

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on January 27, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative John Faber- excused  
Representative Lana Gordon- excused  
Representative Nancy Kirk- excused  
Representative Tom Sawyer- excused

Committee staff present:

Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisors of Statutes  
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Don Moler, League of Kansas Municipalities  
John Zutavern, Mayor Abilene  
Don Denney, Unified Government of Wyandotte County, KCKS

Others attending:

See Attached List

Chairman Edmonds opened the meeting asking for any bill introductions. Representative Goico wished to introduce a bill establishing standards for bill appraisal personnel.

With no objections, that will be accepted for introduction.

The Chairman recognized Representative Huntington who requested an amendment to the mortgage registration act.

Hearing no objections, the committee will accept that for introduction.

Chairman Edmonds asked for the revision of last year's bill on occupation tax.

This was also accepted for introduction.

With no further bill introductions, the Chairman opened the floor for hearing on **HB 2284** (bill by Local Government, City, and County income tax; authority to impose.

Don Moler, Executive Director of League of Kansas Municipalities, testified as a proponent to **HB 2284** which is a bill requested by the League of Kansas Municipalities which will allow cities and counties to levy a local income tax. The tax would "piggyback" on the Kansas State Income Tax, and therefore would not require a new tax code. The maximum rate that any city or county could impose would be set at 5% of the net tax due the state. (Attachment 1)

Next to address the committee in support of **HB 2284**, **HB 2285** and **HB 2344** was John R. Zutavern, Commissioner from the City of Abilene, Kansas. **HB 2284** would authorize a city and county income tax. **HB 2285** will remove the cap on local sales tax issues, and **HB 2344** will authorize the collection of a local motor fuels tax. Although these are tax increases, it will expand our taxing sources at local level from property, sales, and franchise fees. It is their feeling that it should translate to a more equitable distribution of the tax liability to our citizens. (Attachment 2)

Also testifying before the committee in support of **HB 2284** was Mr. Don Denney, lobbyist/medial relations specialist, representing the Unified Government of Wyandotte County, Kansas City, Kansas. The Unified Government believes **HB 2284** will provide a significant alternative revenue source for cities and counties

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on January 27, 2004 in Room 519-S of the Capitol.

who find themselves strapped for operative funds in these hard economic times, especially in light of the loss of the demand transfers in 2003. ([Attachment 3](#))

The Unified Government of Wyandotte County also supports **HB 2285** which authorizes the removal of the present statutory cap on the amount of local sales tax that cities and counties can impose. They believe that this bill will provide a much needed significant alternative revenue source for cities and counties. ([Attachment 4](#))

Mr. Denney stated that the Unified Government of Wyandotte County KCKS stands in support of **HB 2344** which removes the prohibition concerning cities and counties imposing a tax on vehicle motor fuels and permits a city or county governing body to establish and levy a local motor fuels tax of not more than \$0.03 per gallon on all motor fuels, special motor fuels and LP gas. This bill is additional vehicle for local units of government to identify new revenue sources that they can count on to develop a long term strategic plan to offset the current hard economic times. ([Attachment 5](#))

Next to testify before the committee was Joan Wagnon, Secretary of Revenue. Ms. Wagnon testified in opposition to **HB 2284**. First the Department of Revenue feels that with the passage of this bill the State will be surrendering more of its ability to raise revenue with income taxes, as each local jurisdiction adopts a local income surtax; second this legislation opens the door for creation of a local tax system so convoluted and complex as to make our current local option sales tax system- with hundreds of local taxing jurisdictions and a multiplicity of different rates - look simplistic; third the administrative impact of this proposal on the department will be significant, as a local income surtax reporting and distribution system will need to be developed and administered. ([Attachment 6](#))

Ms. Wagnon also testified in opposition to **HB 2285**. Kansas is currently one of the states with the highest number of local taxing jurisdictions and different local sales tax rates. This bill increases the likelihood for an even greater variety of different local sales tax rates that could be in effect. Ms. Wagnon, speaking for the Department of Revenue, stated that the legislature should be considering ways to simplify, not increase the complexity of this tax. ([Attachment 7](#))

The Kansas Department of Revenue, again represented by Joan Wagnon, testified in opposition to **HB 2344**. First the State will be giving away more of its ability to raise revenue through future motor tax rate increases each time a local taxing jurisdiction opts to enact a local motor fuels tax; second this legislation opens the door for creation of another local tax system rivaling the complexity of our current local option sales tax system; third the administrative impact of this proposal on the department will be significant. ([Attachment 8](#))

Written testimony in support of **HB 2284**, **HB 2285** and **HB 2344** was submitted by Michael D. Pepoon, Director of Government Relations, Sedgwick County. ([Attachment 9](#))

Erik Sartorius representing the City of Overland Park also submitted written testimony in support of **HB 2484**, **HB 2485**, and **HB 2243**. ([Attachment 10](#))

Chairman Edmonds advised that time dictated the necessity for continuance of hearings on **HB 2284**, **HB 2285**, and **HB 2344** on Wednesday, January 28<sup>th</sup>.

