Approved: March 20, 2003
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson John Edmonds at 9:00 a.m. on March 11, 2003 in Room 519-S of the Capitol.

All members were present except:	Representative Tom Sawyer
Committee staff present:	Chris Courtwright, Legislative Research Dept. April Holman, Legislative Research Dept. Gorden Self, Office of the Revisor Carol Doel, Committee Secretary
Conferees appearing before the committee:	Gary Reser, Kansas Veterinarian Medical Assn. Doug Wareham, Kansas Grain and Feed Ron Gaches, Kansas Society of Professional Engineers Scott Heidner, Kansas Consulting Engineers Bill Sneed, KansasFuneral Directos Assn. Bob Vancrum, Greater Kansas City Chamber of Commerce Matthew Goddard, Heartland Community Bankers Assn. Larry Magill, Kansas Assn. Of Insurance Agents Doug Smith, Kansas Credit Attorneys Assn. Sara Beezley, Kansas Bar Association/Kansas Assn. of Defense Counsel Chip Wheelen, Assn of Osteopathic Medicine David Hinson, Kansas Barbers for Legislative Action Kenneth Daniel, Midway Wholesale Natalie Bright, Wichita Independent Business Assn. Chuck Stephens, Stephen s & Assoc. Advertising Mark Beshears, Sprint Tuck Duncan, Kansas Wine and Spirits
Others attending:	See Attached Sheet

Chairman Edmonds opened the meeting with continuation of public hearings on **HB 2421.** Due to the number of conferees, each was limited to a three minute testimony and questioning was limited to one per person. First to appear in opposition was Gary Reser, Executive Vice-President of (KVMA) Kansas Veterinary Medical Association. KVMA offered language for **HB 2421** as well as a number of reasons that the removal of the sales tax exemptions on veterinary services is not good for Kansas. (Attachment 1)

Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association were represented by Doug Wareham in opposition to **HB 2421**. Their testimony showed their belief to be that imposing a sales tax on agricultural services provided by agribusiness would further depress the already struggling agricultural economy in our state. (Attachment 2)

Ron Gaches, Executive Vice President of KEPE (Kansas Society of Professional Engineers) appeared next before the committee in opposition to **HB2421**. This testimony stated that imposing higher costs on professional services in Kansas will put Kansas at a significant disadvantage in recruiting new jobs and business investment. (Attachment 3)

Presenting arguments in opposition to **HB 2421**, was Scott Heidner from Kansas Consulting Engineers. They presented the concept that sales tax on design engineering services is a bad idea because it creates multiple taxation of the same product, it harms the ability of Kansas Businesses to compete with out-of-state firms, and it is a difficult and inefficient tax to administer and collect. (Attachment 4)

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 11, 2003 in Room 519-S of the Capitol.

Bill Sneed, Legislative Counsel for the KFDA (Kansas Funeral Directors Association) spoke in opposition to **HB2421**. Taxing funeral services would be a tax on death. Presently taxes are collected on such items as caskets, vaults, clothing, tent, and grave markers as well as a number of other things. To increase the tax would place an additional financial burden on families already experiencing the traumatic loss of a loved one. Secondly a funeral service is not a service a person voluntarily plans to purchase like many other services. The purchase is unplanned so money has not been set aside for the purchase. These families experiencing the loss of a loved one may already be experiencing a financial hardship if the deceased was the breadwinner of the family or if large medical bills had occurred. A sales tax on funeral services would amount to an additional final expense they would have to pay. (Attachment 5)

Next to appear before the committee in opposition to **HB 2421** was Bob Vancrum, Greater Kansas City Chamber of Commerce, Government Affairs Specialist. Mr. Vancrum's testimony stated that this bill would affect many, many services. Service industries typically would not have major capital investments where they are located, and if faced with a tax which renders their service uncompetitive with their largest competitors, it would be a small task for them to close their Kansas facilities and move across the state line, taking business income, personal income and jobs with them. (Attachment 6)

Matthew Goddard representing Heartland Community Bankers Association presented testimony in opposition to **HB 2421**. Passage of this bill would subject them to sales tax on services and ultimately increase their cost of doing business. This increased cost will eventually impact consumers in the form of lower interest rates on deposit accounts and higher interest rate on loans. (Attachment 7)

Representing Kansas Association of Insurance Agents, Larry Magill, Jr. presented testimony in opposition to **HB 2421**. He presented arguments that premiums are already taxed with mobile insurance transactions, increased administrative costs, economic impact, pyramiding, and the impact on the consumer. (Attachment 8)

Doug Smith, representing Kansas Collectors Association, Inc. and Kansas Credit Attorneys Association, presented testimony in opposition to **HB 2421** stating that the current sales tax exemptions were created to promote and stimulate economic development. Continuing these exemptions from sales tax will likely have more benefit to Kansans than the amount of sales tax which could be collected if the exemptions were removed. In addition, the removal of the sales tax exemptions could have greater negative impact because of the trickle down effects that could touch our local communities. (Attachment 9)

Arguing in opposition to **HB 2421** was Sara Beezley, President of the Kansas Bar Association. In her testimony, Ms. Beezley presented facts that this is not a tax on attorneys, but a tax on those who hire attorneys. She also states they take the position that this tax un-proportionately is borne by small businesses, the tax will drive clients out of Kansas, collection may violate client confidentiality, will result in double taxation and that collection difficulties exist within this bill. (Attachment 10)

Chip Wheelen, of Kansas Association of Osteopathic Medicine, appeared before the committee in opposition to **HB 2421** stating that it would be highly unlikely that sales taxes on physicians' services would be added to insurance claim forms to be collected from health insurers. Sales taxes on these services would be straightforward only in the event the patient is not insured at all. Because the sales tax is inherently regressive, those who are least able to afford the additional tax burden would be affected most. Mr. Wheelen included in his testimony some suggested language changes in the bill. (Attachment 11)

Opposing **HB 2421** was David Hinson, speaking for KBLA (Kansas Barbers for Legislative Action) It is their opinion that enactment of the bill not only places a tax on their business, but a tax increase on the users. (Attachment 12)

Kenneth Daniel, Chairman and C.E.O. of Midway Wholesale, appeared before the committee to present argument against **HB 2421**. Mr. Daniels presented a number of reasons that he felt that this bill would be detrimental to Kansas business and in finality stated that the small businesses that provide services will have a competitive disadvantage if buyers can shift the purchase of services out-of-state. This would hurt Kansas economy as well as the businesses. (Attachment 13) Mr. Daniels also included a copy of a report from the

Small Business Administration's Office of Advocacy "*The Impact of Regulatory Costs on Small Firms*". (Attachment 14)

Natalie Bright appeared on behalf of the Wichita Independent Business Association (WIBA) in opposition to **HB 2421**. This association is requesting that when the Legislature is looking for possible sources of revenue for the state, they look at the dynamic impact or costs the expansion of the sales tax base and/or removal of sales tax exemptions will have on the Kansas economy. (Attachment 15)

Chuck Stephens, owner of Stephens & Associates Advertising, Overland Park, Kansas, spoke in opposition to **HB 2421**. Mr. Stephens listed ten reasons why he felt this bill was "BAD" tax. He suggested rather than consider a tax on advertising, why not give consideration to an incentive for advertisers who choose to do business with agencies who reside in the state of Kansas. (Attachment 16)

Sprint was represented by Mark Beshears in opposition to **HB 2421**. In his testimony, Mr. Beshears states that taxation of professional services is particularly problematic for Sprint for two reasons. First, such taxes increase the cost of telecommunications services and second, many of these services are provided by its' management company. These inter-company services would be subject to sales taxes. Additional taxes on services provided both by Sprint's own management company and by third party providers makes Kansas very unattractive from a tax perspective. (Attachment 17)

R.E. "Tuck" Duncan of Kansas Wine & Spirits Wholesalers Association presented testimony to the committee in opposition to **HB 2421**. His testimony stated that removing the exemption from sales when the consumer has paid excise taxes on the good purchases, constitutes double taxation. "Double taxation" is defined as a form of taxation under which any dollar of income is subject to more than one level of tax. With capital gains taxes and estate taxes, it is possible for a single dollar of income to be taxed four times. (Attachment 18)

Each person testifying on the bill stood for questions from the committee.

With no further persons wishing to appear in testimony of **HB 2421**, Chairman Edmonds closed the hearing on the bill.

Chairman Edmonds called attention to written testimony from American Lung Association, (Attachment 19), Kansas Motor Carriers (Attachment 20), Kansas Manufactured Houses (Attachment 21), Kansas Hospital Association (Attachment 22), Kansas Automobile Dealers (Attachment 23), Northwest Kansas Groundwater Management District No. 4 (Attachment 24), Kansas Grain Sorghum Producers, Assn. (Attachment 25), Kansas Association of Realtors (Attachment 26), Kansas Building Industry Association (Attachment 27), Kansas Dairy Association and Kansas Seed Industry Association (Attachment 28), Kansas Independent Oil & Gas Association (Attachment 29), Kansas Medical Society (Attachment 30) and the Kansas Optometric Society (Attachment 31) each being submitted in opposition to **HB 2421**.

Chairman Edmonds asked if there were any bill introductions. Representative Schwab asked for the introduction of a bill with a 1% income tax rate cut and a 1% earnings tax on out of state residents employed in Kansas.

Hearing no objection, the Chairman accepted this proposal for introduction.

With no further business before the committee, Chairman Edmonds adjourned the meeting at 10:40 a.m.

HOUSE TAXATION COMMITTEE

Page ____ of ____

GUEST LIST

DATE Mar 11

NAME	REPRESENTING
David Hinson	KBLA
[illegible]	KBLA
Ron Gaches	KSPE
George Petersen	RTW
Saren Beezley	KBA.
Trista Curzydlo	Ks Bar Ass.
Michael White	Kearney
William W Sneed	KFDA
Doug Wareham	KGFA/KARA/KCC
Diane Gruner	KS Coop Council
Bernie Koch	Wichita Area Chamber of Commerce
Bob Vancrum	Greater KC Chamber of Commerce
James G. Johnson	Intern. Sen. Corbin
Martha [illegible] Smith	KMHA
Scott Heidner	KS Consulting Engineers
Larry R Baer	LKM
Chip Wheelen	Ass'n of Osteopathic Med.
[illegible]	Am Inst of Architects
Bob Pasl	SBC
Mike [illegible]	AT&T
KEN DANIEL	MIDWAY WHLE & NFIB
Ashley Sherard	Lenexa Chamber

HOUSE TAXATION COMMITTEE

Page ____ of ____

GUEST LIST

DATE Mar 11

NAME	REPRESENTING
E. J. "Tom" Fan	State VFW
Hal Hudson	NFIB / KS
LARRY MAGILL	Ks ASSN OF INS AGENTS
Matthew Goddard	Heartland Community Bankers Assoc.
Chris Wilson	KBIA
Cathy K Bennett	Greater Kansas City C of C
Jenny Harden Dorsten	"
Marge Petty	KCC
Leslie Kaufman	KFB
Chuck Ahlen	Stylen & Associate Advertg.
Margaret Bonicelli	Blue Valley Schools
Tuck DUNCAN	KWSWA
GARY EDWARDS	LAMAR ADVERTISING Co.

KANSAS VETERINARY MEDICAL ASSOCIATION 816 SW Tyler, Suite 200, Topeka, KS 66612-1635 ■ (785) 233-4141 ■ FAX: (785) 233-2534

Testimony
House Taxation Committee
9:00 a.m. Monday, March 10
Room 519 South
State Capitol Building
Topeka, Kansas

Rep. Edmonds and members of the House Taxation Committee, my name is Gary Reser. I am executive vice president of the Kansas Veterinary Medical Association (KVMA).

The KVMA is the professional association serving the Kansas veterinary medical profession through legislative, regulatory, education, communications, and public awareness programs.

The KVMA appears today to request the continuation of all current Kansas sales tax exemptions on veterinary services that have been repealed in H.B. 2421.

There are many reasons why eliminating the sales tax exemption on veterinary services would not be good for the Kansas economy, Kansas agriculture, Kansas taxpayers, veterinary clients, and the veterinary profession. Some of these reasons can be found as part of my handout today.

The KVMA also appears today to offer language in H.B 2421 which it believes will continue current Kansas sales tax exemptions on professional services, including veterinary services.

Sec. 1. K.S.A. 79-3602 is hereby amended to read as follows: K.S.A. 79-3602.

d) "Retailer" means a person regularly engaged in the business of selling tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale. *The term "retailer" shall not include any person licensed by any agency, board or branch of the state of Kansas to practice accountancy, architecture, clinical social work, chiropractic, dentistry, engineering, healing arts, landscape architecture, land surveying, law, nursing, optometry, osteopathic medicine or surgery, pharmacy, physical therapy, podiatry, psychology, or veterinary medicine.*

(e) "Retail sale" or "sale of retail" means all sales made within the state of tangible personal property or electrical energy, gas, water, services or entertainment for use or consumption and not for resale. *"Retail sale" or "sale at retail" shall not include any sale of tangible personal property used or consumed in the rendering of service or services provided by any person licensed by any agency, board or branch of the state of Kansas to practice accountancy, architecture, clinical social work, chiropractic, dentistry, engineering, healing arts, landscape architecture, land surveying, law, nursing, optometry, osteopathic medicine or surgery, pharmacy, physical therapy, podiatry, psychology, or veterinary medicine.*

Once again, Chairman Edmonds and members of the Committee, **please continue all current Kansas sales tax exemptions on veterinary services.**

Thank you for the opportunity to appear before you today on this very important matter.

