

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson John Edmonds at 9:00 a.m. on February 25, 2003 in Room 519-S of the Capitol.

All members were present except: Representative Tom Sawyer
Representative Bonnie Sharp

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Gordon Self, Office of the Revisor of Statutes

Conferees appearing before the committee: Representative Jim Yon
Meril Vanderpool, Owner, Village Greens Golf Course
Tory Head
Dan Moler, League of Municipalities
Mark Dasetti, Kansas National Education Association
Tom Bell, Kansas Hospital Association
Ed Van Petten, Executive Director Kansas Lottery
Robert Kelly, Kansas Independent Colleges
Michael Papoon, Sedgwick County
Diane Gjerstad, Wichita, Public Schools

Others attending: See attached list.

Chairman Edmonds called attention to two articles submitted for committee review, sales tax on services (Attachment 1) and an update on state sales tax exemption (Attachment 2) both provided by Chris Courtwright of the Legislative Research Department.

A fiscal note on **HB 2239** was also provided for review.

Chairman Edmonds requested bill introductions at this time. Representative Yonally addressed the committee requesting the introduction of a bill which is a compromised proposal. If a school board decides that a school needs to be closed because it is small and inefficient, they would announce their intent to do that and if the voters/taxpayers in that school attendance area wish to circulate a petition, they can ask the board to set up a benefit district much like cities do now for sewers or water lines, etcetera, and the people in that benefit district get to vote an additional tax on themselves to pay for the additional cost of that service.

Without objection, Chairman Edmonds accepted the bill for introduction.

Representative Huff asked for the introduction of a bill that would restrict sales of cigarettes from the internet so that we can enforce Kansas laws regarding selling cigarettes to minors.

Hearing no objections, Chairman Edmonds accepted that proposal for introduction.

With no further bill introduction, Chairman Edmonds opened the meeting for public hearing on **HB 2239** introducing Meril Vanderpool, owner of the Village Greens Golf Course in Ozawkie, Kansas as a proponent of the bill. Mr. Vanderpool explained that he was in competition with local units of government for people's recreation dollars and encouraged the committee to level the playing field when government is competing with small business people providing the same type of recreational activity. (Attachment 3)

Tory Head, General Manager of Western Hills Golf Course, Topeka, Kansas asked to speak to the committee also as a proponent of **HB 2239**. He stated that he had no idea how much of a competitive disadvantage they were with some of the county and city-owned operations. He stated that the competitive disadvantage becomes more and more prevalent in regards to machinery, property tax, as well as green fees. (No Written Testimony)

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on February 25, 2003 in Room 519-S of the Capitol.

Don Moler, Executive Director of League of Kansas Municipalities was the first to address the committee in opposition to **HB 2239**. It is their belief that looking at individual sales tax exemptions will not solve the sales tax issue, and that to truly address the issue, the largest sales tax exemptions must be packaged together and voted on as a unit. (Attachment 4) Mr. Moler also submitted his testimony which he gave before the Special Committee on Assessment and Taxation regarding Sunsetting Sales Tax Exemptions. This was given on October 24, 2002. (Attachment 5)

KNEA (Kansas National Education Association) was represented by Mark Dasetti in opposition to **HB 2239**. They are in agreement that a comprehensive review of sales tax exemptions is a good idea, however, they urge that each exemption be considered carefully and a tax plan crafted that helps the State of Kansas and treats all Kansans fairly. (Attachment 6)

Addressing the committee for the Kansas Hospital Association was Tom Bell. This organization stands in opposition to **HB 2239** stating that if the current sales tax exemption is removed, there will be an automatic increase in hospital costs which will, in turn, cause healthcare costs to increase. (Attachment 7)

Ed VanPetten, Executive Director of the Kansas Lottery opposes **HB 2239**. The net effect of this bill is a decrease in transfers from the Kansas Lottery to the State of Kansas in an amount that will easily exceed \$20 million. (Attachment 8) His testimony also included an article from the Policies and Procedures Manual (Attachment 9) as well as a graph showing the impact of provincial tax. (Attachment 10)

Addressing the committee from Kansas Independent College Association was Robert Kelly, Executive Director. His testimony was in opposition to **HB 2239**. The reasons for opposition were: (a) it runs counter to centuries of established tax policies; (b) it undermines the education mission of the state; (c) it would retard economic development; and (d) it would reduce revenues over time. (Attachment 11)

Director of Governmental Relations for Sedgwick, Michael Papuan, testified in opposition to **HB 2239**. The argument was that the State's budget crisis has already been shouldered in a disproportionate manner by cities and counties. For the State to now add insult to injury by taxing local governments on purchases that have heretofore been exempt would be unconscionable. (Attachment 12)

Diane Gjerstad of the Wichita Public Schools presented testimony in opposition to **HB 2239**. Their testimony stated that this bill would eliminate the sales tax exemption for government and schools to purchase tangible personal property, remodeling and new construction and textbook rentals. During these times when schools are struggling to meet the new costs associated with the newest federal mandate, *No Child Left Behind*, adding additional expenses would result in school districts' purchasing power falling behind. (Additional 13)

With no further persons to appear before the committee regarding **HB 2239**, called attention the written testimony which was submitted for committee review from Dr. Jerry Farley, President Washburn University, (Attachment 14); Reginald L. Robinson, President and CEO of the State of Kansas Board of Regents (Attachment 15); Randall Allen, Executive Director of Kansas Association of Counties (Attachment 16); and Dennis Hachenberg, Chief Executive Office, Anderson County Hospital (Attachment 17)

There was no further business to come before the committee and Chairman Edmonds adjourned the meeting at 10:40 a.m.

GUEST LIST

DATE February 25, 2003

NAME	REPRESENTING
Russ Pittman	Health Midwest
Scott Anglemeyer	KDOCFH
George Petersen	RTN
Ron Appletoft	Water One
Dennis George	Coffey Health System
Mary Jane Stattelman	KGFA/KARA
Bill Gross	Shawnee Mission Med Center
Ed Van Petten	KS Lottery
John John	KS Lottery
Jan Paula	" "
Mike Ohrt	Pinegar Smith + Assoc
Martha Jean Smith	KMHA
MARK DESETTI	KNFA
Tom Bronu	KGCOA
Rebecca Zepke	Federico Consulting
Diane Gjerstad	U.S.D. 259 - Wichita
Deane Bruner	KS Coop Council
Don Miller	LKM
Bob Kelly	KICA
Jack Johnson	KFA
Lislie Kaufman	KFB
Marcus Carpenter	KACT
Kern Bruce	Hein Law Firm
Erik Santorius	City of Overland Park

Kansas Department of Revenue
Office of Policy and Research
Sales Tax Exemption Fiscal Impact Estimate -All Funds
(dollars in millions)

	FY 2003 (at 5.3%)	FY 2004 (at 5.3%)	FY 2005 (at 5.2%)	FY 2006 (at 5.0%)
Professional, Scientific & Technical				
Legal Services	\$14.57	\$15.07	\$15.18	\$15.02
Accounting & Tax Services	\$10.44	\$10.80	\$10.88	\$10.77
Architectural Services	\$3.22	\$3.33	\$3.36	\$3.32
Engineering Services	\$20.11	\$20.80	\$20.95	\$20.74
Specialized Design Services	\$2.10	\$2.17	\$2.19	\$2.16
Management, Scientific & Technical Consulting	\$12.80	\$13.24	\$13.34	\$13.20
Advertising & Related Services	\$9.76	\$10.09	\$10.17	\$10.06
Other Prof. Tech, and Science	\$6.73	\$6.96	\$7.01	\$6.94
Total, Professional, Scientific & Technical	\$79.75	\$82.46	\$83.07	\$82.21
Administrative & Support Services				
Office Administrative Services	\$5.78	\$5.98	\$6.02	\$5.96
Facilities Support Services	\$1.99	\$2.06	\$2.07	\$2.05
Employment Services	\$15.04	\$15.55	\$15.66	\$15.50
Business Support Services	\$9.19	\$9.50	\$9.57	\$9.48
Travel Arrangement and Reservation Services	\$2.74	\$2.83	\$2.86	\$2.83
Investigation and Security services	\$2.87	\$2.97	\$2.99	\$2.96
Other Support Services	\$4.75	\$4.91	\$4.95	\$4.90
Total, Administrative & Support Services	\$42.37	\$43.81	\$44.13	\$43.68
Health Care Services				
Physicians	\$39.82	\$41.17	\$41.48	\$41.05
Dentists	\$10.48	\$10.83	\$10.91	\$10.80
Other Health Practitioners	\$7.90	\$8.17	\$8.23	\$8.15
Medical & diagnostic Laboratories	\$5.09	\$5.26	\$5.30	\$5.25
Home Health Care Services	\$4.81	\$4.97	\$5.01	\$4.96
Total, Health Care	\$68.10	\$70.41	\$70.94	\$70.20
Personal Care & Taxi Services				
Personal Care Services (hair, nail and skin)	\$5.31	\$5.49	\$5.53	\$5.48
Death Care Services	\$3.15	\$3.26	\$3.28	\$3.25
Other Personal Care *	\$2.95	\$3.05	\$3.08	\$3.04
Total, Personal Care	\$11.41	\$11.80	\$11.89	\$11.77
Other				
Taxi And Limousine Services	\$0.26	\$0.27	\$0.27	\$0.27
RV Parks and Recreational Camps **	\$0.56	\$0.58	\$0.59	\$0.58
Rooming and Boarding Houses	\$0.50	\$0.52	\$0.52	\$0.52
Total, Other	\$1.33	\$1.37	\$1.38	\$1.37
Total All Services	\$202.95	\$209.85	\$211.41	\$209.23

* Includes pet care, parking lots, bail bonding, dating services. Photofinishing omitted- currently taxable

** Data not available, estimating 5% of total.

The estimate on services was developed based on the U.S Census 1997 Economic Census for the state of Kansas. The Economic Census provides data on receipts by business classifications for both employers and nonemployers. The estimate assumes 60% of the receipts would be exempt from tax. This would allow for sales made to exempt entities (government, schools, exempt businesses) and for sales of tangible property that is already subject to sales tax. An annual increase of 2.75% was applied to each year.

