

Approved: 2-7-00
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:05 a.m. on February 3, 2000, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Erik Sartorius, Johnson County Board of Realtors, Inc.
Rebecca Swanwick, City of Lenexa
Robert J. Watson, City of Overland Park
Bud Burke, Issues Management Group, Inc.
Bob Best, Kansas Boaters Association
Pack St. Clair, Cobalt Boats
Andy Woodward, Kansas Boaters Association
Ken Berg, New Century Airport
Steve Williams, Secretary, Department of Wildlife & Parks
Kelly Miller, Crestview Marine
Lyle D. Bighley, Kansas Aviation Council

Others attending: See attached list.

Continued hearing on: **SB 474—Enacting the city and county development activity excise tax act**

Erik Sartorius, Johnson County Board of Realtors, Inc., testified in support of **SB 474**. The Board supports the bill because it extends important analysis requirements for instituting impact fees to the imposition of excise taxes. He discussed ways he believes the current governance of excises is lacking. He noted that excise taxes not developed through sound analysis hamper economic activity and arbitrarily punish individuals seeking to purchase a new home. (Attachment 1)

Senator Langworthy called attention to written testimony in support of **SB 474** submitted by Karen France, Kansas Association of Realtors (KAR). Ms. France states that KAR believes that it is a reasonable request of taxpayers to have rules regarding the utilization of a tax assessed by a city or county. (Attachment 2)

Rebecca Swanwick, Assistant City Attorney for the City of Lenexa, testified in opposition to **SB 474**. She feels the bill is unnecessary because cities are already empowered to enact excise taxes. Further, enacting statewide legislation on a matter of local concern runs contrary to cities' powers of home rule and may lead to confusion. In addition, she believes that **SB 474** confuses excise taxes with impact fees, an important distinction which has been heavily litigated. (Attachment 3)

Robert Watson, City Attorney for the City of Overland Park, followed with further testimony in opposition to **SB 474**. Mr. Watson endorsed Ms. Swanwick's testimony. He noted that the problem with the excise tax enacted in Derby, Kansas, was handled through the political process in Derby, which, in his opinion, is the proper way to handle the problem. He contended that there is no need for the bill. In addition, he believes that more research regarding the effects of the bill should be conducted. (Attachment 4)

Senator Langworthy announced that the hearing on **SB 474** was not closed as Don Moler, League of Kansas Municipalities, was unable to present his testimony in opposition to the bill due to another commitment.

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

Room 519-S, Statehouse, at 11:05 a.m. on February 3, 2000.

SCR 1629—A proposition to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the classification and taxation of aircraft and watercraft

Bud Burke, appearing on behalf of the Kansas Boaters Association and Cessna Aircraft Company, testified in support of **SCR 1629**. He directed the Committee's attention to a copy of K.S.A. 79-201k which exempts business aircraft from the personal property tax. He noted that the statement of purpose outlined in that statute accurately describes the need to pass a constitutional amendment for non-business aircraft and watercraft. (Attachment 5)

Bob Best testified in support of **SCR 1629** as a representative of the Kansas Boaters Association and as the owner of Lake Perry Yacht and Marina, Inc. In his opinion, the extremely high level of taxes placed on recreational boating in Kansas has created an impression that Kansas is not interested in recreational boating or its related industries. As a result, a large percentage of available recreational income is going to the neighboring states of Oklahoma and Missouri. After studying the problem, he believes that a new method of collection could result in significantly lower labor costs for every entity involved and generate greater total net revenue. (Attachment 6)

Pack St. Clair, CEO of Cobalt Boats in Neodesha, Kansas, testified in support of **SCR 1629**. He does business in almost every state and on a regular basis sees Kansans going to neighboring states to buy, register, and use their boats. Cobalt has dealers in the four surrounding states, and Kansas dealers are at a disadvantage because of the tax advantage neighboring states have. He maintained that a change in the personal property taxes on boats would bring Kansas boaters back and increase revenue for the state through sales tax and registration fees. (Attachment 7)

Andy Woodward testified in support of **SCR 1629** on behalf of the Cheney Lake Association and on behalf of Bob Winkler, President the Kansas Boaters Association. Mr. Woodward said he currently owns a 1979 sail boat and pays \$601 a year in taxes. He agreed with other conferees that the high tax rate on boats is a burden that causes Kansans to register their boats in other states. In order to compete with surrounding states, he feels it is imperative that the taxation on boats in Kansas be lowered. Mr. Woodward distributed copies of a letter in support of **SCR 1629** submitted by Mark A. Ladd, Jim's Imports of Wichita. (Attachment 8) For the Committee's information, he distributed copies of testimony and related data regarding taxation of boats in Kansas and in the five-state area submitted on behalf of Bob Winkler. (Attachment 9)

Ken Berg, testified in support of **SCR 1629** as a volunteer pilot for Angel Flight Central, formerly called Wings Over Mid-America. He noted that during the past year, Angel Flight Central volunteer pilots donated 2,400 hours of their personal time to fly patients in need of medical treatment. Of the 183 active pilots, approximately one-third are from Kansas. The pilots own and operate aircraft which are small, single-engine planes. They are subject to personal property assessed on their aircraft based on the appraised value of the aircraft in today's market and assessed at a 30 percent rate. Mr. Berg pointed out that many owners of small planes are not wealthy. Under the current tax system, only these types of pilots are paying property on their aircraft as larger airplanes are used by businesses that are exempt from this type of taxation. The current system forces some pilots to keep or move their aircraft out of the state over the new year to avoid the high tax in Kansas. He believes the proposed amendment would establish a more reasonable taxing criteria for aircraft. (Attachment 10)

Steve Williams, Secretary, Kansas Department of Wildlife and Parks (KDWP), noted that KDWP is responsible for providing outdoor recreational opportunities in Kansas. The recreational boating community has informed KDWP that the property taxes on boats are too high. Mr. Williams reasoned that it is possible that a lower property tax would encourage more people to own a recreational boat, which would indirectly help the Department's efforts to promote outdoor recreation in Kansas. He noted that a change in the taxation status for boats would not directly impact the Department's boat registration system. (Attachment 11)

Kelly Miller, President of Crestview Marine in Wichita, testified in support of **SCR 1629**. He informed the Committee that he is a full service marine dealer, and a percentage of his retail sales to Kansas residents are lost every year to surrounding states with a much more competitive personal property tax structure. He believes that a more competitive way to assess taxes on boats in Kansas would result in more Kansas dollars staying in Kansas in the long run. (Attachment 12)

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE
Room 519-S, Statehouse, at 11:05 a.m. on February 3, 2000.

Written testimony submitted by Judy Moler, Kansas Association of Counties, in support of **SCR 1629** was distributed to Committee members. Ms. Moler states that the current system of discovery, listing and valuation of boats is a cumbersome and inefficient process. She views the constitutional amendment as an opportunity to streamline the process and allow for "one-stop shopping" for taxpayers. (Attachment 13)

Lyle D. Bighley, President of the Kansas Aviation Counsel (KAC), gave final testimony in support of **SCR 1629**. He explained that KAC is a volunteer, non-profit organization concerned with the state of aviation in Kansas. He reported that a survey of ten counties in Kansas conducted by the Kansas Pilots Association (a member of KAC) showed huge differences in personal property taxes between airplanes and comparably priced surface vehicles. He noted that pilots agree that taxes are necessary and expect to pay them, but, at the same time, they have a right to expect a fair and equitable tax. In addition, he explained why the current personal property tax policy on airplanes is causing the state, the counties, and aviation related industry in Kansas to lose money. (Attachment 14)

In summary, Bud Burke reminded the Committee that, when the issue of taxation of boats and airplanes was first brought to the Legislature in 1998, interested parties were asked to evaluate the problem further. His group has met numerous times with a wide range of people, including the Kansas Association of Counties, county appraisers, county treasurers, the Department of Revenue, and KDWP to talk about a system that would work. He believes that the theory is sound. He said the point to be made is, Kansas is taxing aircraft and watercraft at a higher rate than all neighboring states. Should the constitutional amendment pass, a future Legislature could develop a simpler and more fair system which will actually save counties money. With this, the hearing on **SCR 1629** was closed.

