

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on March 12, 2002 in Room 519-S of the Capitol.

All members were present except: Representative Flora, excused
Representative Mays, excused
Representative T. Powell, excused

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

Conferrees appearing before the Committee:
Representative Aurand
Representative Reardon
Mark Tallman, Kansas School Board Association
Charles Stones, Kansas Bankers Association
Bob Best, Lake Perry Marina
Marlee Carpenter, Kansas Association of Commerce & Industry
Brad Smoot, American Insurance Associations
Karl Peterjohn, Kansas Taxpayers Network
David A. Hanson, Kansas Insurance Associations
Mike Beam, Kansas Livestock Association
Tom Whitaker, Kansas Motor Carriers Association
Tom Palace, Petroleum Marketers & Convenience Stores
Ron Hein, R. J. Reynolds

Others Attending: See attached list

Hearing was opened on
HB 2861 - State government financing; revenue enhancements.

Representative Reardon testified in support of **HB 2861** and provided to the Committee a Chart on Options considered in the bill and information on School Finance Plans 2002-2003 School Year (**Attachment #1**). The Chart details the effects of proposals on inheritance tax, individual income taxes, corporate income taxes, financial institution privilege, sales tax increase with food exemption, repeal of food sales tax rebate, premium tax rates, and cutting the ending balance. Representative Reardon discussed each item in the proposal and responded to questions from committee.

Mark Tallman presented testimony in support of **HB 2861** (**Attachment #2**). He was representing the Kansas Association of School Boards, the Kansas National Education Association, the United School Administrators, and the Kansas City, Kansas School District. They supported the bill to provide additional state revenue to support education. Mr. Tallman responded to questions about school budgets. In response to questions about the recent Post Audit Report that indicated Kansas schools spent a smaller percentage of their budgets on classroom instruction than surrounding states, he said he believed Kansas had made different choices. He noted that counselors, food service, busing for safety reasons and other things which support classroom instruction were not included in the calculation. He was asked for a specific detailed analysis of such programs and their costs. He said that analysis had not yet been done. In response to questions about new federal legislation he said it sets an obligation for all states to bring all children to certain academic levels in twelve years. He said funding to fulfill that mandate has not yet been passed.

CONTINUATION SHEET

He said the organizations he is representing would not anticipate that all the cuts would be made in the rest of the budget in order to make enhancements to education and believed there will have to be additional revenue and that given the magnitude of the budget problem they would have to take cuts and if those cuts have to be made, it is important that the people of Kansas and the legislature know where those cuts will be made and the impact that will have on the quality of education.

When asked about high ending balances, Mr. Tallman explained that in some districts they included the proceeds of tax collections waiting for bond payments to be made in the fall. They also contain some money essential to operate programs until the next revenue comes in, such as special education payments when costs are incurred as early as August and state payments are not made until September. When asked about school budgets in view of loss in enrollments, he said that in looking at those issues in this climate, there will probably have to be schools.

Karl Peterjohn presented testimony in opposition to **HB 2861** on behalf of the Kansas Taxpayers Network (Attachment #3). He said his testimony focused on significant differences between the Kansas inheritance tax and the federal inheritance tax. He said the Kansas Taxpayers Network has repeatedly testified in opposition to bills that would raise the taxes that Kansans must pay for state government and that Kansas government is growing faster than our ability to pay for it. He responded to questions from members of the committee. He said that a lot of tax reductions at the state level had been "grabbed" by local units. He referred to companies that had left Kansas and said reports were that the fastest growing states in the last census were states having lower taxes or states with no income tax.

Bob Best, owner of the Lake Perry Marina, presented oral testimony in opposition to **HB 2861**. He described his experience as a small businessman and how his business was adversely affected by taxes. In responding to questions from the committee, he said he thought across-the-board decreases in taxes would be best.

Charles Stones presented testimony on behalf of the Kansas Bankers Association in specific opposition to Section 58 of **HB 2861** increasing the privilege tax on financial institutions (Attachment #4). He said it would result in Kansas banks being taxed higher than in surrounding states and would discourage banking companies from locating or keeping a charter in Kansas and would put banks at a competitive disadvantage with such in-state competitors as Credit Unions and the Farm Credit Banks. Mr. Stones responded to questions from the committee.

Brad Smoot presented testimony in opposition to Section 57 of **HB 2861** on behalf of the American Insurance Association (Attachment #5) and on behalf of Blue Cross Blue Shield of Kansas and Blue Cross Blue Shield of Kansas City (Attachment #6). In response to questions Mr. Smoot provided the history of the litigation because of which taxes were paid under protest preceding at the time legislation was passed in the 1990s with respect to insurance companies. He said the unintended consequence of Kansas tax policy was retaliatory taxes levied by most states to equalize the tax obligations of insurance carriers from other states. He said provision of the tax credit to any insurance company that brought jobs to Kansas. He said the effect of the tax credit had been underestimated and was adjusted last year.

Terry Leatherman presented the testimony of Marlee Carpenter in opposition to **HB 2861** on behalf of the Kansas Association of Commerce and Industry (Attachment #7). The testimony was that several provisions in **HB 2861** caused concern to the Kansas business community. KCCI policy calls for the reduction of the corporate income tax rate.

David A. Hanson presented testimony in opposition to **HB 2861** on behalf of the Kansas Insurance Associations (Attachment #8). His testimony included a table of comparisons of tax bill provisions.

Written testimony was presented by Kathy Damron in opposition to **HB 2861** on behalf of the Prudential Insurance Company (Attachment #9).

Written testimony was presented by Ron Hein in opposition to **HB 2861** on behalf of the Kansas Restaurant and Hospitality Association (Attachment #10).