House Taxation
Attachment 1
Date 3-11-03

(Over)

REMOVING SALES TAX EXEMPTIONS ON VETERINARY SERVICES IS NOT GOOD FOR KANSAS

*it is a tax increase on veterinary clients

*it will increase the price of veterinary services through higher business pass through costs

*it will increase the cost of doing business for veterinary farm and ranch clients

*since food is subject to sales tax, farm commodities will be taxed twice

*it will increase the cost of doing business for veterinarians

*many elderly veterinary clients, living on fixed incomes, derive benefits from the human-animal bond through their pets and will now have to pay extra for veterinary services

*veterinary practices in some parts of Kansas will lose business to neighboring states

*Kansas will lose expanding and existing businesses to surrounding states

*it will impose a substantial administrative collection burden on veterinary practices

*it will impose a substantial administrative collection burden on the state of Kansas

*it will add to the size, complexity, and cost of government

Since 1896 Kansas Grain & Feed Association

KANSAS Cooperative Council

STATEMENT OF THE

KANSAS GRAIN & FEED ASSOCIATION,

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

AND THE

KANSAS COOPERATIVE COUNCIL

SUBMITTED TO THE

HOUSE TAXATION COMMITTEE
REGARDING HOUSE BILL 2421

REPRESENTATIVE JOHN EDMONDS, CHAIR

MARCH 10, 2003

KGFA, KARA & KCC MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTEGRAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

816 SW Tyler, Topeka KS 66612 – 785-234-0461 - Fax: 785-234-2930

House Taxation
Attachment 2
Date 10-11-03

Chairman Edmonds and members of the House Taxation Committee, I am Doug Wareham appearing on behalf of the Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association and the Kansas Cooperative Council. These organizations stand in opposition to House Bill 2421, which would impose a tax on services, including numerous agricultural services that are provided by farmer-owned cooperatives and independently operated grain elevators and agribusiness retail operations across Kansas. Our primary purpose in appearing before you this morning is to ensure this committee fully recognizes the breadth of services that would be impacted by this proposal.

Attached to my testimony is a sample of the agricultural services that we have identified that we believe would be impacted by House Bill 2421. We also want to once again point out that much of the burden from a sales tax placed on agricultural services would be passed on to Kansas producers that continue to struggle financially.

Finally, I would like to share the results of a recent employee cutback/layoff survey we distributed to the grain business members of the Kansas Grain and Feed Association. We think the results of our limited survey once again depict the challenges facing agriculture and the difficult decisions that are being made by agribusiness firms across Kansas.

- We surveyed 214 grain elevator businesses, which operate roughly 740 grain elevators across the state of Kansas regarding the number of employee cutback/layoffs they have experienced in the past 18 months. We have received 41 (19% return rate) responses thus far.

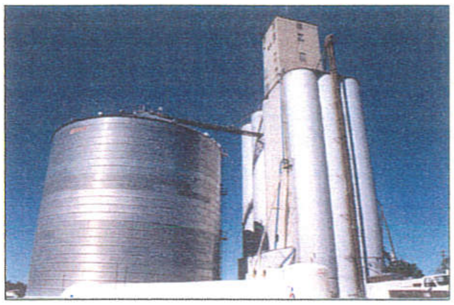
<u>Survey Results</u>:

- Of the 41 firms that have responded, none have had an expansion in their employee workforce during the past 18 months.
- 33 of the 41 or 80% of the firms that responded indicated they have had employee reductions/layoffs during the past 18 months.
- The total number of persons employed by the 41 firms that responded has dropped from 1,313 to 1,061 (a nearly 20% reduction in workforce) during the past 18 months.

In conclusion, we believe imposing a sales tax on agricultural services provided by agribusiness will further depress the already struggling agricultural economy in our state. We urge you to oppose House Bill 2421.

For more information contact Doug Wareham at (785) 234-0461

Who would bear most of the burden of new sales taxes on agriculture services?



Grain Storage And Handling Services

Product Application Services

Custom Farming Services

Crop Consulting Services

Everything points to one Answer.

Others:
Fertilizer & Pesticide Product Blending Services
Grain Brokerage & Merchandising Services
Feed Processing Services
Feed & Fuel Delivery Services

Kansas Farmers

Kansas Society of Professional Engineers

A state society of the National Society of Professional Engineers

Testimony of Kansas Society of Professional Engineers
Regarding HB 2421: Imposing Sales Tax on Services
Submitted to House Taxation Committee
Presented by Ron Gaches, KSPE Executive Vice President
Tuesday, March 11, 2003

Thank you Chairman Edmonds and members of the House Taxation Committee for the opportunity to comment on the merits of HB 2421. The Kansas Society of Professional Engineers is opposed to the imposition of state and local sales tax on the delivery of consulting engineering services. Our concerns are two fold:

First, to the extent the sales tax would be imposed on private sector capital investments in Kansas, it would increase the cost of those investments. The higher costs of engineering services, in addition to higher costs of other services associated with the design and construction of new facilities, would be sufficient to make investments in Kansas not cost competitive with alternative locations.

Second, imposing sales taxes on the delivery of engineering services will drive engineering work out of state. The marketplace for engineering services is very competitive. There are dozens and dozens of engineering consulting firms across the state. Many of these firms have offices in other states, particularly the larger firms. Once engineering work leaves Kansas, the engineering jobs will follow, resulting in less income, sales and property taxes paid to support local and state government.

Imposing higher costs on professional services in Kansas will put Kansas at a significant disadvantage in recruiting new jobs and business investment. Kansas is in recession. Thousands have been laid off from our major manufacturing and technology employers. Agriculture income is low. The state budget is in shambles. We have a critical need for new jobs and investment.

We urge you to vote NO on HB 2421.

Kansas Society of Professional Engineers is the professional society of licensed Professional Engineers. With nearly 900 members statewide, KSPE is the broadest based engineering society in Kansas. Our members are employed in private sector firms, major industries, and city, county and state government.

House Taxation
Attachment 3
Date 3-10-03

300 SW Eighth Avenue • Third Floor • Topeka, Kansas 66603-3912
(785) 233-2121 • FAX (785) 233-2206 • kspe@gbbaks.com • www.kansasengineer.org

KANSAS CONSULTING ENGINEERS

Affiliated with:

American Council of Engineering Companies
Kansas Society of Professional Engineers
National Society of Professional Engineers
Professional Engineers in Private Practice

TESTIMONY

DATE: March 11, 2003

TO: House Taxation Committee

FROM: Scott Heidner
Kansas Consulting Engineers

RE: HB 2421 (Sales Tax on Professional Services)

Mr. Chairman and members of the committee, my name is Scott Heidner, and I am the Associate Executive Director for the Kansas Consulting Engineers. I am here today to speak in opposition to House Bill 2421.

House Bill 2421 would have the effect of placing the state sales tax on all services in Kansas, including engineering. The intent of the Kansas sales tax law has always been to have the retailer tax the consumer at a product's final point of sale. This proposed change in tax philosophy would have a very serious negative impact on the Kansas economy.

There are numerous powerful arguments against taxing professional services like design engineering, but for purposes of brevity I will limit my remarks to three areas. Sales tax on design engineering services is a bad idea because it creates multiple taxation of the same product, it harms the ability of Kansas businesses to compete with out of state firms, and it is a difficult and inefficient tax to administer and collect.

It has long been the intent of the law to only impose a sales tax on a product one time. The complexity of design engineering work, and the fact that it is so often performed in tandem with other professional services, would result in multiple layers of sales tax on the same product. It is very common for a project to involve several engineering firms, often from a variety of states. Larger projects will also likely involve one or more architecture firms, who may also be from a variety of states. If each of these services is taxed, it will yield a building process in Kansas that becomes cost prohibitive. An owner cannot afford to build in Kansas if he is going to pay sales tax several times over on the same building.

House Taxation
Attachment 4
Date 3-11-03

George Barbee, Executive Director • Scott Heidner, Associate Executive Director
300 SW 8th Ave., Third Floor • Topeka, KS 66603-3912 • 785/357-1824 • Fax 785/233-2206 • www.kce.org • gbarbee@kce.org

The ability of Kansas business to remain competitive will be seriously damaged. Design engineering is a service that can be, and often is, provided off site. As I mentioned earlier, it is very common for a large project to have several engineering firms from several states involved. Telling a Kansas firm that they are required to pay a sales tax on these projects will immediately put them at a serious disadvantage. I would like to offer one "real world" possibility to illustrate this point. After the Persian Gulf Conflict in the early '90s, Kansas engineering firms were able to engage in the cleanup and rebuilding work in the gulf. They say history repeats itself, and it looks as if the same situation might arise again. Kansas engineering firms will be competing not only with firms from other states, but against German, French, and Israeli firms who will be eager for the business as well. If Kansas firms are handicapped with a sales tax, it will very likely cause a loss of business to firms that employ thousands of Kansans. This has a very real impact on the Kansas economy. Small firms will be particularly hard hit by this law. They do not have enough staff in place to administer this tax, and also are not able to bring some work in-house to avoid sales tax like many larger firms will do.

Finally, sales tax on engineering services is difficult and expensive to administer, and never yields as much revenue as expected. Well over half of all design engineering work is done for owners who are exempt from sales tax, such as government and school districts. This eliminates half of the projected revenue immediately. Furthermore, it is extremely difficult to administer a tax on engineering services which are taking place in another state, and done in conjunction with multiple engineering and architectural firms. The cost of administering this tax will counteract much of the fiscal benefit hoped for.

Mr. Chairman, there are many other reasons why House Bill 2421 is bad policy, but I will limit my remarks. Thank you for your time, and I will be happy to stand for any questions.

KFDA
Since 1897

AFFILIATED WITH NFDA

KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

1200 S. KANSAS AVENUE ◆ PO BOX 1904 ◆ TOPEKA, KS 66601-1904
PHONE (785) 232-7789 ◆ FAX (785) 232-7791
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EXECUTIVE DIRECTOR

PAM SCOTT
Topeka

March 10, 2003

To: House Taxation Committee

From: Pam Scott
Executive Director

Bill Sneed
Legislative Counsel

Re: House Bill No. 2421

Chairman Edmonds and members of the Committee, the Kansas Funeral Directors and Embalmers Association (KFDA) appreciates the opportunity to appear before you today in opposition to the imposition of a sales tax on funeral services. The KFDA represents over 300 funeral establishments across the state of Kansas.

A sales tax should not be imposed on funeral services for the following reasons:

1. Taxing funeral services would be, in essence, a tax on death. Presently taxes are collected on such items as caskets, vaults, clothing, and tent, grave markers and chair rental at the cemetery to name a few. Therefore, consumers purchasing a funeral are already heavily taxed. To increase the tax would place an additional financial burden on families already experiencing the traumatic loss of a loved one.

2. A funeral service is not a service a person voluntarily plans to purchase like many other services. The purchase is often unplanned so money has not been set aside for the purchase. These families experiencing the loss of a loved one may already be experiencing a financial hardship if the deceased was the breadwinner of the family or if there are large medical bills resulting from the final illness or accident. A sales tax on funeral services would amount to an additional final expense they would have to pay.

While Kansas funeral directors are particularly opposed to a sales tax on funeral services, they also are concerned with the imposition of a tax on other services. Most funeral homes are small businesses and the imposition on many of the services they purchase would increase their cost of doing business in this state. It would also possibly force them to increase the cost of the services they provide to those they serve.

Although we oppose the bill in its entirety, at the minimum we ask that an exemption be added to Section 3 of the bill which would exempt from taxation all services associated with the funeral, cremation, burial or other disposition of a dead human body.

The KFDA understands the difficult decisions you are faced with. While we do not believe the taxation of funeral services is the answer, we would support a tax on internet sales or a tax amnesty plan to generate additional revenue.

We again thank you again for the opportunity to testify and would appreciate your opposition to House Bill No. 2421.

TESTIMONY TO THE
HOUSE TAXATION COMMITTEE
IN OPPOSITION TO HOUSE BILL 2421
MARCH 11, 2003
BY BOB VANCRUM, GREATER KANSAS CITY CHAMBER OF COMMERCE
GOVERNMENT AFFAIRS SPECIALIST

Honorable Chairman Edmonds and Members of the Committee:

On behalf of The Greater Kansas City Chamber of Commerce and its 3,000 members in Kansas, I am here to oppose House Bill 2421, and in particular, to say a few words about those provisions that would for the first time levy a tax on the business of "rendering or furnishing any services, whether specifically provided for them [KSA 79-3603] or otherwise," to quote from lines 41 through 43 on page 4 of this bill. Our organization has a standing legislative position opposed to any expansion of sales tax on services, as well as a position opposed to any new tax measures that appear to unfairly target business. We are also strong supporters of measures that enhance the growth of jobs and the development of the entire Kansas economy. The current bill is one we oppose because it fails all of these tests.

