

## MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Vice-Chairman David Huff at 9:00 a.m. on March 5, 2003 in Room 519-S of the Capitol.

All members were present except:

Chairman, John Edmonds  
Rep. Ruby Gilbert  
Rep. Mario Goico  
Rep. Tom Sawyer  
Rep. Bonnie Sharp

Committee staff present:

Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Gordon Self, Office of the Revisor of Statutes  
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Ralph Snyder, Assistant Adjutant of the American Legion and President of the Sunflower Club Assn.  
Tom Parr, Philip Billard Post No. 1650 Veterans of Foreign Wars of the United States  
Jim Cochran, Kansas Charities Cooperative  
Melvin Zeller, Finance Office American Legion Post 400  
Elwaine Pomeroy, Motion Picture Association of America Inc.  
John Peterson, American Multi Cinema

Others attending:

See Attached List

Vice-Chairman Huff opened the meeting requesting any introduction of bills. Hearing none, he called the committees attention to the Fiscal Note on **HB 2324** which would be \$3,380,000 in fiscal year 2004, and asked Chris Courtwright to give an overview of the bill. Following Mr. Courtwright's overview, Vice-Chairman Huff opened the floor for hearing on **HB 2324**.

With no proponents on **HB 2324**, Vice-Chairman Huff introduced Ralph Snyder, Assistant Adjutant of the American Legion and President of the Sunflower Club Association as the first opponent. Mr. Snyder explained that excise taxes are now levied in advance on paper Bingo Faces and Instant Bingo. This replaced sales tax. Smaller licensees who rely on Bingo for their charitable programs will be forced to cease Bingo operations because sales taxes will consume all of their profits. (Attachment 1)

Mr. Snyder stood for questions from the committee

Next to appear as an opponent of **HB 2324** was Tom Parr representing Philip Billard Post No. 1650, Veterans of Foreign Wars of the United States. The VFW (Veterans of Foreign Wars) are asking for an opposing vote for the bill as they already pay excise taxes which allows the State of Kansas to get their money up front and was to take the place of sales tax. They fund a number of social services and community activities and a reduction of revenue created by removal of the tax exemption would reduce these available funds. (Attachment 2)

Mr. Parr answered questions from the committee following his testimony.

Jim Cochran of the Kansas Charities Cooperative, Wichita, Kansas appeared in opposition to **HB 2324**. His testimony expressed the fact that the Legislative Post Audit committee recommended that bingo be taxed at the distributor level, rather than at the point of final sale. In 2000 the legislature enacted the recommendations and fazed out the sales tax on bingo and replaced it with a distributor tax. The repeal of the tax exemption would create tax at both the distributor level and the point of final sale. (Attachment 3)

Mr. Cochran also stood for questions after giving testimony.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 5, 2003 in Room 519-S of the Capitol.

Finance Office, American Legion Post 400 Melvin Zeller, presented testimony in opposition to **HB 2324** by bringing to attention comments on the effects of **HB 2013** effective July 1, 2000, sales and excise taxes paid during the period July 1, 2000 through June 30, 2002 and what additional taxes would do to their organization. He also gave a list of programs supported by Post 400 as well as submitting a copy of an invoice showing the cost of paper and excise taxes. (Attachment 4)

Questions from the committee were answered following Mr. Zeller's testimony.

Elwaine Pomeroy representing the Motion Picture Association of America Incorporated presented testimony in opposition to **HB 2324** relating that repealing the exemption would put a double tax on movies which would put local movie theaters in Kansas at an economic and competitive disadvantage which would in turn certainly cause ticket prices to automatically rise. (Attachment 5)

Mr. Pomeroy stood for questions from the committee following delivery of his testimony.

John Peterson appeared on behalf of the American Multi-Cinema as an opponent of **HB 2324**. He explained that repeal of the exemption would result in the same transaction being taxed twice and would be fundamentally unfair to Kansas movie exhibitors, like AMC (American Multi-Cinema) as well as to Kansas Consumers. (Attachment 6)

Mr. Peterson introduced Mr. David Barrier of Lathrop & Gage Attorneys at Law who stood for additional questions from the committee.