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for February 7, 2000.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: February 3, 2000

NAME	REPRESENTING
KELLY MILLER	CRESTVIEW MARINE
ANDY WOODWARD	MONROE LAKE ASSN.
BOB BEST	KANSAS BOATERS ASSOC.
BUD BURKE	KS BOATERS ASSN / CESSNA IA
JACK R. CLAIRE	COBACT BOATS
KEN BERG	Angel Flight Central
Becky Berg	Angel Flight Central
Lama Johnson	KDOR - PVD
Spina Walker	KDOR - DMV
Rick Scheibe	KDOR Vehicles
Becky Swanwick	City of Lenexa
Kelly Kuetala	City of Overland Park
Bob Watson	City Attorney of Overland Park
MEGAN HEBERT	CUNTON MARINA, INC. / KS BT ASS.
Art Brown	m.p. - Mexico Underwater Assn
Ken Lumbor	Kansas Boaters Assoc.
Bill	KDOR - PVD
Mark Gardner	Hein + Weir
Nana Spaton	Johnson County



Johnson County Board of REALTORS®, Inc.
 6910 W. 83rd Street, Suite 1
 Overland Park, Kansas 66204-3997
 (913) 381-1881
 FAX (913) 381-4656
 e-mail-jcbr@kcrealty.org



The Voice for Real Estate®

Testimony of Erik Sartorius
 Governmental Affairs Director
 Before the
 Senate Assessment & Taxation Committee
 Regarding
 Senate Bill 474 Excise Tax Act

February 2, 2000

The Johnson County Board of REALTORS® encourages passage of Senate Bill 474. The bill extends onto excise taxes important analysis requirements for demonstrating the necessity of such taxes.

Current governance of excise taxes is lacking in two ways. First, municipalities and counties are not required to conduct the an analysis when levying an excise tax as they are when imposing an impact fee. Consequently, governments are being encouraged to utilize excise taxes, as they are “not subject to the same legal constraints as regulatory financing measures,” such as impact fees, to quote an article from the May 1998 *Kansas Government Journal*.

The other area of concern is that funds from excise taxes can be placed in the General Fund of the city or county and do not have to be spent to benefit the people on whom the tax was levied. Impact fees, meanwhile, are spent for a specific purpose to benefit the payers of the fee.

We believe Senate Bill 474 offers common sense rules for the imposition of an excise tax, including a comparison of the benefits and costs of current residents and the benefits and costs in new growth areas. Municipalities and counties wishing to impose an excise tax should be able to demonstrate the need for such a tax.

When excise taxes and impact fees are promulgated, the reasoning is almost always that “growth does not pay for itself.” The validity of this notion, unfortunately, is often not known. The analysis required in this legislation might show that development needs to pay more toward infrastructure in some localities, or it may show that new development contributes its fair share. The important aspect is that the public will know that costs and benefits were actually considered in reaching any tax levied.

As laid out in the bill, excise taxes could not be used to correct existing deficiencies in an infrastructure system. Collecting funds from new residents who did nothing to create problems in an existing system is not an equitable answer. Unfortunately, we are seeing instances where leaders prefer to demonize growth and development while using the excise taxes levied on development to mask existing deficiencies. Although this route is much easier than raising revenues from all users of infrastructure, it is politics at its worst.

The Johnson County Board of REALTORS® believes excise taxes and impact fees should not hamper or deter development in our communities. Excise taxes not developed through sound analysis, however, do hamper economic activity. Further, they arbitrarily punish individuals seeking to purchase a new home. New housing is made less affordable, without the guarantee that the newer area will receive the benefits of the excise tax levied against it.

We respectfully seek your support of this legislation.

OFFICERS

Lynne Wherley, President	Marilyn Dugan, Treasurer
Jeff Carson, President-Elect	Judi Branine, Secretary
Dana Schroeder, Immediate Past-President	Kathy Copeland, Past President
Joanne Arnold, Executive Vice-President	

DIRECTORS

Susan Bowers	Chris Hillyer	Janice Lindberg
Scottie Broderick	Carolyn Holle	John Moffitt
Bob Cattanach	Dianna Kinnard	Brant Tidwell
Nancy Hack	Tom Krattli	Linda Vaughan

Senate Assessment & Taxation
 2-3-00 Attachment 1



Kansas Association of REALTORS®



TO: SENATE ASSESSMENT AND TAXATION COMMITTEE
FROM: KAREN FRANCE
DATE: FEBRUARY 2, 2000
SUBJECT: SB 474, CITY AND COUNTY EXCISE TAX

Thank you for the opportunity to present written testimony regarding SB 474. The Kansas Association of REALTORS® supports the concepts in this proposal.

We believe that it is a reasonable request of taxpayers to have rules regarding the utilization of a tax assessed by a city or county. There are rules for property tax, local sales tax and other kinds of taxes. Why should excise taxes be treated any differently?

The 2000 Legislative Policy of the Kansas Association of REALTORS® states:

Impact and excise fees

“The Kansas Association of REALTORS® believes impact and excise fees should not hamper or deter development in our communities. We urge that governments limit any use of such fees to providing public capital improvements necessitated by new development. In no case should these fees be used to correct existing deficiencies.

Impact and excise fees must be reasonably based upon the actual cost of the service upon which the fee is assessed, and should be proportionate to the infrastructure and services directly related to the specific project/development. These fees should not be used to subsidize other programs and services that have no connection to the fee being imposed. Furthermore, the imposition of any fees should be accompanied by an ordinance defining the level of service to be provided in exchange for such fees.”

We think it is reasonable to ask the cities to prepare a capital facilities plan and determine the charges that are reasonable. We respectfully request your favorable consideration of this legislation.

Senate Assessment + Taxation

TO: Senator Audrey Langworthy, Chairperson
Members of the Senate Assessment and Taxation Committee

FROM: Rebecca A. Swanwick, Assistant City Attorney

RE: Senate Bill 474, enacting the city and county development activity excise tax act

DATE: February 2, 2000

Thank you for giving me the opportunity to appear before you today and to present testimony on Senate Bill 474. The City of Lenexa is opposed to this legislation for several reasons.

First, we feel that this legislation is unnecessary as cities are already empowered to enact excise taxes pursuant to Article 12, Section 5 of the Kansas Constitution. Further, enacting statewide legislation on a matter of local concern such as funding public improvements runs contrary to cities' powers of home rule and may lead to confusion for cities, such as Lenexa, that have already enacted an excise tax.

In addition, Senate Bill 474, as written, appears to confuse excise taxes with impact fees. This is an important distinction and one that has been heavily litigated. Impact fees are one-time charges against new development for the purpose of raising revenue for new or expanded public facilities necessitated by the new development. The Kansas Supreme Court in a case involving the City of Leawood held that cities were empowered to enact such impact fees pursuant to their home rule powers provided such fees are reasonable. In determining the reasonableness of impact fees, courts will consider several factors, including: (1) spatial factors (the distance between the development paying the fee and the public facilities to be constructed with the fees paid); (2) temporal factors (the length of time elapsing between collection of the impact fee and the construction of the facilities); (3) amount (the amount of the fee in relation to the cost of the public facilities); (4) need (the relationship between the burden created by the development and the increased need for public facilities); (5) benefit (the ability of the public facilities to satisfy the needs resulting from the development); and (6) earmarking (an assurance that the impact fee collected from the development are restricted solely for the provision of public facilities of the type for which the fees were collected and for facilities serving new development.)

Conversely, an excise tax is a tax imposed upon a particular use of property or the exercise of a single power over property incidental to ownership. The tax is simply levied on one of the many incidents of ownership. To be valid, the excise tax must truly be a tax and *not* a regulatory or impact fee. In considering the validity of excise taxes, courts will consider the following criteria: (1) whether the tax is on the activity of development and not on the property or the property owner; (2) whether the tax is for the purpose of raising revenues and whether the revenues raised are earmarked for a particular purpose (in the case of a true tax, the funds are not

specifically earmarked for a particular purpose but rather are levied for the purpose of raising general revenues and are deposited in the general fund); (3) whether the amount of the tax is reasonable and not confiscatory (This is not a proportionality test where the amount of the tax is weighed again the impact generated, but rather an overall fairness analysis;); (4) that the tax is not tied to regulatory purposes or imposed as a condition of planning approval; (5) that the tax is not based upon the value of the property and (6) whether the tax is nondiscriminatory in its application.

