

## MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson John Edmonds at 9:00 a.m. on January 29, 2003 in Room 519-S of the Capitol.

All members were present except: Representative David Huff  
Representative Nancy Kirk

Committee staff present: Chris Courtwright, Legislative Research  
Gordon Self, Revisor of Statutes Office  
Carol Doel, Committee Secretary

Conferees appearing before the committee: Hal Hudson, NFIB  
Ken Daniel, Midway Wholesale  
Terry Leatherman, KCCI  
Christi Caldwell, Topeka Chamber of Commerce  
Scott Shmalberg, Scotch Industries

Others attending: See Attached List

First order of business was bill introductions. Chairman Edmonds recognized Representative Goico who asked for a bill to be introduced limiting property tax yearly appreciation, and limiting residential property tax increases to 1% per year. If property is sold, the selling price determines new market value, also if market has deteriorated the market valuation of property will be reduced by the county appraiser. One other thing this bill would include would be to raise the cap on assessed valuation from \$20,000 to \$30,000. Representative Goico also requested introduction of a bill stating that special taxes will not be added to lot values to determine lot appraised valuation.

With no objections by members of the committee, both bills were introduced.

Chairman Edmonds opened the floor for hearings combining **HB 2024** and **HB 2025**. Chris Wilson, KBIA Director of Governmental Affairs submitted written testimony in favor of **HB 2024** (Attachment 1)

Appearing as a proponent of **HB 2025**, was Hal Hudson State Director of the National Federation of Independent Businesses representing over 6,000 small and independent business owners in Kansas. Acting on behalf of the members of NFIB, Mr Hudson asked that the 2003 Legislature reconsider the action of the 2002 Legislature and act to reduce the burden on small businesses by rolling back the franchise tax rate to \$1.00 per \$1,000 of net worth of corporations. (Attachment 2)

Following his presentation, Mr. Hudson stood for questions from the committee.

Chairman Edmonds recognized Kenneth Daniel Chairman and C.E.O., Midway Sales & Distributing, Inc. who stood before the committee in support of **HB 2025**. Mr. Daniel pointed out that the Kansas Franchise Tax is the most aggressively anti-small business of all the business taxes in Kansas. He asked the Legislature to support the bill and help small businesses. (Attachment 3)

Chairman Edmonds opened the floor for question from the committee.

The Kansas Chamber of Commerce and Industry was represented by Terry Leatherman, Vice-President Legislative Affairs as an opponent of **HB 2024** and **HB 2025**. In Mr. Leatherman's testimony, he listed the reasons why KCCI objects to the franchise fees which would be applied to small businesses with the passage of these two bills. He asks that the Legislature not further the problems of small businesses by increasing the taxes on the net worth of businesses as proposed in the two bills. (Attachment 4)

Mr. Leatherman stood before the committee for questions.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on January 29, 2003 in Room 519-S of the Capitol.

Also appearing in opposition of **HB 2024** and **HB 2025** and representing Greater Topeka Chamber was Christy Caldwell. According to the presented testimony, **HB 2024** totally eliminates the cap on corporate franchise taxes and **HB 2025** raises the cap on franchise taxes to \$10,000 , however, it reduces the rate paid. Ms. Caldwell further states she believes that there is no good reason that we would want to create a disincentive to grow Kansas businesses. (Attachment 5)

Chairman Edmonds recognized questions from the committee directed to Ms. Caldwell.

Scott Shmalberg, President and owner of Scotch Fabric Care Services testified as an opponent of **HB 2024** on behalf of the Kansas Chamber of Commerce and Industry (KCCI) and the small business community of Kansas. KCCI supports the reduction in the rate of the net worth tax \$1 per \$1,000 of net worth. KCCI supports leaving the \$5,000 cap alone. KCCI opposes any additional taxes on business. (Attachment 6)

With no further business before the committee the meeting was adjourned at 10:33 a.m.

## GUEST LIST

DATE Jan 29, 2003

NAME	REPRESENTING
Maree Carpenter	KCCI
Christy Caldwell	Topeka Chamber of Commerce
Robt J. Fast	SBC
TERRY LEATHERMAN	KCCI
SCOTT SHROBERG	South Industries Inc
Fariba Pouraryan	S. O. S.
Melissa Wangermann	Sec of State
Hal Hudson	NFIB/KS
<del>Tom Brown</del>	<del>GBBA</del>
John Freberich	Boeing
Kim Seeber	Hein Law Firm
Cheryl Allard	Coventry Health Care
Pat Scott	KS Funeral Directors Assn
Stuart Little	Westar
Karl Peterjohn	KS Taxpayers Network
KEN DANIEL	NFIB
Ann Sykes	DOR
John Ambert	Manhattan Chamber of Commerce
Steve Johnson	Kansas Gas Service
Todd Johnson	KLA
Doug Wareham	Kansas Grain & Feed Assn. Kansas Agribusiness Retailers Assn.
Ashley Sherard	Lenexa Chamber of Commerce

Bob Totten

Gary Reser

Bob Kuehnle

John Peterson

Janet McPherson

Jim Satt

Harriet Loney

Martha Jean Smith

Ben Hopper

Ks Contractors Assoc

Ks. Veterinary Med. Assn.

