

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on January 28, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative John Faber- 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:

Marlee Carpenter, Kansas Chamber of Commerce  
Karl Peterjohn, Kansas Tax Payers Network  
Randy Allen, Executive Director of Kansas Assoc of Counties  
Don Moler, League of Kansas Municipalities  
Michael Pepoon, Sedgwick County  
Erik Sartorius, City of Overland Park  
April Holman, Kansas Action for Children  
Tom Palace, Petroleum Marketers Assoc.  
Deann Williams, Kansas Motor Carriers, Assn.

Others attending:

See Attached List.

Chairman Edmonds opened the floor for bill introductions. Representative Larkin introduced a bill that would eliminate request for exemption filing requirements to retain exemptions already granted for certain personal property of non-profits.

Representative O'Malley asked for the introduction of a bill that would give a sales tax exemption for the Heartstrings Community Foundation.

Without objections, that bill will be introduced.

The Chairman opened the floor for continued hearings on **HB 2284**, **HB 2285**, and **HB 2344**.

Having heard the proponents on January 27<sup>th</sup>, Chairman Edmonds recognized Marlee Carpenter, Kansas Chamber of Commerce and Industry as an opponent to **HB 2284**. In her testimony, Mrs. Carpenter, stated that this bill would allow local cities and counties to levy a local individual and corporate income tax. The Kansas Chapter believes that the enactment of a local income tax would add to the burden and complexity of doing business in Kansas. (Attachment 1)

The second conferee to address the committee as an opponent to **HB 2284**, **HB 2285** and **HB 2344** was Mr. Karl Peterjohn, Kansas Taxpayers Network. It is there feeling that **HB 2284** would create a new income tax at the local level which would worsen our high tax status and hurt this state's economy. (Attachment 2)

Next Mr. Peterjohn, also as an opponent, addressed **HB 2285** stating that this would make it easier to expand our already high overall sales tax rate by making it easier for local units to raise city or county sales taxes, and that expanding local units' taxing authority during a recession is not a cure for this state's economic problems. (Attachment 3)

Mr. Peterson also testified as an opponent to **HB 2344** stating that Kansans already pay a lot more for gasoline than the folks in all of our neighboring states with the exception of Nebraska. It is the feeling of the Kansas Taxpayers Network that **HB 2344** would make our current bad situation worse by making it easier to expand our already high overall gasoline tax rate by allowing cities and counties the ability to create as much as a 3

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on January 28, 2004 in Room 519-S of the Capitol.

cents a gallon local gasoline tax. (Attachment 4)

April Holman, representing Kansas Action for Children, testified before the committee as an opponent of both **HB 2285** and **HB 2344**. It is their feeling that the passage of these bills could potentially result in a significant increase in the tax burden of Kansas families which would disproportionately impact those of low and moderate incomes. (Attachment 5)

Randall Allen, Executive Director of the Kansas Association of Counties, testified before the committee in support of **HB 2285** which removes the limitation on the local option sales tax rates for cities and counties. Seventy-seven counties in Kansas currently have a countywide sales tax rate. Counties identifying a need for revenue which cannot be satisfied with property taxes or from existing sales tax authority are forced to request, on a case by case basis, legislative authority for additional local sales tax authority. They feel it would be simpler to remove the caps on local-option sales tax rates, and allow the citizens of each county, both through direct voting and through their elected representatives, to determine the appropriate sales tax rate within each county. (Attachment 6)

Don Moler, Executive Director of League of Kansas Municipalities addressed the committee in support of **HB 2285**. Their testimony stated that this bill would remove the present statutory cap on the amount of local sales tax that cities and counties can impose. The bill permits the governing body of a city or county to pass an ordinance or resolution to establish an appropriate sales tax rate, and then a vote of the electors of the city or county would be required to approve the imposition of the sales tax. Essentially, we would have citizens voting to tax themselves. (Attachment 7)

Representing Overland Park Kansas, Mr. Erik Saratorius, addressed the committee supporting **HB 2284**, **HB 2285**, and **HB 2344**. It is their feeling that these bills would provide communities options in lieu of property taxes and that communities would be given greater flexibility in building a tax system that works best for their particular locality. (Attachment 8)

With no one additional wishing to address **HB 2285**, Chairman Edmonds closed the hearing and opened the hearing on **HB 2344**.

