

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on January 31, 2001 in Room 519-S of the Capitol.

All members were present.

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor
Winnie Crapson, Secretary

Conferees appearing before the committee:

Representative Johnson
Ron Appletoft, Water District #1 Johnson County
Gary Hanson, Kansas Rural Water Association
Leslie Kaufman, Kansas Farm Bureau
Joe Lieber, Kansas Co-op Council
Don Seifert, City of Olathe
Mike Taylor, City of Wichita
Doug Wareham, Kansas Grain & Feed Association

Others attending: See attached list.

The Chairman opened the meeting by asking for bill introductions.

By unanimous consent bill will be introduced for credit of payment of business fees to small business association in maximum amount of \$25,000 as requested by Representative Edmonds. [HB 2295 - Income tax credit for small business loan fees]

By unanimous consent bill will be introduced providing tax exemption for coin-operated businesses as requested by Representative Howell. [HB 2293 - Sales tax exemption for coin-operated vehicle washing services]

Hearing was opened on:

HB 2065 - Sales tax exemption for grain storage facilities

Representative Johnson presented testimony (Attachment #1) in support of **HB 2065** and requested the exemption be made permanent or extended to July 1, 2002.

Doug Wareham presented testimony on behalf of the Kansas Grain and Feed Association (Attachment #2) providing statistics on commercial grain storage in Kansas, production figures for the five major crops, grain carryover stocks, grain storage shortfall, requests for emergency grain storage, property tax revenue created by new commercial grain storage construction, and grain storage construction during calendar years 1999 and 2000.

Mr. Wareham proposed a balloon amendment which would make the exemption for grain storage facilities permanent (Attachment #3).

Joe L. Lieber presented testimony in support of the bill on behalf of the Kansas Cooperative Council (Attachment #4).

Leslie Kaufman presented testimony in support of the bill on behalf of the Kansas Farm Bureau (Attachment #5) and requesting that the committee consider amending the bill to include grain handling and cleaning equipment.

Mike Beam presented testimony in support of the bill on behalf of the Kansas Livestock Association and in support of making the exemption permanent (Attachment #6). He noted that while the KLA did not actively support this exemption when it was first considered in 1999, based upon experience of members KLA whole heartedly supports **HB 2065**.

CONTINUATION SHEET

No witnesses appeared in opposition to **HB 2065**.

Hearing on **HB 2065** was closed.

Hearing was opened on

HB 2006 - Sales tax exemption for water district purchases.

Fiscal Note on **HB 2006** was distributed (Attachment #7), together with Memorandum from Christ Courtwright, Principal Analyst with updated information (Attachment #8).

Mike Taylor presented testimony in support of the bill on behalf of the City of Wichita (Attachment 9).

Ron Appletoft presented testimony in support of the bill on behalf of Water District No. 1 of Johnson County urging support of full exempting publicly owned water utilities from sales tax. (Attachment #10).

Donald R. Seifert presented testimony in support of the bill on behalf of the City of Olathe (Attachment #11) urging that the Committee agree with all prior studies of this issue and find a sales tax exemption for public water supplies appropriate.

Gary H. Hanson presented testimony in support of the bill on behalf of the Kansas Rural Water Association (Attachment #12). He noted that the application of sales tax by public water systems is probably the greatest administrative burden these utilities face and he knows of no small business that has to deal with a more complex set of rules than a rural water district does.

No one appeared in opposition to **HB 2006**.

Hearing on **HB 2006** was closed.

Chairman Edmonds opened discussion on **HB 2065** - Sales tax exemption for grain storage facilities, and called attention to the revised Fiscal Note concerning effective date.

Representative Gatewood moved conceptual amendment to make sure that the on-farm grain handling equipment is included. Representative Larkin seconded the motion. The motion carried.

Representative Larkin moved amendment adopt language which would make exemption in **HB 2065** permanent. Representative Mays seconded the motion. The motion carried.

Representative T. Powell moved that **HB 2065** be reported favorable for passage as amended. Representative Howell seconded the motion. The motion carried.

The meeting adjourned at 10:05 a.m. The next scheduled meeting is February 1.