With no other person wishing to speak to the committee regarding **HB 2324**, Vice-Chairman Huff closed the hearing.

There being no further business before the committee, the meeting was adjourned at 10:06 a.m.



## SUNFLOWER CLUB ASSOCIATION

My name is Ralph Snyder, Assistant Adjutant of The American Legion and President of the Sunflower Club Association. The Sunflower Club is an organization which represents Bingo Licensees.

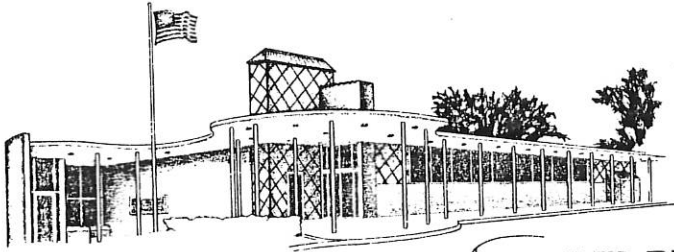
Bingo licensees agreed to pay excise taxes when they purchase paper Bingo faces from suppliers (the state gets their tax money up front before the faces are sold to Bingo players). And this agreement also phased out hard Bingo cards, which becomes effective on July 1, 2003.

The reason sales taxes were eliminated on Bingo were because:

- (1.) Excise taxes are now levied in advance on paper Bingo Faces and Instant Bingo. (Replaced Sales Tax)
- (2.) The average Bingo licensee pays \$1,800 per year in excises taxes. One third of excise tax revenues is used for administrative and enforcement; two thirds is retained in the General Fund.

Most licensees pay far greater amounts than the \$1,800 annual average. Smaller licensees who rely on Bingo for their charitable programs will be forced to cease Bingo operations because sales taxes will consume all of their profits.

Proceeds from Bingo are used by Churches, Fraternal and Veterans organizations for fund raisers to sponsor youth programs throughout the state. Therefore on behalf of the Sunflower Club Association, I urge the committee to vote no on HB 2324.



**PHILIP BILLARD POST No. 1650**

VETERANS OF FOREIGN WARS OF THE UNITED STATES

3110 HUNTOON TOPEKA, KANSAS 66604

PHONE 235-9073

VFW Members in Kansas	34,714	VFW Auxillary	20,055
VFW Post 1650	1100	Post 1650	467
VFW District 1	4506	Dist 1	1989

Tax paid in 2002:

Bingo Excise Tax	\$3,790.10
Pull Tab Tax	347.40
Total	\$4,137.41

Would have been Sales Tax:

Bingo	\$4,855.59
Pull tabs	\$957.42

We need your No Vote on HB 2324. Bingo licensees pay excise taxes when they purchase paper Bingo faces from suppliers (the state gets their tax money up front before faces are sold to Bingo players) This was to replace sales tax.

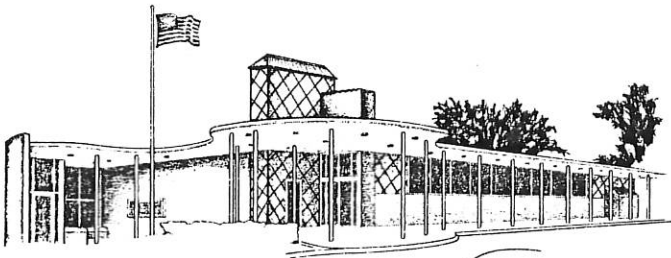
POST UTILITY BILLS ARE APPROXIMATELY \$1200 per month.

Post Activities supported by Bingo:

- Korean War Veterans Program
- V.A. Carnival
- Aid to Dependent Veterans and families
- VFW National Home for widows and children
- VFW Political Action
- Adoption of 190th Refueling Group
- Furnish treats and coupon books for V.A.
- Provide hospital equipment to loan to community (electric beds, wheel chairs, Etc)
- Sponsor Santa Fe Band at V.A.
- Give to Operation Uplink
- Provide noon meal for Run Across Kansas (150)
- Donations to Veteran's Memorials
- Funeral Detail (Meal furnished at Post for family and friends)
- Sponsor Voice of Democracy and Youth Essay contest.