Don Moler, Executive Director of League of Kansas Municipalities, returned to address the committee in support of **HB 2344** which would allow cities and counties to levy a local motor fuels tax which would reduce the pressure to make the ends meet and to provide the services required by our citizens. This bill would require a vote of the electors of the city or county to approve the motor fuels tax. Essentially, citizens would be voting to tax themselves. (Attachment 9)

With no further proponents for **HB 2344**, Chairman Edmonds recognized Mr. Thomas Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas) who addressed the committee in opposition to the bill. Mr. Palace stated that Kansas retailers remain at a competitive disadvantage with our neighboring states when comparing the tax rates on gasoline, cigarettes and sales tax. It is their feeling that any additional increase to gasoline and sales tax further exacerbates our retailers' ability to maintain their customer base in Kansas. (Attachment 10)

Deann Williams director of industry relations for the Kansas Motor Carriers, came before the committee in opposition to **HB 2344**. In her testimony, Ms. Williams stated that the Kansas fuel tax is scheduled to increase by \$.01 per gallon on July 1, 2004. Approval of **HB 2344** could further exaggerate the difference between Kansas tax rate and the rate in surrounding states. (Attachment 11)

With no other person wishing to testify as an opponent to **HB 2344**, Chairman Edmonds closed the hearing.

Chairman Edmonds asked that Chris Courtwright from the Research Department give a briefing on intangible tax at the meeting on Thursday, January 29th.

There was no further business before the committee and the meeting was adjourned at 11:58 a.m.

# GUEST LIST

DATE 1-28-04

*Taxation*

Randal Allen	KS Assn of Counties
Doann Williams	KMCA
Michael Peterson	Governmental Consulting
Ray Seiber	Hein Law Firm
Dorinda Woe	Johnson County
Walter Lee Smith	KMCA
Ann Durkin	DAB
Ken Ralger	KS Dairy Assn
Levi Salkind	Lawrence Board of Educ.
Christina	" " " "
Mary Masten	USD 501
<del>Chris Masten</del>	<del>USD 501</del>
Mary Rodriguez	USD 497
Tom Whitaker	KMCA
CARRY R BAER	LKM
George Peterson	KS Taxpayers Network
Ken Entwiel	KS Water Office
Wendy Williams	KAPA - KMCA
Mike Taylor	Unifed Gov Wyco/KCK
Bill Sneed	PSW
Erik Sartorius	City of Overland Park
Walter Lee Smith	KMCA
Mike Peterson	Sedgwick County
Bud Brown	City of Platte



# LEGISLATIVE TESTIMONY

January 27, 2004

By Marlee Carpenter, Vice President of Government Affairs  
Kansas Chamber of Commerce and Industry

Chairman Edmonds and members of the committee;

I am Marlee Carpenter with the Kansas Chamber here to testify in opposition to HB 2284. The Kansas Chamber Board of Directors adopted a Legislative Agenda in December that stated in regards to business taxes to "Do No More Harm." Our organization understands the budget situation the state faces and is not pursuing major tax initiatives, but instead initiatives that can reduce the cost of doing business in the state.

HB 2284 would allow local cities and counties to levy a local individual and corporate income tax. First, the Kansas Chamber believes that the enactment of a local income tax would add to the burden and complexity of doing business in Kansas. For example, cities and counties have the authority to levy a local sales tax. With the enactment of SSTP and destination sourcing, cities and counties taxing authority have come to the forefront. In Kansas, we have 751 local taxing jurisdictions. For any business that operates in more than one city or county, administration becomes very burdensome. Allowing a local income tax would increase the cost of doing business in Kansas, not only with the added cost of the tax, but also the additional burden of compliance.

