Santa Fe, Kansas City Southern, Norfolk Southern and CSX.
- ◆ Shortlines are local or regional railroads that feed the Class I railroads traffic or deliver it for them.
- ◆ The gross revenues that shortlines derive from their operations are considerably less than the revenues derived by the Class I's, which by the federal classification are railroads having annual operating revenues of \$250,000,000 or more.

The shortline operating advantages include:

- ◆ A local and regional focus
- ◆ Localized customer service
- ◆ Innovative pricing
- ◆ Organization flexibility
- ◆ Cost efficiencies
- ◆ Quick responses to shippers' service requests

In Kansas today there are 17 shortline railroads operating on 2,724 miles of track, nearly one-half of the state's total railroad miles. Most of these shortlines were

formed after 1980. In fact, the majority of them were founded in the 1990's. The characteristics most of them share are that the lines comprising the shortline systems are light density, they face severe competitive pressures from the trucking industry and have many rail line segments in need of rehabilitation. There are lines in Kansas that are so light density they did not meet current federal guidelines to receive rehabilitation money. This means that, over time, those lines will be subject to abandonment. Additionally, the higher density lines operated by the Kansas shortlines will need significant upgrades and rehabilitation to meet the needs of shippers in the future. This effort may include not only rail improvements but also new or rebuilt bridges, new or improved crossings, crossing closings and similar projects.

The need for improved or upgraded rail lines stems from at least three sources. First, many of the lines now operated by shortlines suffered over the years from deferred maintenance by the former Class I owners. Second, car weights have increased significantly over the past few years, with bigger car sizes on the horizon. Many of the lines in Kansas simply cannot handle these heavier cars. Third, generally speaking, shortlines cannot afford to fund both normalized maintenance and rehabilitation at the same time.

The following generalized statements can be made regarding the situation now confronting Kansas shortlines:

- ◆ Shortlines have to make hard economic choices as to where to spend their scarce capital dollars.
- ◆ Prior federal programs designed to assist with the rehabilitation of light density lines have not existed since 1995.
- ◆ Kansas does not currently fund any state level programs designed to assist shortline railroads rehabilitate light density lines.
- ◆ Many shippers who previously used rail have switched to truck for a variety of reasons, and that traffic will not likely return to rail.
- ◆ Technological changes in the rail industry have far outstripped the ability of shortlines to handle traffic moving in this State. For example, car size has inexorably increased and is now going from 263,000 pound cars to 286,000 pound cars. The existing infrastructure (*i.e.*, bridges and rail) is not capable of sustaining that weight.

This is the context within which three separate groups -- the Governor's Grain Transportation and Storage Task Force, the Special Committee on Rail Transportation and Transportation 2000 Study Group -- studied rail transportation needs during last interim. All of these groups concluded that shortline railroads are an important, vital part of the state's transportation system, and made various recommendations for strengthening the state's shortline rail system.

Early last summer, Governor Graves appointed a Grain Transportation and Storage Task Force to discuss short-term and long term solutions to the various grain storage and transportation issues. Lt. Governor Gary Sherrer and Allie Devine, Kansas Secretary of Agriculture, co-chaired the task force. Representatives of the grain industry, the rail industry, producer organizations and the motor carrier industry comprised the task force. It made a number of short-term and long-term recommendations to address the state's grain storage and transportation problems. A number of tax incentives were suggested, including a sales tax exemption for labor and materials to repair, maintain or construct grain storage and railroad infrastructure.

Among the charges given to the Special Committee on Rail Transportation, was the direction to review issues with respect to rail transportation of agricultural products, including shortline railroad access in rural Kansas, and the impact of loss of rail line on highway transportation. At the conclusion of its study, the Special Committee on Rail Transportation stated in its final report:

"The Committee believes that rail transportation is one part of a multi-faceted transportation system and that it is in the economic interest of the citizens that the rail system of the state is viable. The Committee believes that there is a need to develop a state rail policy, provide the necessary incentives and environment for rail lines, including shortlines, to remain as a vital part of the state's transportation infrastructure."

Toward that end, the Committee recommended that the 1999 Legislature consider various proposals for providing financial assistance to shortlines, including the enactment of three tax incentives. The first of these is a sales tax exemption for labor, materials, and equipment used in the construction, maintenance, repair or rehabilitation of railroad infrastructure, similar to the exemption proposed in HB 2037. The other tax measures recommended by the interim committee were an income tax credit for property tax paid on rail machinery and equipment and income tax incentives for

shortlines to construct rapid load or other shipper facilities.