CONTINUATION SHEET

Written testimony was presented by Kevin Davis in opposition to **HB 2861** on behalf of American Family Insurance (Attachment #11).

Written testimony was presented by Bruce Witt in opposition to **HB 2861** on behalf of Preferred Health Systems (Attachment #12).

Hearing on **HB 2861** was closed.

Hearing on **HB 2788** was rescheduled for March 13.

Hearing on **HB 2805** was rescheduled for March 13.

Consideration of **HB 2714** - Income tax credit for property tax paid upon commercial and industrial machinery and equipment

Representative Powers moved, seconded by Representative Hutchins, to amend HB 2714 to change provisions to 30% in 2005; 35% in 2006; and 40% in 2007 and thereafter. Motion was adopted.

Representative Powers moved, seconded by Representative Huff, to report HB 2714 favorable for passage as amended.

Representative Tapanelli moved a substitute motion, seconded by Representative Powers, to adjust implementation date so as not to cause a negative effect with the current year. Substitute motion was adopted.

Chris Courtwright responded to a question about the Fiscal Note that he believed the bill would reduce the fiscal note.

Representative Powers moved, seconded by Representative Hutchins, to report HB 2714 favorable for passage as amended. Motion was adopted.

Meeting adjourned at 10:55 a.m. Next meeting is March 13.

GUEST LIST

DATE March 12, 2002

NAME	REPRESENTING
Denise Ayt	U.S.D. 500 - U.S.T.I.
KARL PETERSON	KTN
George Peterson	KTN
Mark Tallman	KASB
BOB BEST	SELF, ^{SMALL} BUSINESS
RANDY SEINER	UUC
Kathy Olson	KBA
Bernie Koch	Wichita Chamber
Chuck Stokes	KBA
DENNY KOCH	UST
Ann Dukes	DOB
MARK DEBETTI	KNEA
Leslie Kaufman	Ks Farm Bureau
Kerrin Davis	Ann Family Bus
Rubene Crum	KDOR
Matthew Goddard	Heartland Community Bankers Assoc.
Christy Redwell	Topeka Chamber of Commerce
Madha Jean Smith	KMHA
Brilla Scott	USA
STEVE KEANEY	PMCA of KS
Bob Kuehn	KWGA
Mark Toub	League of Kansas Municipalities

GUEST LIST

DATE 3-12-02

NAME	REPRESENTING
Larry R Bazar	LKM
John J. Roberts	Boeing
David A. Hanson	KS Insurer Assoc
Hanni Ann Rowen	KS GROW Consulting
Kathy Duncan	Industrial

Prepared for Representative Bill Reardon

February 8, 2002

SCHOOL FINANCE PLANS 2002-03 SCHOOL YEAR
Total Amts. In Thousands

SCHOOL FINANCE PLAN	BSAPP	SGF AID REQUIRED	EXHIBIT: INC. /PRIOR YEAR	INCREASE SGF AID
Current Law*	3,870	1,789,315	(21,306)	na
Governor's Enhanced	3,890	1,796,342	(14,279)	7,027
Rep. Reardon	4,042.42	1,884,187	73,566	94,872

EXHIBIT:

Governor's Enhanced BSAPP Increase is \$20, or 0.5 percent

Rep. Reardon BSAPP Increase is \$172.42, or 4.5 percent

Rep. Reardon Added \$87.845 million above Governor Enhanced per certificated employee (based on 2001-02): \$2,198

Added \$87.845 million above Governor Enhanced per nonadministrative certificated employee (based on 2001-02): \$2,354

*Consensus Estimate

House Tax 3-12-02
Attach. No. 1
Page 1 of 2

Proposal: Reardon Options #4

11-Feb-2002
02:11:39 PM

(\$ in millions)

FY	Total Inheritance Tax Reimposition	Progressive Individual Inc Tax Increase Adds 2 Top Brackets of 7 and 7.5% at 110k and 240k	Progressive Corp Income Tax Increase Raise Top Bracket to 8%	Progressive Fin Inst Priv Tax Increase Raise Top Brack to 6.5%	Sales/Use Tax Increase of 0.75% to 5.65% While Exmpt Food on June 1, 2002	Repeal Food Sales Tax Rebate Program on 1/1/03	Increase Premiums Tax Rate from 2 to 2.55% Tax Year 02	Cut Ending Balance Law to 5.0 Pct	Total This Package
03	\$73.000	\$58.800	\$18.900	\$8.500	\$27.466	---	\$19.000	\$110.000	\$315.666
04	\$76.650	\$49.500	\$14.900	\$6.700	\$29.121	\$25.000	\$19.000	---	\$220.871
05	\$80.483	\$53.400	\$15.300	\$6.800	\$30.826	\$25.000	\$19.000	---	\$230.809
06	\$84.507	\$57.700	\$15.700	\$6.900	\$32.582	\$25.000	\$19.000	---	\$241.389
07	\$88.732	\$62.300	\$16.100	\$7.100	\$34.434	\$25.000	\$19.000	---	\$252.666
5 or 6 yr total	\$403.371	\$281.700	\$80.900	\$36.000	\$154.429	\$100.000	\$95.000	\$110.000	\$1,261.400

House Tax 3-12-02
Attach. No. 13
Page 2 of 3

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

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Testimony on
HB 2861 – State Government Financing
Before the
House Committee on Taxation

By
Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

March 12, 2002

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify today on behalf of the Kansas Association of School Boards. I am also representing the Kansas National Education Association and the United School Administrators.

We are appearing today as a proponent of additional revenue to fund critical state programs, particularly elementary and secondary education. Although we appear in support of HB 2861, we have not endorsed any particular revenue plan. We testified in support of the Governor's original enhancement plan in the Senate earlier this session, and we would encourage this Committee to explore all options for revenue, including HB 2805. Rather than comment on each measure, I hope in these remarks to explain why we believe additional state revenue is needed to maintain our strong system of public education.