A review of Senate Bill 474, which purports to create an excise tax, reveals many of the characteristics of an impact fee. The "excise tax" proposed in this Bill requires, among other things, the establishment of service areas (which appears to ensure spatial connection between the "tax" and the public improvement); calculation of the amount of the "tax" in relation to the cost of the improvements; adjustment of the "fee" in "unusual circumstances" and a refund after six years if not used (which appears to ensure temporal connection between the collection of "tax" and the construction of the public improvement.) In fact, on line 26 of the bill, the tax is actually referred to as a "fee." The Bill, as proposed, blurs the line between excise taxes and impact fees and will, at a minimum, create confusion on the matter and invite unnecessary, expensive litigation.

The proposed Bill would require cities and counties to undergo an extensive financial analysis comparing the cost of public facilities to the demand generated by new development in justifying the "tax" imposed. I can only assume that the purpose of this provision is to ensure that developers do not pay more than their fair share of public improvement costs. While this is a legitimate consideration, requiring such calculations is completely unnecessary. Any excise tax imposed by a city or county must be "reasonable" or it will be found confiscatory and struck down in a court challenge. Furthermore, the competitive nature of development and cities' desire to remain competitive in attracting such development necessitate that excise tax rates are set as low as they possibly can be, while still ensuring that sufficient revenues are raised. While financial analyses like those proposed by SB 474 are not required, the City of Lenexa, as well as many other local cities, have conducted their own extensive financial analyses in arriving at excise tax rates which ensure that developers pay their fair share of the cost of the public improvements that will serve their developments while not overburdening the property with a confiscatory tax. In fact, excise tax revenues in the City of Lenexa have been pledged to transportation improvements, but this is just one of many funding sources for these improvements and represents only a fraction of the total monies spent on capital improvements in the City.

On behalf of the City of Lenexa, I would respectfully urge the Committee to decline to enact this proposed statewide legislation affecting what is essentially a matter of purely local concern and to leave such decisions to the local elected officials. Kansas courts have already spoke on this issue and have set forth the framework within which excise taxes must be developed and evaluated. Thank you for your consideration.



The City of
**Overland
Park**

KANSAS

City Hall • 8500 Santa Fe Drive
Overland Park, Kansas 66212-2899
TEL 913.895.6080/6083 • FAX 913.895.5095
E-MAIL watson@opkansas.org

Law Department

Robert J. Watson, City Attorney

TESTIMONY IN OPPOSITION TO SENATE BILL NOS. 474 and 477

TO: The Honorable Audry Langworthy, Chair, and
Members of the Senate Committee on Assessment and Taxation
Room 519-S

DATE: February 2, 2000

RE: Senate Bill Nos. 474 and 477 -- Pertaining to a city and county development activity
excise tax.

Ladies and Gentlemen:

The City of Overland Park opposes enactment of Senate Bill Nos. 474 and 477 for the following reasons:

1. Senate Bill Nos. 474 and 477 appear to be a blatant attempt to limit the home rule power of cities to enact excise taxes that was upheld in *HBA v. City of Overland Park*, 22 Kan. App. 2d. 649, 921 P. 2d 234 (1996).
2. They confuse taxes and fees by attempting to mandate a proportional basis for determining the excise tax rate. In effect the so-called excise taxes are impact fees in disguise and as such would not meet the test for a tax established by either the Kansas or federal courts.
3. They are virtual verbatim versions of Utah's "Impact Fees Act," (See Section 11-36-102 *et seq.* of the Utah statutes); but instead of calling themselves impact fees acts they graft an impact fee methodology onto what is called an excise tax. Further, they graft onto Kansas statutes, laws from another state whose cities have no home rule authority and whose cities have to rely on enabling legislation.
4. The Utah statute attempts to codify Utah case law prescribing a methodology for subdivision exactions and regulatory fees but fails to incorporate the flexibility into the process envisioned by the Utah Supreme Court in *Banberry Development Corporation v. South Jordan City*, 631 P. 2d 899 (1981) and its progeny.
5. They would likely wreak havoc on the City of Overland Park's capital improvement program. No fiscal impact on the City of Overland Park or on any other city has been prepared.
6. They are full of imprecise terms that are open to wide interpretation.

Senate Assessment & Taxation
2-3-00
Attachment 4

February 2, 2000
Page 2

7. They are full of ambiguities as to how they apply to existing excise taxes in Johnson County cities.
8. It is unclear whether the bill would allow cities to recoup consultant and other costs they must incur in crafting new or justifying existing excise taxes using the mandated methodology. The City of Salt Lake City was required to spend approximately \$250,000 in order to comply with the mandate of the Utah statute.¹
9. Even if enacted, these bills would not be effective to prevent cities from enacting excise taxes under their home rule powers because under established case law these bills will not be read in isolation but rather will be read *in pari materia* with K.S.A. 12-194, which is part of a non-uniform enactment.
10. Cities are being asked to respond to the bills on a moment's notice. The bills appeared out of nowhere, with no advance warning to the affected cities.

Therefore, we respectfully ask you to reject Senate Bill Nos. 474 and 477.

The City of Overland Park



Robert J. Watson
City Attorney

cc: Governing Body

¹ Ironically, impact fees paid in Utah have risen following enactment of the Utah statute, in part, because more cities in Utah are enacting impact fee ordinances in response to the codified law than took advantage of the methodology established by the Utah Supreme Court.

ISSUES



MANAGEMENT GROUP, INC.

TESTIMONY

February 3, 2000

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

Madam Chair and Members of the Committee, my name is Bud Burke and I appear on behalf of the KANSAS BOATERS ASSOCIATION and CESSNA AIRCRAFT COMPANY in support of SCR 1629.

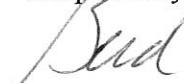
As one who was involved in the process of developing the language of the 1986 Constitutional Amendment that took us from the "uniform and equal" concept to the system of "classification" now found in our Constitution, I believe it is accurate to say that none of us envisioned then that water craft and aircraft would be two of the major classes of property left to be assessed at 30%.

I have attached a copy of 79-201k which EXEMPTS business aircraft from the personal property tax. Please note the compelling language found in subsection (a). Now that Cessna is once again producing smaller aircraft at Independence it brings attention to this industry and the contribution it makes to the economy of this state.

The same statement of purpose should apply to watercraft. The manufacturers, dealers, marinas and other types of business activity connected to the use of watercraft are also strong contributors to the economy of the State and deserve to be treated for tax purposes in a manner that does not disadvantage them compared to their competitors in our surrounding states.

Thank you for the opportunity to appear today.

Respectfully,


Bud Burke

26391 Cedar Niles Circle
Olathe, Kansas 66061
(913) 782-8753 fax (913) 782-0052

Senate Assessment & Taxation
2-3-00
Attachment 5

1-Bone Feeders, Inc. v. Martin, 236 K. 641, 649, 693 P.2d 1187 (1985).
Cited; nonbusiness use of rental airplane from airplane company making property ineligible for tax exemption (79-201k) examined Kenneth Godfrey Aviation, Inc. v. Smith, 12 K.A.2d 434, 746 P.2d 1068 (1987).
4. Property rented for profit is nonexempt regardless if used for purpose stated in Kan. Const., art. 11, §13. Board of Wyandotte County Comm'rs v. Kansas Ave. Properties, 246 K. 161, 171, 786 P.2d 1141 (1990).

79-201k. Property exempt from taxation; purpose; business aircraft. (a) It is the purpose of this section to promote, stimulate and develop the general welfare, economic development and prosperity of the state of Kansas by fostering the growth of commerce within the state; to encourage the location of new business and industry in this state and the expansion, relocation or retention of existing business and industry when so doing will help maintain or increase the

level of commerce within the state; and to promote the economic stability of the state by maintaining and providing employment opportunities, thus promoting the general welfare of the citizens of this state, by exempting aircraft used in business and industry, from imposition of the property tax or other ad valorem tax imposed by this state or its taxing subdivisions. Kansas has long been a leader in the manufacture and use of aircraft and the use of aircraft in business and industry is vital to the continued economic growth of the state.

(b) The following described property, to the extent herein specified, is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. For all taxable years commencing after December 31, 1982, all aircraft actually and regularly used exclusively to earn income for the owner in the conduct of the owner's business or industry.

History: L. 1982, ch. 390, § 4; L. 1988, ch. 374, § 3; July 1.

Research and Practice Aids:

Taxation *219.
C.J.S. Taxation § 240 et seq.

Attorney General's Opinions:

Determination of property exempt from taxation 82-252.
Business aircraft exemption is constitutional. 83-175.

CASE ANNOTATIONS

1. Flying club with full-time staff using aircraft exclusively for rental to members held to be business. In re Tax Appeal of Cessna Employees' Flying Club, 11 K.A.2d 378, 381, 721 P.2d 298 (1986).