House Taxation
Attachment 1

Date 2-25-03

Kansas Department of Revenue
Office of Policy and Research
Estimated Impact from Sales tax on Services

The estimate on services was developed based on the 1997 Economic Census for the state of Kansas as published by the U.S. Census. The Economic Census provides data on receipts by business classifications for both employers and nonemployers. For this estimate, I assumed that 60% of the receipts would be exempt from tax. This would allow for sales made to exempt entities (government, schools, exempt businesses) and for sales of tangible property that is already subject to sales tax. An annual increase of 3% was used to arrive at a fiscal year 2003 estimate. Estimates are divided into three groupings:

<u>Professional, Scientific & Technical</u>	FY 2003 (in millions) (at 4.9%)
Legal Services	\$13.724
Accounting & Tax Services	\$ 9.835
Architectural & Engineering	\$ 3.037
Specialized Design Services	\$ 1.977
Computer Systems design	\$15.241
(includes what is exempt under KSA 3603 (s))	
Management, Scientific & Technical Consulting	\$12.058
Advertising & Related Services	\$9.192
Other Prof. Tech, and Science	\$6.463
Total, Professional, Scientific & Technical	\$71.257
 <u>Health Care Services</u>	
Physicians	\$37.499
Dentists	\$9.867
Other Health Practitioners	\$7.444
Medical & diagnostic Laboratories	\$4.791
Home Health Care Services	\$4.530
Total, Health Care	\$64.132
 <u>Personal Care & Taxi Services</u>	
Personal Care Services (hair, nail and skin)	\$5.002
Other Personal Care (Pet care, parking lots, etc)	\$2.746
Taxi And Limousine Services	\$0.245
Total, Personal Care	\$7.993

State Sales Tax Exemptions Summary

Exemption Code	Description of Exemption or Exclusion	Recent Revision	FY 2002 (\$ in Millions)	FY2003 (\$ in Millions)	FY2004 (\$ in Millions)	FY2005 (\$ in Millions)	FY2006 (\$ in Millions)
Annual Increase			4.9%	5.3% (July 1)	5.3%	5.2% (July 1)	5.0% (July 1)
			2.25%	2.75%	2.75%	2.75%	2.75%
3602 (e)	Definition of retail sales, exempting wholesale sales and sales for resale		\$ -	\$ -	\$ -	\$ -	\$ -
3603 (b)	Taxes telephone and telegraph services except certain WATS and private data lines. Bundling of services added in 2001. Modified pre-paid calling cards - removed phrase dealing with sold in minutes (no fiscal impact).	Rev 2001 SB 1 Rev 2002 SB 39	\$ 1.058	\$ 1.168	\$ 1.208	\$ 1.220	\$ 1.209
3603 (e)	Admission to any cultural and historical event which occurs triennially	Revised 1994	\$ -	\$ -	Minimal	\$ -	\$ -
3603 (f)	Coin operated Laundry Services		\$ 0.268	\$ 0.296	\$ 0.305	\$ 0.308	\$ 0.305
3603 (g)	Service of renting of rooms by holds or accommodation brokers to federal government or any federal employee in performance of official government duties.	2002 SB39	\$ 0.087	\$ 0.096	\$ 0.099	\$ 0.100	\$ 0.099
3603 (h)	Service of leasing or renting machinery and equipment owned by city purchased with industrial revenue bonds prior to July 1, 1973		\$ -	\$ -	\$ -	\$ -	\$ -
3603 (m)	Fees and charges by any political subdivision, youth recreation organization exclusively providing services to persons 18 or younger organized as a 501(c)(3) for sports, games and other recreational activities and entry fees and charges for participation. In 1998, added fees and charges by any organization exempt by paragraph 9 of 79-201	Revised 1994 1998 SB493	\$ 0.662	\$ 0.731	\$ 0.752	\$ 0.759	\$ 0.752
3603 (n)	Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitarian organizations) and zoos	1998 SB493	\$ 0.244	\$ 0.269	\$ 0.277	\$ 0.280	\$ 0.277
3603 (o)	Motor vehicles exchanged for corporate stock, corporate transfer to itself and immediate family member sales		\$ 0.153	\$ 0.169	\$ 0.174	\$ 0.175	\$ 0.174
3603 (p)	Labor services of installing or applying property in original construction of a building or facility or the construction reconstruction, restoration, replacement or repair of a residence, bridge or highway	1998 SB493	\$ 66.540	\$ 73.486	\$ 75.507	\$ 76.241	\$ 75.576
3603 (q)	Exemption for Service of repairing, servicing, maintaining custom computer software as described in section 3603 (e)	1988 Amended 2002 SB39	\$ -	\$ -	\$ -	\$ -	\$ -
3603 (s)	Customized computer software and services for modifying software for single end use and billed as a separate invoiced item	1988 Amended 2002 SB39	\$ 15.766	\$ 17.411	\$ 17.890	\$ 18.064	\$ 17.907
3603 (v)	Sales of bingo cards, bingo faces and instant bingo tickets. Tax rate 2.5 on July 1, 2001 to June 30, 2002; exempt on July 1, 2002	2000 HB 2013	\$ 2.000	\$ 2.209	\$ 2.270	\$ 2.292	\$ 2.272
3606 (a)	Motor fuels and items taxed by sales or excise tax	1999	\$ 170.200	\$ 187.967	\$ 193.136	\$ 195.015	\$ 193.313
3606 (b)	Property or services purchases by State of Kansas, political subdivision, nonprofit hospital or blood /donor bank. In 2001, deleted sales of water to make purchases for water suppliers exempt. (Netural FN due to Clean Water Fee)	2001 SB 332	\$ 242.200	\$ 267.483	\$ 274.838	\$ 277.512	\$ 275.091
3606 (c)	Property or services purchased and leasing by elementary or secondary schools and educational institutions		\$ 42.800	\$ 47.268	\$ 48.568	\$ 49.040	\$ 48.612
3606 (d)	Property or services purchased by contractor for building or repair of buildings for nonprofit hospital, elementary or secondary schools or nonprofit educational institutions		\$ 87.070	\$ 96.159	\$ 98.803	\$ 99.765	\$ 98.894
3606 (e)	Property or services purchases by federal government, its agencies or instrumentalities		\$ 4.052	\$ 4.475	\$ 4.598	\$ 4.643	\$ 4.603
3606 (f)	Property purchased by railroad or public utility for use in the movement of interstate commerce		\$ 11.369	\$ 12.556	\$ 12.901	\$ 13.027	\$ 12.913
3606 (g)	Sales, repair or modification of aircraft sold for interstate commerce directly through an authorized agent	1998 SB493	\$ 4.753	\$ 5.249	\$ 5.394	\$ 5.446	\$ 5.398