The budget crisis our state is now confronting comes at a time when our schools are again being asked to do more than ever. Earlier this year, in a time of war and recession, President Bush signed a bill reflecting his highest domestic priority: education. Passed by an overwhelming, bi-partisan majority in Congress, the bill commits this nation to accomplishing unprecedented goals: bringing every American student to proficiency levels in basic skills; closing the "achievement gap" for poor and minority students; leaving no child behind. President Bush has stated clearly that accomplishing these goals will take more resources, and despite this bill, the overwhelming percentage of educational resources will continue to come from the states.

Kansas is closer to these goals than most states: we outrank most states and exceed the national average on most educational measures, and since the mid-1990's, we have seen modest but steady improvement on our state accountability measures. These improvements have occurred because school districts have worked with the State Board, the Governor and the Legislature to increase and target resources that make a difference in student achievement: early childhood and all-day kindergarten, expanded at-risk and alternative programs, increased technology and improved professional development.

Some of these improvements have been funded by the state, but many have been made possible because school boards and patrons have been willing to make a difficult choice and do what we ask this Legislature to do: raise taxes to support education.

School boards have raised their local option budgets by \$350 million since the current school finance law began in 1993; voters have authorized hundreds of millions for school construction, renovation and equipment. Let me stress: this investment has paid off. By almost every measure, Kansas public schools are better than they were ten years ago, and serve more children better than they have before.

Despite this progress, challenges remain. Since 1992, the base budget has never been increased at even the rate of inflation. Average teacher salary increases in Kansas have been lower than average private sector salary increases every year since 1995. Kansas ranks 41st in the nation in teachers' salaries and has fallen from 13.9 percent below the national average in 1995 to 16.5 percent below in 2001. The predictable result is a growing teacher shortage. Although the percentage of Kansas children scoring "unsatisfactory" on state reading and math tests has decreased in recent years, poor children are about three times more likely to perform at low levels than middle- and upper-income children.

There will be those who say that looking at the base budget alone does not tell the full story. They point out that total school funding has actually risen much more than the base alone. That is true, but there are several important points for the committee to keep in mind.

First, a significant amount of the increase in educational funding has occurred because the legislature has approved changes in weightings and created new programs that also result in additional costs, such as raising the at-risk weighting or funding at-risk preschool programs. These actions give school districts more money, but also new responsibilities for that money.

Second, much of the increase in operating budget has come from higher local option budgets, which increase school district property taxes. Third, voters have approved significantly more capital improvement projects. These funds are not available for operating expenses such as salaries. Fourth, federal aid to education has increased, but again, these funds are limited to specific programs such as special education or food service.

We realize that this committee will be reluctant to vote for higher taxes. However, the Committee, the Legislature and the public need to be fully informed about the consequences if state funding is reduced. These consequences have tax policy implications as well as educational implications.

First, those districts that are capped at the 25 percent LOB maximum will be forced to make internal budget cuts because you simply cannot sustain programs when salaries are rising at four percent or more a year and base state aid is being cut. The alternative is to allow those districts to exceed that limit through either a higher LOB or entirely through local property taxes. Either option, of course, results in a tax increase at the local level.

That leads to the second consequence: taxes will continue to be increased through the local option budget by local school boards in order to meet rising costs. These costs include salaries, insurance, utilities, technology, special education and the new requirements of state and federal laws. Raising the LOB will, in turn, increase demands for LOB state aid, which will limit funding available for the base, which will lead to greater pressure on the LOB.

The third consequence will fall most heavily on small, rural districts. Many of these districts are losing enrollment because they are losing population and the economic base in their communities. They have increasing difficulty offering health insurance. Therefore, they are at a greater disadvantage when recruiting new teachers and administrators, which means the quality of instruction and the number of programs they provide will erode, resulting in a further loss of students. The only option will be closing schools, increasing the downward spiral of many communities. Closing schools means losing school employees and families, which means a loss of economic activity in the community, which reduces the tax base to the detriment of those who remain in the community.

The fourth consequence will fall on poor districts and disadvantaged students. Poor districts will have a harder time using the LOB because of the greater tax burden it places on lower tax bases. Poor children often start school far behind their more advantaged peers and need additional resources to catch up. But it is support for these students – smaller class sizes, early childhood, at-risk and alternative programs, summer and after school learning time, truancy prevention – that will be the first to go under budgets cuts and be more difficult to add without additional resources for the simple reason that these programs are not required.

Before I close, I would like to address two other issues surrounding school finance. The first concerns school district balances. There has been much discussion in the past several days about school districts having hundreds of million of dollars in reserve. The implication may be that these funds are sitting in some kind of school district savings account. In reality, the majority of those dollars are earmarked for capital outlay expenditures that districts maintain for large capital projects or emergencies. Most of the other funds are used for essentially cash flow purposes. It is also important to remember that using reserve funds at the school district level has the same problem as doing so at the state level: these are on-time funds that must be replaced in the next year. Finally, there are serious constitutional and legal issues regarding the use of these funds for any purpose other than the one for which they were provided

The second issue concerns the issue of “dollars to the classroom.” Many legislators have raised concerns about the Legislative Post Audit Report that shows Kansas spends a lower percentage of its operating budget on “instruction,” which has been taken to indicate that Kansas schools spend too much on administration. What is often overlooked is that the Post Audit Report found that 75% of “non-instructional” personnel costs that exceeded the average of surrounding states was in areas that were not administrative, such as student and instructional support, food service, transportation and maintenance. These are areas that support instruction, allowing teachers to teach and students to learn. The report also did not reflect the fact that Kansas has better academic achievement than the average of the four surrounding states. In other words, the way Kansas school districts allocate resources results in higher student performance.