In convening the Transportation 2000 Study Group last June, Governor Graves asked the study group to assess the transportation needs of the state, and he urged members of the study group to look beyond the traditional emphasis on roads and determine the needs of the state's entire transportation infrastructure. Transportation 2000's study was conducted pursuant to a series of 12 Town Hall meetings held in the various geographic regions of the state. In Transportation 2000's Report to the Governor, it was stated:

"Throughout the Town Hall meetings, the Transportation 2000 Study Group heard about needs in aviation, public transit, rail, highways and local jurisdictions. The Study Group concluded that there is a state interest in maintaining adequate aviation and rail systems as well as highway and public transit."

Later, in support of its recommendation for a state-funded rail program to assist Kansas shortlines with track rehabilitation, the Report concluded:

"The Study Group recognizes the importance of shortline railroads in the transportation of agricultural and other products and the cost to highway maintenance by failing to support shortline railroads."

Many of the recommendations made by these three interim study groups have been included in the budget presented by Governor Graves to the 1999 Legislature. Of pertinence here is the fact that, among Governor Graves' tax reduction recommendations is a proposal to provide new sales tax exemptions for grain storage and transportation, and HB 2037 embodies that recommendation. HB 2037 would amend K.S.A. 1998 Supp. 79-3606, by adding at the end of that statute two new sales tax exemptions. The first of these, as shown in new subsection (ccc), would exempt all sales of materials and services purchased by any Class II or Class III railroad for the construction, renovation, repair or replacement of railroad track and facilities used directly by such railroad in interstate commerce.

That exemption is substantially the same as the recommendations made by the Governor's Grain Transportation and Storage Task Force and the Special Committee on Rail Transportation, except that:

- ◆ Neither of these interim groups limited its recommended exemption to Class II and III railroads.
- ◆ The exemption provided in HB 2037 also includes a "pay back" provision which, in essence, provides for recoupment of the sales tax avoided on any track or facility for which tax-exempt purchases were made pursuant to the exemption, if such track or facility is not operational for five years succeeding the allowance of the exemption.
- ◆ Neither of these interim groups limited the exemption to track and facilities "used directly in interstate commerce." I see no reason why the exemption should be so limited. I am not intimately familiar with the operations of the other 16 shortlines in Kansas, but there may well be some which have lines that handle only intrastate traffic. Does the Committee believe that maintenance and rehabilitation of these lines should be excluded from the exemption?
- ◆ The Special Committee on Rail Transportation included purchases of "equipment" as well as labor and materials in its recommended exemption. I would respectfully request that HB 2037 be amended to include equipment used for the construction, renovation, repair or replacement of railroad track and facilities. In my 1999 maintenance budget there is a \$300,000 Jackson tamper scheduled to be purchased. It will be used for the purposes set forth in HB 2037, and I am confident other shortlines acquire similar items of equipment from time to time. It would be very beneficial if these purchases could be made sales tax exempt.

As noted previously, many of the lines now operated by shortlines suffered over the years prior to acquisition by the shortlines from deferred maintenance, and as a general rule, shortlines cannot afford to finance both normalized maintenance and rehabilitation at the same time. The proposed exemption is directed at that situation, providing some relief for smaller railroads in their efforts to maintain and rehabilitate their lines. The fiscal note for this exemption, as shown in the Governor's budget documents, shows a cost of \$200,000 for FY 2000 and an annual cost of \$300,000 thereafter. Although this is a relatively small cost, the amount of savings to shortlines can be of great benefit, since shortline railroads have significantly lower operating margins than do the Class I railroads.

For example, on an annual maintenance budget which averaged \$2,020,716 for each of calendar years 1997 and 1998, CKR and KSW combined paid an average of \$120,466 in sales tax in those years. Based upon the 1999 budget, we anticipate paying approximately \$188,100 in sales tax in connection with our planned maintenance for both railroads during 1999. For smaller railroads like CKR and KSW, the prospect of saving as much as \$120,000 in sales taxes annually for the combined roads, as a result of the proposed exemption, would provide a significant enhancement to our maintenance and rehabilitation budgets. An addition of \$120,000 in our combined budgets would permit us to install an additional 4,000 ties, or surface approximately 45 miles of roadbed.

Although I have not visited with management of the other shortlines in Kansas, I would anticipate similarly favorable results for those shortlines, as well. Accordingly, based upon the findings and recommendations of the various interim study groups, and for the reasons noted above, I would respectfully request that the House Committee on Taxation amend House Bill No. 2037 as I have recommended above and that the amended bill be recommended favorable for passage.

Thank you for the opportunity of appearing before the Committee and presenting my views. I would be happy to respond to any questions you might have.