First of all, we hope you understand the truly breathtaking scope of taxation proposed in this bill. We are not talking only about a sales tax on personal services such as barber and beauty salons, or sales tax on professional tax on professional services such as those traditionally rendered by accountants, architects, attorneys and engineers. No, this bill would also reach advertising, public relations, real estate services, banking services, insurance services, appraisal fees, credit reports, surveys, mortgage origination, title insurance, and on and on. The last time this bill was considered, I was a state representative and Joan Finney was the governor. You should check with your staff but I don't believe that even her bill in its final version would have reached the many categories of services as is proposed here.

I would also urge you to consider the indirect impact of proposed tax changes, both upon economic development and the state's overall tax picture. Most of the states that have more broadly taxed services (e.g., Hawaii, South Dakota) are more self-contained economies. Kansas has at least 60% of its population living within 25 miles of a state border. Service industries typically would not have major capital investments where they are located. If they are faced with a tax which renders their service uncompetitive with their largest competitors, it is a small task for them to close their Kansas facilities and move across the state line, taking business income, personal income and jobs with them. The state's revenues could actually take a substantial hit in the first year of enactment of such new taxes, rather than gaining anything. This in fact was the experience in Florida.

This is particularly true of the new information age service businesses. This bill taken literally also proposes a sales tax on all of their charges. You aren't going to hit large companies,

House Taxation
Attachment 6
Date 3-11-03

but small, Kansas-based companies. It is not a great trick to revise the contracts of multistate companies to show the service being delivered outside the state.

Mr. Chairman, I will be happy to stand for questions.

CWDDOCS 68170v1

HEARTLAND COMMUNITY BANKERS ASSOCIATION

Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
Office (785) 232-8215 • Fax (785) 232-9320
mgoddard@hcbankers.com

To: House Committee on Taxation

From: Matthew Goddard
Heartland Community Bankers Association

Date: March 11, 2003

Re: House Bill 2421

The Heartland Community Bankers Association appreciates the opportunity to appear before the House Committee on Taxation to share our opposition to **House Bill 2421**.

House Bill 2421 repeals the sales tax exemptions found in current law and expands the sales tax to include the rendering or furnishing of any services. Only three states currently tax the service charges of financial institutions – Iowa, New Mexico and Washington. HCBA does not believe Kansas should become the fourth state on that list.

Consumers, not the financial institution, will pay any sales tax levied on financial institution services. HCBA is concerned that a sales tax on the service charges of financial institutions will have a disproportionate impact on our lower income citizens. Although most HCBA members offer some sort of free checking program, these free accounts often require a minimum monthly balance of at least a few hundred dollars. Unfortunately, many Kansans are unable to maintain such a balance and HB 2421 would increase the cost of their banking relationship. If these Kansans decide to exit our banking system, they will be forced into using payday loan companies and check cashing services for their daily financial needs.

As the users of multiple services, House Bill 2421 would also be more of a burden for smaller, community-based financial institutions. A large bank or savings and loan could move various service providers, such as attorneys or advertising agencies, in-house or have the services performed in another state. However, smaller community institutions lack the financial resources to perform most services in-house and must therefore outsource their service needs. This would subject them to the sales tax on services and ultimately increase their cost of doing business. This increased cost will eventually impact consumers in the form of lower interest rates on deposit accounts and higher interest rates on loans.

HCBA is also concerned with what the Department of Revenue will define as a service. An account service charge would certainly be taxed under HB 2421 but fees such those as for an insufficient check might be in a gray area. We consider those fees to be a penalty and not part of any service.

We would encourage the House Committee on Taxation not to pass HB 2421. However, if the committee does decide to proceed with the bill, HCBA would encourage the Taxation Committee to exempt the service charges and fees of financial institutions from the new sales tax on services.

Thank you.

House Taxation
Attachment 7
Date 3-11-03

Testimony Before the House Taxation Committee
On H.B. 2421
By Larry W. Magill, Jr.
Kansas Association of Insurance Agents
March 11, 2003

Thank you mister chairman and members of the committee for the opportunity to appear today in opposition to H.B. 2421. Specifically the Provisions on page 4 lines 38 to 43 taxing all services provided in Kansas at the rate of 5.3%. In the interest of keeping both my written and oral testimony as brief as possible, I would like to second the comments made by T. C. Anderson, Chairman of the Kansans for Tax Free Services Coalition and other opponents yesterday.

They have explained many of the general reasons why we do not believe expansion of the present sales tax base to include services would be good public policy. I want to focus on the unique reasons why we, as independent insurance agents, are opposed to the concept.

Premiums Already Taxed
All insurance premiums, including agents' commissions are already subject to a 2% premium tax which is comparable to other states. The consensus revenue estimate for the fiscal year ending June 30, 2003 is $85 million in premium taxes. In addition, the industry funds the Insurance Department's operations with total fees of $8 million. Plus the industry funds the excess losses of assigned risk workers compensation plan, the second injury fund, the Workers Compensation Division of human resources and pays approximately $6 million to the Firemans and EMT Board fund.

The premium tax is essentially identical to a sales tax. Thus, we would argue one is already being imposed.

Secondly, we would argue that a service tax on insurance premiums or commissions would place Kansas independent agents at a serious competitive disadvantage with agents from other states, particularly on large business insurance accounts. Out of total agent licenses of approximately 60,000, there are presently nearly 37,000 non-resident agents licensed to do business in Kansas. These non-resident agents do not simply operate in the border counties. They cover the entire state of Kansas. As we understand the sales tax law, they could not be required to collect a sales tax on insurance. We do not believe that the Department of Revenue will have the ability or the manpower to enforce collection of use taxes from all the individuals and businesses of varying sizes that buy their coverage from non-resident agents.

Finally, as with many other services, the large businesses would be able to avoid the tax by self-insuring. Self-insurance, in effect, brings the service in-house. Only the very large firms with relatively predictable loss experience from year to year and sizeable net worth could afford to self-insure.

Mobility
The purchase of insurance is a highly mobile transaction. Mail order insurance companies have been quite successful in the personal insurance area. Companies like USAA and GEICO are

House Taxation
Attachment 8
Date 3-11-03

examples of successful mail order insurance operations providing a full range of personal insurance coverages. Mail order operations are also common in the life and health area. Plus, as mentioned above, insurance can easily be purchased from out of state agents. While the border counties would be most affected, there isn't a part of the state that would not be affected by non-resident agent sales activity. This would be particularly true when you consider that they would have anywhere from a 5.3% to over a 7% price advantage. In many cases In the personal insurance area, the insurance service is viewed by the consumer as somewhat of a "commodity". Because of that, even a small difference in cost can cause a consumer to change Insurance carriers. In the area of business insurance, the cost difference may be significant depending on the size of the business and its insurance needs.

Large businesses could pay into the hundreds of thousands or even millions of dollars per year in insurance premiums, particularly when you add the cost of group health insurance.

Situs and Administrative Costs
On a business account with multiple locations, the sales tax would have to be collected for each location separately taking into consideration differences in local sales tax rates. Since the insurance for multiple location businesses is normally packaged into combined premiums this entails significant administrative costs to break the premiums out by location. This would be a significant administrative burden for agents who generally bill business insurance accounts. Agents would have to break out each location to calculate the sales tax for a given location.

Economic Impact
None of the surrounding states place a sales tax on insurance premiums, commissions or fees. As a result, we feel the economic impact on our members, in relation to agents in surrounding states, would be severe. While independent agents in large areas of Kansas would not be able to do anything about it, we anticipate that agents in border counties could very easily move their operations across the state line.

Pyramiding
Insurance must be purchased on every step of every component manufacturing process. Each supplier of component parts purchases insurance. The manufacturer of the final product purchases insurance. The wholesaler purchases insurance. The trucker purchases insurance. The retailer purchases insurance and all of the suppliers of services doing business with these entities in the chain purchase insurance. The pyramiding impact of placing a sales tax on insurance would be significant.

Impact on the Consumer
The sales tax on services will be viewed by the consumer as a value-added tax, particularly where insurance is involved. While the proponents may talk in terms of an expansion of the tax base, the consumers will perceive this as a significant new tax. When you add the typical consumer's purchases of life, health, home and auto insurance they represent a significant and growing percentage of their total budget. Particularly the low and moderate-income individuals will feel the sales tax on these purchases.

Insurance Mandated or Essential

The state mandates the purchase of auto insurance, workers compensation and professional insurance for health care providers. In addition, lending institutions require borrowers to insure collateral such as homes and business property. Many low-income individuals struggle now to purchase auto insurance. Any increase in cost due to a sales tax on the insurance would cause an increase in the number of uninsured drivers.

The impact of mandates on health insurance would pale by comparison to the impact of a sudden over 7% (in some cases) increase in cost for either individual or group health insurance. Employers are already straining under the burden of compounding health insurance costs increases. The added cost of a sales tax on health insurance premiums would increase the number of uninsured.

Conclusion

We are opposed to HB 2421. We would be happy, to answer questions or provide any additional information.

TESTIMONY

HOUSE TAXATION COMMITTEE

HOUSE BILL NO. 2421

MARCH 11, 2003

Chairman Edmonds and Members of the House Taxation Committee:

I am appearing on behalf of the Kansas Collectors Association, Inc. and Kansas Credit Attorneys Association. Our groups are jointly presenting comments in opposition to House Bill No. 2421, a measure which seeks to impose a sales tax on the rendering or furnishing of all services and would eliminate sales tax exemptions.

We urge this committee to reject House Bill No. 2421 and maintain the existing tax policy, which keeps businesses in Kansas competitive.

Many of the current sales tax exemptions were created to promote and stimulate economic development. Continuing these exemptions from sales tax will likely have more benefit to Kansans than the amount of sales tax which could be collected if the exemptions were removed. In addition, the removal of the sales tax exemptions could have greater negative impact because of the trickle down effects that could touch our local communities.

The collection industry believes that this tax proposal would create numerous problems not only for our industry, but for the general public as well.

- When you impose sales tax on the collection of a debt you are double taxing the transaction. The purchaser was assessed sales tax at the original point of purchase and the tax was collected by the state. If a sales tax were applied to collection services, the amounts owed would be taxed again under this proposal. Including a tax on the original sales tax amounts. Since many debts are settled months or years after they were incurred and for less than the face amount, when is the sales tax applied and on what amount?

- The administration of a sales tax on services can be confusing and create problems for businesses. Professional services and collection services are offered to a broad spectrum of persons and entities. Some of those who receive these services may themselves be exempt from taxation, or the goods or services involved in the collection action may be exempt. How is the sales tax to be imposed without creating a burden on the small business when exemptions from sales tax may be applied to different trades or products?

House Taxation
Attachment 9
Date 3-11-03

There are other indirect effects of the imposition of a sales tax on services.

- Without question, any sales tax levied on a service will be passed on to the end user. A sales tax on collection services will increase the cost of using these services and possibly cause consumers/businesses to delay or stop using collection services. This rewards those who obtain goods or services and later do not pay for them. That causes the cost of goods and services for consumers to increase.

- Our neighboring states do not presently tax collection services, leaving our state's collection businesses at a competitive disadvantage should sales taxation be implemented. Increasing the cost of collection services by the addition of sales taxes will create a significant competitive edge for our out of state competition. Since a local presence is not required to provide collection services, imposition of a sales tax would put small agencies at risk, if not out of business.

Again, we urge you to reject House Bill No. 2421. Thank you for your time and consideration on this matter.

Submitted by:

Douglas E. Smith
Kansas Collectors Association, Inc.
Kansas Credit Attorneys Association.

House Committee on Taxation
House Bill 2421
March 10, 2003

Testimony of Sara Beezley
President, Kansas Bar Association

I am testifying today in opposition to House Bill 2421 on behalf of the Kansas Bar Association, the Kansas Trial Lawyers Association and the Kansas Association of Defense Counsel. The KBA is a diverse organization with more than 6,000 members, including judges, prosecutors, plaintiffs' attorneys, defense attorneys and many others.

The KBA, KTLA and KADC recognize the need to adequately fund the operation of state government and are well aware of the financial problems that the 2003 Legislature is facing. However, the provisions included in House Bill 2421 are not the solution to the budget shortfall currently facing the State of Kansas.

- **This is not a tax on attorneys, it is a tax on those who hire attorneys.**

HB 2421 assesses a tax on individuals who are going through an adversity. Individuals involved in family law matters, estate planning, planning for their end of life care or involved in bankruptcy.