2. Nonbusiness use of rental airplane from airplane rental company makes airplane ineligible for tax exemption. Kenneth Godfrey Aviation, Inc. v. Smith, 12 K.A.2d 434, 439, 746 P.2d 1068 (1987).

3. Property rented for profit is nonexempt regardless if used for purpose stated in Kan. Const., art. 11, §13. Board of Wyandotte County Comm'rs v. Kansas Ave. Properties, 246 K. 161, 169, 786 P.2d 1141 (1990).

79-201l. Severability clause. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or appli-

5-2

**PRESENTATION TO STATE SENATE TAX COMMITTEE
FEBRUARY 3, 2000**

THANK YOU FOR THE OPPORTUNITY TO SPEAK WITH YOU THIS MORNING

MY NAME IS BOB BEST AND I AM HERE REPRESENTING THE KANSAS BOATERS ASSOCIATION AND MY COMPANY WHICH IS LAKE PERRY YACHT & MARINA INC.

I AM HERE TO ASK FOR YOUR ASSISTANCE WITH THE RESOLUTION OF A PROBLEM THAT IS CAUSING SIGNIFICANT DIFFICULTIES FOR THE BOATING INDUSTRY IN KANSAS INCLUDING BOAT OWNERS, MARINA OPERATORS, BOAT DEALERS AND ALL BUSINESSES THAT SALE PARTS OR PRODUCTS IN THIS INDUSTRY.

IT IS CAUSING THE STATE TO LOSE A SIGNIFICANT AMOUNT OF PERSONAL PROPERTY TAX AND SALES TAX AND IS REDUCING THE UTILIZATION OF STATE RECREATIONAL LAKES. IT IS ALSO A CONTRIBUTING FACTOR IN THE LACK OF INTEREST IN THE RECENTLY OFFERED RESORT DEVELOPMENT PLAN.

THE ISSUE, AS YOU KNOW, IS THE EXTREMELY HIGH LEVEL OF TAXES PLACED ON RECREATIONAL BOATING IN KANSAS.

THIS SITUATION HAS CREATED AN ENVIRONMENT AND AN IMPRESSION THAT KANSAS IS NOT INTERESTED IN RECREATIONAL BOATING OR ITS RELATED INDUSTRIES AND IS SENDING A LARGE PERCENTAGE OF AVAILABLE RECREATIONAL INCOME TO OUR NEIGHBORING STATES OF OKLAHOMA AND MISSOURI

WE BROUGHT THIS ISSUE TO YOU IN 1998 AND ASKED FOR YOUR CONSIDERATION IN DEVELOPING ENABLING LEGISLATION THAT WOULD CHANGE THE SYSTEM TO A MORE EQUITABLE METHOD AND REDUCE THE IMPACT OF THIS PROBLEM.

YOU RESPONDED BY ASKING US TO EVALUATE THE PROBLEM FURTHER AND TO REVIEW ALTERNATIVES. WE HAVE DONE THAT.

IN 1999 WE MET WITH A VARIETY OF INDIVIDUALS AND ORGANIZATIONS THAT ARE IMPACTED IN SOME FASHION BY THE TAX AND THE METHOD OF IMPLEMENTATION. WHAT WE FOUND WAS A VERY COMPLICATED AND LABOR INTENSIVE SYSTEM THAT IF CHANGED COULD POTENTIALLY REDUCE THE INDIVIDUAL TAXES PAID ON RECREATIONAL BOATS AND SIMPLIFY THE METHOD OF COLLECTION.

*Senate Assessment + Taxation
2-3-00
Attachment 6*

WE BELIEVE THAT A NEW METHOD OF COLLECTION COULD RESULT IN SIGNIFICANTLY LOWER LABOR COSTS FOR EVERY ENTITY INVOLVED AND ACTUALLY GENERATE GREATER TOTAL NET REVENUE .

THIS APPEARS TO BE A WIN - WIN SITUATION IN THAT WE HAVE AN OPPORTUNITY TO REDUCE TAXES AND NOT REDUCE REVENUE

THIS WOULD SIMULTANEOUSLY IMPROVE ALL AREAS OF THE RECREATIONAL BOATING INDUSTRY IN THE STATE FROM BOAT SALES TO RECREATIONAL DEVELOPMENT AND THE JOBS THAT THESE ORGANIZATIONS CREATE.

I THEREFORE RESPECTFULLY REQUEST THAT YOU DEVELOP AND PASS LEGISLATION THAT WILL ALLOW FOR A NEW METHOD OF TAXING RECREATIONAL BOATS AND THAT IT BE IMPLEMENTED AS SOON AS POSSIBLE

THANK YOU.

I WOULD BE HAPPY TO ADDRESS ANY QUESTIONS THAT YOU MAY HAVE AND AND I CAN BE REACHED AT 785-597-5555.

**Prepared for Presentation to the Senate Committee
on Assessment and Taxation
February 3, 2000**

My name is Pack St. Clair and I am CEO of Cobalt boats in Neodesha, Kansas. We employ 550 people and produce a line of pleasure boats that are sold through 95 dealers throughout the United States. We do business in almost every state in this country.

I very strongly support the abatement of personal property taxes on boats sold in Kansas.

I see Kansans on a regular basis going to our neighboring states to buy, register, and use their boats. Cobalt has dealers in the four surrounding states and I see our Kansas dealers at a disadvantage because of the unfair tax advantage our neighboring states have.

Kansas has many outstanding boating lakes, which I feel are

*Senate Assessment & Taxation
2-3-00
Attachment 7*

underutilized, and a change in the personal property taxes on boats would bring Kansas boaters back and actually increase revenue for the state through sales tax and registration fees.

Thank you for your consideration.

Madam Chairman and members of the committee,

Jim's Imports sells in excess of 125 personal watercraft and sport boats per year. Many of these purchasers seek refuge from extremely high Kansas personal property tax by registering and titling their boats in surrounding states, especially Oklahoma. It is my understanding that there are some Oklahoma registration points that don't even require the owner to have any kind of residence in Oklahoma. Other owners use out-of-state addresses to escape both Kansas sales tax and personal property tax. Over the years, we have lost many, many boat sales to people that desire to escape high Kansas taxes by purchasing their boats out of state; some of these people have even been able to register their out-of-state purchased boats in Kansas, thereby escaping taxes altogether! Considering all aspects of the above discussion the loss of revenue to Kansas economy and taxes is definitely staggering. Furthermore it is unfair for some Kansans to burden the present high tax rate, while others don't pay a penny.

It is imperative that Kansas tax boats at a lower rate that is more in line with other states in our region.

Sincerely,



Mark A. Ladd

Senate Assessment + Taxation
2-3-00
Attachment 8

DRAFT

Kansas Boaters Association Proposes the Abatement of Personal Property Taxes on Boats in Kansas. - WHY ?

Kansans who own boats are required to pay an unreasonably high personal property tax. This unfair tax rate forces many Kansas residents to locate their boats and spend recreational dollars out of state at a substantial cost to our Kansas economy. The tax rate on RV's and Travel Trailers, which are used year around, have been dramatically reduced.

Why Are Boat Owners Penalized?

Consider the following negative facts that have resulted from high boat taxes.

1. Loss of Sales and Revenue for the State of Kansas.
The state of Kansas no longer realizes the revenues that are generated from a boat that is purchased and used in the state of Kansas.
2. Loss of Collected Property Tax.
High tax rates motivate people to evade taxes by locating their boats out of state.
3. Erosion of Customer Base of Kansas.
Kansas residents are drawn out of state to areas where more favorable climate of boat ownership and usage have been developed.
4. Discourages Tourism in the State of Kansas.
Lack of development and lack of facility keeps our Kansas lakes from becoming tourist destinations.
5. Detours Economic Development.
Diminished customer base will not provide the incentive for businesses to grow.

Bob Winkler, Pres. C L A
(316) 684-8005
2500 Claiborn Cir.
Wichita, KS 67226

*Senate Assessment + Taxation
2-3-00
Attachment 9*

When this high tax rate is abated we are certain the following improvements will occur.

1. **Boat Sales and Collected Sales Tax Will Increase.**
Personal Property Tax abatement will remove an objection that is a factor in purchasing a boat in the state of Kansas.
2. **Boat Registration Will Increase.**
Increased sales and relocation of boats back in the state of Kansas will occur when this tax is abated.
3. **Economic Development Will Be Promoted.**
Tourism will be encouraged. Boating will be more accessible to residents and attractive to non-residents. Promotes family recreation and exposes new generation to creative entertainment. Lake usage will increase along with related businesses. Jobs will be created and overall lake recreation in the state of Kansas will see improvements.