Second, taxes do matter to businesses. Tax burden is one factor that is considered when a company makes a decision where to locate or expand. Last week we released our Annual Competitiveness Index. It is a survey of 13 separate studies that rank Kansas' competitive position with in the nation. The "two decade plus" survey of the tax and business climate literature looks at the bigger picture. As

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Attachment 1

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states change their tax positions, in relation to other states, those states that “lower their relative tax burdens and business costs” and become “lower taxing and cost bodies” appear to be the top winners over the past 25 years.” The trend we found is that Kansas ranks average in most of the studies. Enactment of another tax—a local tax that will increase both the tax and administrative burden—will chip away at Kansas’ “average” position. To win the battle for jobs we need to get better, not worse.

The Kansas Chamber understands the budget situation of the state and of local cities and counties. But businesses are struggling as well. This is not the time to increase the tax burden or tax complexity. Kansas needs more tax payers, not more taxes. For businesses to grow and expand, we need to reduce the cost of doing business in the state, not increase it.

Thank you for your time and I will be happy to answer any questions.

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

The Kansas Chamber of Commerce and Industry is the leading broad-based business organization in Kansas. KCCI is dedicated to the promotion of economic growth and job creation and to the protection and support of the private competitive enterprise system.

KCCI is comprised of nearly 7,500 businesses, which includes 200 local and regional chambers of commerce and trade organizations that represent more than 161,000 business men and women. The organization represents both large and small employers in Kansas. The Kansas Chamber receives no government funding.

**Testimony Opposing HB 2284**

Karl Peterjohn  
Exec. Dir.

Kansas has a lousy tax climate. HB 2284 authorizing cities and counties to create a new income tax at the local level would make our lousy tax climate worse. At a time when the legislature should be looking to create a positive climate for economic growth, this proposal would worsen our high tax status and hurt this state's economy.

High growth areas in the U.S. do not have local income taxes. In fact, states like Texas, Florida, Washington state, New Hampshire, and Nevada do not have local income taxes, or state income taxes either.

In our five-state region, only Missouri has some cities with local income taxes and I am unaware of any local units in Missouri that have succeeded in passing new income taxes once the Hancock Amendment became law through a statewide vote over 20 years ago.

The Hancock Amendment that was approved at the 1980 election requires voter approval for raising all taxes and fees at the local level in Missouri. That is one reason that generally taxes are not as high in Missouri as they are here.

While it is true that there are some cities in certain areas in the U.S. where local income taxes exist, these are generally located in states like New York that have lagged in both economic and population growth.

Kansas Taxpayers Network is pleased that this bill does have a provision requiring voter approval before this tax can be created at the local level. However, this feature could be improved by requiring that all city and county tax hikes must receive voter approval before being raised. This is particularly true of the unpopular property tax.

Tax referendum elections should be limited to occurring at regularly scheduled election dates and not "special elections," that favor proponents. Limits should be placed to prevent the local governments from spending their tax funds on so called, "educational campaigns," that attempt to generate voter support. We have seen cases where dubious information has been distributed by tax hike proponents using public resources.

Two of our neighboring states require a super-majority of voter approval before certain local taxes can be raised. Oklahoma requires a 60% majority before school bonds can be approved while Missouri requires a 4/7 majority (just over 57 percent) on certain tax referendum issues. This bill should be amended to require a similar super-majority before this new tax can be created. Once this tax is approved, it will never be repealed.

Since both cities and counties can create local income taxes under this bill, it is possible that the maximum rate for certain taxpayers will be 10 percent of the state's income tax liability if a county and a city within that county both enact this income tax at the maximum rate.