- **This is a tax unproportionately borne by small businesses.**

All businesses require legal services. The myriad of legal concerns a business face include incorporation, debt collection, taxation and countless others. A large business or corporation can afford to have in-house counsel and avoids paying this tax. A tax on attorneys fees and professional services stifles the economic growth that small businesses provide.

- **This tax will drive clients out of Kansas.**

Kansas is not an island, it is bordered on four sides by states who do not tax attorney fees. Where I practice in Southeast Kansas, it is not unusual for Kansas firms to compete with firms located in Joplin Missouri for clients. To drive a few hours into Missouri to avoid paying an additional 5% in taxes is not unreasonable.

- **Collection of this tax may violate client confidentiality.**

Clients expect all services provided by an attorney to be confidential. Even hiring an attorney may be something the client intended to remain private. The Department of Revenue in conducting an audit to enforcement the payment of this tax would need access to information that an attorney is bound to keep confidential.

- **HB 2421 will result in double taxation.**

Throughout the course of representing a client, an attorney relies on other service providers. For example, an attorney will hire a court reporter to record a deposition. The court reporter is

House Taxation
Attachment 10
Date 3-11-03

required to assess taxes on the fee he or she charged for the service provided. When the attorney bills the client for the expense of the deposition, the original fee and the taxes will be included in those costs. The attorney will be required to assess a tax on the tax paid to the court reporter.

- **Collection difficulties exist within HB 2421.**

Rarely does an attorney receive prompt and full payment for services rendered. How would tax be assessed and collected from the individual who pays $25 a month for 20 months? Or the situation where a lawyer under a contingency fee contracts provides 500 hours of services in pursuing an unsuccessful case, while a defense lawyer spends 500 hours, billing $100 an hour. The unsuccessful plaintiff would not pay for the services rendered by the attorney so no tax would be assessed. The criminal defendant would pay taxes on $50,000, while both clients received presumably equal services.

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Kansas Association of Defense Counsel
300 SW 8th Street
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Kansas Association of Osteopathic Medicine

1260 SW Topeka Boulevard
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Testimony
House Taxation Committee
House Bill 2421
By Charles L. Wheelen
March 10, 2003

Thank you for the opportunity to express our opposition to the proposed sales tax on professional services. Our testimony is offered on behalf of the thousands of patients our members serve. Those patients would be adversely affected if HB2421 were enacted.

There seems to be a popular notion that a sales tax on physician services would simply be added to insurance claim forms and be collected from health insurers. This is entirely unlikely. Most health insurance policies provide coverage for medically necessary services only; not taxes. And managed care contracts often compensate physicians based on a specified amount per insured patient (capitation) which may or may not be considered professional services. Under capitation arrangements it would be difficult to isolate the amount of the billing that is attributable to professional services versus other operating expenses of the medical practice.

Sales taxes on medical services would create numerous administrative challenges for both physicians and the Department of Revenue. For example: Would the physician collect sales tax on professional services, or would the insurer collect sales tax on premiums, or would we double the impact of the sales tax on health care costs by collecting from both? Would the sales tax be added to the usual and customary amount charged for the service, then later be adjusted based on the amount of actual insurance payments? Would the physician be expected to collect the sales tax separately from insurers and patients, or would they collect the entire amount of sales tax from the patient?

Another question arises in regard to patients who receive benefits by way of eligibility under the Social Security Act (Medicare and Medicaid). The exemption contained in section three of HB2421 (page 10, lines 22-23) would apply to "sales of tangible personal property, the taxation of which is prohibited by the United States constitution or federal law." The exemption does not apply to the furnishing of services, the taxation of which is prohibited by federal law. It is extremely doubtful we could collect sales taxes on services rendered to patients covered by Medicare or Medicaid. Would that mean physicians would be violating the provisions of HB2421? Further, would we be expected to collect sales taxes on balance billings paid by the elderly or disabled patients covered by Medicare?

Obviously sales taxes on physician services would be straightforward only in the event the patient is not insured at all. But whether insured or not, in most instances sales taxes would be collected from patients; not insurers. And because the sales tax is inherently regressive, those who are least able to afford the additional tax burden would be affected most.

As you contemplate the various possible scenarios that would be created by enactment of HB2421, please ask yourself one very important question. Isn't health care already expensive enough without adding another six or seven percent to the cost of medical services?

Thank you for your attention to our concerns. Attached to this is a draft amendment that would exempt physician services.

House Taxation
Attachment 11
Date 3-11-03

Amendment drafted by Chip Wheelen
Kansas Ass'n of Osteopathic Medicine

11-2

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto~~, shall be taxed at a rate of: (1) 4.0% on July 1, 2000, and before July 1, 2001, and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section~~.

Sec. 3. K.S.A. 2002 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

All sales of tangible personal property, the taxation of which is prohibited by the United States constitution or federal law.

Services furnished by a person licensed to practice medicine and surgery in this state.

~~(a) All sales of motor vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;~~

~~(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service~~

KANSAS BARBERS

FOR

LEGISLATIVE ACTION

1617 South Woodlawn
Wichita, Kansas 67218
Mr. Duane E. Nespor; Secretary

TESTIMONY ON HOUSE BILL NO. 2421

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE ON TAXATION

G00D MORNING, MY NAME IS DAVID HINSON. I AM A MEMBER OF THE KANSAS BARBERS FOR LEGISLATIVE ACTION (K. B. L. A.). IN MY TESTIMONY TODAY, I AM REPRESENTING THE OVER 1,800 LICENSED BARBERS IN THE STATE OF KANSAS.

FOR THE RECORD, K. B. L. A. IS OPPOSED TO HOUSE BILL NO. 2421. WE ARE OPPOSED TO HOUSE BILL NO. 2421 FOR THE FOLLOWING REASONS:

- A NEW TAX WILL MEAN A GREATER BURDEN ON THE BARBER; SPECIFICALLY, BOOKKEEPING, AND SUBSTANTIAL ADMINISTRATIVE COLLECTION RESPONSIBILITIES ON BOTH US AND THE STATE.

- THERE ARE NO STATES WITH ADJACENT BOUNDARIES TO KANSAS THAT IMPOSE SUCH A SERVICE TAX, THUS PLACING OUR BARBERS AT A DIRECT FINANCIAL DISADVANTAGE . . . AN EXAMPLE IS THE KANSAS CITY METROPOLITAN AREA.

- A NEW TAX WILL ENCOURAGE THE LICENSED BARBERS TO CONSIDER THE START OF CUTTING HAIR IN THEIR KITCHENS, BASEMENTS, ETC. THE RESULT MAY SERIOUSLY JEOPARDIZE THE COLLECTION OF LICENSURE FEES AND MOST IMPORTANT TO ALL OF US . . . SANITATION.

ENACTMENT OF HOUSE BILL NO. 2421 NOT ONLY PLACES A TAX ON OUR BUSINESS, BUT IS A TAX INCREASE ON THE USERS (OUR CLIENTS AND PATRONS). HOWEVER, AND FOR THE RECORD, K. B.L.A. DOES SUPPORT A TAX AMNESTY PLAN; THE DEPARTMENT OF REVENUE'S EFFORTS TO ENHANCE ITS TAX AUDIT BUREAU, AND THE TAXATION OF INTERNET SALES.

I THANK YOU FOR YOUR TIME. AND IF THERE ARE ANY QUESTIONS, I WILL ANSWER THEM NOW.

Midway Sales & Distributing, Inc. d/b/a
MIDWAY WHOLESALE
Topeka • Salina • Lawrence • Manhattan • St. Joseph • Kansas City

House Bill 2421
Presentation to the House Taxation Committee
March 11, 2003

By Kenneth L. Daniel, Chairman and C.E.O., Midway Wholesale, Topeka, and 2003 Chairman, Kansas Leadership Council, National Federation of Independent Business.

Mr. Chairman and Members of the Committee:

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

I would like to speak in opposition to the portions of House Bill 2421 that would levy new sales taxes on _services purchased by businesses_, especially Kansas small businesses.

There are a number of reasons for my opposition, but I would like to focus on the ability of small businesses in Kansas to _compete_ with big businesses and with businesses from other states.

The public policy deck is already heavily stacked against small businesses:

- Some Kansas small businesses with fewer than twenty employees pay the same $5,000 per year in franchise tax as Walmart, with its more than 20,000 Kansas employees.

- According to the SBA, the costs per employee of complying with federal regulations is 56% higher for firms with fewer than 20 employees than for firms with 500 employees or more.

- According to the SBA, the costs per employee of complying with tax regulations is 114% higher for firms with fewer than 20 employees than for firms with 500 employees or more.

House Taxation
Attachment 13
Date 3-11-03

P.O. Box 1246 • 218 SE Branner Street • Topeka, KS 66601-1246 • (785) 232-4572 • FAX (785) 357-7794
www.midwaywholesale.com

- According to the SBA, the costs per employee of complying with environmental regulations is 364% higher for firms with fewer than 20 employees than for firms with 500 employees or more.

We compete with big businesses everyday. Our principal competitors operate in 5, 25, and 41 states respectively. There are several reasons that more taxes on the services we purchase will hurt us:

- Big businesses with home offices elsewhere won't be subject to these taxes for the most part.

- Big businesses with their own employees doing this work won't be subject to these taxes.

- Even if a big business purchases these services, almost all can purchase them outside Kansas where they won't be subject to these taxes.

- These taxes on business services will come into play even when we are competing with other small businesses if those businesses are located outside Kansas. If we have these taxes and Missouri and other states don't, we will be giving up a competitive advantage every day. The Missouri wholesaler will have a built-in advantage whether competing with us for business in Missouri or in Kansas.

- Finally, the small businesses that provide these services will have a competitive disadvantage if buyers can shift the purchase of these services out-of-state. This will hurt the Kansas economy and will therefore hurt us.

I urge the committee to eliminate the portions of House Bill 2421 that would tax business-to-business services.

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

Enormous Regulatory Burden on Small Business

October 24, 2001

The Small Business Administration's Office of Advocacy released a new report on October 23 titled "The Impact of Regulatory Costs on Small Firms." This study by W. Mark Crain and Thomas D. Hopkins estimates the costs of federal regulations on small, medium-sized and large businesses.

The burden of federal regulations falls hardest on small enterprises. The per employee cost of federal regulations for firms with fewer than 20 employees registered $6,975 in 2000. That was 61% higher than the per employee cost for firms with 20-499 employees, and 56% higher than large firms with 500 or more employees.

Small firms suffer particular hardships when it comes to environmental and tax compliance regulations, according to the report. Per employee costs of environmental regulations for firms with fewer than 20 employees exceeded the costs for firms with 20-499 employees by a whopping 184% and for firms with 500 or more employees by 364%.

In terms of tax compliance, the per employee costs for businesses with fewer than 20 employees topped the costs for firms with 20-499 employees by 92% and for firms with 500 or more employees by 114%.

The accompanying press release correctly declared: "What concerns the Office of Advocacy is that the cost of regulations will discourage individuals from starting small businesses and that compliance costs will reduce their ability to compete. Moreover, the burden will cripple small business innovation and ultimately damage the economic engine of the country." Such concerns are completely warranted. Especially as we hit rough economic waters, the White House and Congress must undertake substantive regulatory relief.

Raymond J. Keating
Chief Economist
Small Business Survival Committee
and co-author of
U.S. by the Numbers:
Figuring What's Left, Right, and Wrong with America State by State

House Taxation
Attachment 14
Date 3-11-03

Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

Legislative Testimony - HB 2421

March 10, 2003

Testimony Provided to House Committee on Taxation

By Natalie Bright

Chairman Edmonds and honorable committee members:

I am Natalie Bright appearing on behalf of the Wichita Independent Business Association (WIBA) in opposition to HB 2421. Specifically, our members oppose HB 2421 because it proposes to eliminate valuable business sales tax exemptions and impose sales tax on services rendered or furnished in the State of Kansas.

Enactment of this bill in its entirety or in parts will further devastate our already ailing Kansas economy. In South Central Kansas, the unemployment rate is higher than anywhere else in the state. The Wichita Eagle reported on Sunday that over 10,000 jobs alone have been lost in the aviation industry. The members of WIBA strongly believe any increases in the cost of doing business in Kansas will only delay our economic recovery. We believe your goal should be to preserve the exemptions already in place and look for incentives that will promote and foster economic growth for Kansas.

In this bill, the greatest concern to the WIBA membership is the proposal to expand the sales tax base to include professional services. Taxing professional services will be especially harmful to our small business members as they are not only the primary consumers of these services, but are also the primary providers of such services. Thus, they will be hit twice with the implications of this bill. Once as the service provider whose costs to do business increase (i.e. expense to administer the sales tax, cost of being subjected to audits by the state, etc.) and secondly, as the consumer of such services who will be forced to pay higher prices.

This bill is just as harmful to our larger members. The largest provider of health care in Wichita is also a WIBA member who last year worked with a profit margin of less than 1%. As drafted, this bill proposes to tax health care services. Simple math tells you what an increase of roughly 6% on services will do to this member's profit margin. Big businesses cannot bear the cost increases either.