House Taxation
 Attachment 2
 Date 2-25-03

State Sales Tax Exemptions Summary

Code	Description of Exemption or Exclusion	Recent Revision	FY 2002 (\$ in Millions)	FY2003 (\$ in Millions)	FY2004 (\$ in Millions)	FY2005 (\$ in Millions)	FY2006 (\$ in Millions)
Rate			4.9%	5.3% (July 1)	5.3%	5.2% (July 1)	5.0% (July 1)
Annual Increase			2.25%	2.75%	2.75%	2.75%	2.75%
3606 (h)	Rental of nonsectarian textbooks by elementary or secondary schools		\$ 0.700	\$ 0.773	\$ 0.794	\$ 0.802	\$ 0.795
3606 (i)	Lease or rental of films, records, tapes, etc. by motion picture exhibitors		\$ 1.250	\$ 1.380	\$ 1.418	\$ 1.432	\$ 1.420
3606 (j)	Meals served without charge to employees if duties include furnishing or sale of such meals or drinks		\$ 2.770	\$ 3.059	\$ 3.143	\$ 3.174	\$ 3.146
3606 (k)	Vehicles, trailers or aircraft purchased and delivered out of state to a nonresident		\$ 11.300	\$ 12.480	\$ 12.823	\$ 12.948	\$ 12.835
3606 (l)	Isolated or occasional sales, except motor vehicles		\$ -	\$ -	\$ -	\$ -	\$ -
3606 (m)	Property which becomes an ingredient or component part of property or services produced or manufactured for ultimate sale at retail		\$ 1,645.559	\$ 1,817.335	\$ 1,867.312	\$ 1,885.478	\$ 1,869.026
3606 (n)	Property consumed in the production, manufacturing, processing, mining, drilling, refining or compounding of property; or irrigation of crops for ultimate sale at retail. In 2000, added provision to eliminate refunds from the Johnson County Water case saving \$9M in FY 01.		\$ 215.905	\$ 238.443	\$ 245.000	\$ 247.384	\$ 245.225
3606 (o)	Sales of animals, fowl, aquatic plants, and animals used in agriculture or aquaculture, for production of food for human consumption, the production of animal, dairy, poultry, or aquatic products, fiber or fur or the production of offspring.		\$ 121.520	\$ 131.440	\$ 131.440	\$ 132.719	\$ 131.561
3606 (p)	Sales for prescription drugs	1999 SB 45	\$ 51.500	\$ 56.876	\$ 58.440	\$ 59.009	\$ 58.494
3606 (q)	Sales of insulin dispensed by pharmacist for treatment of diabetes		\$ 0.398	\$ 0.439	\$ 0.451	\$ 0.456	\$ 0.452
3606 (r)	Sales of prosthetic or orthopedic appliances prescribed by a doctor.	Amended 1997	\$ 5.990	\$ 6.615	\$ 6.797	\$ 6.863	\$ 6.803
3606 (s)	Sales of property or services purchased by a groundwater management district		\$ 0.031	\$ 0.034	\$ 0.035	\$ 0.035	\$ 0.035
3606 (t)	Sales of farm or aquaculture machinery and equipment, parts and services for repair and replacement		\$ 35.035	\$ 35.035	\$ 35.035	\$ 35.376	\$ 35.067
3606 (u)	Leases or rentals of property used as a dwelling for more than 28 consecutive days.		\$ 0.534	\$ 0.589	\$ 0.605	\$ 0.611	\$ 0.606
3606 (v)	Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons		\$ 0.608	\$ 0.671	\$ 0.689	\$ 0.696	\$ 0.690
3606 (w)	Sales of natural gas, electricity, heat, & water delivered through mains, lines or pipes to residential premises for noncommercial use, for agricultural use (to include propane gas), for use in severing oil and any property exempt from property taxation		\$ 62.748	\$ 69.298	\$ 71.204	\$ 71.897	\$ 71.269
3606 (x)	Sales of propane, gas, LP-gas, coal, wood, and other fuel sources for the production of heat or lighting for noncommercial use in a residential premise		\$ 11.952	\$ 13.200	\$ 13.563	\$ 13.695	\$ 13.575
3606 (y)	Sales of materials and services used in repairing, maintaining, etc., of railroad rolling stock used in interstate commerce		\$ 0.685	\$ 0.757	\$ 0.778	\$ 0.785	\$ 0.779
3606 (z)	Property and services purchased directly by a port authority or a contractor therefor.		Minimal	Minimal	Minimal	Minimal	Minimal
3606 (aa)	Materials and services brought into Kansas for usage outside of Kansas for repair, services, alteration, maintenance, etc. used for the transmission of liquids or national gas by a pipeline in interstate commerce		Minimal	Minimal	Minimal	Minimal	Minimal
3606 (bb)	Used mobile and manufactured homes		\$ 3.245	\$ 3.334	\$ 3.426	\$ 3.459	\$ 3.429

2-2

State Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY 2002 (\$ in Millions)	FY2003 (\$ in Millions)	FY2004 (\$ in Millions)	FY2005 (\$ in Millions)	FY2006 (\$ in Millions)
Statute			4.9%	5.3% (July 1)	5.3%	5.2% (July 1)	5.0% (July 1)
Annual Increase			2.25%	2.75%	2.75%	2.75%	2.75%
3606 (cc)	Property or services purchased for constructing, reconstructing, enlarging or remodeling a business; sale and installation of machinery and equipment purchased for installation in such business. (Enterprise Zone Exemption)		\$ 48.000	\$ 53.011	\$ 54.468	\$ 54.998	\$ 54.518
3606 (dd)	Property purchased with food stamps issued by US Department of Agriculture		\$ 5.550	\$ 6.129	\$ 6.298	\$ 6.359	\$ 6.304
3606 (ee)	Lottery tickets and shares made as part of a lottery operated by the State of Kansas		\$ 9.12	\$ 10.076	\$ 10.353	\$ 10.454	\$ 10.363
3606 (ff)	New mobile or manufactured homes to the extent of 40% of the gross receipts		\$ 2.380	\$ 2.628	\$ 2.700	\$ 2.727	\$ 2.703
3606 (gg)	Property purchased with vouchers issued pursuant to the federal special supplemental food program for women, infants and children		n/a	n/a	n/a	n/a	n/a
3606 (hh)	Medical supplies and equipment purchased by nonprofit skilled nursing home or intermediate nursing care home for providing medical services to residents		\$ 0.762	\$ 0.842	\$ 0.865	\$ 0.873	\$ 0.865
3606 (ii)	Property purchased by nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities and sales of property by or on behalf of such organization	1998 SB493	\$ 1.923	\$ 2.123	\$ 2.182	\$ 2.203	\$ 2.184
3606 (jj)	Property and services, includes leasing of property, purchased for community-based mental retardation facility or mental health center.		\$ 1.766	\$ 1.950	\$ 2.004	\$ 2.024	\$ 2.006
3606(kk)	Machinery and equipment used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of property for resale by the plant or facility.	1998 HB2584	\$ 84.769	\$ 93.618	\$ 96.193	\$ 97.128	\$ 96.281
3606 (ll)	Educational materials purchased for distribution to the public at no charge by a nonprofit public health corporation		\$ 0.059	\$ 0.066	\$ 0.067	\$ 0.068	\$ 0.067
3606 (mm)	Seeds, tree seedlings, fertilizers, insecticides, etc., and services purchased and used for producing plants to prevent soil erosion on land devoted to agricultural use.	1988 HB2626	\$ 0.700	\$ 0.773	\$ 0.794	\$ 0.802	\$ 0.795
3606 (nn)	Services rendered by advertising agency or broadcast station		\$ 3.100	\$ 3.424	\$ 3.518	\$ 3.552	\$ 3.521
3606 (oo)	Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals.		Minimal	Minimal	Minimal	Minimal	Minimal
3606 (pp)	Drill bits and explosives used in the exploration and production of oil or gas		\$ 0.295	\$ 0.326	\$ 0.334	\$ 0.338	\$ 0.335
3606 (qq)	Property and services purchased by a nonprofit museum or historical society which is organized under the federal income taxation code as a 501 (c)(3)		\$ 0.289	\$ 0.319	\$ 0.328	\$ 0.331	\$ 0.328
3606 (rr)	Property which will admit purchases to an annual event sponsored by a nonprofit organization organized under the federal income taxation code as a 501 (c)(3)		\$ 0.024	\$ 0.027	\$ 0.027	\$ 0.027	\$ 0.027
3606 (ss)	Property and services purchased by a public broadcasting station licensed by FCC as a noncommercial educational television or radio station.		Minimal	Minimal	Minimal	Minimal	Minimal
3606 (tt)	Property and services purchased by not-for-profit corporation for the sole purpose of constructing a Kansas Korean War memorial and is organized under the federal income taxation code as a 501 (c)(3)	1996 HB2656		\$ -	\$ -	\$ -	\$ -
(uu)	Property and services purchased by rural fire fighting organization	1997 SB184	Minimal	Minimal	Minimal	Minimal	Minimal

2-3

February 25, 2003

House Tax Committee

Re: HB 2239

Mr. Chairman & Members of the Committee:

I am Meril Vanderpool, owner of Village Greens Golf Course in Ozawkie, Kansas.

I am appearing today to support of a portion of HB 2239.

I am in competition with local units of government for people's recreation dollars. Currently, local units of government do not charge sales tax on greens fees that people pay at municipal golf courses. A portion of the fees individuals pay at Village Greens goes to sales tax. When I charge \$15, the first \$.71 goes to sales tax. I then have other taxes to pay out of each fee I charge to my customers. When a golfer goes to a municipal course and is charged \$15, that city gets to keep all the money. The city does not have to take a portion of the fee for sales taxes. The city does not have to pay property tax either. The only expenses a municipally run golf course has are salaries and the other course upkeep costs. A privately owned course must pay property taxes along with the same salary requirements and course upkeep costs.

I would encourage the committee to level the playing field when government is competing with small business people providing the same type of recreational activity.

I want to thank the committee for the opportunity to testify and I stand for questions.

House Taxation
Attachment 3
Date 2-25-03



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: House Taxation Committee
From: Don Moler, Executive Director
Re: Opposition to HB 2239
Date: February 25, 2003

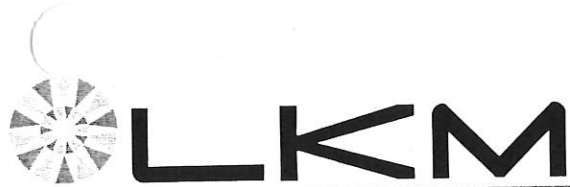
First I would like to thank the Committee for allowing the League to testify today in opposition to HB 2239. The League has been concerned with the sales tax exemptions for a number of years and we continue to be concerned, and perhaps even alarmed, at the ever increasing number of sales tax exemptions. As you may know from prior testimony from the League, we have long taken a position against increasing the number of sales tax exemptions and in fact at our October conference our *2003 Statement of Municipal Policy* included the following statement **“We oppose the continued erosion of the state and local sales tax base.”**

As a result of this policy position, we continue to oppose the granting of any new sales tax exemptions and we believe inherent in that statement is support for a complete and through review of the existing sales tax exemptions, which are currently on the books. For your additional information, I have attached to this testimony my testimony to the Special Committee on Assessment and Taxation from October 24, 2002. In a nutshell, we believe that looking at individual sales tax exemptions will not solve the sales tax issue. Rather, if we are to truly address this issue, the largest sales tax exemptions must be packaged together and voted on as a unit. Must like base closings at the federal level, it will be impossible to actually go after those sales tax exemptions which as a unit represent the lions share of the money being lost to the Kansas taxpayer. Reviewing the sales tax exemption summary which was printed on February 6, 2003, we find 12 specific exemptions, each of which diverts in excess of \$50,000,000 per year from state and local revenues.