K106A

Ks. Certified Consulting

Ks Farm Bureau

COPE

Ks Assn of B'casters

Ks Engrg. & Surveying Assn.

Ks DAIRY ASSOC.



January 30, 2003

TO: House Taxation Committee, Rep. John Edmonds, Chair  
From: Chris Wilson, KBIA Director of Governmental Affairs  
RE: H.B. 2024

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Mr. Chairman and Members of the Committee, I regret that I must be in Wichita for meetings today, but want to provide you with the position of KS Building Industry Association regarding the franchise tax. KBIA is the statewide association of the home building industry in Kansas, with approximately 1800 members.

KBIA supports the reduction of the franchise tax from \$2 to \$1/1000 of net worth as it was prior to the 2002 Session. Most of our members are small businesses, providing a great economic benefit to the state. Fortunately, housing has been a bright spot in the current depressed economy. However, the franchise tax adversely and aggressively impacts small businesses. It is a tax primarily paid by small business because of the \$5,000 cap. It is also very high compared to other states. Small businesses are the lifeblood of the Kansas economy, but are burdened by numerous taxes.

KBIA is a member of the Kansas Small Business Coalition. An excellent background paper with additional information on the franchise tax, as well as data regarding small business in Kansas, is provided in the issues book presented by the Coalition, so I won't repeat that information here, but refer you to it as an excellent resource.

Thank you for examining the franchise tax.

House Taxation  
Attachment 1  
Date 1-29

KANSAS

Statement by Hal Hudson, State Director  
National Federation of Independent Business  
Before the House Taxation Committee  
On House Bill 2025  
January 29, 2003

Mr. Chairman and Members of the House Taxation Committee:

My Name is Hal Hudson, and I am the State Director of the National Federation of Independent Business, representing over 6,000 small and independent business owners in Kansas. I am here in support of H.B. 2025.

Last year, in an effort to close the gap between the State's budget for this fiscal year and the projected shortfall of revenue receipts, the Legislature approved a measure that effectively doubled the cost of corporate franchise taxes, for small businesses who are organized as corporations, limited liability corporations, partnerships, etc. Actually, all who are required to file annual reports with the Secretary of State, including many non-profit groups.

While the original intent of the corporate franchise tax was to offset expenses incurred by the Secretary of State's office in maintaining records of these organizations, the 2002 Act was projected to bring in \$18 million of "new money" which would go to the State General Fund, not to operation of the Secretary of State's office.

On the Kansas State Ballot, our members were asked:  
"Should legislation be adopted to repeal the increased doubling of the corporate franchise tax enacted in 2002, and return this tax to \$1.00 per \$1,000 of shareholder equity, perhaps with a higher maximum?"  
**74.2% of NFIB/Kansas members responding said they favored such legislation. And, that's why I am here.**

House Bill 2025 would do three things: 1) continue the minimum tax at \$40.00; 2) roll back the tax basis to the pre-2002 level of \$1.00 per \$1,000 of net worth; and, 3) raise the upper limit to \$10,000. We support the first two items above in H.B. 2025, and are somewhat ambivalent about #3). If the legislature would roll back the tax rate to \$1.00, and not raise the cap above the present \$5,000, we would not object. Our objective is to reduce the burden of doubling this tax as it applies to small and medium-sized businesses.

Historically, the tax most despised by small business owners has been property tax, because it bears no relationship to the ability of a business to pay. In a tough year, a business could end up with no net income, but still owe property tax. The same can be said the for the franchise tax. A business could be having a bad year, and face payment of franchise tax double pre-2002, just because it chose to organize and operate as a corporation, instead of a proprietorship.

We regard this as a "targeted" tax. We would ask you to reconsider the action of the 2002 Legislature, and act to reduce this burden on small businesses, by rolling back the franchise tax rate to \$1.00 per \$1,000 of net worth of corporations.

Thank you for your consideration of our request.