Meeting adjourned at 10:25 a.m.

# GUEST LIST

DATE Jan 27, 2004

Mauro, Carpenter	Kansas Chamber
George Peterson	Ks Taxpayers Network
DOUG CRAIG	D of A AFR
Steve Seawall	" "
Deann Williams	KmCA
Bill Watts	KDOT
Mary Ann Stankiewicz	KGFA/KARA
Steve Kraemer	PMCA
Paul Peterjoka	Ks Taxpayers Network
John Zureman	City Comm Abeline
Ann Duker	DOB
Michelle Peterson	Ks. Governmental Consulting
LARRY R BAER	LKM
Danielle Hoc	Jackson County
April Holman	Kansas Action for Children
Whitney Gamron	City of Topeka
Sue Krenfahl	KAC
Bel Day	KCUA
Leslie Kaufman	Ks Co-ops
Wholly Moly	KARA - KEMCA
Hal Budge	NFIB/KS
Melba Sue Jack	KEMCA
Ragden Allen	Ks. Assoc. of Counties
Bud Burke	Jesus Mgmt. Group
Erik Sartorius	City of Overland Park
Don Moler	LKM
Don Penney	Unified Govt Wg Co





League of Kansas Municipalities

**TO:** House Taxation Committee  
**FROM:** Don Moler, Executive Director  
**RE:** Support for HB 2284  
**DATE:** January 27, 2004

First I would like to thank the Committee for allowing me to come and testify today concerning HB 2284, a bill which was requested by the League and which will allow cities and counties to levy a local income tax. As I am sure you all know, economic times have been tough, and all levels of government are under increasing pressure to make ends meet and to provide the services required by our citizens. This is especially true at the local level where budgets are strained as a result of the pressures on the historic means of supporting local government. Traditionally in Kansas there has been a three-legged stool of local government support which provides funding for the activities of cities and counties across this great state. The three legs of the stool historically have been the State demand transfers, the local sales tax, and the local property tax.

As we all know, the Demand Transfers were withheld by the State in 2003, and no one anticipates their restoration in the near future. This removes one leg of the three-legged stool. Next we should note that the local sales tax has been under increasing pressure of late, and that revenues in many parts of the State have become stagnant in this area as well. Finally, it will come as no surprise to anyone on this Committee that property taxes remain perhaps the most controversial tax of all. As a result, using the property tax as the fall back for supporting local government, and its services, is increasing problematic.

As a result we are urging this Committee to support HB 2284, which allows for the establishment of a local option income tax. The tax would "piggyback" on the Kansas State Income Tax, and therefore would not require a new tax code. The maximum rate that any city or county could impose would be set at 5% of the net tax due the state. The city or county governing body would set the rate, and a vote of electors of the city or county would then be required to approve the imposition of the local income tax.

We cannot see how this approach can be realistically opposed. Essentially we have citizens voting to tax themselves. We would suggest that if a city governing body feels this is appropriate, and if the electors of the city or county agree by voting yes at an election called on that question, we would think that should be enough to allow for this type of tax to proceed. We certainly hope this Committee agrees with our conclusion and will favorably report out HB 2284.

CITY OF  
ABILENE, KANSAS



P.O. BOX 519  
419 N. BROADWAY

January 27, 2004

The Honorable John Edmonds, Chairman  
Kansas House Tax Committee  
Capitol Building  
Topeka, KS 66612

Dear Representative Edmonds:

Attached to this letter is testimony made this date to the Kansas House Tax Committee by myself.

My experience in municipal government began when appointed to the Abilene City Commission in 1991 following my retirement after 35 years with Duckwall Alco Stores, Inc., a Kansas corporation. Since that time I have served as Abilene Mayor for three terms, member of the Governing Body, Vice President and President of the League of Kansas Municipalities in 1998-99. I have served on the Steering Committee for the Small Cities Council for the National League of Cities for 9 years.

My reason for mentioning something about myself is to convey to you and your Committee that I come to you as a dedicated and experienced public servant, who is, not only vitally interested in my own Kansas city, but the other cities of Kansas, as well.

It is my sincere hope that the information which I give you today will be considered by your Committee as they go through the very critical decisions you are facing during this session.

I thank you for allowing me to appear before your Committee today.

Very truly yours,

A handwritten signature in blue ink that reads "John R. Zutavern". The signature is fluid and cursive.

John R. Zutavern, Commissioner

HOUSE TAXATION

Attachment 2

Date 1-27-04

**TESTIMONY**  
**Kansas House of Representatives Tax Committee**  
**by**  
**John R. Zutavern, City Commissioner, Abilene, Kansas**  
**January 27, 2004**

Mr. Chairman and Committee Members:

Thank you for allowing me to testify today regarding three very important bills which the League of Kansas Municipalities has introduced , HB 2284, HB 2285, and HB 2344.