GUEST LIST

DATE Jan 31, 2001

NAME	REPRESENTING
Ron Appletoft	Water Dist. No 1 of Jo Co.
Kelly Kuitala	City of Overland Park
Dog Wareham	KGFA/KFCA
Julie Gmusin	KGFA
Tom Tunnell	KGFA/KFCO
Cary Hanson	KRWAA
Rebecca Reed	KDA
Kathy Danson	KCK Chamber
Kevin Berne	Meinlwer chtr
John Frederick	St Beeing Co.
Mike Taylor	City of Wichita
George Peterson	Ks Taxpayers Network
Bernie Koch	Wichita Area Chamber
Don Serfert	City of Olathe
Richard Crum	KDOR
Jol Lieber	KS Co-op Council
Luslie Kautman	Ks Farm Bureau
Mike Beam	Ks LUSTK Assn.
Ann Burkess	DOB
Marla Jean Jott	KUMHA
Marlee Carpenter	KCCI
Ed O'Malley	Overland Park Chamber of Commerce
John D. Livingston	City of Topeka

DAN JOHNSON
REPRESENTATIVE, 110TH DISTRICT
BARTON, ELLIS, ROOKS, RUSH
AND RUSSELL COUNTIES
P.O. BOX 247
1461 HOMESTEAD RD.
HAYS, KANSAS 67601-0247



TOPEKA

HOUSE OF
REPRESENTATIVES

STATE CAPITOL, ROOM 426-S
TOPEKA, KANSAS 66612-1504
785-296-7639
1-800-432-3924

HOUSE TAXATION COMMITTEE

RE: HB 2065 – Sales tax exemption for grain storage facilities

January 31, 2001
Topeka, Kansas

Presented by:
Representative Dan Johnson

Mr. Chairman and members of the committee, I appear before you today in support of HB 2065. This bill will allow Kansas farmers and ranchers and those involved in the grain industry to continue to construct grain storage without the extra burden of sales tax on those facilities.

Many of our elevators are filled to capacity. In addition, there is a need to preserve the identity of some products. Additional capacity is still needed.

I would prefer making this exemption permanent but if that is not possible, to amend this bill on page 18 line 36, by changing the date to July 1, 2002.

This change would prevent having to deal with additional paperwork in case the exemption is extended again.

I encourage your support of HB 2065 and my suggested amendments and appreciate the opportunity to appear before you today. I will be happy to stand for questions.

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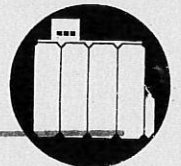
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Association

**Statement of the
Kansas Grain and Feed Association
regarding
House Bill 2065
Presented to the
House Taxation Committee
Rep. John Edmonds, Chairman**

January 31, 2001

**KGFA, promoting a viable business
climate through sound public policy for more
than a century.** Date 1/31/01



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Chairman Edmonds and members of the House Taxation Committee, my name is Doug Wareham and I am Vice President, Government Affairs for the Kansas Grain and Feed Association (KGFA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. Our membership includes over 1,100 Kansas business locations and represents 99% of the commercially licensed grain storage in the state.

I appear today in support of House Bill 2065, which would extend the Grain Storage Construction/Rehabilitation Sales Tax Exemption through January 1, 2002. As you are aware, this body has adopted calendar year exemptions each of the past two years (1999 & 2000) that provided a sales tax exemption for purchases of materials and labor by Kansas farmers and commercial grain elevator 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 this Sales Tax Exemption along with reasons our organization believes this incentive should not only be extended, but established as a **permanent** sales tax exemption. Please draw your attention to the white sheets attached to my testimony.

Attached Grain Storage Fact Sheets:

- Commercial Grain Storage Expansion During Past Two Years
- Kansas Crop Production Statistics
- Kansas Grain Carryover Stocks
- Grain Storage Shortfall Statistics
- Emergency Grain Storage Requests (Grain on the Ground)

In addition to the continued pressure caused by significant 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 in the many years to come and for that reason, Mr. Chairman, I would like to

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respectfully offer a balloon amendment, which would in effect make this grain storage facility sales tax exemption permanent.

Before I conclude my comments, I do also 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 House Bill 2065 and our proposed balloon amendment. I would be happy to respond to any questions you might have at this time or at an appropriate time.