The people of Kansas have historically demonstrated that public education is a high priority, and have been willing to pay taxes to support their schools. We urge the committee to develop a revenue plan that allows the state to respond to the educational needs and values of its people.

Thank you for your consideration.

KANSAS TAXPAYERS NETWORK
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12, March, 2002

Testimony Opposing H.B. 2861
By Karl Peterjohn

The Kansas Taxpayers Network has repeatedly testified in opposition to bills that would raise the taxes that Kansans must pay for state government. H.B. 2861 is another in a long list of "revenue enhancements" that have been introduced since 1999. Sadly, more than a few of these proposals have become law.

This bill resurrects the inheritance tax and places a new burden onto the private sector. For grieving family members we can add the burden of a new unfunded mandate onto Kansas families. The structure for this new tax as laid out in H.B. 2861 accelerates as the size of the inheritance grows. So as inflation increases the nominal dollar amount the tax liability grows.

This bill creates two new brackets in the state income tax. The new maximum rate will be raised from 6.45 percent to 7.5 percent. This is an increase of 16.3 percent. By contrast in the past few years Colorado has been lowering their maximum rate on their income tax from 5 percent down to 4.63 percent.

This tax hike bill also raises taxes on insurance companies and banks. These additional taxes are likely to be added to the high cost of doing business in Kansas, and eventually will be passed along to taxpayers in the form of higher insurance premiums or higher bank fees and interest rates.

Compounding this new unfunded mandate onto the private sector is increasing the general sales tax rate by over 15 percent. This bill would provide Kansas with the highest sales tax rate in the entire region. The next highest would be Nebraska's 5 percent rate.

All of these tax hikes along with the other tax bills being considered by this legislature raises a more troubling issue. Kansas government is growing faster than our ability to pay for it. The Tax Foundation's February 2002 Special Report shows that between 1990 and 2000 that personal income grew on average 2.69 percent annually in our state. Tax growth grew on average 3.99 percent during that same time period. The difference between these two percentages of 1.3 percent shows how the private sector has not been able to keep up with the growth in Kansas government.

Nationally, the same trend existed but the national average was not as broad a gap as Kansas. So Kansas government is growing faster than the national average and our income is not as fast as the national average. This information should be a warning to all elected officials in this state. The perilous fiscal path the advocates of higher taxes want us to follow makes our current, non-competitive tax climate even worse.

Tax hike advocates who continue to complain about the tax cuts enacted during the 1990's need to understand that the tax increases on property, income, gasoline, sales, along with smaller taxes and fees have more than offset the limited tax relief that occurred in the last decade.

The Kansas Taxpayers Network urges this committee to reject the tax hikes contained in this bill and its unfunded mandates onto the struggling private sector in Kansas.

House Tax 3-12-02
Attach. No. 3
Page 1 of 1



The Kansas Bankers Association

TO: House Taxation Committee
FROM: Chuck Stones, Sr. Vice President

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to appear before you regarding HB 2861. I appear specifically in opposition to Section 58, the section that increases the privilege tax on financial institutions.

As you all know, Kansas banks pay what is called a "privilege tax". This is a tax based on income, but is not an income tax. This is because the interest income from federal government securities is not taxable in a normal income tax scenario.

In 1998, the Kansas Legislature realized that Kansas banks were paying a proportionately high amount of tax when compared to banks in surrounding states. And starting with the 1998 tax year, decreased the privilege tax base rate to 2.25%.

Reasons to NOT increase the Privilege Tax rate:

- 1) We would, once again, be taxed higher than banks in surrounding states. This would discourage banking companies from locating or keeping a charter in Kansas.
2) It would put banks at a competitive disadvantage with in-state competitors. Many of our competitors in Kansas don't pay taxes.
3) It is unfair to compare the "Privilege Tax" rate to the "Corporate Income Tax" rate.
4) Raise taxes in the middle of an economic downturn???

BRAD SMOOT

ATTORNEY AT LAW

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**Statement of Brad Smoot
Legislative Counsel
American Insurance Association
House Taxation Committee
Regarding 2002 House Bill 2861
March 12, 2002**

Mr. Chairman and Members:

On behalf of the American Insurance Association (AIA), we are pleased to have the opportunity to comment on House Bill 2861. AIA is a trade association of more than 300 companies offering property and casualty insurance in all fifty states. Our members provide home owners, auto, workers comp and general liability for hundreds of thousands of Kansas families and businesses. We appear in opposition to Section 57 of H 2861 which increases the premium tax from 2% to 2.55%.

The proposed amendment would make Kansas one of the highest premium tax states in the nation. Most states were once at 2% but the trend is downward with many states reducing tax rates to 1.3% to 1.75%. H 2961 flies in the face of this trend.

In addition, there is an unintended consequence in H 2861, namely, that raising the premium tax rate will increase the retaliatory tax obligations of Kansas-based insurance companies. Retaliatory taxes are levied by most states to equalize the tax obligations of carriers from other states. Basically, if an insurer from state A offers insurance in state B, it must pay the higher of the rates between the two states. For example, if Kansas premium taxes are 2.55% and our companies sell insurance in Wyoming with a tax rate of .75%, our insurance companies will pay a 2.55% premium tax to Wyoming. This will be true in all states with lower tax rates than Kansas.

To illustrate: Universal Underwriters, Kansas largest domestic property and casualty carrier which recently redomesticated to Kansas, has estimated that the tax increase contained in H 2861 would raise taxes paid to Kansas by less than \$100,000, but would cause the company to pay more than \$5 million more in taxes to other states.