On a personal note, Mr. Chairman, my grandfather, Fred, served as a Representative from your district from 1913 to 1917, and by virtue of a name beginning with "Z", is the last person listed as serving in the Kansas House of Representatives. He was elected as a Republican, we were told, became disenchanted with the Republican Platform as pertaining to "Dry" issues, changed parties to Democrat, and was reelected!

Now to the task at hand..... We at local government level, be it city, county, township, school district, etc., are continuing to face fiscal problems, and we appreciate that you are in the same boat.

I am sure you realize that cities receive revenue (tax money), in the most part, from property tax, sales tax, franchise fees, and to a small degree alcohol taxes. These are the **only** ways we are able to provide the services which our citizens want and deserve.

For example our city collects a little over 3 million in tax revenue. Of that figure, 46% is from property tax, 38% is from sales tax and .08% is from franchise fees. We operate our own water and sewer utility, which is self sustaining from rates charged. Current sales tax is 7.05%

I saw in the newspaper Saturday that Dickinson County's January jobless rate is 3.9%, neighboring Saline County was 3.7% compared with a state wide rate of 4.5%. We are fortunate, I know, to not have the problems facing Wichita, and now Hays, with substantial layoffs.

We are told that, nationally, our economy is improving, but we also know that our state, overall, has suffered a downturn in its economy. It is the sincere hope of every Kansas elected official, be they local, or state, that the Kansas economy will show positive changes soon.

I know you are aware of the fact that last year, cities did not receive the demand transfers from the state, and this forced us to take drastic steps, in some instances, in order to continue efficient operation.

My own city put off purchase of a police cruiser, reduced health benefits, and delayed infrastructure expenses, simply because of the loss of this revenue, which was \$48,564.00. We also raised our mill levy by 1.8 mills, which makes us quite unpopular among the citizens!!

Our cities are doing the best they can under the circumstances to maintain service and infrastructure for our citizens. We all know that our citizens expect (and rightly so) services from local government. Lifestyles are changing among our citizens forcing us to provide services which 15 or 20 years ago, we would never think about...such as everything related to the increased use of drugs and alcohol, changing of family values, single parent homes, and compliance with Kansas and Federal mandates, such as water and waste water issues. Technology is effecting our Franchise Fees with the escalation of TV Dishes, and Cell Phones, from which we **do not** derive any franchise fees.

I thought of coming to this meeting with my hands "tied", but decided that would not be in good taste. Many days, that is the way we local officials feel, and I am sure you also feel the same way at times.

We are asking for your support in the three bills I have mentioned and give us the opportunity to "untie" our hands and do what we think is right for our local communities...whom we all know "by the back of our hands". The city officials which I have met since my involvement with city government have shown they are quality individuals, trying to do the best for their local community. We may not have rocket scientists as Commissioners/Councilmembers/Mayors/City Managers/Administrators, but we have many fiscal geniuses who are doing commendable things under difficult circumstances. We believe that the proposed bills will give us some of the tools needed and make us better qualified local officials. (We also face the election process in a regular basis.)

The bills on which we hope you will look with **favor**, include HB 2284, which; will authorize a city and county income tax. HB 2285 will **remove** the cap on local sales tax issues, and HB 2344 will **authorize** the collection of a **local** motor fuels tax.

I am sure your first reaction to this request is: "They must be out of their minds...all of these are possible tax increases." Yes, this is true, **but** it will expand our taxing sources at local level from PROPERTY, SALES, AND FRANCHISE FEES. It should translate to a more equitable distribution of the tax liability to our citizens.



We know that each of these bills are not for every city, but implementation of them will give **us** the opportunity to make decisions with the approval of our taxpayers, because each bill carries a **required public vote**. The result is that the citizens of the cities/towns have the opportunity to **impose a tax upon themselves**.

We hope you will see the opportunities which can result from the passage of the three bills in question. Your constituents in local government will certainly appreciate the help, that only you can give us.

1/24/04 Zutavern, House Tax Committee



# Testimony

Unified Government Public Relations  
701 N. 7<sup>th</sup> Street, Room 620  
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director 913.573.5565  
Don Denney, Media Relations Specialist 913.573.5544

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## House Bill 2284 Local Option Income Tax

Delivered January 27, 2004  
House Assessment and Taxation Committee

Rep. John Edmonds, Chairman  
and Committee members  
Room 519-S

Mr. Chairman and Committee Members:

The Unified Government of Wyandotte County/Kansas City, Kansas strongly supports HB 2284 which authorizes cities and counties to establish a **local option income tax**. The Unified Government believes HB 2284 will provide a significant alternative revenue source for cities and counties who find themselves strapped for operating funds in these hard economic times, especially in light of the loss of the demand transfers in 2003.

Wyandotte County is unique in that it boasts the second highest paying jobs in the State of Kansas – an average of \$36,453 per job); unfortunately the majority of these positions are held by non-residents. On the other side of the spectrum, the per capita income of Wyandotte County residents is only \$20,173 (which ranks 97<sup>th</sup> of the 105 Kansas counties). Clearly, HB 2284 would be a huge asset to Wyandotte County in generating new revenue from employees who do not live in the community but benefit from many of its services.