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Association

Statement of
Kansas Grain and Feed Association
to the
House Taxation Committee
Regarding H.B. 2037
Representative David Adkins, Chairman
January 26, 1999

**KGFA, promoting a viable business
climate through sound public policy for more
than a century.**



*HOUSE TAXATION
1-26-99
Attachment 4*

Chairman Adkins and Members of the House Taxation Committee, my name is Doug Wareham and I am Vice President, Government Affairs for the Kansas Grain and Feed Association (KGFA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the 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 support of House Bill 2037 and respectfully request positive consideration of this bill. During the past two years, record production of wheat and feed grains coupled with weak foreign demand has created an undeniable need for increased grain storage capacity in our state. Shortages of commercial grain storage capacity in high yield areas of Kansas led to over 32 million bushels of grain being piled on the ground in 1997 and over 70 million bushels of grain on the ground in 1998.

While considerable efforts have been made by the commercial grain industry to address the lack of storage space experienced the past two years, we believe the sales tax exemption on materials and services purchased for the construction, reconstruction, repair or replacement of grain storage facilities will provide added incentive for new growth within our industry. We also believe growth within the commercial grain storage industry in Kansas is paramount to limiting losses due to spoilage from grains stored on the ground. Furthermore, the introduction of new identity preserved grains will require dedicated grain storage and handling facilities that protect the integrity of these new commodities.

Most importantly, we believe there is an immediate need for growth within the Kansas grain storage industry due primarily to the growing level of grain stocks on hand in the state of Kansas. At this time, I ask you to please refer to the enclosed handouts attached to my written statement. My initial fact sheet entitled, "Kansas Ag Facts" clearly indicates that Kansas continues to lead the nation as a producer of cereal and feed grains. And while the next two fact sheets entitled, "Kansas Storage Situation" and "Kansas Production Figures" might lead one to believe that Kansas currently has adequate grain storing capacity when one compares the total of commercial and on-farm storage to the annual grain production in our state, all one has to do is view my final fact sheet entitled, "Kansas Grain Stocks as of December 1st" to realize the immediate need for additional storage space in our state.

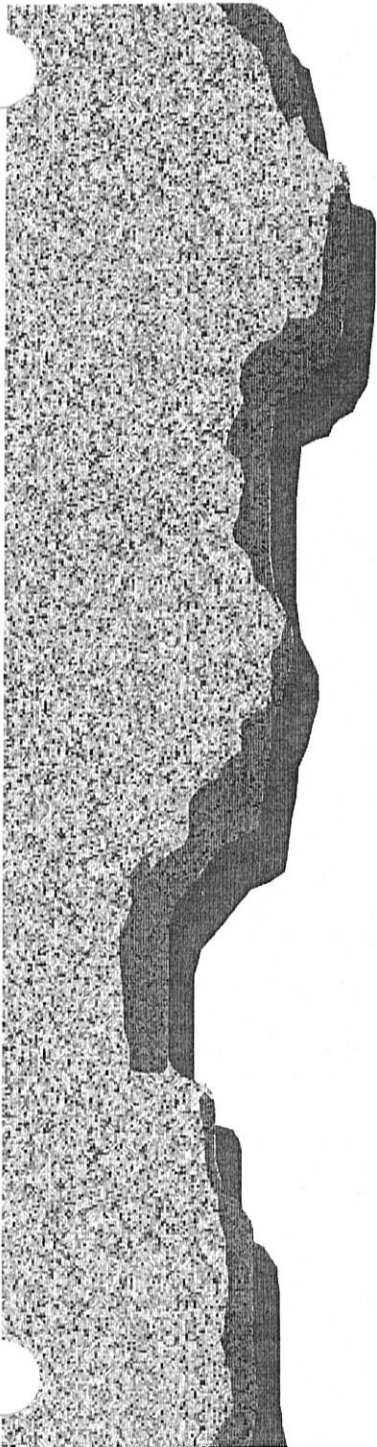
Finally, I wish to offer a balloon amendment for your consideration. This proposed amendment would have two effects. First, it will include rail sidings as part of grain storage facilities and provide grain elevator facilities with the same sales tax savings whether constructing or reconstructing grain storage structures or constructing or reconstructing rail sidings which are an integral part of most grain handling operations in Kansas. Second, this amendment will make the sales tax exemption that applies to grain storage and rail sidings retroactive to July 1, 1997. As I indicated earlier and as highlighted on the fact sheet entitled, "Kansas Storage Situation" numerous grain storage operations have already acted to address the storage shortfalls in our state and we believe those firms that have made the investment during the crisis period of the past two years should not be excluded from the incentives contained in House Bill 2037.

Again, I appreciate the opportunity to testify in support of House Bill 2037 and ask that you consider this bill favorably. I would be happy to answer any questions at this time.

