

Approved: 3-9-00
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Vice Chairperson Senator David Corbin at 11:10 a.m. on March 2, 2000, in Room 519-S of the Capitol.

All members were present except: Senator Audrey Langworthy – Excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Jamie Clover Adams, Secretary of Agriculture
Representative Shari Weber
Doug Wareham, Kansas Grain and Feed Association
Jere White, Kansas Grain Sorghum Producers Association
Bob Alderson, Central Kansas Railway & Kansas
Southwestern Railway
Joe Lieber, Kansas Cooperative Council
Leslie Kaufman, Kansas Farm Bureau

Others attending: See attached list.

SB 605—relating to sales taxation on materials for construction of grain storage facilities

Jamie Clover Adams, Secretary of the Department of Agriculture, testified in support of **SB 605**. She noted that successful grain harvests in recent years have presented a storage problem. Until world markets for grains improve, there will be an ongoing need for more storage. In addition, she noted that new construction is an important part of new trends for unit train loading facilities. She also noted that agriculture is changing, and more types of grain are being produced for specific markets. More storage space will be required to segregate these crops to preserve their identities. She informed the Committee that, at one time in 1998, there were 62 million bushels of corn and milo on the ground or in conditional storage. In 1999, new construction accounted for an increase of over 13 million bushels in state-licensed storage. A portion of the new construction in 1999 was fueled by tax incentives made available through previous legislation. In January of this year, state-licensed elevators had more than 14 million bushels of milo and corn stored conditionally or on the ground. She believes that continuation of sales tax exemptions for construction of grain storage facilities at commercial locations and on the farm is important to the state. In conclusion, Secretary Adams contended that the benefit of **SB 605** will outweigh the minimal fiscal impact it may have on the state. (Attachment 1)

Representative Shari Weber testified in strong support of **SB 605**. She noted that this legislation became law at the end of May 1999 and, therefore, was actually a retroactive action because it required that all the sales tax work done for the first five months of 1999 had to be recalculated with regard to the new exemption. She explained that a business owner in her district brought this to her attention. His employees spent about 260 hours in addition to their regular working hours checking invoices in job files for January through May for taxes paid on materials and subcontractors. Copies of the invoices were then used to enter data on a spreadsheet of information needed by the Department of Revenue in order to be able to audit and refund the tax. Two employees worked out a refund system with the Department of Revenue. The business then provided a breakdown of the tax refund by job and sent the refunds on to their customers. She commented that, obviously, making the exemption retroactive to January 1999 caused an arduous process for the business. Representative Weber asked the Committee to consider the time frame of the implementation date of **SB 605**, noting that, due to the retroactive component in the bill, businesses working with grain storage facility construction and expansion once again will have to go back through their January to May invoices to calculate tax refunds. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE Room 519-S, Statehouse, at 11:10 a.m. on March 2, 2000.

Representative Weber commented that the situation she described was an unintended consequence of the 1999 legislation. Brief committee discussion followed regarding the effective date in **SB 605**, and Representative Weber suggested that the effective date be changed from publication in the Kansas Register to July 1. Senator Hardenburger suggested that the Committee look ahead and amend subsection (eee) to read "before January 1, 2002, to June 30, 2002," even though that would result in a one-time six month period wherein the sales tax exemption would not apply and, consequently, new construction of grain storage facilities may be delayed during that six month period.

Doug Wareham, Kansas Grain and Feed Association, testified in support of **SB 605**. (Attachment 3) Before beginning his testimony, he expressed his support of Senator Hardenburger's suggestion. He went on to explain that the bill would extend the calendar year 1999 grain storage construction/rehabilitation sales tax exemption through January 1, 2002. He called attention to copies of grain storage fact sheets attached to his written testimony which highlight the positive impact of the 1999 calendar year sales tax exemption as follows:

- Commercial Grain Storage Expansion During Calendar 1999 (increase of 39,365,000 bu.)
- Testimonials from Grain Industry Representatives
- Kansas Grain Carryover Stocks (791,678,000 bushels as of December 1, 1999)
- 1999 Emergency Grain Storage Requests (Grain on the Ground--Peaked at 55,980,000 bu.)
- Kansas Major Crop Production Statistics (Three-year average total--1,232,043,000 bushels)
- Grain Storage Shortfall Statistics.