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Commercial Grain Storage Space in Kansas

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January 1, 2001.....870,387,000

January 1, 1999.....856,198,000

Increase of 14,189,000

Bushels of commercial space

Kansas Major Production Figures

Five Major Crops

DD
DD

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	(bushels)	(bushels)	(bushels)
Wheat	494,900,000	432,400,000	347,800,000
Soybeans	75,000,000	81,200,000	50,000,000
Sorghum	264,000,000	258,400,000	188,800,000
Corn	418,950,000	420,180,000	416,000,000
Sunflower	10,694,000	16,230,000	10,084,000
Total	1,263,544,000	1,208,410,000	1,012,684,000

3- Year Average Total 1,161,546,000

Kansas Grain Carryover Stocks

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December 1, 2000.....	713,260,000 bushels
December 1, 1999.....	791,678,000 bushels
December 1, 1998.....	760,567,000 bushels
December 1, 1997.....	714,627,000 bushels

Grain Storage Shortfall

D

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Commercial Space.....870,387,000

On-Farm (based on Ag Statistics Survey).....390,000,000

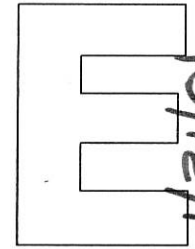
Total Grain Storage.....1,260,387,000

Current Carryover.....713,260,000

Current Available Space..... 547,127,000

3-Year Average Total Crop.....1,161,546,000

Emergency Grain Storage Requests



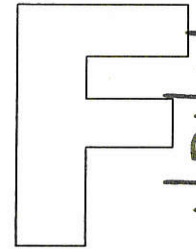
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2000 Fall Harvest.....	42,213,000
1999 Fall Harvest.....	55,980,000
1998 Fall Harvest.....	72,000,000

Property Tax Revenue Created by New Commercial Grain Storage Construction



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Example: --12 million bushels new grain storage built
--\$1.50/bushel cost of construction
--\$18 million of commercial property

\$18,000,000 commercial property
x 25% commercial property assessment rate

\$4,500,000 *commercial property tax roll*
Apply 105 statewide mill average
\$472,500 Additional Property Tax Generated

**SAMPLE OF NEW GRAIN STORAGE CONSTRUCTION
DURING CALENDAR YEARS 1999 & 2000**

RESPONSE FROM TWELVE 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, JOHNSON.....	374,000
ULYSSES COOP, ULYSSES.....	1,200,000
ST. FRANCIS COOP, ST FRANCIS	596,000
UNITED AG SERVICE, GORHUM.....	300,000
MIDWAY COOP, LEBANON.....	300,000
LEWIS COOP, BELPRE	200,000
TOTAL	12,150,000

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1 the same bearing the number of such certificate. Upon completion of the
 2 project the contractor shall furnish to such clinic or center concerned a
 3 sworn statement, on a form to be provided by the director of taxation,
 4 that all purchases so made were entitled to exemption under this subsec-
 5 tion. All invoices shall be held by the contractor for a period of five years
 6 and shall be subject to audit by the director of taxation. If any materials
 7 purchased under such a certificate are found not to have been incorpo-
 8 rated in the building or other project or not to have been returned for
 9 credit or the sales or compensating tax otherwise imposed upon such
 10 materials which will not be so incorporated in the building or other pro-
 11 ject reported and paid by such contractor to the director of taxation not
 12 later than the 20th day of the month following the close of the month in
 13 which it shall be determined that such materials will not be used for the
 14 purpose for which such certificate was issued, such clinic or center con-
 15 cerned shall be liable for tax on all materials purchased for the project,
 16 and upon payment thereof it may recover the same from the contractor
 17 together with reasonable attorney fees. Any contractor or any agent, em-
 18 ployee or subcontractor thereof, who shall use or otherwise dispose of
 19 any materials purchased under such a certificate for any purpose other
 20 than that for which such a certificate is issued without the payment of
 21 the sales or compensating tax otherwise imposed upon such materials,
 22 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
 23 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
 24 and amendments thereto;

25 (ddd) on and after January 1, 1999, and before January 1, 2000, all
 26 sales of materials and services purchased by any class II or III railroad as
 27 classified by the federal surface transportation board for the construction,
 28 renovation, repair or replacement of class II or III railroad track and
 29 facilities used directly in interstate commerce. In the event any such track
 30 or facility for which materials and services were purchased sales tax ex-
 31 empt is not operational for five years succeeding the allowance of such
 32 exemption, the total amount of sales tax which would have been payable
 33 except for the operation of this subsection shall be recouped in accord-
 34 ance with rules and regulations adopted for such purpose by the secretary
 35 of revenue;