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An income tax is a tax on productivity. It penalizes the hardest working and most productive citizens in a community. States with high income tax rates like New York, Connecticut, and Pennsylvania have all suffered from a decline in economic growth when compared with the states that do not impose this odious tax. There are nine states that currently do not tax wage income, and these are: Alaska, Florida, New Hampshire, Nevada, South Dakota, Tennessee, Texas, Washington, and Wyoming.

Since Kansas already has a disproportionately large percentage of its workforce employed by government, there is no good reason to provide additional taxing authority to local units of government. Federal data from the 2000 census reported that state and local government employment in Kansas was the 5<sup>th</sup> highest among all 50 states. We also have a larger number of governmental units than all four of our neighboring states according to Legislative Post Audit. We were the highest in our five state region with 3,887, well ahead of Nebraska's 2,791 (LPAC, 03-20, p. 4).

The problem in Kansas is not that government is inadequately funded, it is that government is too large, too many layers, and there are inadequate institutional safeguards in place to stop it from growing. Local units in Kansas are already beneficiaries of the property tax appraisal system that regularly increases appraisals and raises tax revenues without city or county officials ever having to vote for. This system has regularly expanded property taxes for local units since the late 1980's.

This bill is defective in that it is not clear where the income shall be taxed and the appropriate rate. Will this income be taxed at the residence of the taxpayer or at the taxpayer's place of employment? How will out-of-state employees be charged if the place of residence is used?

For state income taxes this has been resolved but state statutes need to resolve situations where tax rates will vary between jurisdictions once this tax hike is implemented. We believe that there will be problems in tax situs that will appear because they are not addressed in this bill. So, the Kansas Taxpayers Network strongly opposes this bill.



**Testimony Opposing HB 2285**

Karl Peterjohn

Exec. Dir.

Kansas has a lousy tax climate. HB 2285 would make it easier to expand our already high overall sales tax rate by making it easier for local units to raise city or county sales taxes.

These taxes are quite common around this state. Sadly, we have strayed far from the excellent law contained in KSA 12-187 that requires a petition of electors to place these issues on the ballot.

The Kansas Taxpayers Network has regularly appeared before this committee complaining about the large number of signatures needed to force tax referendum votes in this state. This bill would eliminate the basic provisions of KSA 12-187.

It is sad that HB 2285 would tilt the law to make it easier for local units to raise this tax. Today, the state sales tax rate is 5.3 percent but there are many communities where local sales taxes now make the total rate much higher. In Wichita, we have a one percent add on, but Topeka and a number of other cities have much higher rates.

Today, in border areas sales taxes are providing an incentive for Kansans to shop out-of-state. Kansans are going into adjacent and generally lower tax states to make retail purchases on a wide variety of products.

The excellent principle contained in KSA 12-187a and b1 requiring that tax hike proponents collect signatures from 10 percent of the voters to place this issue on either the city or county ballot is a provision that should be strengthened and not weakened. This statute should be the starting point for all tax hikes at all levels of government: state, city, county, school, and special taxing districts in this state. Tax hike proponents should forthrightly declare their support for higher taxes and petition for them just like taxpayers are allowed to do to stop tax hike on occasion under Kansas law.

If KSA 12-187's petition requirement was in place for all local tax hikes in Kansas, this state's tax climate would not be as high as it is and we would have a much more competitive fiscal climate with our neighboring states.

Expanding local units' taxing authority during a recession is not a cure for this state's economic problems. Raising taxes during a recession will make a bad situation worse. H.B. 2285 should be rejected by this committee.

An income tax is a tax on productivity. It penalizes the hardest working and most productive citizens in a community. States with high income tax rates like New York, Connecticut, and Pennsylvania have all suffered from a decline in economic growth when compared with the states that do not impose this odious tax. There are nine states that currently do not tax wage income, and these are: Alaska, Florida, New Hampshire, Nevada, South Dakota, Tennessee, Texas, Washington, and Wyoming.