In conclusion, Mr. Wareham emphasized that construction of new commercial grain storage facilities has a positive impact on the amount of property tax collected and that the tax exemption has encouraged new grain storage construction in 1999. In this regard, he discussed fact sheets entitled as follows:

- Property Tax Revenue Created by New Commercial Grain Storage Construction
- Department of Revenue Fiscal Note
- Sample of New Grain Storage Construction During Calendar Year 1999.

Jere White, Kansas Grain Sorghum Producers Association, testified in support of **SB 605**. He noted that bumper crops in many areas of the state combined with sagging exports have Kansas "busting at the bins," and grain piled on the ground has been a common sight in many areas in Kansas. He also noted that the future of farming is somewhat tied to value added processing of Kansas agricultural commodities. Development in this area will require even more storage as production of different grain traits for different end uses increases. If current grain storage continues to fall short, these opportunities may be lost to producers in other areas. In conclusion, Mr. White pointed out that low commodity prices in 1999 severely impacted available funds available to farmers to make grain storage improvements. In addition, the need in 1999 was simply greater than the available materials and services. Providing an additional two years tax incentive will allow producers to fund their improvements over a longer time frame. (Attachment 4)

Bob Alderson, testified in support of **SB 605** on behalf of Central Kansas Railway (CKR) and Kansas Southwestern Railway (KSW), which are headquartered in Wichita. He explained that CKR and KSW are two of 17 Kansas shortline railroads operating on 2,032 miles of track. He noted that the Governor's Grain Transportation and Storage Task Force, the Special Committee on Rail Transportation, and the Transportation 2000 Study Group studied rail transportation needs during the summer of 1998. All of the groups concluded that shortline railroads are an important part of the state's transportation system and made various recommendations for strengthening the state's shortline rail system. The Governor's Grain Transportation and Storage Task Force suggested a number of tax incentives to address the state's grain storage and transportation problems. The Special Committee on Rail Transportation recommended that the 1999 Legislature consider various proposals for providing financial assistance to shortlines, including the enactment of three tax incentives. The first of those incentives was a sales tax exemption for labor, materials, and equipment used in the construction, maintenance, repair, or rehabilitation of railroad infrastructure. The Transportation 2000 Study Group recognized the importance of shortline railroads in the transportation of agricultural products and the cost to highway maintenance by failing to support shortline railroads.

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE
Room 519-S, Statehouse, at 11:10 a.m. on March 2, 2000.

Mr. Alderson went on to say that CKR and KSW support **SB 605** as drafted to exempt grain storage facilities through calendar year 2001 as there is a close, interdependent relationship between shortline railroads and persons involved in the shipment and storage of grain. However, he requested that the bill be amended to afford the same treatment to the shortline infrastructure exemption in subsection (ddd) on pages 15 and 16 of the bill. It is Mr. Alderson's understanding that the fiscal note for the exemption of railroads projected by the Department of Revenue is \$250,000. He commented that \$250,000 would be of great assistance to small railroads although it is not a significant amount to the Department. (Attachment 5) Mr. Alderson noted that he had conferred with Mr. Wareham with regard to the suggested amendment, and Mr. Wareham had no objections.

Joe Lieber, Kansas Cooperative Council, testified in support of **SB 605**. He pointed out that, even with the 1999 legislation, approximately 55 million bushels of grain had to be placed on the ground last year. Many of his members used the sales tax exemption opportunity to expand their facilities in 1999, but many members did not get the opportunity because there were not enough grain elevator construction companies and materials to keep up with the demand. He urged support of the bill because there is still a shortage of storage space. (Attachment 6) In addition, Mr. Lieber noted that key factors to remember when considering the bill are property tax and employment. He also urged that the retroactive provision remain in the bill.

Leslie Kauffman, Kansas Farm Bureau, testified in support of **SB 605**. She emphasized that the Farm Bureau supported the 1999 legislation that initiated the sales tax exemption for grain storage facilities, particularly on-farm storage. She noted that grain storage options are vitally important to today's agriculture industry. She also noted that, during these times of low commodity prices, producers are often hard hit by the additional losses and costs of exposing grain to outdoor elements. (Attachment 7) Ms. Kauffman questioned if it is advisable to delay the implementation date to July 1, creating a six-month gap between the time the current program ends and the new one begins. She was in agreement with Senator Hardenburger's suggestion to tack the six months on the back end. She has no objection to the amendment offered by Mr. Alderson. With this, the hearing on **SB 605** was closed.

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

The next meeting is scheduled for March 7, 2000.