36 (eee) ~~on and after January 1, 1999-2001, and before January 1, 2001~~
 37 ~~2002~~, all sales of materials and services purchased for the original con-
 38 struction, reconstruction, repair or replacement of grain storage facilities,
 39 including railroad sidings providing access thereto;

40 (fff) all sales of material handling equipment, racking systems and
 41 other related machinery and equipment that is used for the handling,
 42 movement or storage of tangible personal property in a warehouse or
 43 distribution facility in this state; all sales of installation, repair and main-

1 tenance services performed on such machinery and equipment; and all
 2 sales of repair and replacement parts for such machinery and equipment.
 3 For purposes of this subsection, a warehouse or distribution facility means
 4 a single, fixed location that consists of buildings or structures in a contig-
 5 uous area where storage or distribution operations are conducted that are
 6 separate and apart from the business' retail operations, if any, and which
 7 do not otherwise qualify for exemption as occurring at a manufacturing
 8 or processing plant or facility. Material handling and storage equipment
 9 shall include aeration, dust control, cleaning, handling and other such
 10 equipment that is used in a public grain warehouse or other commercial
 11 grain storage facility, whether used for grain handling, grain storage, grain
 12 refining or processing, or other grain treatment operation; and

13 (ggg) all sales of tangible personal property and services purchased
 14 by or on behalf of the Kansas Academy of Science which is exempt from
 15 federal income taxation pursuant to section 501(c)(3) of the federal in-
 16 ternal revenue code of 1986, and used solely by such academy for the
 17 preparation, publication and dissemination of education materials.

18 Sec. 2. K.S.A. 2000 Supp. 79-3606 is hereby repealed.

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

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Testimony on HB 2065
House Taxation Committee
January 31, 2001
Prepared by Joe Lieber, Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperative businesses who have a combined membership of nearly 200,000 Kansans. Approximately 120 of our members are farm supply cooperatives and most of them are involved in the grain storage business. The Council is in support of HB 2065.

Kansas has had a record harvest for two of the last three years, coupled with low prices. Because of these factors there is a shortage of grain storage space.

Even with the passage of SB 59 last year and SB 45 the year before that, we still had approximately 37 million bushels of grain that had to be placed on the ground or was stored under other emergency conditions last year.

The passage of SB 59 and SB 45 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. Not only were there not enough construction companies, but because of the demand, often times there was a shortage of materials. This meant that many of our members did not get the opportunity to get the sales tax exemption the last two years.

Because there is still a shortage of space, plus the fact that many additions did not get built in 1999 and 2000, we ask for your support for the passage of HB 2065.

Also, because agriculture is still the State's number one industry and grain handling is an important part of the industry we would support an amendment to HB 2065 that would give a permanent sales tax exemption for all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities.

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

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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

RE: HB 2065 – extension of the sales tax exemption for materials used for construction and renovation of grain storage facilities.

**January 30, 2001
Topeka, Kansas**

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

Chairman Edmonds and members of the House Taxation Committee thank you for the opportunity to appear before you today and share Farm Bureau's support for HB 2065.

Two years ago, 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, covered both commercial and on-farm storage. We returned during the 2000 session in support of extending the exemption.

The voting delegates at our 82nd Annual Meeting reaffirmed and strengthened our support for extending the sales tax exemption for construction and renovation of grain storage facilities. Additionally, we recommend this exemption be expanded to include grain handling and cleaning equipment, particularly on-farm facilities.

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Grain storage options are vitally important to today's agriculture industry. Producers need appropriate storage facilities for housing their grain. Particularly during this time of low commodity prices, we firmly believe the extension of the current sales tax exemption and expansion of the exemption to include grain handling and cleaning equipment is an appropriate action for the legislature to take. We respectfully encourage the committee to consider amending the bill to include grain handling and cleaning equipment and reporting the amended version of HB 2065 favorably.

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Since 1894

To: The House Tax Committee
Representative John Edmonds, Chairman

From: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Subj: **Support for HB 2065 - Grain Storage Sales Tax Exemption**

Date: January 31, 2001

The Kansas Livestock Association supports the continuation of the sales tax exemption on the sales of materials and services used in the "construction, reconstruction, repair, or replacement" of grain storage facilities. We support HB 2065 *and* KLA would support any attempts to make this exemption permanent like most of the exemptions found in K.S.A. 79-3606.