Since Kansas already has a disproportionately large percentage of its workforce employed by government, there is no good reason to provide additional taxing authority to local units of government. Federal data from the 2000 census reported that state and local government employment in Kansas was the 5<sup>th</sup> highest among all 50 states. We also have a larger number of governmental units than all four of our neighboring states according to Legislative Post Audit. We were the highest in our five state region with 3,887, well ahead of Nebraska's 2,791 (LPAC, 03-20, p. 4).

The problem in Kansas is not that government is inadequately funded, it is that government is too large, too many layers, and there are inadequate institutional safeguards in place to stop it from growing. Local units in Kansas are already beneficiaries of the property tax appraisal system that regularly increases appraisals and raises tax revenues without city or county officials ever having to vote for. This system has regularly expanded property taxes for local units since the late 1980's.

This bill is defective in that it is not clear where the income shall be taxed and the appropriate rate. Will this income be taxed at the residence of the taxpayer or at the taxpayer's place of employment? How will out-of-state employees be charged if the place of residence is used?

For state income taxes this has been resolved but state statutes need to resolve situations where tax rates will vary between jurisdictions once this tax hike is implemented. We believe that there will be problems in tax situs that will appear because they are not addressed in this bill. So, the Kansas Taxpayers Network strongly opposes this bill.

**KANSAS TAXPAYERS NETWORK**

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**Wichita, KS 67208**

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27 January 2004

### **Testimony Opposing HB 2344**

Karl Peterjohn

Exec. Dir.

Kansans already pay a lot more for gasoline than the folks in all of our neighboring states with the exception of Nebraska. We are tied with Idaho and Connecticut for the 11<sup>th</sup> highest among the 50 states (data is from the American Petroleum Institute, June 25, 2003). In the cases of Oklahoma and Missouri the difference is already eight cents a gallon.

The Kansas tax is 47 percent higher than the Missouri and Oklahoma gasoline taxes. Kansas has another tax, motor vehicle fuels, where we are once again very high in our region. Nebraska has the highest rate in our five state region edging us out at 25.5 cents a gallon. Colorado is 22 cents a gallon.

H.B. 2344 would make our current bad situation worse by making it easier to expand our already high overall gasoline tax rate by allowing cities and counties the ability to create as much as a 3 cents per gallon local gasoline tax.

My reading of this bill indicates that both cities and counties could each levy a tax of up to 3 cents a gallon. So this bill would authorize a structure for raising gasoline taxes as much as 6 cents a gallon if the maximum levy in both jurisdictions is created. At this level Kansas would have the third highest gasoline taxes per gallon among the 50 states. If this occurred, this would raise the gasoline tax 20 percent above the existing state level and place us well above the gasoline taxes in the surrounding states. Here would be another tax where Kansas is providing an incentive for folks to purchase gasoline and similar products in our neighboring states.

The provisions contained within this bill would create a legal environment that is very similar to the current local option sales tax law. However, the legislature would soon be asked, like under current sales tax options, for the ability to place a local tax on a ballot without having to undertake the challenge of collecting petition signatures. Like the sales tax statute, this committee and the legislature would annually be asked for ways to avoid the difficult petitioning process.

In a fairer world, it would be appropriate for those seeking higher rates on all taxes to have to petition with the same numbers and under the same time constraints that exist for taxpayers who are opposing tax hikes. That world does not exist in Kansas today.

There is often no option for petitioning against property tax hikes to force a tax referendum vote in Kansas. There are no options for petitioning against the automatic property tax hikes created by current property tax appraisal law too. If more local option taxes are going to be created, then there should be a requirement that all taxes should require petitions by proponents before being sent to voters for their approval and without exception. The signatures required in both cases should be similar in size and time limits.


The Kansas Taxpayers Network strongly opposes higher taxes on gasoline and motor vehicle fuels.