Last year, the legislature raised premium taxes on insurers who provide jobs in Kansas by reducing the premium tax salary credit. This tax change was projected to increase state revenues about \$10 million annually. Kansas domestic insurers and other insurers who do business in Kansas and bring thousands of good jobs to the state probably feel like they and their customers have already contributed to the state's revenue pie. Therefore, we must strongly oppose any further premium tax increases.

Thank you and if you have any questions, we would be pleased to respond.

House Tax 3-12-02
Attach. No. 5
Page 1 of 1

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**Statement of Brad Smoot
Legislative Counsel
Blue Cross Blue Shield of Kansas
Blue Cross Blue Shield of Kansas City**

**House Taxation Committee
Regarding 2002 House Bill 2861**

March 12, 2002

Mr. Chairman and Members:

Blue Cross Blue Shield of Kansas is a mutual insurance company serving more than 700,000 Kansans in 103 counties and Blue Cross Blue Shield of Kansas City is a hospital and medical service corporation serving nearly 250,000 Kansans in Wyandotte and Johnson Counties. We must respectfully oppose Section 57 of H 2861.

Last year, the legislature increased premium taxes on insurers with employees in Kansas by decreasing the salary tax credit. This change increased taxes for Blue Cross Blue Shield of Kansas by approximately \$1 million per year. H 2861, if enacted, would further increase the tax from an estimated \$8 million for tax year 2002 to more than \$13 million -- a \$5 million per year increase. Blue Cross Blue Shield of Kansas City would see a \$500,000 increase. As health insurance premiums continue to grow, the premium tax will also grow. Obviously, taxes, as with other expenses of doing business, are passed along to the premium payers.

In an era with exploding health care costs and corresponding premium increases, an increase in the tax rate further burdens individuals, families and employers. As you know, health insurance is optional. Kansans who provide health insurance for their employees and families ought not be penalized for doing the responsible thing. Various pieces of legislation are being discussed around the Capitol intended to encourage the purchase of health and long term care insurance, including tax credits, public/private partnerships and participation by municipalities in the state employees health care plan. Increasing the cost of health insurance is in conflict with these other legislative initiatives.

We urge you to oppose Section 57 of H 2861. Thank you for consideration of our views.

House Tax 3-12-02
Attach. No. 6
Page 1 of 1

LEGISLATIVE TESTIMONY



The Unified Voice of Business

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HB 2861

March 12, 2002

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Taxation Committee

by
Marlee Carpenter
KCCI Director of Taxation

Mr. Chairman and members of the Committee:

My name is Marlee Carpenter and I am the Director of Taxation for the Kansas Chamber of Commerce and Industry. We are here today in opposition to HB 2861. There are several provisions in the bill that cause concern to the Kansas business community.

The increase in the corporate income tax causes concern to in-state and out-of-state businesses. KCCI has a policy that calls for the reduction of the corporate income tax rate. We

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 2,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 48% of KCCI's members having less than 25 employees, and 78% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

House Tax. 3-12-02
Attach. No. 7
Page 1 of 2

I believe that increasing this tax will discourage investment and economic growth, resulting in lower tax collections. Kansas ranks at the top of the region for corporate income tax collected and near the top of the region in the income tax rate. Already we have seen the reduction of revenue generated by this tax decline over the years and in a time of economic uncertainty believe that an increase would do more harm to businesses than good to the state general fund.

Increasing the state income tax rate also causes concerns for Kansas businesses. First, many businesses are organized as partnerships or sole proprietorships and pay taxes at individual rates rather than corporate rates. Second, the individual income tax rate affects the cost of living for employees when a business decides to locate in the state. Because of this, economic development is linked to the income tax structure of a state. Again, in this time of economic uncertainty, we believe that an increase in the individual income tax rate would do more harm than good.

Finally, KCCI has concerns with re-imposing the inheritance tax. KCCI was an advocate when the state removed the inheritance tax. We are additionally advocating for the permanent repeal of the federal and state estate tax. Studies show that a family-owned business stands to lose 55% of all its assets when it passes from one generation to the next. Seventy percent of families choose to cash out or abandon their business after one generation and only 13% of businesses survive into a third generation. KCCI believes that re-imposing the inheritance tax would affect businesses large and small when it is passed from one generation to the next.

KCCI understands the budget shortfall and the issues that are facing legislators this session. However, we believe that the increase or re-imposition of certain taxes would do more harm to the business community than good to the state general fund. Keep the economic engine of Kansas healthy in this time of economic uncertainty.

Thank you for your time and I will be happy to answer any questions.

KANSAS INSURANCE ASSOCIATIONS

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House Taxation Committee Testimony on House Bill 2861 Presented by David A. Hanson

March 12, 2002

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to present information on behalf of the Kansas Association of Property and Casualty Insurance Companies and the Kansas Life Insurance Association, whose members are domestic insurance companies in Kansas.

Our companies are very concerned with the changes proposed in House Bill 2861 and especially with the provisions of Section 57 found in pages 38 through 45 of the Bill, wherein the current premium tax rate on insurance premiums in Kansas would be increased from 2% up to 2.55%. The significant increase in the rate is a major concern by itself, but even more troubling given the current conditions and the recent increases already forced on the companies.

You may recall that legislation was passed in 1997 to "fix" the premium tax differential between foreign and domestic companies. Rather than lowering the tax on foreign companies to 1%, it was decided the better course was to raise the tax on domestics to 2%, but to allow sufficient salary credits and adjustments to avoid any net increase in taxes and thereby hold the domestics harmless. With that assurance, the domestics supported the legislation, even though many of them would not benefit as much as some of the foreign companies and a few of the domestic companies ended up paying about the same amount as before. Then last year you were asked to make further adjustments to the formula to reduce the amount of credits that can be taken and increase the amount of premium taxes payable to the State to the point where the assurance of being held harmless has been broken and some of our domestic companies are now being required to pay far more than before the "fix." At least one of our members has seen its premium taxes nearly double since the assurance of being held harmless in the 1997 legislation.