We did not actively support this exemption when it was first considered in 1999. Since then, we have experienced significant interest among our members in this issue. Many grain bins on Kansas's farms were built in the late 1970's. It is not uncommon for grain farmers to spend considerable money repairing and updating these facilities. The sales tax exemption is helpful when producers make these costly repairs and updates.

You will hear from other groups about the need for additional grain storage facilities across Kansas to help preserve the identity of grain. In recent years, there seems to be interest in planting and marketing alternative crops. Storage facilities will be in more demand and such facilities are essential if producers want full flexibility in their marketing options.

If the state grants this exemption, it would continue to provide an incentive to build and/or repair grain storage facilities. We whole heartily support HB 2065 and urge this committee to give the bill your favorable consideration.

Thank you.

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STATE OF KANSAS



DIVISION OF THE BUDGET
 State Capitol Building, Room 152-E
 Topeka, Kansas 66612-1575
 (785) 296-2436
 FAX (785) 296-0231
<http://da.state.ks.us/budget>

Bill Graves
 Governor

Duane A. Goossen
 Director

January 29, 2001

The Honorable John Edmonds, Chairperson
 House Committee on Taxation
 Statehouse, Room 171-W
 Topeka, Kansas 66612

Dear Representative Edmonds:

SUBJECT: Fiscal Note for HB 2006 by Special Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2006 is respectfully submitted to your committee.

HB 2006 would allow the purchases of rural water districts' and public water supply districts to be exempt from sales tax. The purchase types included in the exemption are those for tangible personal property and services used to operate or maintain the water district, as well as certain purchases made indirectly through contractors. This bill would also apply to groundwater management districts.

Estimated State Fiscal Effect				
	FY 2001 SGF	FY 2001 All Funds	FY 2002 SGF	FY 2002 All Funds
Revenue	--	--	(\$4,400,000)	(\$4,600,000)
Expenditure	--	--	\$700	\$700
FTE Pos.	--	--	--	--

The Department of Revenue estimates that HB 2006 would reduce state sales tax revenue by \$4.6 million in FY 2002, which represents 11 months of collections. The State General Fund would be reduced by \$4.4 million, and the State Highway Fund would be reduced by \$200,000. *House Taxation*

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Honorable John Edmonds, Chairperson
January 29, 2001
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These estimates are based on FY 1996 data from a survey performed by the Kansas Rural Water Association and data compiled for the larger cities in Kansas. The Department of Revenue notes that water organization representatives have stated that the patterns of expenditure data have not changed significantly since the compilation of data. The Department arrived at its fiscal estimate by increasing the amount of purchases from 1996 by 4.0 percent annually.

A loss of local sales tax revenue is estimated at \$1.25 million in FY 2002. Lastly, the Department estimates that it would require \$700 from the State General Fund to issue necessary notices, and to make changes to tax forms. Any fiscal effect resulting from the passage of HB 2006 is not reflected in *The FY 2002 Governor's Budget Report*.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Steve Neske, Revenue
Bob McDanel, Water Office

Date 1/31/01
Att No. 7
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MEMORANDUM

January 31, 2001
8:49 am

To: House Taxation Committee
From: Chris W. Courtwright, Principal Analyst
Re: Fiscal Notes on HB 2006

The purpose of this memo is to provide you with a last-minute change on the fiscal note for HB 2006 which would exempt water district purchases from sales tax.

The interim committee reviewed updated information from the Kansas Rural Water Association over the summer which suggested that the fiscal note should be reduced to \$3.2 million for FY 2002 (from \$4.6 million).

The Department of Revenue is in the process of revising the fiscal note.

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TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Phone: 316.268.4351 Fax: 316.268.4519
Taylor_m@ci.wichita.ks.us

House Bill 2006 Water Utility Sales Tax

Delivered January 31, 2001
House Taxation Committee

In 1996, 1997, 1998, 1999 and again in 2000, the City of Wichita along with others, proposed changes in the way sales tax is applied to municipal water utilities. The City of Wichita's concern was prompted by a Department of Revenue audit which demanded sales tax be paid on all kinds of purchases and operations of the water utility. Purchases and operations which had never before been taxed.