House Taxation  
Attachment 2

Date 3-5-03



**PHILIP BILLARD POST No. 1650**

**VETERANS OF FOREIGN WARS OF THE UNITED STATES**

**3110 HUNTOON TOPEKA, KANSAS 66604**

**PHONE 235-9073**

Post Activities (Continued)

Halloween Party for local children

Thanksgiving Dinner for Veterans and guests

Christmas Dinner for Veterans and guests

Buddy Poppy Drive

Awards to Marine R.O.T.C. (Topeka High)

Support given to Society for Preservation of  
Memorial Day

Emergency Funds for Veterans and veteran families.

Golden Age Games

Special Olympics

Recognition Programs:

Teacher of the Year

Law Enforcement Officer

Emergency Service

Donations:

Cancer

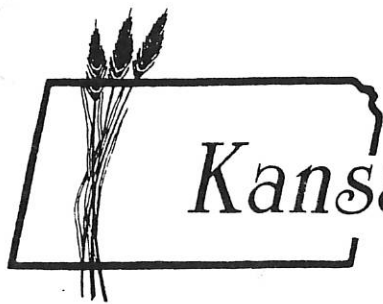
March of Dimes

World War II Memorial

VFW Endowment Fund

POW/MIA Program

Local Charities



# Kansas Charities Cooperative

"Uniting To Serve Kansas"

## Address

2347 Amidon  
Wichita, Kansas 67204

## Board of Directors

Ron Anderson  
*Am-Vets*

John McKenzie  
*Knights of Columbus*

Margaret Ritthaler  
*Fresh Start*

Louis Sage  
*Fraternal Order  
of Eagles*

Wesley Wilbur  
*I.O.O.F.*

Cissie Bryant  
*Wichita Women  
Bowling Assoc.*

Paul Heidt  
*Midwest Historical &  
Genealogical Society*

John Robertson  
*Junior Thunder Hockey*

David Collins  
*Northeast Optimist Club*

Martha Bichel  
*Elks Lodge*

Chauncey Littlejohn  
*Omega Psi Phi Fraternity*

Steve Gorrell  
*Optimist Club of Derby*

Ester Guerra  
*Wichita Figure Skating Club*

Thank you Chairman Edmunds and members of the Tax Committee for the opportunity to share concerns with you regarding the impact of H.B. 2324. My name is Jim Cochran. I am here today representing Kansas Charities Cooperative, an organization consisting of not-for-profit, charitable organizations that operate bingo games as their primary means of fund raising in the State of Kansas.

In order to explain to you the impact of H.B. 2324, I would like to share with you an historical perspective of Kansas Bingo Laws. In 1974, the people of Kansas passed an amendment to the Kansas constitution that would allow games of bingo to be operated in Kansas by non-profit, 501-c3 organizations for the purpose of fund raising for charitable causes.

Bingo has historically paid sales tax on the sale of bingo cards. However, in the late 80's and early 90's, many bingo games switched from selling the re-usable, shutter, hard bingo cards to throw-away paper bingo cards printed on newsprint. In 1998, the Legislative Post Audit committee reviewed the Regulatory Activities of the Division of Alcoholic Beverage Control in the Department of Revenue. This is where the bingo laws are regulated and enforced. It was determined by Post Audit that there was no way the Department of Revenue could tell if it was receiving all the sales taxes from the sale of bingo cards that were owed. Therefore, it was recommended by Post Audit that bingo be taxed at the distributor level, rather than at the point of final sale. In 2000, the legislature enacted the recommendations of Post Audit and fazed out the sales tax on bingo cards and replaced it with a distributor tax of .002 cents per paper bingo face. The rate of tax that Kansas decided to charge was and is the same amount that the State of Missouri charges for bingo faces.

H.B. 2324 reinstates the sales tax on bingo card sales, however it leaves in place the distributor tax that is now charged to bingo distributors as required in K.S.A. 79-4704. Typically, in Kansas law, a product is only taxed at one level, that is the level of the final sale of the product. If it is the desire of this committee to reinstate the sales tax, than this committee should delete the requirement for a distributor tax, as it is unfair to tax a product at both the distributor level and the point of final sale. In addition, the committee should review the Post Audit recommendations and the reason for the recommendations that were made in March of 1998.