The Unified Government believes the local option income tax can be "piggy backed" on the current Kansas state income tax, and therefore would not require a new tax code. We also agree with the provisions of HB 2284 that would require a local referendum to be approved in order for the tax to be imposed. We also agree that the maximum rate that any city or county can impose would be set at 5 percent of the net tax due the state.

The Unified Government asks you to strongly consider favorable passage of HB 2284. As you consider your position, please make note of the Home Rule Amendment of the Kansas Constitution (Article 12, section 5) which begins: "*Cities are hereby empowered to determine their local affairs and government...including the levying of taxes, excises, fees, charges and other extractions.*" In the spirit and intent of the Kansas Constitution, we believe the citizens of Wyandotte County and all citizens of Kansas should have the right to vote on a local option income tax as outlined in HB 2284. Thank you for your consideration.

Sincerely,

Don Denney  
Lobbyist/Media Relations Specialist

HOUSE TAXATION

Attachment 3

Date 1-27-04



# Testimony

Unified Government Public Relations  
701 N. 7<sup>th</sup> Street, Room 620  
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director 913.573.5565  
Don Denney, Media Relations Specialist 913.573.5544

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**House Bill 2285**  
**Removal of Statutory Cap On Local Sales Tax**

Delivered January 27, 2004  
House Assessment and Taxation Committee

Rep. John Edmonds, Chairman  
and Committee members  
Room 519-S

Mr. Chairman and Committee Members:

The Unified Government of Wyandotte County/Kansas City, Kansas strongly supports HB 2285, which authorizes the removal of the present statutory cap on the amount of local sales tax that cities and counties can impose. Current law limits local sales tax according to the cities' classification. HB 2285 permits the governing body of a city or county to pass an ordinance or resolution to establish an appropriate sales tax rate; a vote of the electors of the city or county would then be required to approve the imposition of the sales tax.

We believe the enactment of HB 2285 will provide a much needed significant alternative revenue source for cities and counties. Local governments all across Kansas are attuned to the hard economic times that face our beloved State. Likewise, it is our belief that the State of Kansas is attuned to the fact that local governments are also strapped for operating funds. Too often the property tax becomes the only way to generate the revenue needed to pay for the programs and services citizens demand. HB 2285 will give local communities another option, and allow local citizens to decide what kind of tax effort and tax mix they want. All government entities are searching for new and productive revenue sources in light of the loss of the demand transfers in 2003. HB 2285 provides the opportunity for a new and productive revenue source for cities and counties all across the State of Kansas. By making it available as a local option, every city and county would have the opportunity to control their own destiny and become less dependent on the State Legislature for financial support.

The Unified Government respectfully asks for your full consideration for passage of HB 2285

Sincerely,

Don Denney  
Lobbyist/Media Relations Specialist

HOUSE TAXATION

Attachment 4

Date 1-27-04



# Testimony

Unified Government Public Relations  
701 N. 7<sup>th</sup> Street, Room 620  
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director 913.573.5565  
Don Denney, Media Relations Specialist 913.573.5544

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**House Bill 2344**  
**Establish and Levy Local Motor Fuels Tax**

**Delivered January 27, 2004**  
**House Assessment and Taxation Committee**

Rep. John Edmonds, Chairman  
and Committee members  
Room 519-S

Mr. Chairman and Committee Members:

The Unified Government of Wyandotte County/Kansas City, Kansas stands in support of HB 2344 which removes the prohibition concerning cities and counties imposing a tax on vehicle motor fuels, and permits a city or county governing body to establish and levy a local motor fuels tax of not more than \$0.03 per gallon on all motor fuels, special motor fuels and LP gas. In order for a city or county to impose the local motor fuel tax, it would be required to submit the question to the voters and require a majority vote to pass.

HB 2344 is another vehicle for local units of government to identify new revenue sources that they can count on to develop a long term strategic plan to offset the current hard economic times. Being a community on the state line, its likely the citizens of Wyandotte County would choose to NOT implement this particular local option tax. But that's not the point. The point is they ought to have the option to decide for themselves.

The Unified Government respectfully asks for your consideration for passage of HB 2344.

Sincerely,

Don Denney  
Lobbyist/Media Relations Specialist

HOUSE TAXATION

Attachment 5

Date 1-27-04



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## Testimony to the House Tax Committee Joan Wagnon

January 27, 2004  
**House Bill 2284**

Chairman Edmonds and Members of the Committee:

House Bill 2284 proposes to authorize cities and counties to impose corporate and individual income tax surtaxes, with such taxes to be administered by the department of revenue.

The department opposes this legislation. Attached is a copy of our fiscal note discussing the many problems this bill presents. These problems are briefly summarized below:

First and foremost, the State will be surrendering more of its ability to raise revenue with income taxes, as each local jurisdiction adopts a local income surtax. This could endanger the viability of a vital revenue source for the State General Fund.