Concerning the specific exemption that is being reviewed today in HB 2239, I have a couple of specific points. First of all, removing the exemption for government would have the effect of double taxation for individuals who have already paid taxes to the government. It would simply increase the tax burden on already burdened local governments and divert that money back to the state of Kansas. Conversely it would subject the State of Kansas not only to its own taxation, but to the taxation of local governments, with state monies coming to local governments as a result of the state itself becoming taxable by local units of government. Local units, would clearly be the loser in this situation as the state sales tax rate is 5.3% while the local rate is typically not greater than 1% in cities and 1% in counties. All in all a bad idea.

Finally we would like to reiterate our suggestion of last fall that this cannot be done piece meal, but that for any true sales tax exemption reform to take place, a number of exemptions must be packaged together and voted up or down as a unit. We believe that the public would be better served with more sales subject to the tax which would allow for an overall lowering of the sales tax rate statewide. As things now stand, literally billions of dollars per year is escaping taxation under the sales

exemptions present in the State of Kansas. With an ever narrowing sales tax base, the only direction that the rate can go is up. At some point there will be a natural cap to these increases and the sales tax will slowly, but surely, lose its ability to act as a major revenue producer for the state and local governments. Thank you very much for allowing the League to testify here today on this very important issue.



League of Kansas Municipalities

TO: Special Committee on Assessment and Taxation
FROM: Don Moler, Executive Director
RE: Sunsetting Sales Tax Exemptions
DATE: October 24, 2002

First I would like to thank the Committee for allowing the League to testify today concerning sunsetting the sales tax exemptions. The League has been concerned for a number of years with the ever increasing number of sales tax exemptions and the negative impact this has on sales tax collections. As the League mentions in it's *2003 Statement of Municipal Policy* "We oppose the continued erosion of the state and local sales tax base." To this end we do not believe further tax exemptions should be granted in this area as they further tend to weaken the sales tax base. As these exemptions have continued to expand at an amazing rate, the sales tax base has contracted, thus forcing higher sales tax rates on fewer sales tax payers. We have believed for some time that the time has now come for the legislature to take two very serious actions. The first is to commit to not granting any further sales tax exemptions. The track record here is not very good and I would say that we continue to be concerned that once the State's financial boat has been righted, that the business as usual approach will return in which numerous sales tax exemptions are granted every year by the legislature. Since I am standing before a Committee composed of members of the both the House and Senate Taxation Committees, I would urge the members of this Committee to refuse any further sales tax exemptions which are offered for your consideration. We believe the time has come and gone for this approach as an effective tax policy.

The State of Kansas, and local governments in Kansas, are quickly nearing a point of critical mass concerning the sales tax. This is the case because an ever increasing number of groups continue to approach the legislature asking for specific tax relief for specific situations. The League was shocked to hear during an interim committee meeting during the summer of 2000 of the number and amount of sales tax exemptions which had been granted by the Kansas legislature over the previous three years.

It is especially true that sales tax revenue, and the distribution of those revenues is critical to the provision of adequate public services at the local level in Kansas. As we all know, there really are only two major funding sources for local government in Kansas. The first is the property tax and the second is the sales tax. When either of these sources are limited or inhibited in any fashion, it is a matter of serious if not grave concern for not only the governmental units in question, but also for the citizens of those units. Having said that, the League is becoming increasingly concerned with the impact of State tax legislation on local sales tax collections.

Specifically the Department of Revenue released numbers at the interim hearing of August 30, 2000 which indicated that changes in tax laws over the 1998, 1999, and 2000 legislative sessions have had a statewide impact, **on an annual basis, by reducing sales tax revenues by \$35,400,000 per year.** Figuring local taxes at an average of 1.3% that works out to \$9,390,000 in annual loc

revenues which are now being lost as a result of tax legislation over only those three legislative sessions. This is a matter of significant concern to the League and its member cities. We are facing an ever increasing list of sales tax exemptions which further inhibit the ability of cities, counties, and the state itself, to provide basic public services. We would suggest that the time has come for taking a very strong look at the granting of further sales tax exemptions given the fact that revenue levels appear to have dropped significantly and may be falling in some areas.

Our second suggestion would be to take a long and hard look at all of the existing sales tax exemptions to separate the wheat from the chaff. Simply put, many of these exemptions have been put into the statutes by special interest groups which are costing the State, the cities, and the counties of Kansas literally millions and millions of dollars every year. While it is always attractive to grant sales tax exemptions when economic times are good, the real problem rears its head when economic times are hard. Such is the case this year with our huge state budget deficit.

In conclusion we believe it is time for a comprehensive review of all of the existing sales tax exemptions with an eye towards pruning out those that do not have a substantive public policy purpose behind them. As a matter of practicality I would suggest that it would have to be done as a take it or leave it proposition where numerous exemptions were eliminated at the same time. Trying to nickel and dime this process simply would not work, in my opinion. We would also urge the Committee to be reluctant to pass any more legislation which grants further sales tax exemptions and has the effect of undercutting the state and local sales tax base. Thank you very much for allowing the League to appear today. I will be happy to answer any questions the Committee may have.



Mr. Chairman, members of the committee, thank you for allowing me the opportunity to come before you today and address **House Bill 2239**. My name is Mark Desetti and I represent Kansas NEA. I am also speaking today for the Kansas Association of School Boards.

We appreciate the work that this committee has been doing in reviewing the sales tax exemptions that have been granted over the years. It seems that this is an excellent time to consider whether or not each of them is appropriate. I don't envy you the task of making decisions about each of them.

Of course a bill that indicates it is reviewing the sales tax exemption on school related activities would catch my eye and I am here today to share our thoughts on this particular bill and on sales tax exemptions in general.

As you struggle with how to deal with the difficult revenue situation facing Kansas at this time, tax policy ought to be at the forefront of your thinking. It is our hope that this committee and all legislators will give serious thought to not just sales tax exemptions, but to all taxes. The struggle will be to find the right balance of tax sources to deal with our current revenue problems and to treat all Kansans fairly. We believe that what will be good for Kansas is a mix of sales taxes, income taxes, and business taxes that provide a stable funding source for state programs and do the least harm to the most vulnerable Kansans.

Within the context of sales tax exemptions it is entirely appropriate that you consider the exemption on school related activities along with all of the other exemptions. The impact of removing some of the exemptions in this bill, however, would create more of the very problem the review is trying to solve. By removing the exemption on the purchase of tangible personal property by school districts for building, repairing or enlarging buildings, school boards will be forced to increase taxes on patrons in order to pay taxes to the state on those materials. We do not believe it to be a good policy to allow one taxing authority to tax another. In this particular case, the state uses taxes to fund schools who must now raise taxes to pay the state. Funding the state's share of public education by taxing public education seems an odd twist of logic.

I also ask that you carefully consider the impact of lifting the exemption on textbook rentals in schools. Some districts have raised these fees in response to budget problems and the impact on working families is likely to be significant. Access to textbooks is critical to the

success of our students. We would hope you would not do anything that would make rental fees even higher. As a regressive tax, the sales tax has a tendency to impact low income Kansans much more than upper income Kansans.

A study by the Institute on Taxation and Economic Policy reveals that low income Kansans already spend a greater percentage of their family income on taxes (11%) than the wealthiest Kansans (8%). Because of this, and the regressive nature of sales taxes in general, we would ask that you consider the impact on low income families of removing the exemptions on textbook rentals in schools, and the exemption on tangible personal property purchased with food stamps or vouchers issued pursuant to the federal supplemental food program for women, infants, and children. On these food stamps and WIC exemptions, I admit that I am somewhat puzzled by the phrase “tangible personal property” and raise the issue simply because there was a reason for granting the exemptions at one time. If the change proposed in this bill is intended to remove the exemptions from non-food items, would that apply to such things as infant bottles and diapers? I urge you to consider what the tangible personal property might be before lifting the exemption on our poorest citizens.

Simply put, a comprehensive review of sales tax exemptions is a good idea. We urge you to consider each exemption carefully and then to craft a tax plan that helps our state and treats all Kansans fairly.



Donald A. Wilson
President

To: House Taxation Committee
From: Kansas Hospital Association
Thomas L. Bell, Executive Vice President
Re: **HB 2239**
Date: February 25, 2003

The Kansas Hospital Association appreciates the opportunity to comment in opposition to HB 2239. This bill would eliminate a number of sales tax exemptions, including the one for purchases made by non-profit and governmental hospitals for hospital purposes.

This statute has been part of Kansas law since 1937. It was originally passed because of the belief that hospitals were organizations devoted to serving their communities. That reasoning holds true today. Community hospitals are open 24 hours a day, 7 days a week, 365 days a year. They serve all segments of society, including those who are uninsured or are covered by government programs. The current exemption serves to encourage this type of service.

Although the public policy reasons for the exemption remain, other practical support exists. If the current sales tax exemption is removed, there will be an automatic increase in hospital costs. That will, in turn, cause healthcare costs to increase. For some governmental hospitals, this could also mean an increase in local taxes. To the extent that these increased costs have to be absorbed by hospitals, services offered by those hospitals will be threatened. Such services could include everything from home health to neonatal intensive care. Hospitals are already facing increased costs of operation and decreasing rates of reimbursement for some programs. HB 2239 would only make this situation worse.