STATE OF KANSAS

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KANSAS DEPARTMENT OF AGRICULTURE

Senate Committee on Assessment and Taxation

March 2, 2000

Testimony Regarding Senate Bill 605

Jamie Clover Adams, Secretary of Agriculture

Good morning Chairperson Langworthy and members of the committee. I am Secretary of Agriculture Jamie Clover Adams here to testify in support of SB 605 regarding a continuation of sales tax exemptions for the construction of grain storage facilities at commercial locations and on the farm.

I would like to take a few moments to discuss the history of this legislation. A number of events, some of them global, converged to result in a Kansas grain storage emergency that first hit in 1997.

The problems that left grain elevators overflowing for the last three years include 25-year-low prices for our major crops, at least one year of rail car and power shortages, changes in the industry, bountiful production of crops and a slow world economy that continues to affect exports of bulk agricultural commodities from the U.S.

Successful harvests are difficult to view as a problem, but they have presented a challenge in recent years. In 1996, 1997 and 1998, Kansas' four major crops—wheat, milo, corn and soybeans—yielded more than ONE BILLION BUSHELLS. In 1998, the state had commercial storage space for 742.2 million bushels and on-farm space to store 400 million bushels. There simply was not enough room to store what we grew. At one time, in the fall of 1998, some 62 million bushels of corn and milo were on the ground or in conditional storage.

World markets for our grains eventually will improve, but this will not negate the need for more storage, both on the farm and at elevators. New construction is an important part of

new trends for unit train loading facilities. Producing more products targeted to specific markets—whether it be white wheat, genetically modified or traditional products, organic or non-organic—will require sufficient space to segregate these specific crops to preserve their identities. The Kansas Association of Wheat Growers estimates more than 20 million bushels of white wheat will be produced and require identity-preserving storage in the next two years.

Kansas ranks third among the states in commercial grain storage capacity and tenth (tied with Wisconsin) for on-farm storage. According to Kansas Agricultural Statistics (whose data run one year behind the current year), commercial storage has increased—from 761,920,000 bushels in 1996 to 783,650,000 bushels in 1998. Kansas Agricultural Statistics data indicate on-farm storage has stayed unchanged at 400 million bushels since 1996. Our state-licensed elevators reported an increase in capacity of some 31 million bushels in 1998 and 1999. In 1999 alone, new construction accounted for an increase in state-licensed storage of just over 13 million bushels. Although a precise figure is not known, at least a portion of the new construction in 1999 was fueled by tax incentives made available through previous legislation.

Although earlier legislation helped increase available storage space, there is a continuing need for more construction. In January of this year, our state-licensed elevators had more than 14 million bushels of milo and corn stored conditionally or on the ground. The grain industry indicates that competition for materials and labor kept many elevators from taking advantage of the tax assistance last year.

I believe the benefit of this legislation to our farmers and rural communities will far outweigh the minimal fiscal impact it may have on the state. Thank you.

STATE OF KANSAS

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HOUSE OF REPRESENTATIVES
68TH DISTRICT
Assistant Majority Leader

TESTIMONY ON SB 605
SENATE ASSESSMENT & TAXATION COMMITTEE
March 2, 2000

Thank you, Madame Chairman and members of the committee, for the opportunity to appear before you today in support of SB 605. I believe that it has been effective in accomplishing the goal of encouraging the expansion and construction of grain storage facilities across Kansas during the past six months. I appear before you today to bring to your attention two items for your consideration. One is that this legislation became law at the end of May, 1999, and therefore, it was actually a retroactive action because it required that all the sales tax work done for the first five months of 1999 had to be recalculated with regard to this new exemption. One of the businesses in my District brought this to my attention. When I asked them how many hours of staff time were involved with this recalculation, the answer was about 260 hours. In that company, there were three people who made it their primary responsibility to go back through the five months of invoices paid January through May for tax paid on materials and sub-contractors. They figured a conservative estimate was 10 hours per week for 26 weeks. Remember, this was in addition to their regular work. Many invoices were in job files and had to be located, copied and re-filed. The copies of these invoices were then used to enter the data on a spreadsheet that provided all the information that the Department of Revenue would need to be able to audit and refund the tax. Meanwhile, one of the employees worked out the refund system with the Department of Revenue. Two of the employees worked up customer information, forms and transmittal letters for Refund Form A (Certification by owner and General Contractor). The Department of Revenue allowed them to obtain one from each home office, about 37 in all, instead of dealing with each and every elevator with which they worked. In addition, the company

Senate Assessment & Taxation
3-2-00
Attachment 2

went back through the January - May 1999 sales tax returns, to come up with the sales tax paid on receipts, which qualified for the refund. For some of the jobs that overlapped year-end, they had to estimate the work done up to December 31, 1998 (which was taxable), and what was done after that (which was exempt). This was also time consuming because it had to be done on a job-by-job basis (each small repair job and each large contract job). Then the employees spent time working up the figures they collected in receipts in late May and June (which they didn't pay to the Department of Revenue, rather they refunded this to the customer directly).