The members of WIBA recognize this committee is charged with looking at possible sources of revenue and as your constituents we are struggling along with you. However, if you look at the dynamic impact or costs the expansion of the sales tax base and/or removal of sales tax exemptions will have on the Kansas economy, we believe you will find neither will serve as the long-term solution to your short-term crisis.

Thank you for considering this testimony. I will stand for questions.

House Taxation
Attachment 15
Date 3-11-03

*** Wichita Independent Business Association (WIBA), an organization founded in 1931 by local grocers, today represents over 1,400 businesses in over 250 different industries in the Wichita Metro Area. A subsidiary of WIBA, the Kansas Organization for Private Enterprise (KOPE), is an organization formed in March 2000. KOPE allows WIBA to extend its benefits and services to independent businesses across the state of Kansas. Currently, KOPE has 400 members from all four corners of the state. Collectively, WIBA and KOPE represent over 21,000 Kansas employees.

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Chuck Stephens

From: "Chuck Stephens" <chuckstephens@starband.net>
To: "Chuck Stephens" <chuck@stephens-adv.com>; "Chuck Stephens" <cstephens@pars.net>
Sent: Tuesday, March 11, 2003 6:59 AM
Subject: Fw: KS House Bill No.2421

March 11, 2003 -- Remarks RE: KS HB #2421, Topeka, KS

My name is Chuck Stephens. I am the owner of Stephens & Associates Advertising headquartered in Overland Park, KS. My company has been in business for more than 22 years. Our company is the advertising agency of record for several national and multinational corporations.

My testimony today is to voice opposition to House Bill #2421 which I understand would extend the sales tax to all services, including advertising time and space. I respectfully request that this committee reconsider taxing advertising production services.

A tax on advertising is a BAD tax. It is a BAD tax for a number of reasons. I will confine my comments to only 10 of those reasons.

#1 -- First, advertising is a portable industry. In our business you don't have to be close to the client to get the work done. All of our clients are national or multinational with offices throughout the United States and around the world. All of us at Stephens & Associates Advertising are proud of how our creative talent has attracted true global, blue-chip marketers to our agency AND to the state of Kansas. A tax on advertising would make them go away.

I could not imagine our clients disgruntlement if I had to deliver the bad news about a Kansas tax on advertising services. But what's worse is that I cannot imagine why any of our clients -- ones who have been exceptionally loyal to our firm over many years -- would consider retaining our agency if a tax for our services was imposed by the state of Kansas. They would leave.

#2 -- Secondly, a tax on our services would create an instant competitive disadvantage for our company. So, in addition to our current clients finding another advertising agency, it would be impossible for us to attract any future clients to our company. Simply stated, a tax on our services would put us out of business.

#3 -- Third, just so it does not come as any surprise, our company pays considerable taxes today. We pay Kansas Sales Tax, Federal Corporation Income Tax, Kansas Corporation Income Tax, Social Security, Medicare, Johnson County Personal Property Tax, Federal Unemployment Tax Assessment (FUTA), Kansas Unemployment Tax. Furthermore, our company is constantly buying new computers, new office equipment, new software programs where a Kansas Sales Tax is collected.

House Taxation
Attachment 16
Date 3-11-03

Our employees who live in Kansas, pay Kansas Income Tax, Kansas Wage Tax. What's worse, our employees who live in Missouri must pay Kansas City Missouri Earnings Tax as well. My point is that we are not tax exempt in the current environment. The way it is now, our company pays every day to support the state of Kansas. Any more tax would be unbearable.

#4 -- Fourth, if a tax on advertising were imposed, in order for our company to survive -- for even a short amount time -- we would be forced to cancel one of our major employee benefits: fully paid health insurance for all our employees and their families. Canceling our employees health insurance in today's highly competitive environment would end up costing us the very talented employees whom we have nurtured to stay with our firm over the years.

#5 -- Five, if our agency is placed in peril just because we are headquartered in the state of Kansas, we would be forced to move to a state where no such tax burden exists. So forget about our company contributing any more support to the state of Kansas. We will be out of here. I'm sure others will go as well. Oh, what about the businesses in this state who advertise? Some use agencies, some don't. If they suddenly are taxed because they choose to advertise, they'll be gone, too.

#6 -- Six, advertising is the engine that fuels the economy. A tax on advertising would make it impossible to sell an advertiser on the idea of advertising in the state of Kansas. That means no radio. No newspaper. No television. No cable. No magazines. And no advertising means no revenue for us and no taxes collected for the state of Kansas. It means no revenue for the media located in Kansas. Ultimately, it means no jobs for Kansans.

#7 -- Seven, if Kansas enacts such a tax on advertising, Kansas will be the only state in the United States that would be taxing time and space charges for media. Are you prepared for this kind of negative publicity that would immediately hit the front page of the *Wall Street Journal*, the *Kansas City Star* and the *Topeka Capitol Journal*? "Now, Kansas fences them in with a tax on ads!" Remember, these are the guys who control the editorial content. And you can bet that Andy Rooney would have fun with this one . . . "just when you thought you'd heard of everything, now Kansas taxes companies to advertise! . . . it gives pay for view a whole new meaning."

#8 -- Eight, a sales tax on advertising is yet another layer of taxes on an already thick layer of state taxes. Back to basics for a minute. Remember, Kansas collects a sales tax on the products that are advertised. Is this now double taxation? Why punish advertisers and their agencies who choose to do business in our state?

#9 -- What about the companies who advertise but don't have offices in the state of Kansas? The last time I checked, there were far more non-Kansas based companies advertising here than there were Kansas based companies. This type of tax would mean a coast-to-coast police effort to shake the tax out of the corporate giants. That

would put more Kansans to work! Why put up yet another barrier for companies to do business in this state?

#10 -- Point ten goes like this . . . tax the ads . . . kill the media . . . fire the employees . . . move the company to another state. The companies who advertise will be gone along with the infrastructure of advertising support services from the media to printers, photographers, and many more. Say "good bye" to Kansas. You can save the state money used to promote Kansas, too because there won't be any company left to tax. But by that time, Kansas won't need the revenue anyway . . . there won't be anyone living here. I seriously hope that this is not your goal.

I will leave you with this final thought. Rather than considering a tax on advertising, why not give consideration to an incentive for advertisers who choose to do business with agencies who reside in the state of Kansas? What about an incentive for agencies who attract the blue chip marketers to do business in this state? Shouldn't that be a key part of the economic development plan for this state? You can give a company all the tax concessions you want to make them think about coming to Kansas. But, at the end of the day, the company representatives who travel to Kansas for business purposes with their agency must be doubly convinced about the talent and services provided here because you could have a lot more fun in cities like New York, Chicago, or LA.

There's much to consider. Much to discuss. And a lot to lose. Please do not vote for this tax on advertising.

Thank you for listening.

Chuck Stephens
President
Stephens & Associates Advertising, Inc.
7300 West 110th Street -- Suite #530
Overland Park, KS 66210
(913) 661-0910
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###

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MEMORANDUM

TO:	The Honorable John Edmonds, Chairperson House Committee on Taxation
FROM:	Mark Beshears Assistant Vice President - State and Local Tax Sprint
DATE:	March 11, 2003
RE:	House Bill No. 2421

I am Mark Beshears, Vice President of State and Local Tax for Sprint Corporation located in Overland Park, Kansas. I am here to speak in opposition to House Bill No. 2421 which would for the first time impose sales tax on many of the professional services performed in the State of Kansas. The Kansas Legislature has considered the concept of taxing professional services several times previously. In 1970, the Hodge Committee specifically examined the possibility of expanding the tax base to include professional services. A similar effort was undertaken in 1992 when the Legislature was seeking additional revenue to fund schools at that time. During both prior efforts, the Legislature concluded that it was not in the best interest of the State of Kansas to tax professional services. There are a myriad of legal and compliance issues when services are subject to such a tax. These legal issues generate years of litigation during which time little revenue is actually collected. Moreover, because services of a professional nature can be essentially performed anywhere, many services now performed in Kansas could very easily be performed in surrounding states where such services are not subject to tax.

The State of Kansas already ranks high in the number of services which it taxes. Several of the imposition provisions in K.S.A. 79-3603 tax a variety of services involving tangible personal property.

The taxation of professional services is particularly problematic for Sprint for two reasons. First, Sprint is a large consumer of professional services such as auditing, accounting, tax services and legal services. Such taxes only

House Taxation
Attachment 17
Date 3-11-03

increase the cost of telecommunication service. Second, due to the manner in which Sprint is structured, many of these services are provided by its management company. These intercompany services would be subject to sales tax. As I noted in prior testimony before this Committee, Sprint already has a very significant tax burden in the State of Kansas. Additional taxes on services provided both by Sprint's own management company and by third party providers makes Kansas very unattractive from a tax perspective.

On behalf of Sprint, I respectfully request that the Committee kill House Bill No. 2421. I would be happy to answer any questions that the Committee may have.

K • A • N • S • A • S
WINE & SPIRITS
WHOLESALERS ASSOCIATION.

March 10, 2003

To: House Committee on Taxation

From: R.E. "Tuck" Duncan
Kansas Wine & Spirits Wholesalers Association

RE: Sales tax exemption when excise taxes paid

Removing the exemption from sales when the consumer has paid excise taxes on the good purchases, in our case, wines, spirits and beer, constitutes double taxation. "Double taxation" is generally defined as a form of taxation under which any dollar of income is subject to more than one level of tax. The classic example is income that is taxed at the corporate level and then taxed again as dividend income when received by the shareholder. With capital gains taxes and estate taxes, it is possible for a single dollar of income to be taxed four times. And in the case of applying sales taxes on good for which the state is already collecting an excise tax (usually at a rate higher than the sales tax rate) is another form of double taxation.

There are 4 stages of taxation on alcoholic beverages in Kansas. First there is the federal tax ... then the state gallonage tax paid by wholesalers ... then the enforcement (excise) tax paid by consumers and restaurants when product is bought at retail liquor stores ... then the 10 % drink (excise) tax when a customer buys a beer, glass of wine or beverage.

For example, this four tier system of taxation generate on an average $10.49 liter the following taxes:

Federal excise taxes $13.50 proof gal. 80 proof liter 10.80 x .264172	$2.85
State Gallonage Tax - $2.50 gallon	.66
Enforcement (excise) Tax 8 %	.84
SUB-TOTAL	$4.35
10% Drink Tax 33 drinks/bottle at $3.50 drink = $115.50 x 10%	$11.55
TOTAL FEDERAL & STATE TAXES..	$15.90

House Taxation
Attachment 18
Date 3-11-03

Removing the exemption of the payment of sales taxes would increase the consumer's burden on a product that already generates significant taxes to the federal and state government.

The real question that has generated the discussion for repealing sales tax exemptions that have merit for a variety of economic development and/or fairness reasons is that the state of Kansas, like many states, finds itself with a revenue shortfall. Kansas based its current year's budget on estimates that have not materialized and now in an effort to find new revenues this committee is considering repeal of long standing exemptions, such as the one that exempts the payment of sales taxes when excise taxes are already applied.

I respectfully suggest that **what Kansas has is not a taxing problem, but a spending problem.** Not unlike many industries which must rethink spending patterns in times of economic downturn, so must the state. ***How ?***

The state must initiate a two year budgeting process. Long term planning, which is what is necessary to achieve spending reform, cannot be done with an annual budget cycle. While many fee agencies are on a two year cycle, the state general fund should also be so budgeted. This reduces the incentive to "spend or lose" each June 30^{th}, and it affords planners the opportunity to make wise long term capital purchases. Because the state fiscal year cycle is, depending upon how you view it, 6 months behind or ahead of municipal units of government budgets, long term planning at the state level benefits local units of government as well.

To reduce spending requires a reduction in the workforce. Kansans may not be able to afford all the government services that are currently being provided. When family income is reduced, one does not continue to spend at the same rate as before the reduction. Consumable expenditures are reduced, durable goods are kept longer. The "belt is tightened." Personnel costs constitute a large slice of the budgetary pie. Personnel priorities must be established (public safety, etc.) and layers of intermediate management eliminated. This is how the private sector would reduce its work force, and state government should consider doing likewise.

These reductions might include cuts to state employee pay raises, eliminate or reduce funding for lower priority programs, closing offices, and defering capital projects. This might also include hiring and salary freezes, removing personnel from the state payroll (layoffs), require state employees to take a specified number of unpaid days off (furloughs), and freeze all hiring or create a "freeze committee" to review every state government job opening to determine if the position can remain unfilled. Also, by allowing state workers to start collecting their pensions at age 55 the state might achieve a significant reduction in monthly state salary expenses (early retirement).

Structural reform of government must be considered at both state and local levels, including education. Restructuring and overhauling government functions to address overlapping jurisdictions, management inefficiencies, and costly administrative overhead. (e.g. closing or consolidating divisions and programs creating compliance efficiencies, costs savings; develop a commission to comb state government top to bottom to find waste and make services more efficient; pursue budgeting, fiscal, tax, and human resource policies that improve performance; reexamine basic business practices and operations including payroll, travel reimbursements, purchasing strategies). Solicit opinions from industries which are regulated by state government for areas they have identified that are not cost effective.