Hal Hudson

Attachment

House Taxation  
Attachment 2-1  
Date 1-29

## IMPACT OF DOUBLING THE FRANCHISE TAX

As provided for in S.B. 39 of the 2002 Session

Shareholder Equity	Pre-2002 Tax	2002 Doubling of Tax	Change in Tax Due	New Tax as % of Net Worth
\$20,000 or less	\$20.00	\$40.00	\$20.00	< >.2% < >
\$50,000	\$50.00	\$100.00	\$50.00	.2% *
\$100,000	\$100.00	\$200.00	\$100.00	.2%
\$500,000	\$500.00	\$1,000.00	\$500.00	.2%
\$1,000,000	\$1,000.00	\$2,000.00	\$1,000.00	.2%
\$2,500,000	\$2,500.00	\$5,000.00	\$2,500.00	.2%
\$5,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.1%
\$10,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.05%
\$25,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.02%**
\$50,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.01%
\$100,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.005%
\$250,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.002%***
\$500,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.001%
\$1,000,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.0005%
\$2,500,000,000	\$2,500.00	\$5,000.00	\$2,500.00	.0002%****

\* = 2/10ths of 1%;

\*\* = 2/100ths of 1%;

\*\*\* = 2/1,000ths of 1%

\*\*\*\* = 2/1 millionths of 1%

Presentation to the House Taxation Committee  
January 29, 2003

By Kenneth L. Daniel  
Chairman and C.E.O., Midway Sales & Distributing, Inc. d/b/a Midway Wholesale  
and  
2003 Chairman, Kansas Leadership Council,  
National Federation of Independent Business

Mr. Chairman and Members of the Committee:

My name is Kenneth Daniel. I am the C.E.O. of Midway Wholesale, a building materials distributor headquartered in Topeka with five branches in other Kansas cities, plus one in Missouri and one in Arkansas. I am also the Chairman of NFIB/Kansas, a volunteer position.

I would like to speak in support of HB2025. The Kansas Franchise Tax is the most aggressively anti-small business of all the business taxes in Kansas. It is extremely regressive. Many small businesses with 15 employees pay the same \$5,000 per year as Goodyear, Boeing, and Sprint.

Of the \$36 million per year this tax raises, about 95% is paid by small businesses.

The tax is levied on the net worth of corporations and limited liability partnerships. The "franchise" in the name of the tax refers to the right to operate in Kansas as a limited liability entity. It is not imposed on sole proprietorships or standard partnerships.

This tax was doubled in 2002. It is now \$2 per \$1000 of net worth with a \$5,000 maximum. Last year about 87,000 Kansas businesses paid the tax, and 2,500 of them paid the maximum tax. The 400 richest corporations in Kansas will pay only \$2 million of the \$36 million of franchise taxes.

House Taxation  
Attachment 3  
Date 1-29



The franchise tax is a highly unfair tax. It is levied whether a business is profitable or not. Identical businesses, organized differently, will pay widely varying amounts. Businesses that need little capital—doctors, lawyers, and service providers, for instance—will pay little tax. Businesses that require heavy capitalization—banks, medium to large contractors, manufacturers, transportation, and distribution—will pay a lot of tax. For most small business owners, much or all of their personal net worth is invested in their business, so this tax is nothing more than a tax on their life savings.

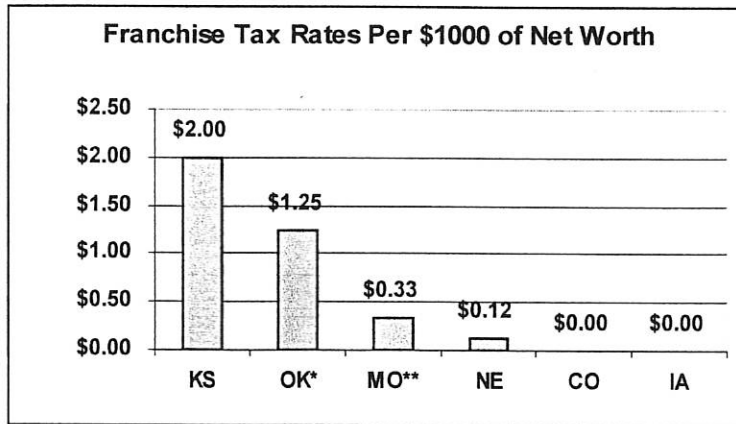
Kansas, at \$2.00 per thousand, has by far the highest tax rate in the region. The tax is 6 times the average rate of the surrounding states (\$.34 per thousand).

The Oklahoma version, at \$1.25 per thousand, is capped at \$20,000 of tax, which equates to a \$16,000,000 net worth. This at least spreads the misery to many large corporations, but it is still a highly regressive tax borne mostly by small businesses.