In early February 2000, this business had talked to the Department of Revenue, and the Department estimated 30 to 60 days before the refund request would be fully processed and the refund checks are cut. Then the checks will come to the business in my district from the Department of Revenue. Next the business will provide a breakdown of the tax refund by job and send everything on to their customer (this will probably occur in April or May, 2000). As you can tell from this account, having made this exemption retroactive back to January 1999 has caused an arduous process for the business and a boatload of paper shuffling.

Secondly, I would have you consider the time frame of the implementation date of this bill. Again, this bill, like last session's bill, will cause businesses to have to go back through their January to May invoices to again calculate this tax refund because the legislation has a retroactive component. Last year's legislation had the dates of "on and after January 1, 1999 and before January 1, 2000". As a result of the time frame specified in this bill, the same consequence of work and time will be involved for the businesses working with grain storage facility construction and expansion.

Thank you for allowing me to bring this matter to your attention. I appreciate your time.

Sincerely,


Shari Weber

Madam Chair and members of the Senate 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 1,150 Kansas business locations and represents 99% of the commercially licensed grain storage in the state.

I appear today in support of Senate Bill 605, which would extend the Calendar Year 1999 Grain Storage Construction/Rehabilitation Sales Tax Exemption through January 1, 2002. As you are aware, the 1999 Calendar Year exemptions that were adopted by this body one year ago provided a sales tax exemption for purchases of materials and labor by Kansas farmers and commercial grain operators who chose to construct new or rehabilitate existing grain storage structures.

At this time I would like to provide you with information that highlights the positive impact of the 1999 Calendar Year Sales Tax Exemption along with reasons our organization believes this incentive should be extended. Please draw your attention to the white sheets attached to my testimony.

Attached Grain Storage Fact Sheets:

- Commercial Grain Storage Expansion During Calendar 1999
- Testimonials from Grain Industry Representatives
- Kansas Grain Carryover Stocks
- 1999 Emergency Grain Storage Requests (Grain on the Ground)
- Kansas Crop Production Statistics
- Grain Storage Shortfall Statistics

In addition to the continued pressure caused by increasing grain carryover stocks, which are simply a product of weak foreign demand for Kansas grains and grain product, the grain storage industry in Kansas is now also faced with handling a growing number of specialty grains that will further increase the need for additional "identity preserved" grain storage space and grain handling equipment. The tax exemptions provided for in this bill will provide a direct financial incentive for farmers and grain elevator operations to update their existing facilities to handle identity preserved grains.

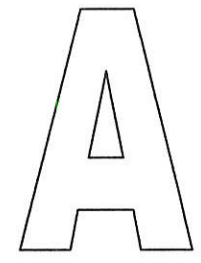
*Senate Assessment & Taxation
3-2-00
Attachment 3*

Before I conclude my comments, I do want to point out that the construction of new commercial grain storage facilities also has a positive impact on the amount of property tax collected. If I could draw your attention to the yellow sheets attached to my testimony, I would like to illustrate this point.

- Property Tax Revenue Created by New Commercial Grain Storage Construction

Again, I want to thank you for the opportunity to share information with you today. On behalf of the Kansas Grain and Feed Association, I hope you will act favorably on Senate Bill 605. I would be happy to respond to any questions at the appropriate time.

Commercial Grain Storage
Space in Kansas



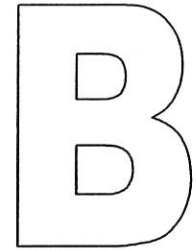
January 1, 1999.....845,789,000

January 1, 2000.....885,154,000

Increase of 39,365,000

McPherson Concrete Storage Systems

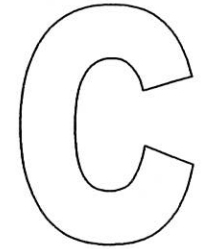
McPherson, Kansas



"We have had 9 major construction projects during this calendar year. Over 5 million bushels of new space has been constructed or is under construction. The sales tax incentive provided by the Legislature has definitely made an impact and lead to new construction in Kansas."