Kansas Association of Property & Casualty Ins. Cos.

Member Companies:

Armed Forces Insurance
Exchange
Ft. Leavenworth

Bremen Farmers Mutual
Insurance Co.
Bremen

Columbia Insurance Group
Salina

Farm Bureau Mutual
Insurance Company
Manhattan

Farmers Alliance Mutual
Insurance Company
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Federated Rural Electric
Insurance Exchange
Lenexa

Kansas Mutual Insurance Co.
Topeka

Marysville Mutual Insurance Co.
Marysville

Mutual Aid Association of the
Church of the Brethren
Abilene

Mutual Aid eXchange
Overland Park

Upland Mutual Insurance Co.
Chapman

Kansas Life Insurance Association

Member Companies:

The American Home Life
Insurance Company
Topeka

American Investors Life
Insurance Company
Topeka

Employers Reassurance
Corporation
Overland Park

First Life America Corpora
Topeka

Kansas Blue Cross/Blue Sh
Topeka

Preferred Health Systems
Wichita

The Pyramid Life Insurance
Company
Shawnee Mission

Security Benefit Life Insura
Company
Topeka

House Tax 3-12-02
Attach. No. 8
Page 1 of 3

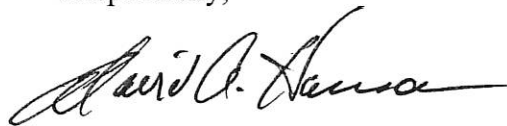
Raising the premium tax rate will also penalize the domestic companies by causing an increase in the retaliatory taxes they must pay in other states where they do business. Essentially, all states have adopted retaliatory tax provisions that increase the premium taxes they impose on insurers from states that charge higher premium tax rates. A majority of the states appear to charge a rate of about 2% for most lines of insurance like Kansas. Some states charge a higher rate and companies from those states doing business in Kansas are charged a premium tax in Kansas at that higher amount in effect to "mirror" what their home state is charging Kansas companies to do business in their state. If Kansas now raises our tax rate, then our domestic companies will not only have to pay higher taxes in Kansas, but also in all other states that would retaliate and charge higher rates to our Kansas domestics. Obviously, this means that additional dollars would be flowing out of Kansas to other states. At this time when companies have been struggling and some have had to cut back on the amount of insurance they are able to write in Kansas, this also means that we would have more trouble attracting companies to locate or relocate in Kansas.

In the last few years there have been a number of proposals to look into the affordability and availability of insurance, especially for coverages such as health insurance and auto insurance. Please keep in mind that increasing premium taxes will directly impact the cost of doing business in Kansas and adversely affect affordability and availability as the increased cost will have to be built into rates and ultimately passed on to those who must pay the higher premiums in order to maintain coverage.

Under the circumstances, we would submit that with the premium tax increase resulting from the legislation you passed last year, no further premium tax increase should be considered. We therefore would urge you not to pass House Bill 2861 with any premium tax increase.

Thank you for your consideration.

Respectfully,



DAVID A. HANSON

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House Tax 3-12-02
Attach. No. 8
Page 2 of 3

Comparison of Tax Bill Provisions

Provisions:	HB 2082	House Version	Senate Proposal
Premium Tax	2%	1%	2%
Salary Credit	25%	1/4%	25% + 1/4%
Privilege Tax	Repeal	Repeal	Repeal
Annuity Tax	Repeal	Repeal	Repeal
Firefighters Credit	Domestics	Domestics & Foreign	Domestics & Foreign
Investment Tax Credit	Domestics & Foreign	Repeal	Repeal

Comparison of Fiscal Impact

Provisions:	HB 2082	House Version	Senate Proposal
Premium Tax & Salary Credit	(\$3,700,000)	(\$22,000,000)	(\$7,100,000)
Repeal Privilege Tax	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)
Repeal Annuity Tax	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)
Give Firefighters Credit To Foreign Insurers	- 0 -	(\$3,500,000)	(\$3,500,000)
Repeal Kansas Investment Tax Credit	- 0 -	<u>\$2,000,000</u>	<u>\$2,000,000</u>
Total Fiscal Impact	(\$6,200,000)	(\$26,000,000)	(\$11,100,000)

Kansas Insurance Department (3/25/97)

House Tax 3-12-02
 Attach. No. 8
 Page 3 of 3

**Kathy
Damron**

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800 SW JACKSON STREET, SUITE 1100

Topeka, Kansas 66612-2205

Testimony
In
Opposition to
House Bill 2861
On behalf of the Prudential Insurance Company

Mr. Chairman:

The Prudential Insurance Company opposes the provisions in House Bill 2861 increasing the taxation of insurance premiums in Kansas.

This increase in the premium tax rate would target a single industry in Kansas which last year saw a tax increase projected to add \$10 million a year to the state treasury. As you recall, in the late hours of the 2001 legislative session, legislation was passed to increase the tax on insurance companies, speed up collection of oil and gas severance taxes, and triple fines on traffic tickets. These measures were approved in an effort to balance the state budget.

To suggest that insurance premium taxes be increased again falls far short of a fair and balanced approach to addressing the current state general fund shortfall.

The committee should also note that the State of Kansas and the Kansas Domestic Preference Legislative group and other insurers agreed to waive claim to the refund of premium taxes paid under protest when in 1997, Senate Sub for House Bill 2082 was enacted. That legislation and the agreement "settled" a massive, potential liability against the state. I have attached a copy of the letter delivered to the state surrendering those claims.

Thank you for your consideration of these matters.