The Missouri version, at \$.33 per thousand, applies only to the portion of corporate net worth in excess of \$1 million, thereby eliminating this tax for most small businesses. It has no cap. The Missouri version is more of tax on medium and large businesses.

The Nebraska version, at \$.12 per thousand, is capped at \$11,995 of tax (\$15,000 for out-of-state corporations) which equates to \$100,000,000 of net worth, making it the same percentage for almost all businesses in the state, and enabling the rate to be kept very low.

Colorado and Iowa, like many other states across the nation, do not have this tax at all.



\* Oklahoma's tax is capped at \$20,000 per year.

\*\* Missouri's tax applies only to the portion of net worth over \$1,000,000.

In NFIB, it is the members, not the leaders, who determine our position on issues. On this issue, they voted, by a 5 to 1 margin, to ask you to roll the rate back to 1% and raise the maximum. I would encourage you to consider keeping the maximum at the present \$5,000 per year until Fiscal Year 2005 to avoid raising taxes on some businesses during these very difficult economic times.

In 2005, the income tax credit on machinery and equipment will increase to 20% from the present 15%. Virtually the same companies that would have to pay more franchise tax with a \$10,000 cap will be getting a much larger tax break from the higher M&E credit.

Please support HB2025 and help small business, the only sector of the Kansas economy that is growing, to create jobs for Kansans.

Thank you. I will be happy to answer any questions.

# LEGISLATIVE TESTIMONY



*The Unified Voice of Business*

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## HB 2024 & 2025

January 29, 2003

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony before the House Committee on Taxation

By Terry Leatherman, Vice President Legislative Affairs

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Vice President of Legislative Affairs for the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to explain why KCCI opposes HB 2024 and HB 2025.

The issue at the center of today's hearing is the franchise fee. It is the fee Kansas businesses pay for the privilege of being certified to be in business in our state. For years and years, the franchise fee was left untouched by the Kansas Legislature. However, after a 100% increase in the franchise fee business pays was passed last year, another massive increase is under consideration, prompting the following KCCI objections.

- It is called a franchise fee, yet last year's action and this year's debate have had nothing to do with why Kansas collects a franchise fee and whether the dollars generated are insufficient, appropriate, or excessive. KCCI suggests the philosophy behind this fee should be the basis of the dollars it generates, rather than using the franchise fee as a "quiet tax" to be used to bring new dollars to the state budget.
- Every Kansas business saw a doubling of its franchise fee last year. At best, the bills before you will demand certain employers pay yet another 100% increase this year, a 400% increase over what they were paying in 2001. At worst, the unlimited franchise fee proposed in HB 2024 presents a clear fiscal reason for a business to avoid doing business in Kansas.
- The Kansas franchise fee is based essentially on a business' net worth. Net worth reflects a business' retained earnings and investment in operations. In essence, the more a business invests in its growth and reserves for future growth and expansion, the higher the franchise fee. In varying degrees, both bills are tax hikes on net worth.

- more -

House Taxation  
Attachment 4  
Date 1-29

- Please note a positive aspect of HB 2025, which KCCI applauds, is the return of the franchise fee rate to \$1 for every \$1,000 of net worth. If the purpose of this bill is to provide some relief to businesses most impacted by last year's doubling of the franchise fee, that could be accomplished by the reduction of the rates and retention of the \$5,000 maximum fee. There would be some state fiscal impact because of this change, but you would avoid targeting a population of businesses from a second straight year of doubling this fee.

KCCI appreciates the budget challenge facing Kansas lawmakers. However, it is equally clear these are difficult days for business in Kansas. Do not further the problem by increasing the taxes on the net worth of businesses, as proposed in these two bills in their current form.

Thank you for the opportunity to comment on HB 2024 and HB 2025. I would be happy to answer any questions.

**About the Kansas Chamber of Commerce and Industry**

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 that represent more than 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.

Testimony before the House Assessment & Taxation Committee  
Wednesday, January 29, 2003  
Re: HB 2024 & HB 2025  
By: Christy A. Caldwell, Greater Topeka Chamber of Commerce

120 SE 6th Avenue, Suite 110  
Topeka, Kansas 66603-3515

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www.topekachamber.org  
topekainfo@topekachamber.org

Chairman Edmonds and members of the Committee, I am Christy Caldwell, Vice President of Government Relations for the Greater Topeka Chamber of Commerce. I am here today to express opposition to HB 2024 and 2025. HB 2024 totally eliminates the cap on corporate franchise taxes and HB 2025 raises the cap on franchise taxes to \$10,000, however, HB 2025 reduces the rate paid. If the committee chooses to roll the rate back to last year's level of \$1 per \$1,000 of net worth, we would not oppose that action, but we do however oppose an increase in the cap to \$10,000.