Second, this legislation opens the door for creation of a local tax system so convoluted and complex as to make our current local option sales tax system—with hundreds of local taxing jurisdictions and a multiplicity of different rates—look simplistic. Corporate income tax, with its three-factor formula for apportioning business income amount the various states a company may do business in, is already our most complicated tax to administer—at the state level. Applying such a tax to the local level would be a nightmare.

Third, the administrative impact of this proposal on the department will be significant, as a local income surtax reporting and distribution system will need to be developed and administered. This will require I.S. resources of approximately 10,000 hours to develop and implement the necessary software. As more local taxing jurisdictions enact such surtaxes, we will need to hire additional permanent staff.

HOUSE TAXATION

Attachment 6

Date 1-27-04

# 2004 House Bill 2284b Fiscal Note

Introduced as a House Bill

## Brief of Bill

House Bill 2284, as introduced, will allow cities and counties to impose an income tax surtax.

New Section 1 allows any city or county to impose an income tax surtax on individuals residing and corporations doing business in the city or county on December 31 of any year. The surtax rate is limited to a maximum of 5%.

New Section 2 provides that any change in the rate or repeal of the surtax will be effective on January 1 of the year next following the year in which the change or repeal was adopted.

New Section 3 provides that the department of revenue administer, enforce, and collect any income tax surtax.

New Section 4 provides that all revenue received from the surtax be deposited in the city and county income tax surtax fund. The state treasurer shall remit at least quarterly to each city and county the amount collected from any city or county income tax surtax.

New Section 5 provides that the proceeds from any income tax surtax be deposited to the city or county general fund or any fund specified in the ballot proposition.

Section 6 amends K.S.A. 12-140 to allow cities to impose an income tax.

Section 7 amends K.S.A. 19-101a to allow counties to impose an income tax.

The effective date of this bill is on publication in the statute book.

## Fiscal Impact

Passage of this bill would have no direct impact on the state general fund.

To the extent cities and counties are given authority to impose local income tax surtaxes, there will be a "crowding out" effect on the State's ability to raise revenue for the state general fund with income taxes.

## Administrative Impact

The estimated IS resources necessary to implement this bill are 7640 hours of in-house APA time. The estimated user testing resources necessary to implement the bill are 2080 hours.

If the combined impact of implementing all changes from enacted legislation affecting the Department of Revenue exceeds the Department's programming resources, or if the time period for implementing such changes is sufficiently short, expenditures for contract programmer services, which are beyond the Department's budget, may be required.

### **Administrative Problems and Comments**

Section 1 imposes the surtax on "corporation doing business" in a city or county..." "Doing business" needs to be defined. A corporation can be doing business in more than one city or county.

This bill would tax individual residents and corporations doing business in the county or city. It would seem to leave out a nonresident individual (not a corporation) who is clearly doing business in the city or county.

Since this is a quarterly distribution there could be amounts sent to locals that are refunded after the return is filed. This would create balances that would need to be returned by the local. An annual distribution after May 31 would be more manageable.

### **Taxpayer/Customer Impact**

#### **Legal Impact**

There are several important legal considerations that are raised by the proposed city/county surtax on corporations. Federal law imposes limitations on the taxation of nonresident corporations that have no physical presence in a taxing jurisdiction or whose presence there is for a specific limited purpose. Depending upon how the phrase "doing business in the city or county" is construed, as it appears in Section 1(a) of the bill, a conflict with federal law could result which, in turn, could result in these provisions being invalidated.

Second, Section 1(b) provides that for purposes of the surtax a taxpayer's Kansas income tax liability [should read Kansas apportionable income] shall be allocated and apportioned as provided in UIDTPA, insofar as the same can be made applicable. Careful study would be required to determine if it is indeed possible to adopt UDITPA to the taxation of a corporation's income on a city-by-city/county-by-county basis. Even in the event such adaptation is possible, the administrative costs to both the Department of Revenue and taxpayers could be very substantial.

Third, since certain corporations are "doing business" in numerous cities and counties within Kansas, and since these various cities and counties would each be authorized to impose a surtax of up to 5% on such corporation's state income tax liability, there is the potential to expose such corporations to income tax liabilities that, taken together, would be absolutely staggering. Moreover, tax liabilities of this magnitude could run afoul of constitutional principles of due process and equal protection.

Finally, there would likely be a problem reconciling the amount of a taxpayer's income attributable to a certain city or county with various income tax credit provisions, some of which are based on investment and employment within certain designated areas of the state. The bill does not address if these credits against a taxpayer's state income tax liability could also be used to reduce any city or county surtax and, if so, the manner in which such credits should be applied.



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## Testimony to the House Tax Committee Joan Wagnon

January 27, 2004  
**House Bill 2285**

Chairman Edmonds and Members of the Committee:

House Bill 2285 would amend K.S.A. 12-189 concerning the local sales tax rates that can be levied by a city or county, deleting the requirement that rates must fall within certain statutorily prescribed rate increments, and allowing the city or county to set the rate at any increment within the rate ceiling authorized.