The time has come to correct this unfair property tax on boats in Kansas. We must give Kansas residents the incentive to buy own and operate boats in their state. Abatement of this tax will bring boaters in general back to Kansas, and do nothing other than improve this and all related industries in our state. Let us provide the incentive to own boats by our residents and use them in the state in which they reside. By overcoming the competitive disadvantage of high taxes, Kansas tourism and the boating industry will grown and thrive.

Therefore, we recommend that Kansas eliminate taxes or at a minimum reduce them to a level that is comparable to our neighboring state of Nebraska. We have attached documents which show a comparison of taxes on boats in neighboring states.

Thank You for your consideration.

MARINA OPERATORS MEETING

Tuesday, Dec 16, 1997

The meeting was called to order at 10:00 am and those attending were: Darren Combs representing North Shore Marina, William Barrow representing Tower Harbor Marina, Chris Deam representing Thunderbird Marina, John Croft representing Shady Creek, Mr. & Mrs. Bob Winkler president of Cheney Lake Association and Bob Best representing Lake Perry Yacht & Marina.

The topic of discussion was a comparative study of boat taxes in Kansas verses taxes on RV's to other surrounding states and the economic repercussions for tourism and related industries in Kansas.

The following was determined:

A) Boat Taxes for the State of Kansas.

1. Are excessive compared to other surrounding states.
2. Disproportionate with other Real Property in the state of Kansas.

Resulting in:

- 3). Negative Economic Impact.
 - a) Loss of sales and revenue for the state of Kansas.
 - b) Loss of collected property tax.
(high tax rates motivate people to evade Kansas taxes).
 - c) Discourage tourism in the state of Kansas.
 - d) Discourage economic development.
 - e) Detour boat manufactures.
 - f) Erosion of customer base in the state of Kansas.

Reasons to reduce boat taxes for the state of Kansas.

B) Promotes Economic Development.

1. Encourages tourism.
 - a) Makes boating more accessible to Kansas residents.
 - b) Promotes Family recreation.
2. Increase Tax revenues.
 - a) Increase Boat Registration. (residents & non-residents)
 - b) Increases Lake usage and improve sales of lake area businesses.
 - c) Increase boat sales in the state of Kansas.
 - d) Promote sales for related industries.
 - e) Creation of jobs. (young / old)
 - f) Provides overall improvement to lake recreation in the state of Kansas.

We have concluded that the Kansas is at a competitive disadvantage with surrounding states because of the tax structure on boats. We recommend in order to level the field Kansas boat taxes must be comparable to Nebraska boat taxes. This will facilitate the health and survival of our industry in the state of Kansas.

The group discussed and collectively formed an association with key members in position. This association formed is identified as " Kansas Boaters Association.". Bob Best is elected as Chairman, William Barrow is elected as Vice-Chairman and Chris Deam is elected as Secretary/ Treasurer. Annual membership dues are as follows: Marina Operators - \$100.00, Boat Manufactures/Dealers - \$250.00, Related Business - \$50.00, Boat Owners - \$5.00, Related Business & Associations (Ins, Me, etc.) - \$250.00.

Boat, airplane owners seek tax relief from Legislature

■ Lawmakers could change tax rates only with voter approval.

By Steve Painter

The Wichita Eagle

TOPEKA — A House panel approved a proposed constitutional amendment Thursday that would allow the Legislature to lower property tax rates on boats and airplanes.

The action by the House Taxation Committee came after boat and airplane owners, including some from Sedgwick County, told members of the committee that Kansas taxes were unfairly high, particularly when compared with other states and with Kansas taxes on recreational vehicles.

The high tax rates encourage people to register boats in neighboring states, rather than in Kansas, the committee was told.

"All the marinas along our southern border and northern border are losing customers," said Bob Winkler, president of the Cheney Lake Association.

Boats and airplanes are the only personal vehicles that are taxed at the highest Kansas property-tax rate

LEGISLATURE '98

of 30 percent. Changing that, however, would require a vote of two-thirds of the members in the House and the Senate, and approval of Kansas voters this November.

The Legislature could then consider changing the tax rates during the 1999 session.

Winkler provided the committee with charts showing that a \$16,000 fishing boat would cost a Kansas owner \$432 in property taxes, compared with \$152 for Missouri taxpayers. Other neighboring states have no property taxes on boats, but the owners would pay registration and license fees of \$150 in Oklahoma, \$35.50 in Nebraska and \$15.25 in Colorado.

Likewise, Lyle Bighley, president of the Kansas Pilots Association, said airplane owners pay too much in comparison with owners of other vehicles. His group surveyed 10 counties to determine the property taxes on a 1983 Cessna Skyhawk, a Lincoln Town Car and a Pace Arrow motor home, each valued at \$40,000.

In Sedgwick County, owners would pay \$1,583 on the airplane, \$842 on the car and \$178 on the motor home.

The only person to testify against the resolution was Rod Broberg, Saline County appraiser, representing the Kansas County Appraisers Association. He said the proposal would narrow the tax base for counties but would not reduce the work load on appraisers' offices.

In written testimony, the Sedgwick County Appraiser's Office said it takes six to seven full-time employees and a supervisor working from January to May each year to determine values of boats and other personal property. The boats are the most difficult because boats, motors and trailers are all assessed separately.

"It's the most man-intensive, with the least amount of dollars that come back," said Willie Martin, lobbyist for Sedgwick County. She asked that lawmakers devise a simpler appraisal method if they lower tax rates.

Rep. Phill Kline, chairman of the tax committee, said he expects the issue to be debated on the House floor next week.

Steve Painter writes about state government. He can be reached at (785) 296-3006 or by e-mail at spainter@wichitaeeagle.com



COBALT BOATS

March 4, 1998

Mr. Phil Kline, Chairman
Kansas House Committee on Taxation

Dear Mr. Kline:

My name is Pack St. Clair and I am CEO of Cobalt boats in Neodesha, Kansas. We employ 400 people and produce a line of pleasure boats that are sold through 90 dealers throughout the United States. We do business in almost every state in this country.

I very strongly support the abatement of personal property taxes on boats sold in Kansas.

I see Kansans on a regular basis going to our neighboring states to buy, register, and use their boats. Cobalt has dealers in the four surrounding states and I see our Kansas dealers at a disadvantage because of the unfair tax advantage our neighboring states have.

Kansas has many outstanding boating lakes, which I feel are underutilized, and a change in the personal property taxes on boats would bring Kansas boaters back and actually increase revenue for the state through sales tax and registration fees.

Thank you for your consideration.

Sincerely,

Pack St. Clair
Chairman & CEO

:sda

MAR-13-98 MON 10:41 LAKE PERRY MARINA 183 397 3373 P.02

PRESENTATION AT THE STATE CAPITOL ON MARCH 5, 1998
SUBJECT: BOAT TAXES IN KANSAS

Distinguished Legislators. I have a vision of Kansas becoming a vacation destination. Of a beautiful resort on one of our many lakes that all of you would be proud to visit and stay in. Many families from all over the U.S. would visit this resort on an annual basis to relax, boat, fish, ski, play golf, go sight seeing, hiking, camping, horse back riding or just ride around and enjoy the beautiful scenery that is Kansas. The Kansas that we know is apparently unknown by many others and consequently we are the lucky recipient of a 48th place ranking in the area of state tourism. You have just completed a first major step in attempting to lift Kansas off the bottom of the tourist destinations list with the passage of H.B. 2899 which provides a mechanism to build a resort with the States blessing and assistance.

If Kansas were able to move up in the tourism rankings just a few places it could mean literally millions of dollars being pumped into the Kansas economy that are currently being spent in states all around us. This first major step toward that goal however, needs to be augmented with a few other component pieces if we are to be successful in our efforts to make Kansas a destination and to realize the many economic benefits that can be visualized. One of the additional components is the passage of legislation that will change the way in which boats are taxed. Currently, Kansas residents own approximately 101,000 boats which results in a ranking of 32nd in the nation in terms of boat ownership. This number, however, has remained virtually flat for the last five years in that it has only increased 3% since 1992. Kansas lake utilization has also declined and in fact lake Perrys utilization has declined almost steadily since its original formation. Part of the reason for this is that boat taxes are so out of line with other states that people are not buying or keeping newer more expensive boats in the state and young families have found that boating has become too expensive for their meager budgets and they have turned to other, sometimes significantly less desirable, recreational pursuits.