Corporate franchise fees are taxes on businesses for the "privilege of doing business in the state of Kansas." The number of businesses that paid this tax in 2002 was 84,953, that's a 5.9% increase from the previous year's total of 80,185. It appears that the state is not growing businesses so fast that we can afford to continually increase the cost of doing business in Kansas.

Over the last decade and a half the State of Kansas and local communities have invested millions of public/private dollars and millions of hours of effort to attract and retain businesses within our state. With this huge investment and deliberate state and local tax policy to incentivize growth, Kansas revenues grew and grew by the year. Within the last few years we have experienced a national tragedy and have become cautious, a nationwide recession that continues, and lousy weather for farmers with little relief in sight. The result is continued declining state revenues. Energy has shifted to survival mode; we all must adjust to fiscal realities that are with us today. But have the goals that we strived for in the mid '80's changed? Are we not still interested in growing our state through increased private capital investment and job growth in our local communities, or, are we content with past investment, and the same number, or reducing numbers, of jobs in our cities and towns? Are we not still interested in reveling in the growth of Kansas companies' net worth and strength, or, has this goal become something we want to repress? Are we not collecting a larger portion of state revenues from the corporate income tax than other states in our region, or, do we need to find a way to tax income twice? Are we not privileged to be the home of many mid-sized and larger companies in our state that contribute to our communities in so many ways, or, is it now the time to penalize these corporations for the "privilege of doing business in Kansas?"

Mr. Chairman and Committee, I have to believe that there is no good reason that we would want to create a disincentive to grow Kansas businesses. Isn't growth in the economy what we need right now, along with some rain? When Kansas businesses succeed, the state succeeds. Let's not reverse the strides we have already made in Kansas to create and retain business growth; let's make the "privilege ours to be the home to companies with strong and growing net worth." Let's remind ourselves of the goal in the '80's and continue down the path to economic prosperity. Mr. Chairman and Committee, we ask you to keep your eye on the goal – more Kansas business investment, more Kansas jobs, more Kansas income. That goal will bring our state the revenues it needs to fund the state operations we all desire. We ask that you not approve HB 2024 and HB 2025.

Thank you.

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House Taxation  
Attachment 5  
Date 1-29-03

The testimony of Scott E. Shmalberg regarding HB 2024 and HB 2025

before the House Taxation Committee

January 29, 2003

Mr. Chairman and members of the committee, I am Scott Shmalberg, President and owner of Scotch Fabric Care Services, testifying today on behalf of the Kansas Chamber of Commerce and Industry (KCCI) and the small business community of Kansas. Scotch has operated in Kansas for 122 years originally founded in 1881 as the Topeka Steam Laundry, the company has been operated by my family through three generations.

KCCI represents both small and large businesses. Seventy-eight percent of our members are businesses with 100 employees or less. We are here to testify in opposition to HB 2024 and HB 2025, which is a tax increase based on the net worth of a business.

Last session the net worth tax was doubled. The rate went from \$1 per \$1,000 net worth to \$2 for every \$1,000 and the cap was increased from \$2,500 to \$5,000. All Kansas businesses had to pay more to register to do business in the state. This tax on net worth is a disincentive for businesses to grow.

KCCI supports the provisions in HB 2025 that roll back the increase in the franchise fee rate to \$1 for every \$1,000 of net worth. The entire business community agrees on this point. However, we cannot support an increase in the cap or elimination of the cap. Again, this would be a tax increase for Kansas business.

I fully understand the position that the legislature must balance the budget but doing so on the backs of Kansas business is a mistake. This past year our franchise fees went up a few thousand dollars, not a big deal perhaps but combine that with the \$149,000 we paid in real

House Taxation  
Attachment 6  
Date 1-29-03

estate taxes and another \$16,000 in property tax on our equipment, taxes are a significant issue.

There is a common misconception that businesses will simply pass on tax increases to their customers. Today's customers, in our present economic conditions, will not tolerate price increases of any type. Our business, like many small businesses in Kansas, is very labor intensive, increased costs, taxes or otherwise, will inevitably be born by our employees through decreased benefits, lower wages, and fewer jobs.

You can only go to the well so many times, I am here to tell you the business well in Kansas is drying up. If you attempt to balance the budget on the back of Kansas business it is almost a certainty that you will be back next year looking for another 300 million dollars.

Again KCCI supports the reduction in the rate of the net worth tax \$1 per \$1,000 of net worth. KCCI supports leaving the \$5,000 cap alone. KCCI opposes any additional taxes on business.

I thank you for your attention to this matter.