Kansas Ag Facts

- KANSAS ranks #1 in Winter Wheat production in the U.S., at 506,000,000 bushels in 1997 and 494,900,000 bushels in 1998.
- KANSAS ranks #1 in Sorghum produced in the US, at 273,000,000 bushels in 1997 and 264,000,000 bushels in 1998.
- The average KANSAS farmer is 53 years old and farms approximately 724 acres.

Source: Kansas Ag Statistics NASS/USDA



Kansas Storage Situation

COMMERCIAL GRAIN STORAGE CAPACITY IN BUSHELS:

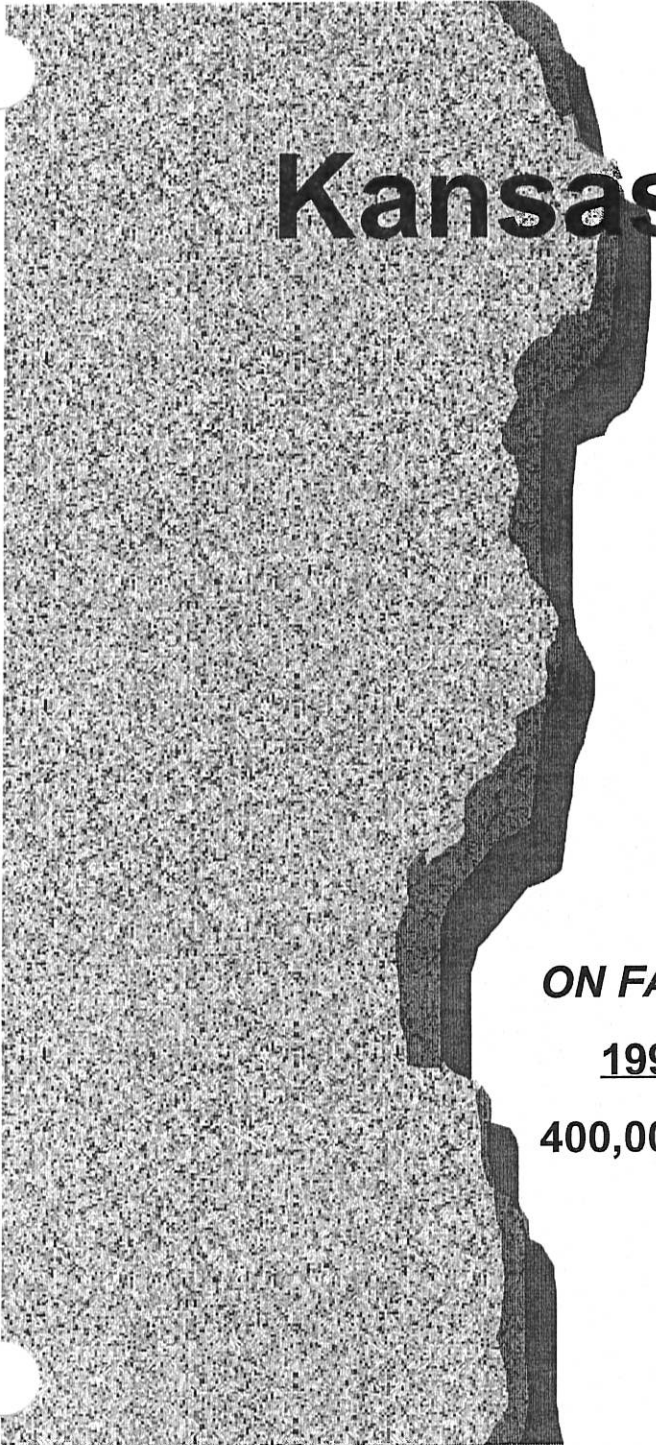
<u>1999</u>	<u>1998</u>
882,848,000	822,482,527

<u>1997</u>	<u>1996</u>	<u>1995</u>
742,220,000	761,920,000	817,020,000

ON FARM STORAGE:

<u>1999</u>	<u>1998</u>	<u>1997</u>	<u>1996</u>
400,000,000	400,000,000	400,000,000	400,000,000