The department opposes this legislation. Attached is a copy of our fiscal note discussing the problems this bill presents.

In summary, as many of you are aware, Kansas is currently one of the states with the highest number of local taxing jurisdictions and different local sales tax rates. This has made implementation of the new destination-based sourcing required to be adopted by the Streamlined Sales and Use Tax Agreement more difficult for Kansas retailers, in comparison with states that have few or no local taxing jurisdictions and few or one tax rate. House Bill 2285 will only exacerbate that problem. The bill increases the likelihood for an even greater variety of different local sales tax rates that could be in effect. With the adoption of destination-based sourcing for local sales tax, the legislature should be considering ways to simplify, not increase the complexity of this tax.

HOUSE TAXATION

Attachment 7

Date 1-27-04



## MEMORANDUM

To: Mr. Duane Goossen, Director  
Division of Budget

From: Kansas Department of Revenue

Date: 01/20/2004

Subject: House Bill 2285  
Introduced as a House Bill

### **Brief of Bill**

House Bill 2285, as Introduced, amends K.S.A 12-189 concerning the local sales tax rates that can be levied by a city or county. The proposal deletes the requirements that the class A, B or C city sales tax be .25%, .5%, .75%, 1%, that a class D city sales tax be .10%, .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%, and that a county rate be .25%, .5%, .75%, 1%. The proposal would allow a city or county to levy a local sales tax at any increment, upon approval through a local election.

The Act would be effective July 1, 2004

### **Fiscal Impact**

The proposal does not impact state revenues.

### **Administrative Impact**

The proposal does not directly impact the department. The costs for implementing local city or county sales tax rate changes would be absorbed by the department.

### **Administrative Problems and Comments**

The proposal does not require that the tax rates be in any set increments, which may result in more and different tax rates throughout the state. This will impose additional burdens on retailers implementing destination-based sourcing.

### **Taxpayer/Customer Impact**

Allows cities and counties to determine the local sales tax rate to be levied, upon approval by election. While this may give more flexibility to local governments, providing for the potential to create more different local sales tax rates will impose additional burdens on retailers, particularly with the implementation of the destination-based sourcing rules in 2003 House Bill 2005. Kansas is already one of the states with the highest number of local taxing jurisdictions and

different local sales tax rates in the nation, which makes it more difficult for retailers to implement destination-based sourcing in Kansas. This proposal will only exacerbate that problem.

**Legal Impact**

None.

Approved By:

A handwritten signature in cursive script that reads "Joan Wagnon". The signature is written in black ink and is positioned above the printed name and title.

Joan Wagnon  
Secretary of Revenue



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## Testimony to the House Tax Committee Joan Wagnon

January 27, 2004  
**House Bill 2344**

Chairman Edmonds and Members of the Committee:

House Bill 2344 proposes the new local option motor fuels tax, with authority for any city or county to enact a local motor fuels tax not to exceed \$.03 per gallon on fuel sold or delivered in the taxing jurisdiction. The department is to administer the tax and distribute the revenues back to the taxing jurisdictions.

The department opposes this legislation. Attached is a copy of our fiscal note discussing the problems this bill presents. These problems are briefly summarized below:

First and foremost, the State will be giving away more of its ability to raise revenue through future motor fuel tax rate increases, each time a local taxing jurisdiction opts to enact a local motor fuels tax. This could hamper the viability of a vital revenue source for the State's transportation infrastructure.

Second, this legislation opens the door for creation of another local tax system rivaling the complexity of our current local option sales tax system—with hundreds of local taxing jurisdictions and a multiplicity of different rates. Issues concerning sourcing will also arise: will destination-based sourcing be applied to motor fuel sold in a municipality but delivered elsewhere?

Third, the administrative impact of this proposal on the department will be significant, as a local tax reporting and distribution system similar to what is used for local sales tax will need to be developed and administered. This will require I.S. resources ranging from 4,000 to 11,000 hours to develop and implement the necessary software. As more local taxing jurisdictions enact such taxes, we will need to hire additional staff. We are estimating 3 additional FTE for the first 10 cities and counties that enact such a tax, and 2 additional FTE for the next 50 cities or counties enacting such a tax.

HOUSE TAXATION

Attachment 8

Date 1-27-04

## MEMORANDUM

**To:** Mr. Duane Goossen, Director  
Division of Budget

**From:** Kansas Department of Revenue

**Date:** 01/20/2004

**Subject:** House Bill 2344  
Introduced as a House Bill

### **Brief of Bill**

House Bill 2344, as introduced, contains new legislation creating the Local Option Motor Fuels Tax Act. Any city or county, after approval of a majority of electors, would be able to impose a motor vehicle fuels tax, not to exceed \$0.03 per gallon, on the use, sale or delivery of all motor vehicle fuels, special fuels or LP-gas which are used, sold or delivered in that city or county. The city or county is prohibited from administering this tax and are required to utilize the state department of revenue to collect and enforce the tax. The department is to remit the revenue, at least quarterly, to the city or county imposing the tax.