Explore private sector solutions to government services. Public-private funding is viable for a variety of government services. Can the state contract-out for personnel (e.g. retired individuals on a part-time basis)? The market place could provide competition for services at a lower cost to taxpayers.

Consider limits on future spending. Combined with a two year budget, capping state spending at 1 to 2 percent of the previous year's budget or restricting state spending growth to the percent of state population growth and an inflation factor, and limit the spending growth of government by establishing a revenue target based upon personal income growth that applies to both state local governments would reduce the need for annual calls in increasing taxes.

Explore expanded use of technology. The private sector has significantly improved its efficiency through IT. Use of technology (E -Governance and streamlining administrative processes) to reduce the number of FTE's and improve service delivery practices; create savings by consolidating computer systems and providing more government services online; better planning, budgeting and tracking of information technology spending; increase federal research and development funding to industry and state colleges and universities; and fostering economic development in rural areas by developing high-speed wireless internet access.

Structural reform of state tax policy must be examined. We can "grow" our state out of this economic downturn. The question is, will we plant the appropriate seeds for growth? Continuing to raise taxes from the same source is not the answer. "*Today's state tax systems were designed in the 1930s for a nation of smokestack industries that no longer exists. The traditional tax structure doesn't fit an economy that is based on new services and technologies; an older more mobile population; or business activities that are increasingly multistate and international. And unless these changes are addressed, taxation is likely to be inequitable and state finances more difficult to manage.*" Financing State Government in the 1990s, NCSL, December, 1993. A decade later we still need to address these issues. (see also Reforming State Tax Systems, NCSL, Dec. 1986).

Finally, we must again examine Kansas' policy choices. An excellent work with numerous suggestions that have not been implemented but worth review is Kansas Policy Choices, H.Edward Flentje, Univ. Press of Kansas, 1986. We must re-explore economic prospects for rural communities, state and local finance, capital finance and public infra-structure, educational governance and finance, and better health for Kansas ... subjects all addressed nearly 20 years ago. **The goal then was to make Kansans more knowledgeable of these issues and the problems facing our state, and secondly "to enhance the capacity of Kansas policy makers in responding to these problems." Id. at p.20. It is a noble goal worth pursuing again.**

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AMERICAN LUNG ASSOCIATION.
of Kansas

Written Testimony on HB 2421
Presented to the House Committee on Taxation
By Judy Keller, Executive Director, American Lung Association of Kansas
March 11, 2003

Members of the Committee:

On behalf of the Board of Directors, volunteers and staff of the American Lung Association of Kansas, I ask that you not summarily dismiss sales tax exemptions for non-profit health organizations in Kansas. Instead, consider the fine work these organizations do and the savings in health care costs so many of them provide the state by offering our citizens patient education and services at free or minimal cost.

While looking at Kansas' budget, and shortfall, the approximately $6,000 in sales tax relief the American Lung Association of Kansas receives each year may not seem like a large amount --but for our programs it has a substantial impact.

The sales tax exemption allows us to send 20 low-income, asthmatic youngsters to the summer camp they could only dream about before and learn to manage their chronic disease while there. It allows 80 current smokers to find help to stop through smoking cessation clinics. That amount serves 60 elementary school classrooms with health information, allowing children with asthma to learn to manage their disease and all to learn about the deadly danger of tobacco use. It allows us to continue to conduct lung function tests at the Kansas State Fair each year at no cost for hundreds of Kansans.

For a non-profit agency, which must rely solely on the support of donations to carry on its important work, every little piece of assistance is valued. Please remember the American Lung Association of Kansas receives no tobacco settlement money, and no federal or state operating support.

The sales tax exemption we currently receive is doing good work for Kansans, providing necessary programs to help promote lung health and prevent lung disease.

Thank you for the opportunity to share our concerns.

When You Can't Breathe, Nothing Else Matters®

House Taxation
Attachment 19
Date 3/11/03

KANSAS MOTOR CARRIERS ASSOCIATION

P.O. Box 1673 ▪ Topeka, Kansas 66601-1673 ▪ 2900 S. Topeka Blvd. ▪ Topeka, Kansas 66611-2121
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Executive Director

**Written Legislative Testimony
Presented to the
House Taxation Committee
Representative John Edmonds, Chairman
March 11, 2003**

MR. CHAIRMAN AND MEMBERS OF THE HOUSE TAXATION COMMITTEE:

On behalf of the 1,250 member firms of the Kansas Motor Carriers Association, we are expressing our opposition to House Bill No. 2421.

Taxation of services will increase the already hefty tax burden on the trucking industry. KMCA's average member operates seven or fewer vehicles. Trucking companies utilize the services of accountants, lawyers and safety consulting firms. The addition of sales tax on these services at a time of high fuel prices and out-of-control insurance premiums would severely hamper our industry's ability to survive in today's economy.

In addition, the bill is not clear whether transportation services would be subject to sales tax. Current law requires freight to be included in the selling price of tangible personal property sold at retail. Should transportation services be subject to sales tax, farmers and ranchers would see an immediate increase in their cost for shipping grain and livestock. Sales tax on transportation services will place Kansas business at an economic disadvantage to those companies in the surrounding states.

Further, HB 2421 eliminates all current sales tax exemptions except those that are affected by federal law. The Kansas Motor Carriers Association has testified before the House Taxation Committee in opposition to bills that would remove three of the current sales tax exemptions. We have attached copies of the testimony that justifies our opposition to elimination of current sales tax exemptions.

The Kansas Motor Carriers Association is opposed to HB 2421.

Tom Whitaker

Tom Whitaker
Executive Director+

House Taxation
Attachment 20
Date 3-11-03

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Executive Director

LEGISLATIVE TESTIMONY

Presented by the Kansas Motor Carriers Association
Before the House Taxation Committee
Representative John Edmonds, Chairman
Friday, February 14, 2003

In Opposition to House Bill No. 2109

**MR. CHAIRMAN AND MEMBERS
OF THE HOUSE TAXATION COMMITTEE;**

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,250 member firms, and specifically the truck and trailer dealers who serve our industry. KMCA opposes House Bill No. 2109. Specifically, lines 21 through 26 on page 10 of the bill.

The sales tax exemption reads: "(k) any motor vehicle, semitrailer or pole trailer, as the terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which motor vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days."

Removal of this exemption would clearly discriminate against Kansas truck and trailer dealers. No interstate motor carrier based in our surrounding states would purchase equipment in Kansas when such purchases are exempt from sales tax in their base state. We believe removal of this sales tax exemption would have a direct negative impact on Kansas businesses whose sales would be reduced if such taxes were imposed on out-of-state customers.

To our knowledge, no other state imposes a sales tax on such equipment sales delivered out-of-state.

The Kansas Motor Carriers Association strongly requests that this exemption be continued on behalf of existing Kansas businesses.

Thank you for the opportunity to appear before you. I would be pleased to stand for any questions you may have.

KANSAS MOTOR CARRIERS ASSOCIATION

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Member Emeritus

TOM WHITAKER
Executive Director

Legislative Testimony

Presented by the Kansas Motor Carriers Association
Before the House Taxation Committee   Representative John Edmonds, Chairman
Wednesday, February 19, 2003

In Opposition to House Bill No. 2110

MR. CHAIRMAN AND MEMBERS OF THE HOUSE TAXATION COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,250 member firms in opposition to House Bill No. 2110. Specifically, lines 17 through 26 on page 1 of the bill.

The current statute provides that where an article is subject to another excise tax that it shall be exempt from sales tax. To remove this exemption on the sale of gasoline and diesel fuels will have a significant impact upon the Kansas trucking industry.

Motor fuel already carries a heavy tax responsibility in addition to the sharply accelerated cost of the product.

State and Federal Current Fuel Tax Summary

Gasoline		**Diesel**
State	23 cents	25 cents
Federal	18.4 cents	24.4 cents
Total	**41.4 cents**	**49.4 cents**

By removing the current sales tax exemption, on a $1.699 gallon of diesel fuel, the tax on fuel would increase by approximately 12.2 cents per gallon. There is already a 1 cent increase set for July 1, 2003 to help fund the 1999 Comprehensive Transportation Program. An additional one cent, when activated, is used to fund the Underground Storage Tank Trust Fund.

At this time, Kansas fuel tax is substantially higher than the neighboring states of Missouri and Oklahoma. Today, Kansas diesel fuel cost eight cents more than Missouri and 11 cents more than Oklahoma. Eliminating the sales tax exemption would add that 12.2 cents to the fuel cost differential.

National fuel prices are on the rise because of the oil strike in Venezuela and the troubles in Iraq. This is not the time for the State of Kansas to eliminate the sales tax exemption on fuel. Kansas Motor Carriers Association strongly urges the committee to retain the sales tax exemption in 79-3606. We respectfully request that the members of this committee vote no on HB 2110.

Thank you for the opportunity to appear before you. I would be pleased to stand for any questions you may have.

KMCA 66 YEARS

KANSAS MOTOR CARRIERS ASSOCIATION

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Member Emeritus

TOM WHITAKER
Executive Director

Legislative Testimony

Presented by the Kansas Motor Carriers Association
Before the House Taxation Committee
Representative John Edmonds, Chairman
Thursday, March 6, 2003

In Opposition to House Bill No. 2098

MR. CHAIRMAN AND MEMBERS OF THE HOUSE TAXATION COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,250 member firms in opposition to House Bill No. 2098. Specifically, lines 19 through 21 on page 4 of the bill.

The sales tax exemption reads, "(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce."

This exemption applies to railroads and to "public motor carriers of property or passengers" who are declared to be common carriers within the meaning of the public utility laws of this state. In other words, this exemption applies to the rolling stock of both railroads and interstate "for-hire" public common carriers. The earliest we can find this exemption in the Kansas Statutes is in the Session Laws of 1947.

The surrounding states of Missouri, Iowa, Nebraska and Colorado exempt such interstate equipment sales. Oklahoma has a $10 cap on vehicles with a combined laden weight of 54,000 lbs. or more.

Fuel taxes, registration fees and property taxes are all apportioned based on miles traveled in Kansas and all other jurisdictions. This creates a level playing field in the interstate motor carrier industry. Repeal of this sales tax exemption puts Kansas-based carriers at a competitive disadvantage compared to motor carriers based in surrounding states who have this exemption. Unlike the railroads, motor carriers do pay sales tax on labor services in the repairing, servicing, altering, maintaining or modifying of motor carrier rolling stock.

Also disadvantaged by repeal of the sales tax exemption would be: truck dealers, engine companies, parts and accessory stores, truck stops with service facilities and many other Kansas companies who depend on the purchasing power of our industry to stay in business. Repeal of KSA 79-3606(f) would severely damage these businesses and move those purchases subject to the exemption to surrounding states.

In 2000, according to the US Department of Labor, the Kansas trucking industry provided 91,915 jobs, or one out of 14 of all jobs in the state. The total trucking industry wages paid in Kansas exceeded $2.8 billion, with an average trucking salary of $31,343. These jobs represent substantial tax contributions to Kansas in communities large and small. In many instances, a trucking company may be the major employer of a Kansas community. We need to encourage the retention and expansion of business in Kansas.

The Kansas Motor Carriers Association strongly urges the committee to retain the sales tax exemption in 79-3606(f). We respectfully request that the members of this committee vote no on HB 2098.

Thank you for the opportunity to appear before you. I would be pleased to stand for any questions you may have.

KANSAS MANUFACTURED HOUSING ASSOCIATION

214 SW 6th St., Suite 206
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WRITTEN
TESTIMONY BEFORE THE HOUSE COMMITTEE ON TAXATION

TO Representative John Edmonds, Chairman
And Members of the Committee

FROM: Martha Neu Smith, Executive Director

DATE: March 10, 2003

RE: HB 2421 Imposition of Sales Tax on Service & Eliminating Sales Tax Exemptions

Chairman Edmonds and Members of the Committee, my name is Martha Neu Smith and I am the executive director of Kansas Manufactured Housing Association (KMHA). Thank you for the opportunity to provide written comments on House Bill 2421.

KMHA opposes the provisions of House Bill 2421 that repeal the sales tax exemptions that apply to manufactured housing.

First, K.S.A. 79-3606 (bb) addresses the sale of used manufactured housing. In 1985 the Kansas Legislature passed Senate Bill 152, which granted a sales tax exemption for families who purchase a pre-owned manufactured home. The rationale for exempting pre-owned homes was based on the fact that when a family buys a pre-owned site built home sales tax is not paid on that purchase. For many years manufactured home buyers were treated unfairly when compared to other homebuyers and Senate Bill 152 corrected that problem.