House Bill 2011, written to correct the situation, passed the House by a vote of 121-4 in 1999. It was bottled up in the Senate Assessment and Taxation committee for the rest of the 1999 session and all of the 2000 session. Until of course, it was used as vehicle for the "integrated plant" tax breaks for business. In the closing hours of the 2000 session, the bill, which Wichita and many others, shepherded though the system all those years was hijacked, renegotiated behind closed doors and rewritten. In the end, municipal water utilities were once again left high and dry. The irony is that, few, if any, who understand how the taxation of municipal water utilities is carried out, think it makes any sense. The only opposition ever expressed to treating municipal water utilities like all other municipal services is that it carries a fiscal impact to the State.

Traditionally, City governments do not pay sales taxes to the State government for providing municipal services. As the Wichita audit proves, that is not true when it comes to providing water to our residents. In fact we are finding the interpretation and application of the law amounts to an aggressive effort to tax all kinds of basic municipal services, including not just the providing of water, but fire protection, and street repairs if they are related to water utility projects. It also means sales tax must be paid on city vehicles, telephones and computers purchased by clearly tax-exempt City departments if those items are in anyway at anytime used by a Water Department employee. The

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issue is complex, but in effect Revenue Department auditors contend anything the Water Department "touches" is fully taxable at 5.9% (that includes the 1% local sales tax).

The lawyers and accountants can talk about this issue in far more technical terms than I, but let me explain in practical terms how this situation plays out in Wichita. I knew a secretary who worked in the Wichita Police Department on the fourth floor of City Hall. She answered phones and worked on a computer. She transferred to the Water Department offices on the eighth floor of City Hall. She did similar work on an identical computer and answered citizen calls on an identical telephone. But the cost of that phone and computer service is 5.9% more expensive because they sit in the Water Department offices and not the Police Department offices. It's especially hard to understand when you realize all computer and phone services in Wichita City Hall are provided through our own in-house Data Center. Money shifting from one City department to another is suddenly taxable.

The current approach and interpretation of the law also means the City must maintain an entirely different and separate asset base and purchasing system for the water utility to protect general assets and operations of the City from taxation. This results in inefficiency and cumulative administrative expenses. And there is lots of confusion caused for contractors and vendors who never quite know whether or how to determine if sales tax should be included in bids on city contracts. Another interesting note: under current interpretation, if a city government built a new city hall, the water offices, staff and accounting systems would have to be kept out of the building to prevent the entire city building from being taxable.

Providing water to citizens is a basic function of city government, the same as filling potholes, putting out fires or providing police protection. As such, exempting municipal water utilities from paying sales tax on purchases will clarify and correct the confusing, inconsistent question of what's taxable and what's not when it comes to providing basic City services.

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WATER DISTRICT NO.1 OF JOHNSON COUNTY



Mailing Address: P.O. Box 2921, Shawnee Mission, KS. 66201
5930 Beverly Ave., Mission, Kansas 66202

Tel. (913) 895-5500
FAX (913) 895-1825

H.B. 2006 - Sales Tax Treatment of Water District Purchases

Testimony Presented at the
House Committee on Taxation
On January 31, 2001

By Ron Appletoft, Governmental Affairs Coordinator

Water District No. 1 of Johnson County appears in support of H.B. 2006 which would exempt publicly owned water utilities, including Water District No. 1, from sales tax on purchases of property and services used in the construction, operation and maintenance of publicly owned water utilities.

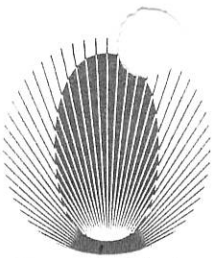
Water District No. 1 is organized as a regional public water utility and serves over 330,000 consumers in and around Johnson County. The Water District is operated as a quasi-municipal corporation pursuant to K.S.A. 19-3501 et seq.

In recent decades, providing water to the public has increasingly become a governmental function and should be exempt from sales tax similar to other governmental services. The Water District pays approximately \$500,000 in sales tax annually. If the Water District was exempt from this tax burden, its operational costs could be reduced, which would have a beneficial impact on water rates.

Current sales tax law, as applied to publicly owned water utilities, is complex and very confusing. The Water District has been forced to file several appeals challenging the Department of Revenue's application of the sales tax laws to the District. A recent court decision confirmed the Water District's position that electricity used to pressurize water mains should be exempt from sales tax. It is our understanding that many other publicly owned water utilities have also challenged the Department's interpretations. This is costly to water utilities and the state in terms of both time and money. The "integrated plant" tax legislation passed last year added additional confusing language to existing tax law.