K.S.A. 79-3424 and 12-194 are amended to include reference to the local motor vehicle fuels tax as provided in New Sections 1 through 4.

The effective date of this bill would be July 1, 2004.

### **Fiscal Impact**

Since this is a local option motor fuels tax, passage of this bill would not directly impact State revenues. Indirectly, as local governments impose local motor fuels taxes, this would significantly restrict the State's ability to increase State motor fuels tax rates in the future. The impact at the local level would be dependent upon which and how many local jurisdictions imposed the tax and the amount of the tax so levied.

### **Administrative Impact**

The estimated IS resources necessary to implement this bill are 4,000 hours of in-house APA time if the current mainframe motor fuel tax system is modified to implement the provisions of the bill at a cost of approximately \$120,000 (4,000 x \$30 per hour). The Department is in the process of converting mainframe applications to the ATP client-server system through a phased-in approach. If it is determined that ATP is the way to go for this implementation the estimated IS resources would be almost 11,000 (for a total of approximately \$330,000; 11,000 x \$30 per hour) hours of APA time plus a \$10,000 contract for contract programming.

If the combined impact of implementing all changes from enacted legislation affecting the Department of Revenue exceeds the Department's programming resources, or if the time period for implementing such changes is sufficiently short, expenditures for contract programmer services, which are beyond the Department's budget, may be required.

#### Impact to Distributors

- Would require a rewrite of the Distributor system or another "add-on" system in order to process the local taxes. I.S. will include costs in their response.
- The distributor tax return (MF-52) will need revised. Cost-\$750.00
- Design a jurisdiction schedule that will be used with the MF-52. Cost-\$1,400.00
- The motor fuel tax law booklet (BT/mf 212) will need revised. Cost-\$1,500.00
- Additional FTE requirements to process and review Distributor tax returns and schedules:
  - ° 1st 10 cities or counties enacting local tax-Will need one Rev Customer Rep Specialist. Cost-\$4406.00 for image-enable workstation, \$945.00 for other annual operating costs and \$45,955.00 for salary and wages. Total cost-\$51,306.00
  - ° Each additional 50 cities or counties enacting local tax-Will need one additional Rev Customer Rep Specialist.

#### Impact to Motor Fuel Refund

· Major impact to Motor Fuel Refund as the fuel that is used for off road purposes are refunded and the system is not currently designed to handle refunds on fuel for multiple locations and would require a complete rewrite to system and forms. We would need capability to be able to track which city/county have the additional tax so we would know what cities and counties refunds came from. I.S. will include costs in their response.

· The Motor Fuel Refund Claim card (MF35) would need to be revised and possibly redesigned to a full page form. Cost-\$750.00

· Would require additional resources to process the claims as refund request verifications and calculations will be more complicated and time-consuming. Additional FTE requirements are:

° 1st 10 cities or counties enacting local tax-Will need one Rev Customer Rep Senior. Cost-\$4406.00 for image-enable workstation, \$945.00 for other annual operating costs and \$40,381.00 for salary and wages. Total cost-\$45,732.00.

° Each additional 50 cities or counties enacting local tax-Will need one additional Rev Customer Rep Senior.

#### Impact to LP

· Currently LP is manually processed. In order to process and distribute the local tax LP would need to be added to the system. I.S. will include costs in their response.

· Would require revisions to MF48. Cost-\$550.00

· Would require revisions to MF202. Cost-\$550.00

#### Impact to Channel

· Need a new deposit code.

#### Impact to Revenue Accounting

· An additional Accountant Specialist would be needed. Cost-\$4406.00 for image-enable workstation, \$945.00 for other annual operating costs and \$37,122.00 for salary and wages. Total cost-\$42,473.00.

In addition to the above user related costs, user testing of 15 months of Management Systems Analyst I time and 2 months of Research Analyst III time would be required to perform user testing on the newly developed system.

### **Administrative Problems and Comments**

Due to the high costs associated with collecting a delinquent or past due debt owed to the municipality we would recommend adding a fee or percentage of debt collected returned to the state for administrative costs incurred.

Based on the language in the bill under New Section 4 tax would be imposed on the distributor of 1st receipt as provided in the motor fuel tax law.

The language in New Sec. 3 does, however, impose some concerns. Is the intent to tax all fuel sold in the municipality even if the delivery of such fuel is into another jurisdiction? For example if Topeka passed a local option motor fuel tax and a major fuel distributor in Topeka makes a sale to a retailer located in Manhattan. As New Sec. 3 reads now the local tax would be imposed. This raises questions as to which jurisdiction would be charged.

Another concern with the language in New Sec. 3 is the imposition of the tax on use in the municipality. This would mean that a visitor to the municipality from another jurisdiction would be subject to the local option motor fuel tax on the fuel they used while in the municipality. This is problematic and impossible to administer or enforce.

The state motor fuel tax is imposed on the distributor of 1st receipt, wholesale level. Passing a local option tax that provides a different imposition is not impossible to administer jointly but does provide for some specific differences and challenges.