Source: Ag Statistics NASS USDA

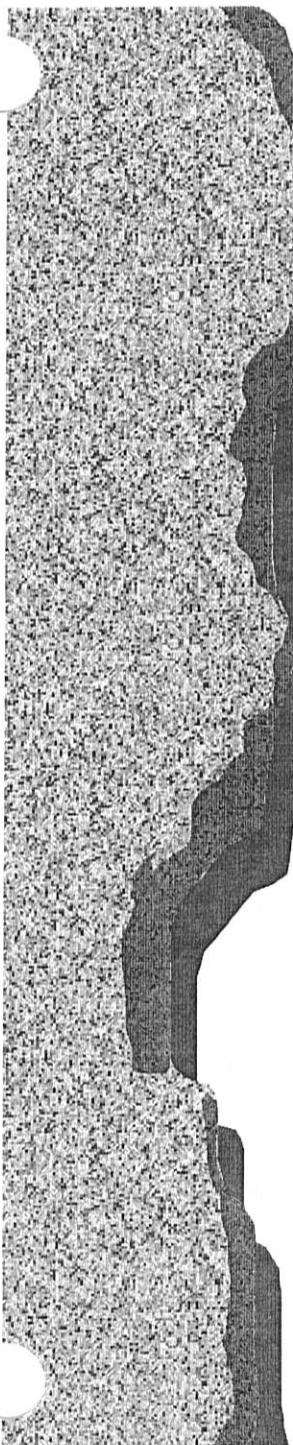


Kansas Production Figures

Four Major Crops

	<u>1996</u>	<u>1997</u>	<u>1998</u>
Soybeans	74,000,000 bu.	88,800,000 bu.	75,000,000 bu.
Sorghum	354,200,000 bu.	273,000,000 bu.	264,000,000 bu.
Corn	357,200,000 bu.	386,100,000 bu.	418,950,000 bu.
Wheat	<u>255,200,000 bu.</u>	<u>506,000,000 bu.</u>	<u>494,900,000 bu.</u>
Total	1,040,600,000 bu.	1,253,900,000 bu.	1,252,850,000 bu.

Source: Ag Statistics NASS USDA



Kansas Grain Stocks as of December 1st

December 1, 1998 - 760,567,000 bu.

December 1, 1997 - 714,627,000 bu.

December 1, 1996 - 635,490,000 bu.

Source: Ag Statistics NASS USDA

1 is issued without the payment of the sales or compensating tax otherwise
 2 imposed upon such materials, shall be guilty of a misdemeanor and, upon
 3 conviction therefor, shall be subject to the penalties provided for in sub-
 4 section (g) of K.S.A. 79-3615, and amendments thereto;

5 (yy) all sales of tangible personal property and services purchased by
 6 a parent-teacher association or organization, and all sales of tangible per-
 7 sonal property by or on behalf of such association or organization;

8 (zz) all sales of machinery and equipment purchased by over-the-air,
 9 free access radio or television station which is used directly and primarily
 10 for the purpose of producing a broadcast signal or is such that the failure
 11 of the machinery or equipment to operate would cause broadcasting to
 12 cease. For purposes of this subsection, machinery and equipment shall
 13 include, but not be limited to, that required by rules and regulations of
 14 the federal communications commission, and all sales of electricity which
 15 are essential or necessary for the purpose of producing a broadcast signal
 16 or is such that the failure of the electricity would cause broadcasting to
 17 cease;

18 (aaa) all sales of tangible personal property and services purchased
 19 by a religious organization which is exempt from federal income taxation
 20 pursuant to section 501 (c)(3) of the federal internal revenue code, and
 21 used exclusively for religious purposes; and

22 (bbb) all sales of food for human consumption by an organization
 23 which is exempt from federal income taxation pursuant to section 501
 24 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
 25 distribution program which offers such food at a price below cost in
 26 exchange for the performance of community service by the purchaser
 27 thereof;

28 (ccc) *all sales of materials and services purchased by any class II or*
 29 *III railroad as classified by the federal interstate commerce commission*
 30 *for the construction, renovation, repair or replacement of class II or III*
 31 *railroad track and facilities used directly in interstate commerce. In the*
 32 *event any such track or facility for which materials and services were*
 33 *purchased sales tax exempt is not operational for five years succeeding*
 34 *the allowance of such exemption, the total amount of sales tax which would*
 35 *have been payable except for the operation of this subsection shall be*
 36 *recouped in accordance with rules and regulations adopted for such pur-*
 37 *pose by the secretary of revenue; and*

38 (ddd) *all sales of materials and services purchased for the original*
 39 *construction, reconstruction, repair or replacement of commercial grain*
 40 *storage facilities;*

41 Sec. 2. K.S.A. 1998 Supp. 79-3606 is hereby repealed.

42 Sec. 3. This act shall take effect and be in force from and after its
 publication in the statute book.

, including rail sidings. Sales tax paid on and after July 1, 1997, but prior to the effective date of this act upon the gross receipts received from any such sale shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee.

Testimony on HB 2037
Taxation Committee
January 26, 1999
Prepared by Joe Lieber, Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperative businesses. Approximately 130 of our members are in the grain storage business.

The Council would like to testify in support of HB 2037, but would like to make an addition to section (ccc) to include "grain storage facilities".