Do you realize how significant a problem this really is? Do you know how important the timing of changing the level of taxation on boats is? Let me tell you.

Boat taxes are currently 4-10 times or more here in Kansas than they are in neighboring states. One of my customers left my facility where he kept his boat to move it to Missouri. His taxes in Kansas were \$120.00 - In Missouri -\$16.29 Another customer just moved his house boat, sailboat, and new runabout to Truman lake because he was fed up with the high taxes here in Kansas. We are not

Personal Property Tax on Water-Craft

In August 1997 the Cheney Lake Association presented written testimony to the Senate and House committees on taxation, requesting Personal Property tax on all water-craft in Kansas be exempt.

On December 16, 1997 representatives of lake organizations across Kansas met in Topeka and formed the Kansas Boaters Association who's sole purpose is to work with Kansas Legislators on removing Personal Property Tax on water-craft in Kansas. Bob Best from Perry, KS was elected Chairman.

On January 15, 1998 representatives of Cheney Lake Association, Perry Lake, and Kanapolis Lake presented oral and written testimony before the House Committee on taxation requesting tax abatement of Personal Property Taxes on all water-craft in Kansas.

The Sedgwick County Appraiser's office supports our efforts in eliminating this tax. The guidelines for appraising water-craft is labor intensive, and the revenue generated is minimal, equaling 1/20 of 1% of taxes collected in Sedgwick County.

If you agree with Cheney Lake Associations position please call your representative.

Concordia, Kansas
March 16, 1998

To: Kansas Boaters Association

Att: Mr Bob Winkler, Pres. CLA
2500 Claiborn Cir.
Wichita, Kansas 67226

Ref: Abatement of Personal Property
Taxes on Boats in Kansas

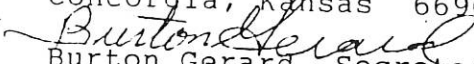
We , the Officers of the Lovewell Lake Association Inc. with a membership of 71 do support the Draft for Tax Abatement of Personal Property Tax on water-craft in Kansas , that which is sold and used on the Lakes of Kansas.

We recommend that the tax rate be eliminated or at least be reduced to that would be comparable to the neighboring border states.

Lovewell Lake Association Inc.

P.O. Box 467

Concordia, Kansas 66901-0467


Burton Gerard - Secretary

PREFACE

The study and report contained in the following pages concerns the very high unreasonable personal property tax in Kansas and a comparison of how tax and registration is figured in Kansas, Oklahoma, Missouri, Nebraska and Colorado.

It appears there is no set formula or rule for figuring tax and registration on personally owned boats.

In Kansas, boats are assessed at the highest rate which is 30%. This is totally unfair considering that boats are used for recreation much like R.V.s and travel trailers.

The personal property tax has been greatly reduced on R.V.s and travel trailers – what formula or reasoning is used to accomplish this for R.V.s? Let's be fair in the tax we are expected to pay – get the personal property tax on boats down-down-down-down.

Many boats are purchased by persons living in Kansas but purchase and keep them out of state to avoid the high property tax.

This study indicates the sales tax rate is about the same in various states. Most Kansas boat buyers expect to pay sales tax – however, a lot of them pay sales tax and property tax out of state.

It would appear that a much lower property tax would enable a buyer to purchase in Kansas – this would increase revenue from sales tax.

From survey records it is estimated than in 1996 about 3500 boats were purchased by Kansans; of this number, it is estimated that 20% register and keep their boats out of state. The loss of Kansas sales tax revenue is about \$400,000.

What is it going to take?

Boat owners and the boat industry in the state of Kansas must rely on local and state government officials to recognize the unfair and unreasonable tax and greatly reduce or eliminate it.

Your help is urgently requested.

KANSAS PROPERTY TAX

In a study of the cost of registration and ownership of personally owned boats in Kansas, Missouri, Oklahoma, Nebraska and Colorado, the following is an outline for each state. For the purpose of comparison, two boats have been chosen to indicate the cost for registration and taxes in each different state.

The first boat is a 1996 Cobalt 220 Runabout and Ski boat that sells for about \$35,000.

The second boat is a 1996 Sylvan 19 ProSelect Fishing boat that sells for about \$16,000.

Boat #1



Boat #2

For Kansas...

For any boat, sales tax is 5.5% to 5.9%. The registration fee is \$18 for three years.

The appraised value is derived from the NADA small boat appraisal guide average trade-in.

The assessed value is then 30% of the appraised value.

If a person owns a boat as of January 1, then it would be subject to personal property tax for that and subsequent years. The personal property tax will then be the assessed value times the mill levy for the Kansas County where you register the boat.

It will also be subject to personal property tax of some slightly lesser amount for each following year.

Using the rules for Kansas as it applies to a:

1996 Cobalt 220, selling for \$35,000

Sales tax	\$2,065.00
3-year registration	18.50
Appraisal boat and trailer	22,630.00
Assessed value	6,789.00
Tax Rate = .11268 per 100 assessed	
First year personal tax	765.00

1996 Sylvan fishing boat, selling for \$16,000

Sales tax	\$944.00
3-year registration	18.50
Appraisal boat and trailer	12,805.00
Assessed value	3,841.00
Tax Rate = .11268 per 100 assessed	
First year personal tax	432.00

For Missouri...

All boats and motors must be titled and are appraised for tax purposes using one of three appraisal guides published in St. Louis.

The assessed value is then 33% of the appraised value.

Boats registered in Missouri are subject to the following taxes:

Example from Stone County

Sales tax 4.225% + county 1.65%
Title registration fee \$7.50 (10' to 30')
Second year personal property tax0385 x assessed value
Personal tax decreases slightly for subsequent years.

Using the rules for Missouri (Stone County)

For a 1996 Cobalt 220 and trailer selling for \$35,000:

Sales tax \$2,056.00
Title registration fee 7.50
Appraisal 18,780.00
Assessed value 6,260.00
Second year personal tax 241.00

For a Sylvan 1996 fishing boat selling for \$16,000:

Sales tax \$940.00
Title registration 7.50
Appraised value 11,820.00
Assessed value 3,940.00
Second year personal tax 151.69

PLEASE NOTE: Personal tax is much less than in Kansas due to lower tax levy. – Especially around lake areas.

No Personal Property Tax For Oklahoma...

Boats are registered through the motor vehicle department and must be titled. There is a title fee of \$3.25 and a yearly registration fee of \$150 maximum on boats over \$15,000. There is a one-time excise tax of 3.25%. All this is uniform over the state and is collected at the time of registration. There is no requirement for trailer license.

Using the rules for Oklahoma,

A 1996 Cobalt 220 selling for \$35,000 would cost:

Title fee	\$3.25
Registration fee	150.00
One-time excise tax	1138.00
(no personal property tax)	

A 1996 Sylvan fishing boat selling for \$16,000:

Title fee	\$3.25
Registration fee	150.00
One-time excise tax	520.00

No Personal Property Tax

For Colorado . . .

In Colorado, boats are not titled.

Boat trailers require a license tag and are licensed by the motor vehicle department.

The sales tax on a boat purchase is 5% plus city tax for an average sales tax of 6%.

To license a boat the registration fee is:

less than 20'\$15.25
over 20'20.25

This is per year.

Using the rules for Colorado:

A 1996 Cobalt 220 selling for \$35,000

Sales tax\$2,100.00
License, registration20.25

A Sylvan fishing boat selling for \$16,000

Sales tax\$960.00
License, registration15.25
No personal property tax.

No Personal Property Tax

For Nebraska . . .

In Nebraska all boats are titled. Boat trailers less than 9,000 gross lbs. do not require a license.

To purchase and register a boat in Nebraska:

Sales tax 5% plus any city tax.
Total average 6%

Boats are licensed and registered by the Nebraska Motor Vehicle Department.

License and registration fees are as follows:

Boats 16' and under \$18.75 for three years
16' - 26' 35.50
26' - 40' 52.25
40 - over 86.00
Dealer permit 35.50

For a 1996 Cobalt 220 and trailer selling for \$35,000

Sales tax \$2,100.00
Title and registration fee \$35.50
No personal property tax

For a 1996 19' fishing boat and trailer selling for \$16,000

Sales tax \$960.00
Title and registration fee 35.50
No personal property tax

COMPARISON TO RV's

If we look at a comparison of the personal property tax in Kansas between boats and R.V.s, there is an unreasonable difference and the tax on R.V.s is much less than boats.