House Taxation  
Attachment 3  
Date 3-5-03

I would also like to point out that the .002 cent distributor tax per bingo face that is being charged at the distributor level may seem small to you. However, in South-central Kansas, regular games usually sell for .25 cents each. That .25 cent charge is good for all regular games played in an evening. There are typically 10 regular games played in a session, which would require 10 different bingo faces to be played, then thrown away, during the night for a total charge of .25 cents. The distributor tax paid for those games is 10 faces X .002 cents or 2 cents on a .25 cent charge (8 cents on a dollar). I would assert to you that the .002 cent distributor tax in this case is higher than the 5.3 cents the state charges on one dollar in sales.

To be fair, there are also jackpot games (much fewer in number) where the charge is .25 cents to play one game, one time. The tax collected on that game is .002 cents. We believe that when the different sales in a night are averaged out, the distributor tax collected by the state is equal of more than what the state would collect if we reverted back to a sales tax.

If income the state is receiving from the sale of bingo cards is down, I would assert to you that the number of non-profit organizations operating bingo games have dropped in recent years with the advent of other more lucrative forms of gaming. Bingo is now virtually non-existent in the Kansas City area because of competition from river boats. In addition, the Topeka area has lost a number of bingo games with the advent of Indian gaming. In Wichita, we have lost gaming customers and sales to pari-mutual wagering.

I want to thank you again for the opportunity to share with you the fact that Kansas Charities Cooperative is opposed to H.B. 2324 for the reasons I have outlined. I would be happy at this time to answer any questions you might have.



**HOUSE BILL 2324**

**Melvin L. Zeller  
Finance Officer, American Legion Post 400**

**Would like to comment on;**

- a.) Effect of House Bill 2013 effective July 1, 2000**
- b.) Sales and Excise taxes paid during the period  
July 1, 2000 through June 30, 2002.**
- c.) What additional taxes would do to our organization.**

**The following are some of the Programs supported by Post 400:**

**American Legion Baseball  
Boys' & Girls' State  
Cadet Lawman  
Veterans Hospital Functions  
Oratorical Contest  
School Awards  
Funeral Detail  
Memorial Day & Veteran's Day  
Childrens (Easter & Christmas)  
Needy Families (Christmas)**

**Attached is a copy of invoice for bingo paper, showing cost of paper and excise taxes.**

House Taxation  
Attachment 4  
Date 3-5-03

\*\*\*\*\* INVOICE \*\*\*\*\*

All American Bingo  
 149 WELDON PARKWAY STE 122  
 MARYLAND HEIGHTS, MO 63043  
 MO LIC#P-1055, KS LIC#BD0015  
 IL LIC #BF-196/P-37  
 (800) 752-4675

INVOICE NUMBER: 0100682-IN  
 INVOICE DATE: 01/08/03  
 ORDER NUMBER:  
 ORDER DATE:  
 SALESPERSON: 2040  
 CUSTOMER NO: A710400

SOLD TO:  
 AMERICAN LEGION 400\*SP\*  
 3029 N.W. HWY 24  
 TOPEKA KS 66618

SHIP TO:  
 AMERICAN LEGION 400\*SP\*  
 3029 N.W. HWY 24  
 TOPEKA KS 66618

CONFIRM TO:  
 30270B001

CUSTOMER P.O.	SHIP VIA	F.O.B	TERMS 1 1/2-10 DAY NET 30			
ITEM NO.	UNIT	ORDERED	SHIPPED	BACK ORD	PRICE	AMOUNT
1402464	SET	1.000	1.000	0.000	277.00	277.00
	UNI 18ON H 14UP 80-89	126504F	WHSE: 200			
	SERIAL #182888					
K14U	EACH	1.000	1.000	0.000	253.01	253.01
	KS PAPER TAX 14UP	126504/SET	WHSE: 200			
9165002402	BTL	6.000	6.000	0.000	1.50	9.00
	16.0 OZ REFILL GREEN		WHSE: 200			
CGBAGS	EACH	1.000	1.000	0.000	14.00	14.00
	FLORAL PRINT BINGO BAGS		WHSE: 200			

*pd.*  
 01-14-03  
 CK # 4388

NET INVOICE: 553.01  
 LESS DISCOUNT: .00  
 FREIGHT: .00  
 SALES TAX: .00  
 INVOICE TOTAL: 553.01

**TESTIMONY IN OPPOSITION TO KANSAS**  
**HOUSE BILL - 2324**  
**PROPOSED ELIMINATION OF THE FILM**  
**RENTAL TAX EXEMPTION**

THANK YOU, MR. CHAIRMAN AND MEMBERS OF  
THE TAX COMMITTEE.