Thank you for your consideration of our comments.

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TESTIMONY OF THE KANSAS LOTTERY

Before the House Taxation Committee
By: Ed Van Petten, Executive Director
February 25, 2003

Thank you for the opportunity to visit with you today regarding HB2239, and the devastating effect it will have on your lottery and the projects that are now benefited by the Kansas Lottery. The net effect of this bill is a decrease in transfers from the Kansas Lottery to the State of Kansas in an amount that will easily exceed \$20 million. I am in a somewhat enviable position to everyone else that has objected to the removal of exemption status. Others come before you to tell you the effect of the legislation on them or their business interests. I am here to tell you the effect this legislation will have on you as citizens of this state.

As most of you know, the Kansas Lottery sells two products that are administered by the Multistate Lottery Association (MUSL). Those two games are Powerball, with projected sales of \$55 million this year, and 2by2 with projected sales of \$4million this year. In addition, we participate in the Powerball Game Show, called Instant Millionaire. This game is supported by an instant scratch ticket with sales of about \$5.5 million per year.

The MUSL policies and procedures require all tickets to be sold at the price set by the board and that the price set by the board shall include all applicable taxes. (MUSL, p&p 11.1 and 11.2, see attached Exhibit A). The Powerball Group has adopted similar rules to this plus a rule that, "tickets can be purchased for one dollar (\$1.00), including sales tax where mandated . . ." (Powerball Rules 11.1, 11.2, and 27.1, see attached Exhibit B). The 2by2 group has adopted measures identical to the Powerball group. (2by2 Rule 11.1, 11.2 and 27.1, see attached Exhibit C).

To put this proposal in effect, and to be able to sell a ticket for \$1.00 as mandated in the rules the effective cost of a ticket, as sold by us to the retailers, would be different in virtually every subdivision of government within the state of Kansas after factoring in local and county sales taxes. You would want to consider that the tax would generate absolutely no new revenue if the tax were included in the sale price. You are simply reallocating the money. Realize that this money will not then go to the general fund from the lottery, but to the general fund after being routed through the Department of Revenue and wherever else it must first go. I cannot tell you the additional bureaucratic expense involved. I can tell you it would have the same destination, but a much more circuitous route.

But let's be practical, the Kansas Lottery cannot without a major adjustment in accounting methods, charge varying amounts to retailers for the same product, which would be necessary if this exemption is removed, due to varying sales tax amounts. A retailer in Topeka would be charged 92.8 cents for a ticket, based on 7.2% sales tax. One subject to 6.2% in the county would be charged 93.8 cents. And there are a myriad of

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combinations across the state. The end result is not selling MUSL products, and thus losing \$59 million in that market, plus \$5.5 million in sales associated with the game show. You can do the math to figure how much this measure costs your constituency, but I can promise it will be in excess of \$20 million. It is impossible to say how the loss of Powerball would affect our instant ticket sales but I believe it would be at least 15 to 20%.

I would like to know also how to address the questions from our players, who by the way are not stupid. They know they are paying a "voluntary tax" but do so willingly. Now they are going to wonder about the wisdom of "taxing a tax," which is exactly what this measure proposes. I would like to show you how the players reacted in the only jurisdiction to my knowledge, which has ever added a sales tax to the present sale price:

In the 1989 session of the Saskatchewan Province provincial government assessed a sales tax on all gaming products of 10% as a means to get the provincial government out of a financial crisis and assist in the construction and upgrading of hospitals. The result was an immediate loss of sales of 35%, and the repeal of the measure after only four months. The result was simply described as disastrous. (See Exhibit D) It took approximately six months to return to sales levels at the time of imposition of the tax. Millions of dollars were lost.

Now, let's consider the people who this year will collect over \$60 million dollars for our state, the Kansas Lottery Retailers. I hope you can explain to them why they are going to be asked why they have to give up the sale of MUSL products, roughly 30% of overall lottery sales, and about 50% for many retailers.

I am sure this committee will see the folly of such a move, as has been done each of the last three sessions that this issue has reared its head. Thank you very much for your time.

RULE 11—TICKET PRICE

11.1 Uniform Price. Each ticket shall be sold at retail for the price set by the MUSL Board.

11.2 Taxes. The ticket price set by the MUSL Board shall include all the applicable taxes which a Party Lottery may be required to collect.

11.3 Discounts, Rebates, and Promotions. A Party Lottery may offer MUSL tickets through discounts, rebates, or promotions, without Board approval, for a period not to exceed 90 days in any six-month period. A Party Lottery may offer other discounts, rebates, or promotions as may be approved by the Board.

Amended March 30, 1988; November 13, 1990.

11.4 Tickets as Prizes. Nothing in this rule shall prohibit a Party Lottery from offering MUSL tickets as a prize in any other non-MUSL game or promotion operated by the Party Lottery.

Adopted March 30, 1988; Amended November 13, 1990.

11.5 Contribution to Prize Pool. Party lotteries which offer tickets as a prize or as part of an authorized discount, promotion, or rebate shall contribute to the prize pool the full amount assessed for a ticket sold at the uniform price.

Adopted March 30, 1988; Amended November 13, 1990.

RULE 12—SALE OF TICKETS

12.1 Authorized Agents. MUSL tickets shall be sold only through agents authorized by a Party Lottery. Tickets shall be sold in accordance with the rules and regulations which apply to the sale of similar products sold by the Party Lottery.

12.2 Ticket Stock. MUSL tickets shall be sold through a Party Lottery and shall be printed on ticket stock which meets the security requirements for ticket stock used in the Party Lottery's other games and other requirements adopted by the MUSL Board and published as the Confidential MUSL Minimum Game Security Standards.

Amended June 7, 1993; June 6, 1996.

12.3 MUSL Markings. All play slips used in MUSL on-line games shall be conspicuously marked to indicate that the slip pertains to the MUSL game and shall contain other markings as may be required by the MUSL Board.

Amended June 6, 1996.

12.4 Game Sell Out Prohibited. No Party Lottery shall directly and knowingly sell a ticket or combination of tickets to any person or entity which would guarantee such purchaser a Grand Prize win.

Adopted March 11, 1992; Amended March 8, 1996.

12.5 Location and Method of Sales. An offer to buy and an offer to sell a lottery ticket in a MUSL game shall be made only at a location or only by a method which is licensed, certified, or contracted by the Party Lottery.

Adopted March 11, 1992; Amended March 8, 1996.

RULE 13—PRIZE PAYMENTS.

No Party Lottery may pay prizes that are less than or more than the prize amounts established by the MUSL. The prize won cannot be indirectly increased by Party Lottery promotions or agent promotions which have the effect of increasing the designated MUSL prize.

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19 of the Agreement. If the Product Group votes to expel a Party Lottery as provided in the Agreement, the Party Lottery being considered for expulsion shall be excluded from the vote in that proceeding and in the voting calculations outlined in these Rules.

[Rule 10 reserved for future use]

PB RULE 11—TICKET PRICE *Added July 5, 2002.*

11.1 Uniform Price. Each ticket shall be sold at retail for the price set by the Group.

11.2 Taxes. The ticket price set by the Group shall include all the applicable taxes which a Party Lottery may be required to collect.

11.3 Discounts, Rebates, and Promotions. A Party Lottery may offer tickets through discounts, rebates, or promotions, without Group approval, for a period not to exceed 90 days in any six-month period. A Party Lottery may offer other discounts, rebates, or promotions as may be approved by the Group.

11.4 Tickets as Prizes. Nothing in this rule shall prohibit a Party Lottery from offering tickets as a prize in any other non-MUSL game or promotion operated by the Party Lottery.

11.5 Contribution to Prize Pool. Party lotteries which offer tickets as a prize or as part of an authorized discount, promotion, or rebate shall contribute to the prize pool the full amount assessed for a ticket sold at the uniform price.

[Rules 12 through 13 reserved for future use]

PB RULE 14—GRAND PRIZE ACCOUNT.

14.1 Grand Prize Funds Transferred to MUSL. Each Party Lottery shall transfer to the MUSL in trust an amount as determined by the MUSL and the Product Group to be its total proportionate share of the prize account less actual low-tier prize liability. If this results in a negative amount, the MUSL central office shall transfer funds to the Party Lottery. If a Party Lottery's share exceeds its statutorily mandated prize payout, the MUSL may adjust the transfer amounts over a period of time to permit the payment of the Party Lottery's full share in a manner complying with the Party Lottery's prize payout statute. *Adopted September 10, 1998.*

Comment. To implement this rule, the Board, on December 2, 1988, authorized the executive director to adjust a Party Lottery's transfer amounts as needed by permitting a Party Lottery to borrow any additional amounts needed from its Prize Reserve Account.

14.2 Grand Prize Funds Transferred to Party Lottery. Grand Prize amounts held by MUSL shall be transferred to the Party Lottery immediately after the Party Lottery validates the prize claim and after MUSL has collected the prize pool shares from all member lotteries. *Adopted September 9, 1998.*

14.3 Unclaimed Grand and Match 5 Bonus Prizes. All funds to pay a grand prize and a Match 5 bonus prize that go unclaimed shall be returned to Party Lotteries in proportion to sales by Party Lotteries for the grand prize or Match 5 Bonus prize in question after the claiming period set by the Party Lottery selling the winning ticket expires. *Adopted September 9, 1998; Amended July 5, 2002.*

[Rules 15 through 18 reserved for future use]

PB RULE 19—FUNDS TRANSFER.