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May 5, 1997

Honorable Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

**Re: Domestic Preference Tax Claims/Protests
Kansas Tax Equalization**

Dear Commissioner Sebelius:

This letter is to memorialize the understanding concerning potential refunds of domestic preference taxes that exists between the Commissioner of Insurance of the State of Kansas and the "Foreign Company Group" consisting of the Kansas Domestic Preference Legislative Group (list attached) and other foreign insurers joining herein.

The enactment of Senate Substitute for House Bill 2082, as passed by the Kansas Senate and House on May 2 and 3, 1997, will put in place legislation addressing all three elements of domestic preference in Kansas insurance tax laws beginning not later than the year 1999. Specifically, Senate Substitute for House Bill 2082 addresses the premium tax rate differential (1% on domestic companies and 2% on foreign companies) by equalizing the premium tax rates in K.S.A. 40-252 at 2% for all companies in 1998 and by introducing a credit against the premium tax in new Section 7 for a uniform portion of salaries paid to Kansas employees without recapture of the credit from foreign insurers through the Kansas retaliatory tax (K.S.A. 40-253). This is a nondiscriminatory equalization of the premium tax rates from the standpoint of the Foreign Company Group.

The second element of domestic preference, the 25% tax credit domestic companies can receive under K.S.A. 40-252c for investing 30% of their admitted assets in Kansas investments, will be replaced in 1999 by an enlargement of the salary credit under new Section 7. This is a nondiscriminatory solution to the unequal treatment heretofore presented by the investment credit, and the

House Tax 3-12-02
Attach. No. 9
Page 2 of 4

Honorable Kathleen Sebelius
Page 2
May 5, 1997

delay in implementation until 1999 is not objectionable to the Foreign Company Group.

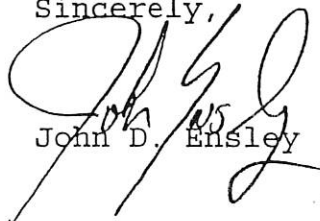
Finally, beginning in 1998, the credit for certain taxes and fees imposed on fire premiums, heretofore available to domestic fire carriers under K.S.A. 40-252(A), but not foreign fire carriers under K.S.A. 40-252(D)(3), is extended to foreign fire carriers with a 10-year phase-in at the rate of 10% per year. Although the phase-in delays full enjoyment of the credit by foreign fire carriers for a number of years, it is an acceptable means for achieving the equalization of treatment between domestic and foreign fire carriers over time and is similar to tax equalization legislation enacted in other states in recent years.

Senate Substitute for House Bill 2082 contains other tax reform measures which the Foreign Company Group applauds, but which do not involve domestic company tax preferences, including repeal of the premium tax on annuities, repeal of the domestic company privilege (income) tax, and a streamlining of the retaliatory tax.

If Senate Substitute for House Bill 2082 is enacted to address all three domestic tax preferences and becomes law this year, then the members of the Foreign Company Group, including their respective subsidiaries and affiliates doing business in Kansas, agree to waive any claim or entitlement to the refund of any premium taxes paid to the State of Kansas for periods prior to January 1, 1998, insofar as any such claim, protest or entitlement is based on an allegation of unconstitutional discrimination against foreign insurers. This agreement is intended to cover potential claims with respect to taxes payable for 1997 and is binding on the insurers joining herein by means of the attached letters of joinder, their respective subsidiaries and affiliates doing business in Kansas, and the other foreign insurers joining herein. Further, upon enactment of Senate Substitute for House Bill 2082, the insurers joining in this agreement will cease protesting the payment of premium taxes to the State of Kansas under current law on the basis of unconstitutional discrimination against foreign insurers.

Thank you for your consideration on this matter.

Sincerely,


John D. Ensley

House Tax 3-12-02
Attach. No. 9
Page 3 of 4

KANSAS DOMESTIC PREFERENCE LEGISLATIVE GROUP

The Guardian Life Insurance Company of America

Massachusetts Mutual Life Insurance Company

Metropolitan Life Insurance Company

The Mutual Life Insurance Company of New York

New York Life Insurance Company

The Northwestern Mutual Life Insurance Company

The Prudential Insurance Company of America

The Travelers Insurance Company

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Fax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@hwchtd.com

House Taxation Committee

Testimony Re: HB 2861

Presented by Ronald R. Hein

on behalf of

Kansas Restaurant and Hospitality Association

March 12, 2002

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the Kansas professional association for restaurant, hotel, lodging and hospitality businesses in Kansas.

The KRHA opposes HB 2861. HB 2861 contains a provision with regards to removal of sales tax on food which discriminates against 1) businesses that prepare and serve food, and 2) against those individuals who, either by choice or by necessity, eat at restaurants or other food service establishments.

First of all, a little information about the food service industry. In 1998, for every \$1.00 spent on food, 44¢ is spent at a food service establishment. The restaurant industry employs 10.2 million people nationwide. In Kansas the industry employs approximately 80,700 people and another 51,900 people are employed in related industries. Nationwide, restaurants constitute approximately 30% of retail establishments.

And this fact may surprise you, but the average restaurant meal is approximately \$4.60. I can assure you that there are a lot of low income people eating at restaurants.

KRHA feels that this legislation will have an adverse impact on the food service industry in Kansas. To the extent that the differential in tax affects an individual's decision to eat at a restaurant or to eat at home, this bill will cause restaurants to lose business, resulting in less employment.

If the intent of this legislation is to benefit lower income individuals, then the legislation should not draw a distinction between food at home and food eaten out. As written, persons with high income who consume expensive foods purchased at a grocery store will not have to pay tax, while many lower and middle income people who are forced to eat out at least one meal a day, and sometimes more, will be forced to pay the tax. Many working men and women of average income will have to pay the tax, even if they are eating at their employer's cafeteria or a low-priced diner.