MY NAME IS ELWAIN POMEROY.

I REPRESENT THE MOTION PICTURE ASSOCIATION  
OF AMERICA, INC. MPAA IS TRADE ASSOCIATION  
THAT REPRESENTS THE MAJOR PRODUCERS AND  
DISTRIBUTORS OF MOTION PICTURES IN THE U.S.

THEIR MEMBERS INCLUDE:

THE WALT DISNEY COMPANY.

M-G-M STUDIOS.

PARAMOUNT PICTURES.

SONY PICTURES.

FOX.

UNIVERSAL.

AND WARNER BROTHERS.

RIGHT NOW, MPAA'S MEMBERS' MOVIES KEEP OVER 1,500 KANSANS EMPLOYED IN OVER 65 THEATRE COMPLEXES THROUGHOUT THE STATE.

MPAA AND ITS MEMBERS STRONGLY OPPOSES HB 2324. THIS TAX MEASURE WOULD IMPOSE A DISCRIMINATORY DOUBLE TAX ON MOVIE THEATERS. WE ARE CONVINCED THAT THIS IS INHERENTLY UNFAIR.

LET ME EXPLAIN.

A DOUBLE TAX ON MOVIES WOULD PUT LOCAL MOVIE THEATERS IN KANSAS AT AN ECONOMIC AND COMPETITIVE DISADVANTAGE.

THIS EXEMPTION DOES NOT IMPLY THAT MOVIE THEATERS PAY NO SALES TAXES. QUITE THE CONTRARY, KANSAS THEATER OWNERS ALREADY COLLECT AND REMIT TO THE STATE, A COMBINED STATE AND LOCAL SALES TAX RATE AS HIGH AS 7.8% ON ADMISSIONS.

ALSO, THEATER OWNERS COLLECT AND REMIT TO THE STATE THE SAME RATE OF SALES TAX ON THE FOOD AND OTHER CONCESSION ITEMS SOLD AT CONCESSION AREAS.

WE RESPECTFULLY SUBMIT THIS DOUBLE TAX ON A PARTICULAR FORM OF THE

ENTERTAINMENT BUSINESS IS UNFAIR. NO OTHER STATE IN THE COUNTRY IMPOSES A SIMILAR DOUBLE TAX ON MOVIE THEATERS.

THE OTHER 49 STATES RECOGNIZE THE IMPORTANCE OF PREVENTING A DOUBLE TAX ON THEIR STATE'S BUSINESSES AND INDUSTRIES. THE KANSAS LEGISLATURE HAS A HISTORY OF RECOGNIZING THAT SAME RESPONSIBLE TAX POLICY.

IN PAST SESSIONS, THE KANSAS LEGISLATURE PREVENTED DOUBLE TAXATION OF ALL OTHER INDUSTRIES IN THE STATE. I ALSO RESPECTFULLY SUBMIT THIS POLICY SHOULD CONTINUE. THE HIGHEST TAX RATE ON ADMISSIONS IN ANY OF THE SURROUNDING STATES IS 5%, (IA 5%, NE 5%, CO LOCAL TAXES ONLY, OK 4.5%, AR 4.625%, MO 4.25%).

THIS DOUBLE TAX WOULD CERTAINLY CAUSE TICKET PRICES TO AUTOMATICALLY RISE. IT IS POSSIBLE THAT AN ADMISSIONS TAX WOULD CAUSE A REDUCTION TO THEATRE ATTENDANCE IN FAVOR OF OTHER MOVIE ENTERTAINMENT MEDIUMS.