PB RULE 27—GAME DESCRIPTION.

27.1 Powerball is a five (5) out of forty-nine (49) plus one (1) out of forty-two (42) on-line lottery game, drawn every Wednesday and Saturday, which pays the Grand Prize, at the election of the player made in accordance with these rules or by a default election made in accordance with these rules, either on an annuitized pari-mutuel basis or as a cash lump sum payment of the total cash held for this prize pool on a pari-mutuel basis. Except as provided in these rules, all other prizes are paid on a set cash basis. To play Powerball, a player shall select five (5) different numbers, between one (1) and forty-nine (49) and one (1) additional number between one (1) and forty-two (42), for input into a terminal. The additional number may be the same as one of the first five numbers selected by the player. Tickets can be purchased for one dollar (\$1.00), including sales tax where mandated, either from a terminal operated by an agent (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from an agent, the player may select a set of five numbers and one additional number by communicating the six (6) numbers to the agent, or by marking six (6) numbered squares in any one game board on a play slip and submitting the play slip to the agent or by requesting "computer pick" from the agent. The agent will then issue a ticket, via the terminal, containing the selected set or sets of numbers, each of which constitutes a game play. Tickets can be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine. *Amended December 21, 1998, February 3, 2002.*

27.2 Claims. A ticket (subject to the validation requirements set forth in Rule 31 (Ticket Validation)) shall be the only proof of a game play or plays and the submission of a winning ticket to the issuing Party Lottery or its authorized agent shall be the sole method of claiming a prize or prizes. A play slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase or of numbers selected.

27.3 Cancellations Prohibited. A ticket may not be voided or canceled by returning the ticket to the selling agent or to the lottery, including tickets that are printed in error. No ticket which can be used to claim a prize shall be returned to the lottery for credit. Tickets accepted by retailers as returned tickets and which cannot be re-sold shall be deemed owned by the bearer thereof.

Comment. By proxy vote on July 7, 1993, the Board agreed that each member should check ticket numbers of returned tickets and report any returned tickets which contain a match for all of the numbers drawn to MUSL as non-winners after each draw. At its meeting on September 28, 1993, the Board reaffirmed its policy that tickets cannot be canceled. The Board also recognized that good retailer relations may require a member lottery to compensate a retailer for tickets which are misprinted, illegible or, for other reason which may be acceptable to the member lottery, cannot be sold by the retailer. This rule permits each member lottery, at its discretion, to compensate a retailer for a returned ticket which is not eligible to win a prize at the time it is returned to the member lottery. To avoid the appearance that a returned ticket is being canceled, the lottery should require that the ticket not be placed in transit until after the applicable drawing. Returned tickets are accepted only for a member lottery's auditing purposes and shall have no effect on the outcome of the drawing for which they were issued or reduce the member lottery's contribution to the jackpot prize pool. At its meeting on April 17, 1994, the Board agreed that tickets stolen by a retailer's hired clerk cannot be accepted by the lottery as canceled or returned tickets. Although the rule would permit a member lottery to compensate a retailer for the loss from theft if a lottery wishes to assume such a loss, the tickets cannot be canceled or returned to the lottery. The tickets are owned by, and winning tickets may be claimed by the retailer.

27.4 Player Responsibility. It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. The placing of plays is done at the player's own risk through the on-line agent who is acting on behalf of the player in entering the play or plays.

2by2 GROUP RULES

Adopted April 19, 2002. Amended May 10, 2002

2b2 RULE 11—TICKET PRICE

11.1 Uniform Price. Each ticket shall be sold at retail for the price set by the Group.

11.2 Taxes. The ticket price set by the Group shall include all the applicable taxes which a Party Lottery may be required to collect.

11.3 Discounts, Rebates, and Promotions. A Party Lottery may offer tickets through discounts, rebates, or promotions, without Group approval, for a period not to exceed 90 days in any six-month period. A Party Lottery may offer other discounts, rebates, or promotions as may be approved by the Group.

11.4 Tickets as Prizes. Nothing in this rule shall prohibit a Party Lottery from offering tickets as a prize in any other non-MUSL game or promotion operated by the Party Lottery.

11.5 Contribution to Prize Pool. Party lotteries which offer tickets as a prize or as part of an authorized discount, promotion, or rebate shall contribute to the prize pool the full amount assessed for a ticket sold at the uniform price.

2by2 RULE 28—PRIZE POOL

28.1 Prize Pool. The prize pool plus prize reserve set-aside deduction for all prize categories shall consist of fifty percent of each drawing period's sales. Any amount remaining in the prize pool at the end of this game shall be carried forward to a replacement game or expended in a manner as directed by the Product Group in accordance with state law.

28.2 Prize Reserve Accounts. An amount equal to up to ~~one and thirty-two one hundredths percent (1.32213%)~~ of a Party Lottery's sales, including tax and exclusive of free ticket prize redemptions, shall be placed in trust in one or more prize reserve accounts until the Party Lottery's share of the prize reserve account(s) reach(es) the amounts designated by the Product Group. The Product Group, with approval of the Finance & Audit Committee, may establish a maximum balance for the prize reserve account(s). The shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve account(s) as may be needed to maintain the approved maximum balance and shares of the Party Lotteries. Any amount remaining in a prize reserve account(s) at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the Product Group in accordance with state law.

Comment. The maximum amount to be held in the Prize Reserve Account shall be \$250,000. The Group shall determine when to start and stop the deduction and shall also establish the schedule for the amount of the deduction with the limits of this rule. This funding shall continue until the prize reserve accounts reach the amounts set by the Group.

2by2 RULE 27 — GAME DESCRIPTION.

27.1 2by2 is a two (2) out of twenty-six (26) plus two (2) out of twenty-six (26) on-line lottery game drawn every Monday, Wednesday and Saturday, which pays the Grand Prize and all other prizes on a set cash basis. To play 2by2, a player shall select two (2) different "red" numbers, from one (1) through twenty-six (26), inclusive, and two (2) additional "white" numbers from one (1) through twenty-six (26), inclusive, for input into a terminal. The numbers for the second (white) set of two numbers may be the same as the numbers for the first (red) set of two numbers selected by the player. Tickets can be purchased for one dollar (\$1.00), including sales tax where mandated, either from a terminal operated by an agent (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal; If permitted within that jurisdiction). If purchased from an agent, the player may select the two sets of numbers by communicating their four (4) numbers to the agent, or by appropriately marking their four (4) numbered squares in any one game board on a play slip and submitting the play slip to the agent or by requesting "computer pick" from the agent. The agent will then issue a ticket, via the terminal, containing the selected sets of numbers, each of which constitutes a game play. If permitted within the jurisdiction, tickets can be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine.

27.2 Claims. A ticket (subject to the validation requirements set forth in Rule 31 (Ticket Validation)) shall be the only proof of a game play or plays and the submission of a winning ticket to the issuing Party Lottery or its authorized agent shall be the sole method of claiming a prize or prizes. A play slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase or of numbers selected.

27.3 Cancellations Prohibited. A ticket may not be voided or canceled by returning the ticket to the selling agent or to the lottery, including tickets that are printed in error. No ticket which can be used to claim a prize shall be returned to the lottery for credit. Tickets accepted by retailers as returned tickets and which cannot be re-sold shall be deemed owned by the bearer thereof.