Second, K.S.A. 79-3606 (ff) deals with the sale of new manufactured housing. In 1987, the Kansas Legislature granting a partial sales tax exemption for new manufactured homes passed Senate Bill 309. Specifically, 40% of the retail cost of a new manufactured home was exempted from sales tax. This partial exemption was passed because site built housing paid sales tax only on the materials used to construct the home and not on labor. Therefore, the 40% exemption for manufactured housing represents the labor in the home.

Third, K.S.A. 79-3606 (u) deals with sales tax on leases or rental agreements for manufactured housing. This exemption currently allows personal property manufactured homes to be leased without sales tax being assessed on the rental agreement. Currently, sales tax does not apply to the lease or rental agreement for apartments, condominiums, duplexes, town homes or single-family homes that are rented.

House Taxation
Attachment 21
Date 3-11-03

While the major thrust behind the passage of these sales tax exemptions was based on equity between all housing, the Legislature also recognized that manufactured housing provides quality affordable housing. Our homebuyers are often first time homebuyers, empty nesters and single parent families; either at the beginning of their earning career; at the end and are now retired and on a fixed income or trying to support a family on a very limited income. A recent survey found the annual medium household income of manufactured home buyers in Kansas to be $30,900 and the average cost of a new manufactured home to be $48,500. Clearly this group of homebuyers cannot afford to bare a larger tax burden.

The final two points I would like to make is that the manufactured housing industry has been an important part of the Kansas economy. Currently, only 20 states produce HUD code manufactured housing and Kansas is one of them. In 2002 Kansas ranked 16th in the production of HUD code housing. There are three manufacturing companies with four plants in Kansas; all located in small communities where they play a major roll in employment (Skyline Corp. – Arkansas City; Skyline Corp. – Halstead; Oakwood/Schult Homes – Plainville; and Liberty Homes – Yoder). At this time none of the plants are working at capacity, most are on a day-to-day schedule. Of our surrounding states only Nebraska has operating HUD code plants, however they saw one of their three plants close last year. And finally, the current tax policies of the surrounding states are all very similar to Kansas' tax policy regarding the manufactured housing industry.

In closing, I would respectfully request that you maintain the sales tax exemptions that apply to manufactured housing. Keep the Manufactured Housing Industry in Kansas competitive with other forms of housing and contributing to the Kansas economy.

Memorandum

KANSAS HOSPITAL
KHA
ASSOCIATION

Donald A. Wilson
President

To:	House Taxation Committee
From:	Kansas Hospital Association
	Thomas L. Bell, Executive Vice President
Re:	**HB 2421**
Date:	March 11, 2003

The Kansas Hospital Association appreciates the opportunity to comment in opposition to HB 2421. This bill would eliminate all sales tax exemptions, including the one for purchases made by non-profit and governmental hospitals for hospital purposes. It would also impose a tax on services in Kansas, including health care services. We provided oral and written testimony against an earlier and more limited version--HB 2239.

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 and health care services are also taxed, there will be an automatic increase in hospital costs. That will, in turn, cause healthcare costs to increase. In fact, HB 2421 would act to tax costs that go into health care services twice--once when hospitals purchase materials and once when the purchaser pays for health care services. 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 2421 would only make this situation worse.

Thank you for your consideration of our comments.

House Taxation
Attachment 22
Date 3-11-03

KANSAS AUTOMOBILE DEALERS ASSOCIATION

SUBMITTED TESTIMONY

TO: The Honorable Chairman John Edmonds
And Members Of The
House Taxation Committee

FROM: Mr. Don McNeely, President

RE: HB 2421 – Imposition of Sales Tax on Rendering or Furnishing of All Services and Eliminating All Sales Tax Exemptions.

DATE: March 11, 2003

Mr. Chairman and Members of the House Taxation Committee:

As the Committee revisits the issue of sales tax exemptions, the Kansas Automobile Dealers Association would like to take this opportunity to provide the Committee with a copy of testimony presented to you on February 14, 2003 during hearings on HB 2109 (Sales Tax Exemption on Sale of Motor Vehicles to Out-of-State Residents).

The Members of KADA appreciate the slow and deliberate process that this Committee has undertaken in the review of current sales tax exemptions.

On behalf of the members of our association, we thank you for your consideration of this information.

Don McNeely

Attachment

House Taxation
Attachment 23
Date 3-11-03

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KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 14, 2003

To: The Honorable John Edmonds, Chairman
and Members of the House Taxation Committee

From: Don McNeely, KADA President

Re: HB 2109 – Sales Tax Exemption on the Sale of Motor Vehicles to Out-of-State Residents

Good morning Chairman Edmonds, and Members of the House Taxation Committee. My name is Don McNeely, President of the Kansas Automobile Dealers Association (KADA), a state trade association representing the retail franchised new car and truck industry in the state of Kansas.

On behalf of the franchised new car and truck dealers in Kansas, I would like to thank the Committee for the opportunity to offer a few comments in opposition to HB 2109. I appear this morning in specific opposition to the proposed elimination of the sales tax exemption on motor vehicle sales to bona fide residents of another state. This proposal, if adopted, would have a devastating effect upon our Kansas licensed dealers who are located in close proximity to the state line, as sales to out-of-state residents can account for 30 to 50 percent of their motor vehicle sales.

This proposal would place our Kansas dealerships in a severe competitive disadvantage if out-of-state residents would have to pay, not only Kansas sales tax but also the sales tax imposed in the state of their residency.

In addition, this proposal would seriously jeopardize our reciprocity with our neighboring states as it pertains to the sale of motor vehicles, and would negatively impact the corporate income taxes paid by these dealerships and the individual income taxes paid by their employees - not to mention the fiscal impact it could have upon the cities and counties where these dealership are located.

On behalf of the Kansas Automobile Dealers Association, I thank the Members of the Committee for allowing me to appear before you today and we respectfully request your support to retain this exemption.

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Northwest Kansas Groundwater Management District 4

PO Box 905, Colby, KS 67701-0905
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www.gmd4.org

Written Testimony to the
House Taxation Committee
HB 2421
March 11, 2003
by Wayne Bossert on behalf of the
The Northwest Kansas Groundwater Management District No. 4

Chairman Edmonds:

The board of directors of the Northwest Kansas Groundwater Management District 4 are requesting that our current tax exemption be retained for the following reasons:

1. Our budget is relatively small and any income the state would derive from taxing our applicable expenses would be miniscule for your needs, but an additional burden on our local taxpayers. I have reviewed our 2002 expended budget and estimate that $30,400 of the $275,000 total 2002 budget would be subject to taxation if our exemption were eliminated.

2. Under the Kansas Groundwater Management District Act, GMD's are defined as political sub-divisions of the state which levy land assessments and water use charges on land owners and water users to operate the district. All of our operating expenses are paid with these local revenues. As such we feel that taxing the spending of GMD dollars amounts to double taxation.

Thank you for considering these points which make the GMD's different than other entities across the state. We hope you can support the retention of our tax exemption. If you have any questions, please let me know.

Sincerely,

Wayne Bossert, Manager
Northwest Kansas Groundwater
Management District 4

House Taxation
Attachment 24
Date 3-11-03

Kansas Grain Sorghum Producers Association

Kansas Corn Growers Association

Rep. John Edmonds, Chair
House Taxation Committee
State Capitol, Room 171-W
Topeka, Kansas 66612

March 10, 2003

Re: Written testimony in opposition to HB 2421 repealing multiple sales tax exemptions for agricultural products and instituting the sales tax on services

Dear Chairman Edmonds:

The Kansas Corn Growers Association and the Kansas Grain Sorghum Producers Association appreciate the opportunity to submit this written testimony in opposition to the passage of HB 2421. Our understanding is that the proposed legislation would repeal numerous Kansas sales tax exemptions currently available for sales of certain agricultural inputs, products, and machinery, and institute the sales tax on many services used by agricultural producers.

In testimony previously submitted to the House Taxation Committee concerning several different bills that would repeal sales tax exemptions currently available to Kansas agriculture, our organizations have continually emphasized the importance of the current exemptions for various items such as agricultural inputs, products consumed in agricultural production, animals, and farm machinery and equipment. These exemptions remain critical to Kansas farmers and ranchers competitiveness in the national and international marketplace where they are price takers not makers.

Adding sales taxes to services would even further negatively impact agricultural producers and their strong desire to return to profitability. Sales taxes on services such as crop consulting, custom application of fertilizers and pesticides, financial and marketing assistance, and machinery repair, to name just a few, would be borne by these producers at a time when economic conditions continue to be marginal at best.

And as you are aware, in the last several years most Kansas agricultural producers have experienced very challenging financial and growing season conditions. Drought and generally low commodity prices have seriously weakened Kansas agriculture's balance sheet and financial strength. In 2002 alone, Kansas State University's Farm Management Association estimated that the drought cost corn producers $314 million in farm gate values of production with Kansas' total crop loss pegged at $1.1 billion. Less than one-third of this financial loss will be offset by federal crop insurance. Net farm income for 2002 is forecast to average about $10,147 per farm.

Most Kansas corn and grain sorghum producers simply do not have positive operating margins at this time. The state's long-term strategy of sales tax exemptions for agricultural plant and animal products of food for human consumption and for farm machinery and equipment has been critical to what agriculture has been able to contribute to the Kansas economy through the years. Adding additional taxes on services that modern agriculture incurs would create another major negative aspect at this time.

We strongly request your opposition to passage of this legislation.

Sincerely,

Greg Krissek

Greg Krissek
Director of Operations

House Taxation
Attachment 25
Date 3/11/03

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KANSAS
Association of REALTORS®
SOLD on Service

TO: HOUSE TAXATION COMMITTEE

FROM: BILL YANEK, KAR DIRECTOR OF GOVERNMENTAL RELATIONS

DATE: March 11, 2003

SUBJECT: House Bill 2421 – Imposition of sales tax on rendering or furnishing of all services and eliminating sales tax exemptions.

Thank you for the opportunity to present testimony in opposition to HB 2421.

In February, the Kansas Association of REALTORS® testified in opposition to removing the sales tax exemption for construction and manufactured housing. We continue to believe that eliminating any of the state's sales tax exemptions would only shift the burden to another sector of the Kansas economy and shift the tax burden increasingly on Kansas consumers.

A tax increase or new tax imposition should not be part of the budget and policy solution for a slowing Kansas economy. As we stated in February, we believe that now more than ever, igniting economic growth, development, and construction should be a priority for Kansas.

In February of 2003, Governing Magazine published "The Way We Tax: A 50-State Report". In deriving the report, Governing staffers researched the tax structures and tax management of the 50 states. The staffers scoured scores of reports, conducted hundreds on interviews, and endured thousands of hours of analysis. Governing's research staff concluded:

1. Taxing services could put service industries at a competitive disadvantage, especially if neighboring states do not tax services.

2. When some services are taxed, there is a likelihood of double and triple taxation. If, for example, you hired a Realtor®, and she brought in an attorney to help with a real estate deal, the sales tax on legal fees would be built into the Realtor® fee and the client would pay sales tax on the increased amount.

The Kansas Association of REALTORS® agrees with the study's conclusions and urges the Kansas Legislature to not impose a sales tax on services.

The Kansas Association of REALTORS® urges that you not pass HB 2421.

House Taxation
Attachment 26
Date 3-11-03

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LEGISLATIVE TESTIMONY

KANSAS BUILDING INDUSTRY ASSOCIATION, INC.

STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION

TO THE HOUSE TAXATION COMMITTEE

REP. JOHN EDMONDS, CHAIR

REGARDING H.B. 2421

MARCH 11, 2003

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Government Affairs of KBIA, the statewide association of the residential building industry. On behalf of the 1800 members of KBIA, I ask you to not pass H.B. 2421. This bill would tax all goods and services in Kansas. The current law regarding sales tax has been crafted by the Kansas Legislature to provide a balance of generating sales tax revenue, yet allowing Kansas' business to remain competitive with other states. To remove that balance would have dramatic negative effects on both Kansas' businesses and consumers.

KBIA is opposed to removal of the sales tax exemption for labor used in construction and remodeling. During the last decade, the exemption for labor in new construction was removed in order to generate revenue. The projections for revenue were not realized, and within a couple of years, the Legislature returned the exemption to the statute.

Removal of the exemption again would have a depressing effect on the housing market. Affordability of housing is a nationwide issue, and affordable housing advocates are calling on Congress to take steps to alleviate this worsening situation. To narrow the massive affordability gap afflicting millions of America's households, the National Housing Conference is seeking economic incentives, such as a homeownership tax credit.

We are in the midst of a housing-led economic recovery. Home values are up, refinancings have put money back into the economy, and new home sales and housing starts are hovering at record levels. However, the recovery remains uneven, unemployment is rising and we need more small businesses to open and help create job growth. What we believe is needed is economic stimulus. Further taxation would serve to depress the housing market, which is having such a positive effect on the economy currently.

Housing is playing a significant role in stabilizing the economy, and we would urge you to not take an action that would depress that economic force by increasing taxes for prospective homebuyers and homeowners.