Water District No. 1 urges your support of H.B. 2006 that will fully exempt publicly owned water utilities from sales tax. By lowering operating costs and simplifying administration of publicly owned water utilities, the public would be benefited statewide.

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City of Olathe

MEMORANDUM

TO: Members of the House Taxation Committee

FROM: Donald R. Seifert, Policy Development Leader *DRS*

SUBJECT: **House Bill 2006**; Sales Tax Treatment of Water Utility Purchases

DATE: January 31, 2001

On behalf of the city of Olathe, thank you for the opportunity to appear today on this bill. This issue has been part of the city's legislative program for several years, and discussed by this committee on numerous occasions.

Recommended by the 2000 interim tax committee, HB 2006 would exempt purchases made by municipal water utilities and other providers of water service from the state and local sales tax. The 2000 interim was the second interim study in three years to address this issue. An identical bill, 1999 HB 2011, passed the House by a vote of 121-4, but did not advance in the Senate. It is now the city's understanding that the present \$3.2 million fiscal note is now significantly lower than estimated in 1999.

The city of Olathe has operated a municipal water utility since 1884. The city currently provides water service to approximately 29,000 customers. Under current law, the treatment and distribution of water is the only area of municipal government where the purchase of goods and services is subject to the state and local sales tax. Purchases made in all other areas of the city are exempt from the sales tax.

We estimate the application of sales tax to the water utility adds an additional \$100,000 annually to the operating cost of this service. It also adds to the cost of every capital item the city or its contractors purchase for the water system, such as pipe, trucks, equipment, and treatment capacity. For example, the city recently completed a \$20 million capacity expansion project at its Water Plant No. 2. If materials used in this project had been sales tax exempt, the savings to ratepayers would have been significant. Application of sales tax also causes administrative confusion, where certain line items in the city's budget are taxable and most are not.

The city respectfully requests that the committee not look at HB 2006 as just another sales tax exemption request from a worthy not for profit cause. In Kansas, furnishing drinking water is an essential governmental function. There are some 700 water suppliers in the state, all but a handful of which are public entities. The state exempts from the sales tax every other type of purchase made by a political subdivision. We simply believe there is no more basic municipal service than the furnishing of water to citizens, and that it should be afforded the same sales tax treatment as the rest of city government.

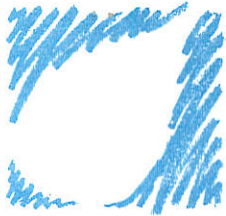
Thank you again for the opportunity to appear today. We urge the committee to agree with all prior studies of this issue, find that a sales tax exemption for public water suppliers is appropriate, and recommend HB 2006 favorably for passage.

Date 1/31/01

AH No. 11

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House Taxation



KANSAS
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COMMENTS ON HOUSE BILL No. 2006
BEFORE THE HOUSE COMMITTEE ON TAXATION
January 31, 2001

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill No. 2006.

The Kansas Rural Water Association provides technical assistance to public water and wastewater systems and a variety of training opportunities for operators, board and council members. The Association's membership includes 275 rural water districts and 400 cities and 260 supplier/vendor associate members.

The Kansas Rural Water Association supports House Bill No. 2006. The application of sales taxes by public water systems (that's municipal and rural water districts) is probably the greatest administrative burden that these utilities face. We have testified in four previous Sessions. The problems persist.

At best, the rules are confusing -- to the utilities, contractors, designers and also to the Department of Revenue. A control panel to operate a pump which may be tax-exempt is only exempt to the extent of use required to operate the pump; the conduit to connect the pump, even when the contractor bids a unit price, is taxable but the electrical wiring may not be. In many cases, the control panel is more of a component than is the pump or motor.

Water utilities have been forced to structure construction bid documents into four segments -- with the separation being what components are taxable and which are not. This splitting of bid documents has no relationship to construction time-frames or what anyone could conceive as being based on good business judgment. Ensuring the highest level of compliance with sales tax application likely is costing the utility thousands of additional dollars because of ramifications that go far beyond concerns for paying of appropriate sales tax.

The Kansas Rural Water Association suggests that the public at large will benefit if HB 2006 were approved, the Dept. of Revenue would be relieved of trying to administer an exceedingly confusing law and regulatory relief would be gained by water utilities, designers and contractors. KRWA encourages you to support this tax clarification.

Respectfully submitted,

Gary H. Hanson
General Counsel

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