-Roy House, Sales Manager

Garden City Co-op Garden City, Kansas



"We have constructed over 2 million bushels of new grain storage space this year and the savings provided by the '99 sales tax exemption enabled our firm to construct an additional 100,000 bushels of space that likely would not have been added without these savings."

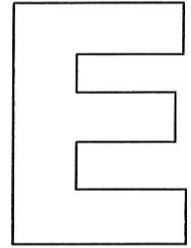
-Ken Jameson, V.P. Grain Division



Kansas Grain Carryover Stocks

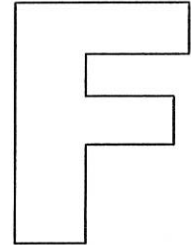
| | |
|-----------------------|---------------------|
| December 1, 1999..... | 791,678,000 bushels |
| December 1, 1998..... | 760,567,000 bushels |
| December 1, 1997..... | 714,627,000 bushels |
| December 1, 1996..... | 635,490,000 bushels |

1999 Fall Harvest Emergency
Grain Storage Requests



Peaked at 55,980,000

(Grain on the ground or Grain stored
at alternative sites.)



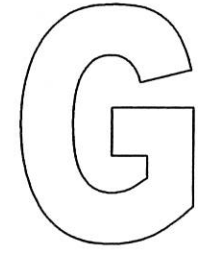
Kansas Major Production Figures

Four Major Crops

| | 1997 | 1998 | 1999 |
|----------|-------------------|-------------------|-------------------|
| Soybeans | 88,800,000 bu. | 75,000,000 bu. | 78,400,000 bu. |
| Sorghum | 273,000,000 bu. | 264,000,000 bu. | 258,400,000 bu. |
| Corn | 386,100,000 bu. | 418,950,000 bu. | 494,900,000 bu. |
| Wheat | 506,000,000 | 484,900,000 | 357,680,000 |
| Total | 1,253,900,000 bu. | 1,252,850,000 bu. | 1,189,380,000 bu. |

3- Year Average Total 1,232,043,000

Grain Storage Shortfall



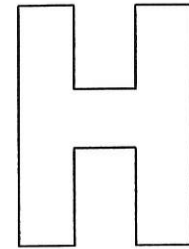
Commercial Space.....885,154,000
On-Farm.....400,000,000

Total Grain Storage.....1,285,154,000
Current Carryover.....791,678,000

Current Available Space..... 493,476,000

3-Year Average Total Crop.....1,232,043,000

Property Tax Revenue Created by New Commercial Grain Storage Construction



Example: --10 million bushels new grain storage built
 --\$1.50/bushel cost of construction
 --\$15 million of commercial property

\$15,000,000 commercial property

x 25% commercial property assessment rate

\$3,750,000 *commercial property tax roll*

Apply 105 statewide mill average

\$393,750 Additional Property Tax Generated

Department of Revenue Fiscal Note

\$360,000 in 2000

\$750,000 in 2001

\$390,000 in 2002

With an additional \$393,750 of property tax revenue generated (based on page H example) it will take less than four years before the lost sales tax dollars are recouped through additional property tax revenues.

**SAMPLE OF NEW GRAIN STORAGE CONSTRUCTION
DURING CALENDAR YEAR 1999**

RESPONSE FROM EIGHT GRAIN STORAGE FIRMS IN KANSAS:

| | |
|--------------------------------|------------|
| GARDEN CITY COOP | 2,000,000 |
| BEACHNER GRAIN, ST. PAUL | 500,000 |
| FARMWAY COOP, BELOIT..... | 750,000 |
| CO-AG, OAKLEY | 600,000 |
| DODGE CITY COOP | 1,650,000 |
| COLLINGWOOD GRAIN, HUTCH | 3,680,000 |
| JOHNSON COOP | 374,000 |
| ULYSSES COOP | 1,200,000 |
| TOTAL..... | 10,754,000 |



TESTIMONY

TO: Senate Taxation Committee
FROM: Jere White, Executive Director
DATE: 2 March 2000
SUBJECT: S.B. 605

Chairperson Langworthy, members of the committee, my name is Jere White. I am the Executive Director of the Kansas Corn Growers and the Kansas Grain Sorghum Producers Associations. As we did last year, we stand today on behalf of our organizations in support of legislation that would provide for a temporary sales tax exemption for materials and services related to improvements and expansion for grain storage in Kansas. SB-605 recognizes the foresight of the 1999 Kansas Legislature in beginning the task of dealing with our severe grain storage shortage in Kansas by providing a continuation of the exemption for two years.