Many grain storage facilities have had to construct and/or maintain tracks to make it possible for their facilities to be serviced by the railroads. Without this incentive, these facilities may not be able to access the railroads.

In addition, we would like to see section (ddd) retroactive. As most of you know, 1997 and 1998 were record years for grain harvest. Because low prices, grain storage and the lack of rail cars, millions of bushels of grain were stored on the ground. Many grain storage facilities began expanding and remodeling their facilities then, so we would like to have section (ddd) retroactive to 1997.

Again, we support HB 2037, but would like to see these additions to the bill. Thank you. I would be happy to attempt to answer any questions.

HOUSE TAXATION
1-26-99
Attachment 5

COUNTRY ELEVATORS
1600 N. Lorraine Suite 200
P.O. Box 2150
Hutchinson, KS 67504-2150



TERMINAL STORAGE

Phone (316) 663-7121
FAX (316) 669-5880

A Subsidiary of  ADM

STATEMENT OF
JOHN L. BAIR, VICE-PRESIDENT/CONTROLLER
COLLINGWOOD GRAIN, INC.

TO THE
HOUSE TAXATION COMMITTEE

REGARDING H.B. 2037

REPRESENTATIVE DAVID ADKINS,
CHAIRMAN

JANUARY 26, 1999

*House Taxation
1-26-99
Attachment 6*

Chairman Adkins and Members of the House Taxation Committee, my name is John Bair and I am Vice President and Controller for Collingwood Grain, Inc. Collingwood, a Kansas corporation, is a regional grain company, with elevators located in Kansas, Colorado, Oklahoma and Texas. Its grain business activities include receiving, storage, procurement, merchandising and shipment of grain. Collingwood has approximately 64 million bushels of grain storage capacity licensed in Kansas.

I appear today in support of House Bill 2037 and encourage your approval of this bill.

The Kansas grain industry is presently in need of increased grain storage capacity because of various factors, some of these factors are as follows:

- Freedom to Farm legislation
- Rail infrastructure
- Higher production yields
- Low commodity prices
- Non- competitive exports

The alternative in not building additional storage capacity is the continued piling of grain on the ground. Collingwood itself piled 12 million bushel of corn and milo on the ground during the fall harvest of 1998. The piling of corn on the ground in Kansas is a high financial risk to the elevator operators, ultimately a risk to the farm customer. Warm temperatures and moisture are not the elevator operators ally when grain is plied on the ground, the combination can cause grain to spout, sour, spoil or rot. In the industry this grain is referred to as "going out of condition" and the grain will have to be sold at a high discount, if it can even be sold.

Collingwood Grain, Inc. also supports the amendments proposed by the Kansas Grain and Feed Association that would make the sales tax exemption for new construction, repair or refurbishment of grain storage facilities retroactive to July 1, 1997 and include rail sidings as part of grain storage facilities.

I appreciate the opportunity to appear in support of House Bill 2037 and the amendments proposed by KGFA and I would be happy to answer any questions at this time.

TESTIMONY ON HB 2037.

TAXATION COMMITTEE

TUESDAY JANUARY 26, 1999

PREPARED BY:
PATRICK BREEDING
GENERAL MANAGER
DELPHOS COOPERATIVE ASSOCIATION
P.O. BOX 308
DELPHOS, KANSAS 67436
785 523-4213

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS PATRICK BREEDING AND I MANAGE THE DELPHOS COOPERATIVE ASSOCIATION IN DELPHOS, KANSAS AND I AM HERE TO TESTIFY IN SUPPORT OF HOUSE BILL 2037.

THE DELPHOS COOPERATIVE IS A SINGLE LOCATION COOPERATIVE LOCATED IN THE NORTH WEST CORNER OF OTTAWA COUNTY. THE DELPHOS COOPERATIVE HANDLES WHEAT, MILO, CORN, OATS, SOYBEANS, AND SUNFLOWERS AND PROVIDES FERTILIZER, AG CHEMICALS, FEED, ANIMAL HEALTH AND FARM SUPPLIES TO THE PRODUCERS IN THE DELPHOS AND SURROUNDING COMMUNITIES. THE DELPHOS COOPERATIVE ALSO PROVIDES CUSTOM APPLICATION OF FERTILIZER AND CHEMICALS AND THE ROLLING, MIXING AND DELIVERY OF FEED.