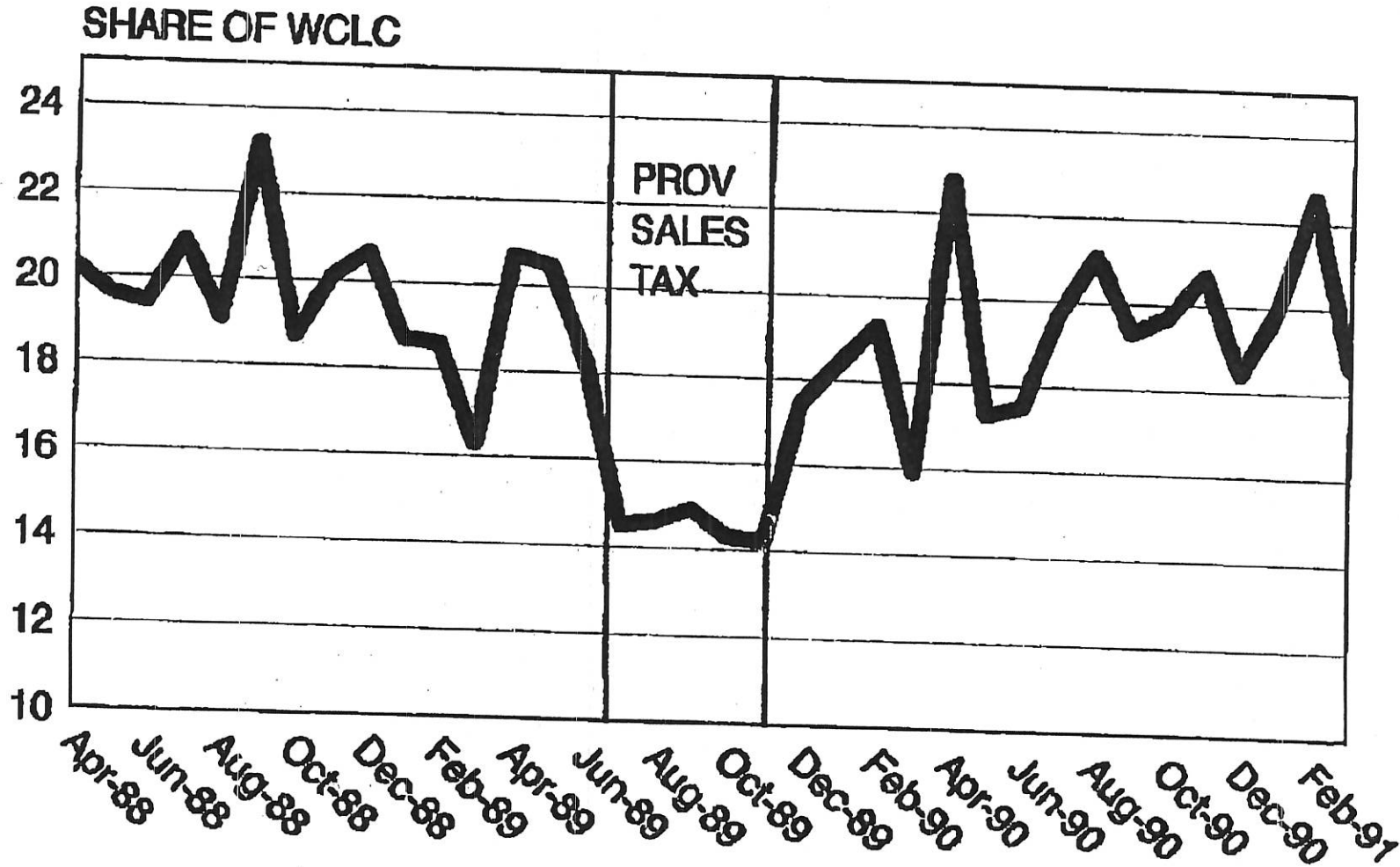
Comment Good retailer relations may require a member lottery to compensate a retailer for tickets which are misprinted, illegible or, for other reason which may be acceptable to the member lottery, cannot be sold by the retailer. This rule permits each member lottery, at its discretion, to compensate a retailer for a returned ticket which is not eligible to win a prize at the time it is returned to the member lottery. To avoid the appearance that a returned ticket is being canceled, the lottery should require that the ticket not be placed in transit until after the applicable drawing. Returned tickets are accepted only for a member lottery's auditing purposes and shall have no effect on the outcome of the drawing for which they were issued or reduce the member lottery's contribution to the jackpot prize pool. Tickets stolen by a retailer's hired clerk cannot be accepted by the lottery as canceled or returned tickets. Although the rule would permit a member lottery to compensate a retailer for the loss from theft if a lottery wishes to assume such a loss, the tickets cannot be canceled or returned to the lottery. The tickets are owned by, and winning tickets may be claimed by the retailer.

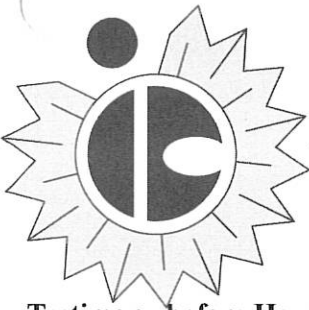
27.4 Player Responsibility. It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. The placing of plays is done at the player's own risk through the on-line agent who is acting on behalf of the player in entering the play or plays.

SASK SPORT TOTAL INSTANT

IMPACT OF PROVINCIAL TAX

House Taxation
Attachment 10
Date 2-25-03





The Kansas Independent College Association

700 S. Kansas Avenue • Suite 515 • Topeka Kansas 66603
Phone: 785-235-9877 • Fax: 785-235-1437 • www.kscolleges.org

February 25, 2003

Robert N. Kelly, Executive Director

Testimony before House Committee on Taxation in opposition to HB 2239

Mr. Chairman, Members of the Committee:

I am Bob Kelly, Executive Director of the Kansas Independent College Association representing all eighteen fully accredited, nonprofit, independent colleges in the state. We are opposed to HB2239 because: (a) it runs counter to centuries of established tax policies; (b) it undermines the education mission of the state; (c) it would retard economic development; and (d) it would reduce revenues over time.

Historical. The United States has a long tradition of exempting educational institutions from taxation, beginning with the founding of Harvard University. Higher education, in particular, began primarily as the province of nonprofit educational institutions until the passage of the Morrill Act in 1864. In Kansas, Baker and Benedictine were founded prior to statehood, and received tax-exemption status through territorial charters. The Kansas Constitution states: "All property used exclusively for state, county, municipal, literary, educational, scientific... purposes shall be exempted from property taxation." In addition, provisions exempting state agencies and nonprofit education institutions, the targets of HB2239, were included in the original sales tax exemptions enacted by the state.

Educational Mission. The Kansas Constitution specifically mandates an educational mission for the state: "The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities..." Taxing state or nonprofit higher educational institutions would run counter to the objective of educating our citizenry. The state supports its educational institutions and provides aid to needy Kansas independent college students from Kansas.

Economic Development. Many economists believe that higher education institutions are the state's major economic engines. Our independent colleges award one-sixth of the state's baccalaureate degrees, the biggest single variable in determining an individual's future income and the resulting taxes he or she pays the state. Furthermore, most communities offer tax incentives for businesses to locate there in the name of economic development. Few of those industries have the positive economic, cultural, and entertainment impact of an independent college. Our physical plants alone are valued at two-thirds of a billion dollars.

No Increased Revenue. The purpose of removing tax exemptions is to raise state sales tax revenues. It is obvious that removing state higher education institution sales tax exemptions would merely "rob Peter to pay Paul." For independent colleges, the lack of long-term revenue is not as instantly apparent, but still true. Having to pay state sales tax would increase our costs of doing business, causing an increase in tuition charges, reducing our enrollments on the margin, and thereby reducing the numbers of out-of-state students spending money in the state and college graduates earning money in the state. Revenue is reduced on the margin over time probably exceeding the revenue obtained from the sales tax. I believe there is no need to dwell on the fact that some of our small independent colleges, often the biggest employer in town, operate on a thin margin. Removing their sales tax exemption merely makes these institutions that much more vulnerable.

In conclusion, our federal Founding Fathers and our state's founding fathers were right: state agencies and nonprofit educational institutions should continue to have their primarily educational purchases tax-exempt.

I would be happy to answer any questions.

House Taxation
Attachment 11

Date 2-25-03

Baker University 1858 Benedictine College 1858 Bethany College 1881 Bethel College 1887 Central Christian College 1884
Donnelly College 1949 Friends University 1898 Hesston College 1909 Kansas Wesleyan University 1886
Manhattan Christian College 1927 McPherson College 1887 MidAmerica Nazarene University 1966 Newman University 1933
Ottawa University 1865 Saint Mary College 1923 Southwestern College 1885 Sterling College 1887 Tabor College 1908



GOVERNMENT RELATIONS

Sedgwick County Courthouse
525 N. Main, Suite 365
Wichita, KS 67203
Phone: (316) 660-9378
Fax: (316) 383-7946

Michael D. Pepoon
Director

TESTIMONY HB 2239 Before The House Committee on Taxation February 25, 2003

Honorable Chairman Edmonds and members of the committee, I appreciate the opportunity to present written testimony in opposition to HB 2239. I am the Director of Governmental Relations for Sedgwick County and have also been a lawyer in the County Counselor's Office for the past nineteen years. I am presenting this testimony on behalf of the Board of County Commissioners of Sedgwick County.

HB 2239 would do away with the sales tax exemption currently allowed to cities and counties. In 2002, Sedgwick County purchased \$10,152,793 worth of commodities and \$12,261,820 of the services of construction contractors. If Sedgwick County were required to pay sales tax on these purchases, our additional cost of government would have been approximately \$1.4 million. This increased cost to the County would have been borne by raising property taxes, reducing services, or some combination of the two.

There is a sound argument for continuing to exempt local governments from state sales tax. Cities and counties are creatures of the State. Sedgwick County provides essential public services as agents of the State of Kansas. To require the County to pay an additional tax to the State—would be in essence taxing itself. Why should the citizens of Sedgwick County pay an additional \$1.4 million for exactly the same services they are receiving now? Or if a tax increase is not feasible, why should the citizens of Sedgwick County pay the amount of taxes they are currently paying and tolerate \$1.4 million in reduced services?

Like all cities and counties in Kansas, we have had to make drastic cuts to our budget in response to losing the demand transfer funds from the State. For Sedgwick County this means a loss of approximately \$6.5 million in state funds for FY2003. This doesn't even include the loss of state revenues to the County's Mental Health, Developmental Disabilities, Corrections and Aging programs. A good argument can be made that the State's budget crisis has already been shouldered in a disproportionate manner by cities and counties. For the State to now add insult to injury by taxing local governments on purchases that have heretofore been exempt would be unconscionable.

For the above reasons Sedgwick County strongly opposes HB 2239.

"...To Be The Best We Can Be."

House Taxation
Attachment 12
Date 2-25-03



House Insurance Committee
H.B. 2239
Representative Edmonds, chair

Submitted by: Diane Gjerstad
Wichita Public Schools

February 25, 2003

Mr. Chairman, members of the committee:

The Wichita Public Schools appreciates the dialogue your committee has undertaken this session. As a benefactor of public dollars, public schools understand the need for a balanced taxing policy and a balanced tax exemption policy.