House Tax 3-12-02
Attach. No. 10
Page 1 of 2

If this legislation is an effort to do some social or economic justice, as written, it will not accomplish its goal.

The KRHA has supported the expansion of the sales tax credit for low income individuals. That approach insures that the benefit of the state dollars go to the people who need help the most. Some would say that program is not enough, or has administrative problems. If that is the case, then that program should be expanded and the administrative problems solved rather than passing this legislation where the tax relief is not as focused on those who need it.

The KRHA recognizes that the reason for taxation is to raise money for government programs, and has never taken a position against paying our fair share of taxes. However, we do want to be kept on a level playing field. Retail grocery stores are already competing with restaurants by offering prepared food for sale. This bill further tips the playing field.

Lastly, the KRHA is concerned because this tax reduction program may, at some point, necessitate a tax increase in another area that might adversely affect our industry. Property taxes and income taxes are deemed by some to be too high already. Sales tax is viewed by many as a fair tax when used in conjunction with income and property taxes. In a pure sense, sales tax has been argued to be a regressive tax, but that is without consideration for other government programs, including food stamps, welfare assistance, and credits for sales tax on food. With such protections, sales tax can be a very fair tax when part of a multi-tax mix.

Although the KRHA could probably support a level playing field program that exempts food purchased at retail establishments equally, whether purchased at a grocery store or a restaurant, the KRHA cannot support the exemption for food dealers alone without consideration for food sold in restaurants.

The KRHA urges the committee to report HB 2861 adversely, to eliminate the exemption for food sold in grocery stores, or to exempt all food purchased by the public, either in grocery stores or restaurants.

Thank you very much for permitting me to submit written testimony, and I will be happy to yield to questions.

American Family Insurance Group
1300 SW Arrowhead Road
PO Box 4384
Topeka, Kansas 66604-0384
Phone (785) 273-5120



Kevin R. Davis
Government Affairs Counsel

March 12, 2002

**TO: Chairman John Edmonds and the
House Committee on Taxation**

Subject: House Bill 2861

We oppose the amendments proposed in Section 57 of the bill which would raise the premium taxes on insurers from 2% to 2.55%. This amounts to a 27.5% tax increase on insurers. As you know, we are allowed to pass our expenses along to our customers, that is, the people who buy insurance. This would include auto, homeowners, commercial, life and health insurance coverage, among others. Therefore, this is simply an indirect tax on the Kansans who purchase insurance and who continue to subsidize the uninsured population of the state.

As you may recall, last year the Kansas Legislature passed HB 2065 which reduced the salary credits available to companies with employees in the state. This amounted to an estimated \$10 million tax increase on insurers and a significant tax increase for our company. An additional 27.5% increase on insurers will only compound the increases our customers will have to pay, if we can keep them as customers.

This will also create a problem with your Kansas domestic companies who will be charged a retaliatory tax in other states in which they do business. Any state which has a lesser tax will charge our domestic companies the differential in extra taxes. A 2% premium tax is probably the most common tax rate in the country.

The increase in premium tax will continue to erode insurers' perception of Kansas as a good place to do business. The passage of HB 2065 last year began the erosion of confidence and this amendment would add to the perception of Kansas as a less than friendly tax environment. At a time when the availability of insurance is becoming more challenging, health insurance for example, it is probably not the time to impose an additional tax burden.

We urge that you to oppose Section 57 of the bill and any other provisions which would increase premium taxes paid by insurers and Kansas consumers.

KEVIN R. DAVIS
American Family Insurance Group

House Tax 3-12-02
Attach. No. 11
Page 1 of 1



Preferred Health Systems

Testimony on House Bill No. 2861 before the
House Committee on Taxation
The Honorable John Edmonds, Chairman

By
Bruce Witt
Corporate Compliance Officer
Preferred Health Systems
March 12, 2002

Thank you for the opportunity to provide testimony on House Bill No. 2861. I would like to begin by providing you some background information on Preferred Health Systems. We are a provider owned managed care organization based in Wichita, Kansas, and the parent corporation of Preferred Plus of Kansas, Inc., a health maintenance organization (HMO), Preferred Health Systems Insurance Company, a life and health insurance company, and Preferred Health Care, a statewide preferred provider organization. When you combine the covered lives of our HMO and PPO plans, we now have a total insured population of approximately 150,000 lives. Preferred Health Systems is wholly owned by Via Christi Regional Medical Center.

Preferred Health Systems Insurance Company is opposing Section 57 of this bill, which would increase our premium tax rate from 2% to 2.55%. Increasing our premium tax rate by .55% would increase our 2002 premium tax liability by approximately \$650,000. As you may recall, the legislature passed a law in 2001 that reduced the employee salary credit we could apply against our premium tax from 30% to 15%, and limited such credit to a 1% reduction in our overall premium tax rate. This increased our 2001 premium tax liability by approximately \$200,000. If the legislature passes this bill, Preferred Health Systems Insurance Company's premium tax liability will have increased by approximately \$850,000 between 2000 and 2002. This substantial increase in our premium tax liability will ultimately be borne by our group policyholders and their employees in the form of higher premium rates. We are currently passing on 20-30% premium rate increases to many of our employer groups right now, and unfortunately we expect these trends to continue over at least the next few years.

Increasing the premium tax rate on insurance companies licensed in the state of Kansas will accelerate the rising number of uninsured people in this state. If more employers find themselves unable to afford to offer their employees health insurance benefits, the result of this proposed legislation may be the State receiving less premium tax revenue than what you currently collect.

Thank you for your consideration of the comments presented in this testimony. I urge you to oppose Section 57 of this bill.

House Tax 3-12-02
Attach. No. 12
Page 1 of 1