Bumper crops in many areas of the state combined with sagging exports have Kansas busting at the bins. Grain piled on the ground has been a common sight in many areas of Kansas for the past three years. It is not just growers and grain handlers that are impacted. Our customers surely are beginning to wonder about our ability to supply high quality grain when they see newspaper photos of grain piled high. They might expect that in an undeveloped nation, but not from Kansas...breadbasket to the world.

Also we hear a lot about the future of farming being somewhat tied to value added processing of our Kansas agricultural commodities. Development in this area will require even more storage as we begin to produce different grain traits for different end uses. If current traditional grain storage continues to fall short in our state, these opportunities might be lost to producers in other areas. We need these opportunities for Kansas and this bill can help provide them.

Clearly our growers have asked for a level of incentive that will promote the increased construction and renovation of grain storage facilities. Last year when the legislature passed HB-2037 providing the same tax relief as this bill, our growers and many commercial entities sought to expand and renovate. 1999 was a solid step forward, but there is much yet to be done. It is important to understand that there are other circumstances at play in this issue. Low commodity prices have severely impacted available funds that farmers have to make grain storage improvements. Providing an additional two years tax incentive will allow producers to fund their improvements over a longer time frame without penalty. Also many producers found it hard to get improvements scheduled within the one year limitation of last year's bill. The need was simply greater than the available materials and services.

On behalf of the corn and grain sorghum industry in Kansas, and the customers that we strive to supply with a high quality product, we urge this committee to move H.B. 2593 favorably. Thank you.

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www.ksgains.com/corn • jwhite@kanza.net



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*Senate Assessment & Taxation
3-2-00
Attachment 4*

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TESTIMONY OF W. ROBERT ALDERSON

ON BEHALF OF

CENTRAL KANSAS RAILWAY/KANSAS SOUTHWESTERN RAILWAY

BEFORE THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

MARCH 2, 2000

Senator Langworthy and Members of the Committee:

My name is Bob Alderson, and I am appearing today on behalf of Central Kansas Railway (CKR) and Kansas Southwestern Railway (KSW) in support of Senate Bill No. 605.

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.

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

*Senate Assessment & Taxation
3-2-00
Attachment 5*

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 (5,505) 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.

In Kansas today there are 17 shortline railroads operating on 2,032 miles of track, more than one-third 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.

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 the summer of 1998. 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 in the summer of 1998, 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, the then 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 those was a sales tax exemption for labor, materials and equipment used in the construction, maintenance, repair or rehabilitation of railroad infrastructure.

In addition, the Transportation 2000 Study Group also recognized the importance of shortlines, and in support of its recommendation for a state-funded rail program to assist Kansas' shortlines with track rehabilitation, the Study Group's 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 were included in the budget presented by Governor Graves to the 1999 Legislature. Among Governor Graves' tax reduction recommendations was a proposal to provide new sales tax exemptions for grain storage and transportation. That recommendation was embodied in 1999 House Bill No. 2037. HB 2037 proposed to 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 exempted all sales of materials and services purchased by any Class II or Class III (shortline) railroad for the construction, renovation, repair or

replacement of railroad track and facilities used directly by such railroad in interstate commerce. The other exemption applied to all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities.

Ultimately, the 1999 Legislature approved both exemptions as part of the so-called omnibus tax bill. However, the exemptions were limited to sales in calendar year 1999 only. Thus, the purpose of SB 605 is to extend the exemption for grain storage facilities through calendar year 2001. On behalf of CKR and KSW (and, I suspect, on behalf of all Kansas shortlines), I would respectfully request that the same treatment be afforded the shortline infrastructure exemption, which appears on pages 15 and 16 of the bill as subsection (ddd) of K.S.A. 1999 Supp. 79-3606.

All of the 1998 interim groups and committees whose recommendations provided the basis for the enactment of these exemptions recognized the importance of shortline railroads to the Kansas economy, particularly the agricultural economy. There is a close and interdependent relationship between the shortline railroads and those persons and entities involved in the shipment and storage of grain. It is essential to the strength of the agricultural economy that both sides of this equation are financially healthy. The purpose of both exemptions is to assist in that effort.