IN 1994, THE COOPERATIVE BUILT A LIQUID FERTILIZER CONTAINMENT FACILITY. AT THAT TIME THE COOPERATIVE WAS ABLE TO RECEIVE SALES TAX EXEMPTION PURSUANT TO K.S.A. 79-3606 (cc). AGAIN IN 1998, UNDER THE SAME STATUTE, WE WERE ABLE TO RECEIVE SALES TAX EXEMPTION FOR A ZIMMERMAN DRYER AND A 6,000.00 BPH LEG AND DRAG TO IMPROVE THE COOPERATIVE'S ABILITY TO RECEIVE AND DRY WET MILO AND CORN. BOTH YEARS WE QUALIFIED FOR THE SALES TAX EXEMPTION BECAUSE WE WERE LOCATED IN A CITY WITH A POPULATION OF 2,500 OR LESS AND THE COOPERATIVE WAS ABLE TO ADD MORE EMPLOYEES.

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OVER THE LAST TWO YEARS THE DELPHOS COOPERATIVE HAS AVERAGED OVER 3,300,000.00 BU OF GRAIN RECEIPTS PER YEAR. WE PILED WHEAT ON THE GROUND BOTH IN 1997 AND 1998 AND WE ALSO PILED MILO ON THE GROUND BOTH YEARS.

PARTIALLY DUE TO THE FREEDOM TO FARM ACT AND PARTIALLY DUE TO BETTER GENETICS AND FARMING PRACTICES, THE YIELD PER ACRE HAS INCREASED. THE PRODUCERS ARE USING LARGER COMBINES AND ARE MOVING THE GRAIN TO THE ELEVATORS IN LARGER TRUCKS. THE INCREASED YIELDS, LARGER COMBINES, AND LARGER TRUCKS ARE ADDING TO THE CHALLENGE OF RECEIVING THE PRODUCERS GRAIN IN A TIMELY MANNER.

THE DELPHOS COOPERATIVE WOULD LIKE TO CONTINUE THEIR EXPANSION OF THE GRAIN FACILITIES AND EQUIPMENT SO WE CAN CONTINUE TO RECEIVE THE PRODUCERS HARVEST EFFICIENTLY. THIS WORK WILL REQUIRE MORE UPGRADES AND MORE NEW EQUIPMENT.

I AM IN SUPPORT OF HB 2037 SECTION (ddd). IF AND WHEN WE UPGRADE AND EXPAND THE COOPERATIVES FACILITIES, MORE THAN LIKELY IT WILL NOT REQUIRE ADDITIONAL EMPLOYEES TO OPERATE, SO WE WOULD NOT QUALIFY FOR SALES TAX EXEMPTION PURSUANT TO K.S.A. 79-3606 (cc). ALL ELEVATORS IN THE STATE OF KANSAS WILL BENEFIT FROM HB 2037 AS THEY EXPAND THEIR FACILITIES TO HANDLE THE PRODUCERS CROPS. MANY ELEVATORS NEED TO UPDATE OR EXPAND EXISTING STORAGE TO AVOID PILING GRAIN ON THE GROUND. THIS WILL BENEFIT BOTH THE ELEVATORS AND THE PRODUCERS.

I AM ALSO IN FAVOR OF SECTION (ccc) WHICH WILL GRANT SALES TAX RELIEF TO CLASS II AND CLASS III RAILROADS. I WOULD URGE THE COMMITTEE TO INCLUDE IN SECTION (ddd) SALES TAX EXEMPTION TO ANY ELEVATOR THAT WILL BUILD NEW OR UPGRADE EXISTING TRACK THAT WILL BE USED TO LOAD RAIL CARS EITHER IN SINGLE OR MULTI-

CAR UNITS.

I WOULD ALSO URGE THE COMMITTEE TO CONSIDER MAKING THIS BILL RETROACTIVE BACK TO JULY 1, 1997. THIS WILL GIVE TAX RELIEF TO ELEVATORS WHO HAVE ALREADY UPGRADED OR EXPANDED THEIR FACILITIES.

THANK YOU VERY MUCH FOR YOUR ATTENTION TO THIS BILL AND IF I MAY ANSWER ANY QUESTIONS I WOULD BE PLEASED TO DO SO. THANK YOU.



TESTIMONY

TO: House Committee on Taxation
FROM: Jere White, Executive Director
DATE: 26 January 1999
SUBJECT: H.B. 2037

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association wish to stand in support of H.B. 2037. If there was ever a time when the importance of an adequate grain handling and storage infrastructure for Kansas was apparent, the past two years had to be just that.