### **Taxpayer/Customer Impact**

This could have an impact on the Motor Carriers here in Kansas wanting to be able to claim that they paid tax of a higher amount than we would allow them credit on their IFTA return.

Distributors would have to modify their EDI system.

### **Legal Impact**

In the event any municipalities impose a motor vehicle fuel tax pursuant to this bill, New Section 4 would require the Department of Revenue to administer and enforce this local motor vehicle fuel tax. Enforcing various local motor vehicle fuel taxes would place an additional and unfunded burden upon the Department and the Legal Services Bureau. Otherwise, this bill does not appear to present any significant legal issues.

Approved By:

*Joan Wagnon*

Joan Wagnon  
Secretary of Revenue



## GOVERNMENT RELATIONS

Sedgwick County Courthouse  
525 N. Main, Suite 365  
Wichita, KS 67203  
Phone: (316) 660-9378  
Fax: (316) 383-7946  
[mpepoon@sedgwick.gov](mailto:mpepoon@sedgwick.gov)

**Michael D. Pepoon**  
Director

**TESTIMONY ON HB 2284, HB 2285 and HB 2344**  
**Before The House Committee on Taxation**  
**January 27, 2004**

Chairman Edmonds and members of the committee, I appreciate the opportunity to present testimony in support of three bills that give local governments increased authority to levy taxes: HB 2284, which allows for the establishment of a local option income tax; HB 2285, which would remove the cap on the amount of sales tax that cities and counties may impose; and HB 2344, which would allow a city or county to levy a local motor fuels tax. In particular Sedgwick County strongly supports HB 2285, which amends K.S.A. 12-189 to allow the board of county commissioners to determine the rate of any countywide retailer's sales tax and removes the current cap of 1%. The Board of County Commissioners of Sedgwick County in the 2004 Legislative Platform adopted, as a priority issue, supporting legislative initiatives that would allow the county the option of collecting additional revenue through local tax initiatives.

Like all cities and counties in Kansas, Sedgwick County has had to make drastic cuts to our budget in response to losing the demand transfer funds from the State. For Sedgwick County this has meant a loss of approximately \$10 million in state funds over the past 18 months. This doesn't include the reduction of funds from the State to the County's human services programs—such as mental health, developmental disabilities, corrections and aging. To address the decline in funding, the County Commission made a variety of budget cuts in 2003 and adopted a 2004 budget that was 2.9% less than the previous year. Sedgwick County eliminated 84 full time equivalent (FTE) positions between 2003 and 2004. A variety of charitable organizations received funding cuts from the County totaling \$406,402.

As the County Commission prepares for the budget process this year, it will be done with the intention of once again not increasing the County's mill levy. County Commissioners have heard from their constituents and there is strong opposition to raising property taxes. As it currently stands, Commissioners have very few options of raising additional revenue. The County has been levying the maximum sales tax rate of 1% since being adopted by the voters in 1985. The proposed legislation before you this morning would give Commissioners the flexibility to determine how best to raise revenue needed for the County and give the voters of Sedgwick County a voice in this process.

Sedgwick County urges you to support the above legislation.

HOUSE TAXATION  
Attachment 9  
Date 1-27-04

**"Sedgwick County...working for you."**





City Manager's Office

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Testimony Before  
The House Taxation Committee  
Regarding  
Local Option Taxes – HB 2284, HB 2285, and HB 2344

January 27, 2004

The City of Overland Park appreciates the opportunity to offer testimony in support of citizens having greater choices in selecting the proper combination of taxes for their communities. Each of the bills being heard today give communities new, optional tools for funding the programs they desire.

Governing is a delicate balance between meeting the needs and demands of citizens and funding such programs in a way that no single group is unduly harmed. Finding such a balance is never easy, even in good times. A sluggish economy, the loss of demand transfers from the state, and continued pressure to maintain the level of services expected by the public has made governance at the local level extremely challenging.

The City of Overland Park has met budgetary challenges head on. A top-to-bottom review of city personnel needs was completed, with numerous full-time equivalent budgeted positions eliminated. City staff also has reduced annual operating budget expenditures by \$5 million, for a cumulative savings of \$25 million over 5 years.

In order to meet the demand for services, and make up the loss of demand transfers and lower-than-expected sales tax revenues, the governing body did raise our mill levy 1.207 mills. Although we believe that having only 9.2% of our budget come from property taxes is a source of pride, we know that some citizens would rather that number be lower. Given the current limitations on local governments, however, we have no other means of providing the services sought by our citizens.

House Bills 2284, 2285, and 2344 provide communities options in lieu of property taxes. Communities would be given greater flexibility in building a tax system that works best for their particular locality. Further, none of the optional taxes could be imposed without an affirmative vote of the citizens of the community. During budgeting processes, elected officials always take great interest in the types and level of services sought by citizens. Why not provide them a greater voice and options in how those services are funded?

The City of Overland Park requests that you report House Bills 2284, 2285, and 2344 favorably for passage.

HOUSE TAXATION

Attachment 10

Date 1-27-04