The bill before the committee today would eliminate the sales tax exemption for government and schools to purchase tangible personal property, remodeling and new construction and textbook rentals.

This bill poses an interesting question. Should governmental bodies, which are funded almost in total by tax dollars, pay tax dollars?

A couple of points for your committee to consider:

- Taxing schools would decrease purchasing power. If the portion of our budget not used for salaries and benefits would be taxable under H.B. 2239, then Wichita would pay roughly \$6.2M in taxes and loose 6.2M in supplies or whatever would have to be cut to pay the new sales tax.
- Governor Graves' allotment cut for schools of \$27 per pupil and \$200 per special education teacher is proposed to be sustained by House Appropriations. Schools already have less 'purchasing power' for the 02/03 school year than they did last year. Several costs to schools will go up next year, regardless of our funding, these include natural gas, health insurance, property/casualty insurance and software licensing fees.
- Adding sales tax to remodeling and new construction will increase property taxes. When a school community votes to build or remodel, the bonds are paid through a property tax levy. Adding sales tax to the cost of the projects would increase the bonds and correspondingly increase property taxes. On Wichita's recent \$284.5M bond issue, a sales tax would have been equal to the cost of building two elementary buildings.

Taxing a governmental entity would seem to be taxing a tax. During these times when schools are struggling to meet the new costs associated with the newest federal mandate, *No Child Left Behind*, adding additional expenses without the corresponding revenues to off-set those increased costs will result in school districts' purchasing power falling behind.

Thank you, Mr. Chairman, your committee and the 2003 legislative have a daunting task. We appreciate your need to examine each and every exemption.

House Taxation
Attachment 13
Date 2-25-03



WASHBURN UNIVERSITY
Office of the President

**Testimony to the
House Taxation Committee
regarding HB 2239
from
Dr. Jerry B. Farley, President
February 25, 2003**

Chairman Edmonds, Members of the Committee:

I regret I am unable to appear before you in person today. Please accept these written comments to reflect Washburn University's position regarding the provisions of House Bill 2239.

Washburn University opposes the elimination of the tax exempt status for schools and non-profit educational institutions provided in K.S.A. 79-3606(c).

The tax exempt status of Washburn, as well as for other public and private post-secondary educational institutions, enables us to effectively and efficiently spend our resources on those items directly related to the educational enterprise. We already are subject to sales tax for expenditures for buildings for human habitation such as our new Living/Learning Center and for expenditures made for unrelated business. Expenditure of public resources for sales taxes could have an adverse impact on our ability to provide education for our students. We oppose an attempt to tax those goods and services which are purchased for the education of our students and the operations of the University.

As a governmental entity supported in part by sales taxes, it seems inappropriate also to pay sales tax on items central to our mission. In this, we are no different than state government itself. It seems illogical to charge yourself to then give yourself the money.

If you have questions regarding our position or we can assist the Committee further in your deliberations, please do not hesitate to contact us directly.

House Taxation
Attachment 14
Date 2-25-03



KANSAS BOARD OF REGENTS

1000 SW JACKSON • SUITE 520 • TOPEKA, KS 66612-1368

TELEPHONE – 785-296-3421
FAX – 785-296-0983
www.kansasregents.org

February 25, 2003

MEMORANDUM

TO: House Taxation Committee
R. L. Robinson
FROM: Reginald L. Robinson
President and CEO
RE: **HOUSE BILL 2239**

The Board of Regents expresses great concern regarding the proposed elimination of sales tax exemptions on all sales of personal property and services purchased directly by the State of Kansas and educational institutions.

Removal of these exemptions would be tantamount to imposing additional budget cuts on higher education institutions, and would have a significant negative impact on the state universities. Assuming they paid sales tax at the rate of 5.3% on all of the expenditures made from their OOE budgets, this proposal would reduce the combined OOE purchasing power of the state universities by about \$30 million, \$10 million from General Use expenditures and \$20 million from Restricted Use expenditures.

These reductions would add to the \$44.8 million in FY 2003 budget cuts and unfunded mandated cost increases at the universities; and would also add to the \$9.6 million of unfunded mandated cost increases the universities face in FY 2004. Elimination of the sales tax exemptions would also have similar significant and adverse impacts on the community colleges, technical schools and Washburn University.

Cc: Kansas Board of Regents
Institutional CEOs

House Taxation
Attachment 15
Date 2-25-03



KANSAS
ASSOCIATION OF
COUNTIES

WRITTEN TESTIMONY
concerning House Bill No. 2239
re. Sales Tax Exemptions for Governmental Activities
House Taxation Committee

Submitted by Randall Allen, Executive Director
Kansas Association of Counties
February 25, 2003

Chairman Edmonds and members of the committee, thank you for the opportunity to submit written testimony with comments on House Bill No. 2239.

As written, the bill removes the sales tax exemption on all governmental and school related activities. As such, under HB 2239, counties (as political subdivisions of the State) would pay sales tax on property or services purchased to fulfill the public purpose of county government. Why would we want an additional cost which would only be passed on to our constituents? The answer is -- we would not unless all sales tax exemptions (regardless of purpose) were removed across the board, adding an estimated \$3.4 billion in sales tax revenue to the State's coffers in FY 2004.

Although some might describe that action far-fetched, perhaps it is not in the context of the overall policy issue of how state and local governments are financed and what the optimal mix is among the three pillars of governmental finance -- i.e. property, income, and sales tax. If all sales tax exemptions were removed across the board, it would be very difficult for counties and other local governments to argue for a specific exclusion for local governments to not pay a sales tax on their purchases. Regardless of the outcome of your discussions on this and other related bills, we believe that the airing of the issue is constructive.

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

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

House Taxation
Attachment 16
Date 2-25-03



SAINT LUKE'S HEALTH SYSTEM

saintlukeshealthsystem.org

February 24, 2003

The Honorable John Edmonds
Chairman, House Tax Committee
and
Members of the Committee
Statehouse
Topeka, KS 66612

Dear Representative Edmonds:

The purpose of my letter is to apprise you that Anderson County Hospital is in strong opposition to Kansas HB 2239 and the provision that would repeal the Kansas sales tax exemption for not-for-profit and public hospitals.

If this legislation were to pass, the impact to Anderson County Hospital would occur in the purchase of major moveable equipment. Based on our capital equipment budget for 2003, the estimated tax liability would be between \$13,000 and \$15,000. ACH has a hospital supply budget of over One Million Dollars. The impact would be approximately \$70,000.

The estimated impact on Anderson County Hospital with just major moveable equipment and medical supplies would be between \$85,000 and \$100,000 a year. With shrinking reimbursements from all payers and significant delays in State Medicaid payments, the passage of this Bill, would only add to the existing negative financial picture facing rural hospitals in Kansas. This will ultimately affect not only the cost, but eventually the continuation of the care of our patients. Once again, I would urge the defeat of HB 2239.

Sincerely,

A handwritten signature in black ink that reads "Dennis A. Hachenberg".

Dennis A. Hachenberg, CHE
Chief Executive Officer

DAH:bay

cc: Representative Bill Feuerborn, District 5
Senator Robert Tyson, District 12
Don Wilson, KHA
Tom Bell, KHA

House Taxation
Attachment 17
Date 2-25-03

421 S. Maple Street, P.O. Box 309, Garnett, KS 66032 • Phone (785) 448-3131



■ Kerry L. Noble
Chief Executive Officer

February 24, 2003

The Honorable John Edmonds
Chairman, House Tax Committee
And
Members of the Committee
Statehouse
Topeka, KS. 66612

RE: Kansas HB 2239
"Repeal of Sales Tax Exemption for
Not-for -Profit and Public Hospitals"

Dear Representative Edmonds,

I am writing to express my strong opposition to the proposed legislation, HB 2239, which would provide for the appeal of Kansas Sales Tax Exemption for all "Not-for-Profit" and Public Hospitals. As a "Not-for-Profit" Hospital, the passage of this legislation would have an overwhelming detrimental impact on the financial viability of Cushing Memorial Hospital.

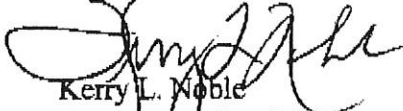
As a general, primary acute care hospital, Cushing Memorial has experienced continual declines in reimbursement from our major third party payers for the provision of both inpatient and outpatient services. In particular, the reimbursement rates from our Governmental Payers i.e. Medicare and Medicaid are currently reimbursed at less than 80% and 60% of our costs respectively. In addition, Cushing Memorial Hospital has a long tradition of providing charity care to its indigent population and has experienced a significant increase in the provision of charity care as result of the increased unemployment from the economic declines of recent months.

The passage of the proposed legislation would result in a minimum detrimental annual impact in excess of \$300,000. This would not only severely impair the Hospital's ability to meet the medical care needs of an already increasing indigent population, but would dramatically affect the hospital's ability to invest in the very expensive technological capability and would also jeopardize the ability to invest in the provision of Preventative Wellness Programs for which there is limited short term investment return but which have proven to bring long term benefits

via the identification and preventive treatment of significant medical health "risks" which currently exist among the local population.

The defeat of passage of HB 2239 is essential to ensure access to basic medical care for all the citizens of the State of Kansas. Your support is critical in the defeat of HB 2239 which is extremely detrimental to the future viability of all "Not-for-Profit" and Public Hospitals throughout the State of Kansas.

Respectfully,



Kerry L. Noble
Chief Executive Officer