Bumper crops and sagging exports, coupled with a new farm bill have Kansas busting at the bins. Clearly our growers have asked that some level of incentive that will promote the increased construction and renovation of grain storage facilities be established. HB-2037 is a solid step towards that end. It is important to our industry that the incentives be applied to all facilities, commercial or private. It would also seem appropriate that those growers and other entities that have made recent investments be accommodated by this proposed incentive as well. Many times those that do right early, do without later. We would hope to avoid that situation in this case. I would also point out that just as a mere few years ago, grain storage was not a high demand item in Kansas, and so could it be once more. The slight break of a sales tax exemption might be enough for the farmer or commercial enterprise to go forth and help provide the storage we need today. In reality, we believe that the ever increasing opportunities for specialty trait identity preserved grains will make these investments wise ones for all that choose to invest, and a wise investment for the State of Kansas as growers capture the opportunity for increased markets, profits and future income tax liability.

On behalf of the corn and grain sorghum industry in Kansas, and the over six million acres of production it provides, we urge this committee to move H.B. 2037 favorably.



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

RE: HB 2037 – Sales tax exemptions for railroad and grain storage facilities.

**January 26, 1999
Topeka, Kansas**

**Prepared by:
Bill R. Fuller, Associate Director
Public Affairs Division
Kansas Farm Bureau**

Chairman Adkins and members of the House Committee on Taxation, we certainly appreciate this opportunity to offer an amendment and express support for HB 2037.

My name is Bill Fuller. I serve as the Associate Director of the Public Affairs Division at Kansas Farm Bureau. My remarks will reflect the policy adopted at the 80th Annual Meeting of Kansas Farm Bureau by the 435 farmers and ranchers serving as delegates and representing the members of the 105 county Farm Bureaus.

The past two years have been especially challenging to most farmers and ranchers. While crop yields have been good in many areas, commodity prices have been extremely low. A shortage of storage and inadequate transportation has resulted in large quantities of grain being piled on the ground. The result is damaged, lower quality grain at even a lower price.

SB 70 proposes to provide sales tax exemptions for construction, renovation, repair or replacement of certain railroad and grain storage facilities. The Special Committee on Rail Transportation examined and advanced a number of tax proposals.

*HOUSE TAXATION
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ATTACHMENT 9*

KFB members debated and adopted new policy concerning tax incentives for encouraging railroad improvements and grain storage expansion:

- ◆ *Kansas should be doing more to assist Short Line Railroads and Class III carriers to obtain rail lines that may otherwise be abandoned.*
- ◆ *Kansas should provide tax incentives and other appropriate assistance to railroad companies that agree to upgrade rail lines and provide long-term service to shippers.*
- ◆ *We encourage the legislature and the Governor to examine the feasibility of creating tax incentives and/or a low- interest loan program to assist in construction of on-farm grain storage facilities.*

HB 2037 provides a sales tax exemption for “commercial” grain storage. We believe the exemption should apply to all grain storage, both commercial and on-farm. Therefore, we ask HB 2037 be amended by striking “commercial” on line 39 of page 13 of the bill:

(ddd) all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of ~~commercial~~ grain storage facilities.

It is our understanding the estimated fiscal note for this proposed amendment is \$86,000. We suggest the cost is modest when compared to the benefits that will be gained by increasing marketing opportunities, reducing transportation problems and eliminating losses from storing grain on the ground.

We respectfully encourage the committee to approve the amendment we offered to include on-farm grain storage and advance the amended bill to the full House.

Thank you! We will respond to any questions you may have.



January 25, 1999

Mr. Doug Gatewood
State Representative- District #1
State Capitol, Suite 273-W
Topeka, KS 66612-1504

Dear State Representative Gatewood:

I would like to express my opinion and support concerning HB 2037 – Sales tax exemption for railroad and grain storage facilities. I will not be able to give personal testimony on Tuesday, January 26th due to a scheduling conflict, but wanted you to be aware of our position.

I am President of the South Kansas and Oklahoma Railroad Company and strongly urge your full support of this bill. The passage of this bill will allow short line railroads such as ours to utilize the monies directly back into the railroads that would otherwise be collected in state sales tax and placed in the general fund. This money could be used for additional railway maintenance and upgrades to rail properties, purchase of railcars, or other improvements.

The South Kansas and Oklahoma Railroad provides rail transportation service to fifteen counties in southeast and south central Kansas. We have the opportunity to provide rail transportation service to a wide variety of industries ranging from agriculture, cement production, plastic manufacturing, steam condenser manufacturing, and petroleum refining just to mention a few. These businesses rely heavily on safe and efficient rail transportation, and with the passage of this bill, the South Kansas and Oklahoma Railroad Company will be in a better position to continue to improve the level of service to the customers in the southeast Kansas region of our state. I appreciate your consideration in support and passage of this bill.

Sincerely,

Rick Webb
President

316-231-2230

315 W. 3rd St, Pittsburg, KS 66762

FAX 316-231-2568

JAN-26-99 TUE 8:54 AM

316 231 2568

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