House Taxation
Attachment 27
Date 3-11-03

STATEMENT OF THE KANSAS AGRICULTURAL AVIATION ASSOCIATION

KANSAS DAIRY ASSOCIATION

KANSAS SEED INDUSTRY ASSOCIATION

TO THE HOUSE TAXATION COMMITTEE

REP. JOHN EDMONDS, CHAIR

REGARDING H.B. 2421

MARCH 11, 2003

Mr. Chairman and Members of the Committee, I am Chris Wilson, submitting this statment on behalf of Kansas Dairy Association, Kansas Seed Industry Association and Kansas Agricultural Aviation Association.

On behalf of the more than 1000 Kansas businesses represented by these organizations, we ask you to not pass H.B. 2421. This legislation reverses current law regarding sales tax on services and goods in Kansas. The members of KDA, KAAA and KSIA are all involved in highly competitive businesses in which they are in a global market. H.B. 2421 would add to their cost of doing business and their cost of production. Yet, those are not costs that can always be passed on to the consumer, and especially those who are producing crops cannot add these costs onto the price of their product. By the nature of their businesses, many of these companies would lose business to neighboring states where the sales taxes proposed in H.B. 2421 are not imposed.

As you are aware, we have a depressed and fragile agricultural economy at this time. To impose the taxes in H.B. 2421 would impose a heavy burden on these businesses. It would be substantial enough a burden to cause some businesses to go out of business. It would drive business to other states, and the revenue projections for H.B. 2421 would not be realized. Adding a cost of a few percent to an industry that throughout it only has a few percent margin of profitability – at best – would at best place a very difficult burden on the industry. It would certainly be a motivation for people to discontinue their agricultural operations. Coupled with the effects of recent droughts, I can say with certainty that members of our organizations would cease their operations in increasing number.

We urge you to retain the exemptions in current Kansas law, which provide a balance carefully crafted by the Kansas Legislature, with regard to other states' sales tax law. We realize that additional revenues are desired, but what is needed is economic stimulus in order to generate revenue. H.B. 2421 would serve to depress the Kansas economy. Thank you for the opportunity to provide comments on this important issue to the Kansas economy.

House Taxation
Attachment 28
Date 3-11-03

STATEMENT OF ROBERT E. KREHBIEL
EXECUTIVE VICE-PRESIDENT, KANSAS INDEPENDENT OIL & GAS ASSOCIATION
IN OPPOSITION TO HB 2421
BEFORE THE HOUSE COMMITTEE ON TAXATION

March 11, 2003

Chairman Edmonds and Members of the House Tax Committee:

This written statement is prepared by Robert E. Krehbiel, Executive Vice President of the Kansas Independent Oil & Gas Association, on behalf of the Association's nearly eight hundred members. The Independent oil and gas producers are strongly opposed to HB 2421. It is our firm belief that passage of HB 2421 will result in reduced exploration and production, less drilling in Kansas, the loss of jobs in Kansas, a reduction in property and severance taxes, and a reduction in sales taxes paid by the industry. This is a lose-lose scenario for all concerned.

Under current law oil and gas operators must pay sales tax on all production equipment, compressors, repair parts and services for that equipment. This includes such things as pumping units, well head equipment, engines or electric motors, casing, tubing, sucker rods, belts, gear boxes, bearings, pressure gauges, polish rods, underground pumps, leak sensors, rod lubricators, stuffing boxes, well heads and all other equipment that make up a well structure. Services and parts utilized to repair and maintain this equipment are also taxable.

Sales of new and used drilling equipment are always taxable. Such equipment includes derricks, including hoisting and lowering equipment and drilling controls, drill pipe, elevators, fishing tools, cable, kellys, portable derricks, pipe racks, plugs, rotary tables, safety wires, and turbodrills. Services to repair and maintain this equipment are also taxable.

Sales of materials and other items for use around a well site are taxable. This includes fences, gates, cattle guards, building materials, cement for footings and post holes, gravel, wire and other materials. Sales and rentals of gas compressors used on gas wells are taxable, just like sales of pumping equipment for oil wells. Services to repair and maintain this equipment are also taxable.

The purchase and retail of trailers and portable buildings for use at a well site are taxable. Similarly, sales of electricity or gas to ventilate, heat, cool, and light the trailers and portable buildings are taxable. Sales of water for use by personnel at the well site are also taxable. Equipment used in inventory control, production or drilling scheduling, purchasing, receiving, accounting, fiscal management, communications, security, management, and similar non-production activities at the well site, is taxable.

The sale of items of personal apparel are taxable. This includes aprons, belts, coveralls, glasses, gloves, goggles, harnesses, holsters, masks, mask air filters, and shoes. Sales of safety equipment and fire fighting equipment are also taxable. The sale of hand tools, such as screwdrivers, wrenches, hammers, and saws, that are sold to drilling contractors and well service providers for their use are taxable even though they may be replaced often because of loss, breakage or theft.

Kansas law taxes labor services performed to maintain and service a well including work done to stimulate or maximize production from existing wells. Such services include cementing, acidizing, or fracturing an existing well. The service of heating water with a hot oiler or other equipment to clean or remove paraffin in an existing well bore is subject to sales tax. The service of pulling tubing and casing from an existing well or reworking an existing well is taxable. And, the list of tangible personal property and labor services utilized by oil and gas producers and which are subject to the Kansas' Sales Tax goes on and on.

Now HB 2421 would extend the Kansas sales tax to include labor services applied to original construction, property consumed in production including explosives and drill bits, and all of the engineering, technical, professional and scientific services essential to the exploration and production of oil and gas. In short, every expenditure related to the exploration and production of oil and gas would be subject to the Kansas sales tax.

The Kansas oil and gas industry has been unable to attract sufficient risk capital to maintain active exploration in this State as it is. The reason has been that the return on investment is simply not sufficient to justify the risk. Passage of this bill would further significantly reduce the attraction of investment capital and operator's nvestments in maximizing and maintaining existing production. This will certainly result in the collection of less tax of every kind, including the sales taxes collected from the expenditures described above. And, Kansas jobs will be lost and resources will be wasted. Why would you want this result? Contrariwise, repeal of the sales taxes enumerated above would attract capital, increase investment, create jobs, grow the economy and generate more revenue for the State of Kansas resulting in a win-win scenario for all concerned.

HB 2421 makes no sense for Kansas. It would be a giant step in the wrong direction. We would urge the Committee to defeat this bill and work instead to grow the Kansas economy.

KANSAS MEDICAL SOCIETY
KMS

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To: House Committee on Taxation

From: Jerry Slaughter
Executive Director

Date: March 10, 2003

Subject: HB 2421; concerning sales tax on services

The Kansas Medical Society appreciates the opportunity to submit the following comments on HB 2421, which would impose the sales tax on services, including health care services. While we understand you have to make some difficult choices, we do not believe imposing the sales tax on services provided by physicians and other health care providers to be sound public policy.

The tax will fall most heavily on the high users of health care, which tend to be the aged, disabled, and others with mental illnesses, cancer, chronic diseases and severely debilitating injuries or organ system failures, such as kidney disease and heart disease. Quite obviously, health care costs for individuals in these categories can reach into the tens or even hundreds of thousands of dollars annually. Adding any tax, even the state's 5.3% sales tax (plus up to 3% in some locales), would be a significant burden. Not surprisingly, many of the individuals who suffer from these conditions do not have the financial wherewithal to shoulder the cost of their care. Many are not working, either because they are retired due to age or unemployed due to their illnesses.

Adding a new sales tax to health care services will increase the cost of medical care, at a time when health care costs are already increasing. And the people who will be paying a disproportionate share of the new sales tax are not the young and healthy, but the older, sicker, and poorer, since they consume far more in health care services.

Public policy considerations aside, there are also aspects of the health care financing system that will make the imposition of a sales tax complicated. First, almost 400,000 Kansans are covered by Medicare, and another 260,000 covered by Medicaid. Neither program would assume the responsibility of paying a sales tax, so unless services provided to Medicaid and Medicare patients were exempted, it would fall on the elderly and poor to pay the sales tax on the entire bill, including the amount of the bill covered by the two government programs. Secondly, commercial insurers would be very unlikely to increase reimbursements to providers to cover the new tax, which once again would have to be paid by the patient in the form of a higher co-pay.

Furthermore, because nearly 85% of all health care transactions involve a third party such as an insurance company, determining the actual "selling price" of a service can be very complicated. For example, does a health care provider collect sales tax on the gross charges which are billed to the insurance company, or on the adjusted amount which the insurance company allows? Or on the amount which the patient actually pays out of pocket? It is not uncommon for insurance companies to take several weeks after the service is rendered to adjudicate a medical claim, and only then is the actual "selling price" finally established. In other words the correct sales tax could often not be collected at the point of sale, but weeks or months after the service was delivered. If the sales tax is to be levied on the total amount eventually received by the provider, then the provider would probably have to add to the patient's portion of the final billing that amount which represents the sales tax on the insurance company's part of the bill. Because so much health care is dependent on increasingly complex third party insurance mechanisms involving co-pays, deductibles, and percentage cost-sharing arrangements, the administration of a sales tax promises to be confusing for patients, providers and insurers alike.

Finally, the vast majority of health care services are generally only sought out by individuals when they are necessary to treat injury or sickness, or to prevent illness. Purchasing life-saving health care services to treat cancer is a bit different than other kinds of commerce. We understand the state is facing unprecedented fiscal challenges. However, it does not seem like good public policy to impose a tax that will disproportionately impact the poorer, sicker, older, more fragile segments of our population, and create an obstacle to persons getting medically necessary care. We would urge you to continue the current public policy of not applying the sales tax to health care services.

KANSAS
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ASSOCIATION

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HOUSE COMMITTEE ON TAXATION
TESTIMONY ON HOUSE BILL 2421
March 10, 2003

Thank you for the opportunity to share our views on House Bill 2421. I am Gary Robbins, Executive Director of the Kansas Optometric Association. We would respectfully request an exemption for "optometric services" in Section 3 starting on page 10. Taxation of professional services provided by an optometrist will only be an additional increase in rising medical costs and insurance premiums. As the Legislature is acutely aware, rising health insurance premiums have significantly affected virtually all agency budgets in recent years. In addition, there are significant administrative complications in attempting to collect a sales tax for medical and optometric services involving health insurance coverage. This would include addressing whether or not the sales tax is computed on the billed amount or what the insurance company actually pays weeks or months later. Would the sales tax apply on co-insurance, crossover claims with other insurance including workers compensation and deductibles? In light of the potential to increase health insurance costs further, we strongly urge the House Committee on Taxation to insert an exemption for optometric services in Section 2.

In addition, we would also respectfully ask that the subsection (r) exemption on medical, prosthetic and orthopedic devices found on page 15, starting at line 4 be restored. The arguments noted above related to rising health care costs apply equally to the need to restore this exemption. I have also attached a copy of my February 5, 2003 remarks to the House Committee on Taxation on this exemption. The burden of a sales tax on all forms of medical devices and supplies would penalize some of our most vulnerable citizens suffering from serious health and medical problems.

In conclusion, thank you for considering our requests for an exemption in section 3 for "optometric services" and restoring the exemption for various medical devices in 79-3606 r on page 15 of House Bill 2421.

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HOUSE COMMITTEE ON TAXATION TESTIMONY
FEBRUARY 5, 2003

Thank you, Mr. Chairman for the opportunity to discuss the concerns of our members and the patients they serve in this state regarding House Bill 2076. I am Gary Robbins, Executive Director of the Kansas Optometric Association. I will be directing my remarks toward page 5 starting on line 40 and subsection (r) in House Bill 2076. This is the sales tax exemption for a wide range of medical devices.

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, used to alleviate the malfunction of any part of the body, or used to assist any disabled person in leading a normal life by facilitating such person's mobility, such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

Subsection (r) addresses a number of medical, prosthetic and orthopedic devices. This includes prescription eyewear. For the last 10 years, Kansas optometrists have provided free eye exams to any three-year-old child in the state. The objectives to this program are to identify children with vision problems that require early intervention before the children start school and to alert parents about the warning signs of vision problems in children of any age. The data from this program shows that 14% of three years olds already have a vision problem. National statistics show that this number rises steadily to nearly 40% by high school graduation. In many instances, prescription eyewear is essential to obtain a driver's license, function well in the work place and enjoy numerous leisure activities.

By age 65, more than 70% of the population will experience some form of a vision problem when you add the complications associated with diabetes and glaucoma. This number continues to increase with age. A significant number of these patients need corrective eyewear and those experiencing severe vision loss will need low vision devices

Repealing this sales tax exemption would penalize some of our most vulnerable citizens- elderly Kansans living on fixed incomes and the disabled. In addition, it would have the impact of increasing medical care costs for the insured and the uninsured. Obviously, it would have the potential to increase health insurance costs.

I respectfully ask the House Committee on Taxation to not repeal the sales tax exemption in 79-36-06-subsection (r). We believe that strong medical evidence shows it is reasonable public policy for the continuation of the sales tax exemption for these devices. Thank you for your consideration of our request and allowing us to appear this morning.

Affiliated with
American Optometric Association