It is to be noted that, as part of the Comprehensive Transportation Program, the 1999 Legislature provided for an annual transfer of \$3,000,000 from the State Highway Fund to the Rail Service Improvement Fund, to be used for low-interest loans to qualified railroads. As these loans are made to shortlines for rehabilitation of their infrastructure, proceeds will be used within the context of the shortlines' sales tax exemption for 1999, for the purchase of "materials and services" for the "construction, renovation, repair or replacement" of railroad tracks and facilities used in interstate commerce. Extension of the shortlines' sales tax exemption will permit greater use of the loan proceeds for these purposes.

It is my understanding that the fiscal note for this exemption projected by the Department of Revenue is \$250,000. This is not a significant amount in the abstract, but it can be of great assistance to small railroads.

Again, I would respectfully request that the railroad infrastructure exemption also be extended through calendar year 2001 by amendment of the bill and that the Committee recommend SB 605 favorable for passage as amended.

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.

Testimony on SB 605 – Senate Assessment and Taxation Committee

March 2, 2000

Prepared by Joe Lieber, Kansas Cooperative Council

Members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses who have a combined membership of nearly 200,000 Kansans. Approximately 130 of our members are farm/supply cooperatives and most of them are involved in the grain storage business. The Council is in support of SB 605.

Kansas has had record harvests the last few years and couple this with low prices you have a shortage of grain storage space.

Even with the passage of HB 2037 last year, we still had approximately 55 million bushels of grain that had to be placed on the ground last year.

The passage of HB 2037 was well received in the country and many of our members used the opportunity to expand their facilities. But because so many of the grain elevators decided to increase their storage and utilize the sales tax exemption there were not enough grain elevator construction companies to keep up with the demand. Dub Johnson and Son Construction, one of the state's leading elevator construction companies, said that not only were they behind, but materials were in short supply. This meant that many of our members did not get the opportunity to get the sales tax exemption in 1999.

Because there is still a shortage of storage space, plus the fact that many additions did not get built in 1999, we ask for your support for the passage of SB 605.

Thank you for your consideration. I will be happy to take questions.

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



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON TAXATION

RE: SB 605 -- Sales tax exemption for materials used for construction and renovation of grain storage facilities.

**March 2, 2000
Topeka, Kansas**

**Prepared by:
Leslie Kaufman, Assistant Director
Public Policy Division
Kansas Farm Bureau**

Chair Langworthy and members of the Senate Taxation Committee thank you for the opportunity to appear before you today and share Farm Bureau's support for SB 605.

Last year, Kansas Farm Bureau supported the legislation that initiated a sales tax exemption for materials and services purchased for construction and renovation of grain storage facilities, particularly on-farm storage. The legislation which ultimately was signed into law, and which we support extending, covers both commercial and on-farm storage. Extending the exemption was also included as a recommendation to the 2000 Legislature by the 1999 Special Committee on Agriculture.

Grain storage options are vitally important to today's agriculture industry. Producers need appropriate storage facilities for housing their grain. This last harvest season, once again, saw millions of bushels of grain being piled on the ground. Although storage capacity has increased over the past year, carry-over

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

grain and the addition of the summer and fall harvest resulted in a shortage of storage space.

Exposing grain to outdoor elements, pests, birds and rodents can result in quantity and quality losses. Also, significant costs are incurred from the additional handling and movement of the grain. During these times of low commodity prices, producers are often hard-hit by these additional losses and costs.

The 2-year extension of the sales tax exemption on materials used in construction and renovation of grain storage facilities provides an important benefit to producers through increased grain storage capacity throughout the state. Our farmer and rancher members reaffirmed their support for continuing this exemption when they met in November at our 81st Annual Meeting. Our voting delegates, representing all 105 county Farm Bureaus across Kansas state clearly in our policy that:

- *We encourage the extension of the state sales tax exemption for construction and renovation of grain storage facilities, particularly on-farm storage.*

To further assist producers, our farm and ranch members developed and adopted policy relating to the property tax on farm storage bins. While this topic is not included in SB 605, we want to draw this issue to your attention:

- *We support on-farm storage bins being designated as "farm equipment" for property tax purposes.*

Particularly during this time of low commodity prices, we firmly believe the limited, 2-year extension of the sales tax exemption is an appropriate action for the legislature to take. We respectfully encourage the committee to report SB 605 favorably. Thank you.