In Kansas, when an R.V. or motor home is purchased, the following tax is required:

Sales tax	5.9%
License tag	
Personal property tax	
0-5 years	\$70.00 + \$0.90/100 lbs.
6-10 years	\$50.00 + \$0.70/100 lbs.
11 years and older	\$30.00 + \$0.50/100 lbs.

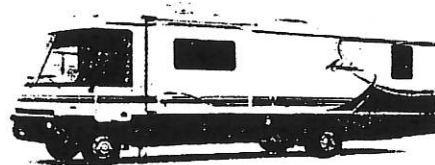
Therefore, any motor home or R.V. purchased would pay tax as follows:

A 1997 35' motor home selling for \$35,000, gross weight 16,000 lbs.

Sales tax	\$2,065.00
Tag license	37.00
Personal property tax	\$70 + 148.50=\$218.50

Going back to the tax information on the 220 Cobalt boat, it can be seen that the personal property tax on the boat at \$765 is three times that of an R.V., (\$218.50), selling for the same price.

About three years back, R.V.s were taxed the same way as boats. The state was losing revenue because people were going out of state to purchase R.V.s to get away from the high Kansas tax. The rules changed for taxing R.V.s and now the revenue from R.V. sales is going up.



The fact that tax is high on boats is driving people out of state to buy boats. A high percentage of expensive boats are taken to Grand Lake, Beaver Lake and Table Rock.

This state loses the sales tax because of the high property tax.

The boating community needs a tax break. How about some help from our legislature?

SUMMARY

As can be seen from the foregoing, the cost in Kansas for buying and owning a boat is very much more than Oklahoma, Missouri, Nebraska and Colorado.

The system for collecting personal tax on boats in Kansas is not good. Taking a look at the method Oklahoma uses, the tax is uniform and everyone pays because it is collected when the boat is registered.

The personal property tax on boats in Kansas is unfair and not uniform.

Look at the personal property tax on recreational vehicles (R.V.s) and compare them to boats – Following page.

NOTE: A \$100,000.00 motor home that weighs 16,000 pounds requires a personal property tax of \$214.00. The tax on a boat costing the same would be \$3384.00.

What's fair about that?

February 3,2000

Senate Concurrent Resolution No. 1629
Committee Hearing

Good Morning, Madam Chair, Members of the Assessment and Taxation Committee, and other guests.

My name is Ken Berg, and I live in Louisburg, Ks and have been a resident of Kansas for thirty (30) years. I have owned an airplane for the past 12yrs. and currently hanger it at New Century Airport, New Century, Ks.

More importantly, I belong to an organization formerly called 'Wings Over Mid-America. This past fall we have changed our name to 'Angel Flight Central'. This name change is part of an effort to form a National Volunteer Pilot Organization called 'Angel Flight America'. Who are we?

A call comes in to one of our volunteers from a mother in Norton, Ks whose one year old baby has developed multiple tumors that need to be treated in a hospital in Omaha. The car ride is unbearable for the youngster and they are wondering if we can help get them there. We call one of our pilots who is retired and lives in Conway Springs, Ks, and he immediately volunteers to transport the family to Omaha in his small airplane, wait while the baby is treated and then fly them back home. This is at no cost to the family, and all expenses associated with the flight are donated by the pilot.

Another call comes from an individual with stomach cancer who lives in Greeley, Co. and needs to get to Amarillo, Tx. for treatment. The patient has exhausted all their resources fighting this disease and needs help with transportation. One of our volunteer pilots in Liberal, Ks willingly accepts this flight and takes time off from his Insurance Business to fly the mission.

An entire family was in a car wreck in Denver. The father and their small children need to get home to Kansas City so he doesn't lose his job. The father rents a car and drives home, but the mother cannot travel due to her injuries and also has to stay with her mother who was with them and critically injured. The young mother finally has to come home to help her husband take care of the children so he can continue to work. The call comes in and we contact two of our pilots, one from Tribune, Ks and one from Baldwin, Ks. They both agreed, on one day's notice, to relay the young

mother home. Both of them have to take off work from their real jobs to get her home before a weather system moves in and delays the flight.

These stories are endless and each day a new one is generated. In 1999, we flew someone somewhere every single day of the year on average, and these numbers just keep growing. Last year our pilots donated over 2400 hours of their personal time to fly these patients in need. We estimate that this amounts to an equivalent of over \$189,000 worth of value to the passengers we fly.

Of our 183 active pilots, almost one-third of them is from Kansas. These 60 Kansas pilots own and operate aircraft that are based in this state. These aircraft are small, single-engine airplanes, for the most part, and each of these pilots is subject to the personal property tax that is assessed on their aircraft. This tax is based on the appraised value of the aircraft in today's market and is assessed at a Thirty (30) Percent rate. Those of us who purchased our airplanes a number of years ago have seen these values skyrocket over the past years. This may sound good from an investment standpoint, but for those of us who fly these planes, it is an artificial value. Most of us cannot afford to replace our planes with new ones, and therefore we fly the ones we have until they become too old and costly to maintain or we can no longer fly.

Let me point out another misleading misconception that surrounds the aircraft owner. To the non-flying public, anyone who owns an airplane must be wealthy and their planes are high priced toys. Ask our pilot from Macksville, Ks. who has flown a critically sick child to KU Med center for us, how farming is going in Macksville, or another one of our farmer pilots who flew a cancer patient from Nebraska to Oklahoma to meet up with one of their pilots for the trip to Houston. We have a Computer Programmer in Manhattan, Ks, an Electrical Contractor in Baldwin, Ks, a city Attorney in Larned, Ks, an Auto Service Manager in Wilson, Ks, and numerous retired individuals from all walks of life. These are not wealthy individuals, but people that have a passion for flying and the compassion to spend their time and money to help those less fortunate.

The sad part of the current property tax system is that ONLY these types of pilots are paying property tax on their aircraft. All larger airplanes are used or owned by businesses that are exempt from this type of taxation. Kansas has 5953 registered aircraft in the state. It is my estimation that only about

half of these are taxed for personal property. In addition, all of the 'upper end' aircraft are exempt under the business ruling. It seems to me that a more equitable system for generating revenue from the aircraft in the state would be to handle them similar to automobiles where a registration fee is assessed and the property tax is based on a schedule by aircraft type. This could apply to all aircraft and reduce the tax burden currently supported by few.

In addition, the current system forces some of our pilots to keep, or at least move their aircraft out of state over the new year, to avoid the high tax in Kansas. I see this also with boat owners that keep their boats in a barn I use for storage. No Missouri boats ever seem to be there when I take inventory on January 1, and some of the Kansas owners have moved theirs to lakes outside the state to save the tax.

It is your job to evaluate the current taxing system and find an equitable means of funding the various programs that these taxes support. It is Angel Flight Central's job to find and keep as many pilots flying airplanes as possible, so that we can take the single mother from Topeka with breast cancer to Houston to try to save her life, or give a young 10 year old his last wish of seeing mountains before he dies of brain cancer. We would like to think that you can find a reasonable taxing method for our small aircraft and help us keep flying these people in need.

On behalf of Angel Flight Central, and all the aircraft owners in Kansas, we would encourage you to consider the amendment before you that allows establishing a more reasonable taxing criteria for our airplanes. This State benefits significantly from the General Aviation Industry with some of the largest manufacturers of airplanes and avionics located within it's borders. It seems to me we should encourage the ownership of the products we make and help to make these products affordable to own and operate. This amendment would be a step in that direction.

In closing, if any of you are pilots or know someone who is, we are constantly looking for volunteers. Give us a call at 1-800-474-9464 and become part of the Angel Flight Network. Thank you for you time.

Ken Berg
Angel Flight Central



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612-1233
785/296-2281 FAX 785/296-6953



February 2, 2000

The Honorable Audrey Langworthy, Chair
Special Committee on Assessment and Taxation
Room 519, Kansas Legislature
State Capitol Building
Topeka, Kansas 66612

Dear Senator Langworthy:

Thank you for the opportunity to address the Senate Committee on Assessment and Taxation concerning SCR 1629, regarding classification and taxation of aircraft and watercraft.

The Kansas Department of Wildlife and Parks is charged with certain duties concerning watercraft. Pursuant to statute, the department implements a vessel numbering system for registration of certain vessels using the waters of this state. The department also is required by statute to provide an annual report of registered vessels to the county assessors of all counties.