THE CHARGES FOR COMPETING MOVIE SOURCES -- CABLE TELEVISION, SATELLITE, AND PAY-PER-VIEW SERVICES ARE NOT SUBJECT TO A DOUBLE

TAX. THEREFORE, THOSE MOIVE VENUES WOULD HAVE AN STATE-IMPOSED COMPETITIVE ADVANTAGE OVER THE OVER MOVIE THEATERS.

LOCAL MOVIE THEATERS CREATE JOBS. MANY FIRST-TIME JOBS FOR HIGH SCHOOL AND COLLEGE STUDENTS ARE IN THEATRES. THEY ALSO EMPLOY MANY SENIOR CITIZENS. PEOPLE MIGHT NOT BE ABLE TO FIND SUPPLEMENTAL OR PRIMARY SOURCES OD INCOME ELSEWHERE.

UNFORTUNATELY, THERE WAS A NINE PERCENT REDUCTION IN EMPLOYMENT AT THEATRES FROM 1999 TO 2000 IN KANSAS. THIS WAS PRIMARILY A RESULT OF INDUSTRY COONSOLIDATION. WE BELIEVE THAT THE BURDENS IMPOSED BY A NEW TAX COULD CONTRIBUTE TO A FURTHER LOSS OF JOBS.

TODAY, MOVIES ARE ONE OF THE MOST AFFORDABLE FORMS OF FAMILY ENTERTAINMENT.

IN SOME KANSAS TOWNS, MOVIES ARE THE ONLY AFFORDABLE "OUT OF THE HOME" ENTERTAINMENT. OVER THE PAST TEN YEARS MOVIE TICKET PRICES HAVE RISEN 28% FROM 1991 TO 2001. THAT MAY SOUND DRAMATIC. BUT NOT COMPARED TO CONCERT TICKETS AND SPORTING EVENT TICKETS. ADMISSION PRICES

TO THOSE EVENTS HAVE INCREASED IN A RANGE  
OF 40 TO 122 PERCENT.

WE URGE YOU TO NOT IMPOSE A HARMFUL  
DOUBLE BURDEN OF TAXATION ON MOVIE  
THEATERS.

THANK YOU FOR YOUR CONSIDERATION, AND I  
WILL BE HAPPY TO ANSWER ANY QUESTIONS.

**TESTIMONY**  
**HOUSE TAXATION COMMITTEE**  
**HOUSE BILL 2324**  
**Wednesday, March 5, 2003**

Chairman Edmonds, members of the Committee. My name is John Peterson. I am appearing on behalf of American Multi-Cinema. AMC operates 3 theaters with 53 total screens in Kansas. We appear today concerning House Bill 2324 and specifically the sales tax "exemption" contained in K.S.A. 79-3606(i). That subsection exempts from sales taxes:

"The lease or rental of all films, records, tapes or any type of sound or picture transcriptions used by motion picture exhibitors."

This is one of several exemptions that are definitional in nature, it defines what the sales tax is - - that it is a tax on the retail transaction.) It is also an exemption that is widely misunderstood. It does not deal with video rentals -- when you rent a movie from Blockbuster, you pay sales tax. It does not deal with consumers purchasing theater tickets. When you purchase a theater ticket to view a movie -- the retail transaction -- you pay and the theater collects and remits to the state the applicable sales tax. What this exemption does is define and prevent from double taxation the wholesale transaction that occurs prior to you paying to view the movie, specifically it exempts only the motion picture exhibitor's lease or license of the film from the producer or manufacturer, prior to showing the film to you and collecting sales and remitting sales tax on that exhibition.

This exemption has been on the statutes since 1967. A number of years ago a revenue ruling said that the rental by a theater owner was not a wholesale transaction because while the theater was renting a reel of film, the theater patron was not renting at retail the reel of film -- but instead was renting the image that light makes when it passes through the reel of film. The legislature at that time felt that that was a rather strained distinction and to clarify the statute, they added what is now sub (i). Repeal of the exemption would result in the same transaction

House Taxation  
Attachment 6  
Date 3-5-03



being taxed twice and would be fundamentally unfair to Kansas movie exhibitors, like AMC, and to Kansas consumers as well.

We thank you for your attention and would urge you to continue this and other exempt language for wholesale transactions in the Kansas Statutes.