More generally, the department is responsible for providing outdoor recreational opportunities in Kansas. Boating is a means through which constituents enjoy the outdoors by fishing, hunting, cruising, sailing, or water skiing. The department also provides boater safety education, and is responsible for law enforcement on public waters in Kansas.

The recreational boating community informs us that the property taxes on boats are too high, relative to the taxes paid in other states. It is possible that a lower property tax would encourage more people to own a recreational boat, which would indirectly help our efforts to promote outdoor recreation in Kansas. However, a change in the taxation status for boats will not directly impact our department's boat registration system, enforcement activities, or the management of our state's outdoor resources.

Sincerely,

Steve Williams, Secretary

*Senate Assessment & Taxation
2-3-00
Attachment 11*

Senate Taxation Committee
Kansas State Senate

Dear Senators:

My name is Kelly Miller I am President of Crestview Marine in Wichita Kansas. I am a full service marine dealer selling Cobalt, Crownline and Sylvan boats. It is a fact that every year a percentage of my retail sales to Kansas residents are lost to states surrounding us with a much more competitive personal property tax structure.

A Kansas resident is commonly attracted to take delivery of boats in other states, registering their boat , paying their registration fees, their sales tax and their personal property tax in other states. The difference in the personal property tax alone is enough to pay for storage in other state sometimes enough for the entire year.

Kansas has much to offer. There are many people such as myself trying to make the prospect of owning and using their boat in the state of Kansas attractive. We are constantly looking at ways to remain competitive in an aggressively developing market. Sometimes we must look at changing procedures and reducing our cost so that we may offer the customers more for their money.

When Kansas residents purchase boats in Kansas they pay Kansas sales tax, they will pay Kansas registration fees, they will pay any other fees associated with owning the boat in Kansas. They will store their boat in Kansas, buy fuel in the state of Kansas, buy Park permits to use Kansas lakes. The money earned in Kansas will stay in Kansas and the dollars generated from an effort to stay competitive is sure to be a win-win for Kansas in the long run.

Senators now is the time to allow Kansas to vote on SCR 1629 that would allow Legislature to look at a more competitive way to asses taxes on boats registered in the state of Kansas.



Kelly Miller
President
Crestview Marine
11018 E. Central
Wichita, Ks 67206

Senate Assessment & Taxation
2-3-00
Attachment 12



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY

Before the Senate Assessment and Taxation Committee
Judy A. Moler, Legislative Services Director/General Counsel
Kansas Association of Counties
Regarding SCR 1629
February 3, 2000

Senator Langworthy and members of the committee, the Kansas Association of Counties supports the concept of SCR 1629. The Kansas County Appraisers Association, affiliate member of the Kansas Association of Counties, indicates that the current system of discovery, listing and valuation of boats is a cumbersome and inefficient process. We view the constitutional amendment as an opportunity to streamline the process and allow for "one-stop shopping" for taxpayers. This system would have to be established by subsequent legislation after the passage by the voters of the constitutional amendment. The Kansas Association of Counties has met with several other interested parties in regard to this system. Among those in attendance were the Kansas Boaters Association, representatives of the Kansas County Treasurers Association, staff from Division of Vehicles and a representative of Kansas Wildlife and Parks. It is the consensus of this group that any system devised should leave county revues intact, offer boat owners fairness and a one stop payment system.

The Kansas Association of Counties urges passage of SCR 1629.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 272-2585.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

Senate Assessment & Taxation
2-3-00
Attachment 13



ONE
UNITED
VOICE

**TESTIMONY TO THE KANSAS SENATE ASSESSMENT AND
TAXATION COMMITTEE**

Manhattan
Regional Airport
5500 Ft. Riley Blvd.
Suite 120
Manhattan, KS
66052

Thank you, Madam Chair and members of the Senate Assessment and Taxation Committee, for the opportunity to present testimony relative to the **gross inequities between personal property taxes on airplanes and comparably priced surface vehicles** in the State of Kansas.

My name is Lyle Bighley and I am president of the Kansas Aviation Council (KAC). KAC is a volunteer, non-profit organization comprised of businesses, associations and governmental agencies that are concerned with or affected by the state of aviation in Kansas. Although in existence only a few months, KAC's Board of Directors already represents approximately 50,000 members.

The Kansas Pilots Association, a member of KAC, conducted a survey of ten counties in central and eastern Kansas that showed huge differences in personal property taxes between airplanes and comparably priced surface vehicles. I should note this survey was taken approximately five years ago and there is a possibility that the absolute numbers have changed. However, I am sure that the differential between airplanes and other vehicles is still accurate. It should be pointed out that the 1983 Skyhawk, the 1995 Lincoln Towncar, the 1995 bass boat and 1995 Pace Arrow motor home were all valued at approximately \$40,000.00. The following are the results of that survey:

<u>County</u>	<u>Skyhawk</u>	<u>Lincoln</u>	<u>Bass Boat</u>	<u>Pace Arrow</u>
LV	\$1846	\$750	\$499	\$160
WY	2410*	1270	730	190
JO	2200	900	525	200
DG	1713	744	454	160
SN	2332	959	475	160
OS	1529	706	720	1618**
GE	1946	786	605	205
RL	1447	1017	597	207
PT	1154	705	569	284
SG	1583	842	***	178

* WY has no airport, thus no aircraft property tax. The figure cited is based on interpolation, using the current county mill levy.

** This tax seems grossly out of proportion, but it is what the OS appraiser's office quoted, even after further questioning.

*** SG was not able to provide a tax without many more details about specific type of boat and engine.

*Senate Assessment & Taxation
2-3-00
Attachment 14*

February 3, 2000

Page 2

Notice the personal property tax discrepancies. Why should the **assessment of a 17-year old airplane be 5 or 10 times that of a motor home of equal value?** Why should the **assessment on this airplane be 2 or 3 times that of a comparably priced Lincoln Towncar?** As a further example of this inequity, in 1999 the personal property tax on my 1973 Cessna airplane, which is a single engine, four-passenger plane, was \$1636.14 and the tax on my 25-year old Lenexa house was \$1535.46. The plane tax is \$100.68 higher than my house!

Pilots well know and agree that taxes are necessary and we expect to pay them. At the same time, we have a right to expect a fair and equitable tax. I wish someone would tell me by what logic or mathematical quirk a 1983 Cessna Skyhawk warrants a tax that is over twice that of a Lincoln Towncar or ten times the tax of a Pace Arrow motor home—or is equivalent to a house!!

The current personal property tax policy on airplanes is causing the aviation-related industry in Kansas, the counties and the state to lose money for at least three important reasons:

1. Individuals, because of high personal property taxes, frequently do not purchase new or newer-used planes. Many first-time buyers are unwilling to pay the high tax and they look for a tax-exempt 30-year old antique. Similarly, current owners who would like to own a newer aircraft limit themselves to the same antique models.
2. Many owners living near the border base their planes out-of-state, while other Kansas residents incorporate their plane in another state while basing it in Kansas.
3. Some owners claim a dubious 100% business exemption for their plane. This, however, is not an implication that certain individuals do not have legitimate claims for a business exemption.

Perhaps these reasons explain the minuscule amount of money collected by the state from personal property taxes on airplanes. Information made public two years ago by the Division of Property Valuation estimated the State's share of 1997 aircraft personal property tax revenue was about \$175,000. This was based on aircraft in the state having an appraised value of about \$27 million. Since aircraft are assessed at 30% of fair market value, the tax value of the aircraft would be approximately \$8 million. Using a 21.5 mil rate, the state collected about \$175,000. It is doubtful that the revenues cover the cost of collection.

February 3, 2000

Page 3

Lower personal property taxes would provide an incentive for individuals to buy a new, or at least newer-used, plane; it would reduce or eliminate the economic advantage to either basing a plane out-of-state or incorporating it in another state; and it would be less attractive to claim the plane exclusively for business purposes. These reasons, it seems to me, would result in a win-win situation for industry in the state, for the counties, for the state itself and for aircraft owners.

The Kansas Aviation Council requests that this resolution be passed so it can be placed as an amendment on the ballot in November 2000.

I respectfully request that these remarks be made a part of the record of these proceedings. Thank you.

Lyle D. Bighley, Ph.D.
President, Kansas Aviation Council
P.O. Box 15209
Shawnee Mission, Kansas 66285-5209
(913) 888-6335