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Attachment 4

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# FISCAL FOCUS

Budget and Tax Policy in  Perspective

## Legislative Testimony

April Holman, Kansas Action for Children

House Committee on Taxation

HB 2285 and 2344

January 28, 2004

### Chairman Edmonds and Members of the Committee:

On behalf of Kansas Action for Children, I would like to thank you for this opportunity to share our position on House Bill 2285 and House Bill 2344. Kansas Action for Children has recently begun a new initiative called Fiscal Focus. The purpose of Fiscal Focus is to improve the economic security of Kansas children and their families and ensure a balanced and fair tax system and budget process that protects the well-being of children and families and a stable system of state revenues.

Tax equity, or fairness is an important component of tax policy along with the related concept of progressivity versus regressivity of taxes. When a tax is progressive, the amount of tax levied increases based on the taxpayer's financial resources. When a tax is regressive, the amount levied results in a larger percentage of financial resources being paid by taxpayers with fewer resources.

We are concerned that House Bills 2285 and 2344 increase the authority for local governments to levy regressive taxes. In the case of House Bill 2285, current limits on the rate of the local retailers sales tax would be removed leaving local governments with unlimited sales tax authority. In the case of House Bill 2344, local governments would be permitted to levy a motor fuels tax of up to 3 cents per gallon of motor fuels.

While we appreciate the value of the services provided by local governments and acknowledge the difficult financial times for cities and counties, we worry that House Bills 2285 and 2344 could potentially result in a significant increase in the tax burden of Kansas families which would disproportionately impact those of low and moderate-incomes. For this reason we must respectfully oppose the passage of House Bills 2285 and 2344.

HOUSE TAXATION

Attachment 5

Date 1-28-04



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

**TESTIMONY**  
**concerning House Bill No. 2285**  
**(Statutory Limitations on Local-Option Sales Taxes)**  
**Presented by Randall Allen**  
**House Taxation Committee**  
**January 27, 2004**

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I appreciate the opportunity to testify in support of House Bill No. 2285, which removes the limitation on local-option sales taxes rates by cities and counties.

The principal non-property tax revenue available to counties is the local sales tax. Authority for counties to levy sales taxes was granted by the Legislature in 1970. Since then, an increasing number of counties have elected to impose a countywide sales tax. Currently, 77 counties are collecting countywide sales taxes. In 2003, the Kansas Department of Revenue distributed about \$290 million in countywide sales tax revenue (this number not including city-imposed sales taxes), of which about \$106 million was retained by counties for general purposes or to offset property taxes, \$39 million was retained by counties for some dedicated purpose (e.g. to retire jail construction bonds or for a county health care or nursing facility), and \$145 million was distributed to cities within the 77 counties. The \$145 million retained by counties for either general or specific (dedicated) purposes compares to an annual property tax levy of \$758.7 million by counties in 2002. Absent any specific authority granted by the Legislature (and the approval of voters), counties are generally limited to a maximum countywide sales tax rate of 1.0%. Of the 77 counties imposing local sales taxes at this time, the following rates are currently imposed:

Current Countywide  
Sales Tax Rate                      Counties:

0.25%	Graham
0.50%	Ellsworth, Hamilton, Haskell, Lyon, Osborne
0.75%	Finney, Norton
0.90%	Shawnee
1.00%	Allen, Anderson, Barber, Bourbon, Brown, Chautauqua, Clay, Cloud, Crawford, Decatur, Dickinson, Doniphan, Douglas, Edwards, Elk, Ford, Geary, Gove, Gray, Greeley, Greenwood, Harvey, Jackson, Jefferson, Jewell, Kiowa, Leavenworth, Lincoln, Logan, Marion, McPherson, Meade, Mitchell, Morris, Nemaha, Neosho, Osage, Ottawa, Pawnee, Pratt, Rawlins, Reno, Rice, Riley, Saline, Scott, Sedgwick, Sheridan, Stafford, Stanton, Thomas, Washington, Wilson, Wyandotte

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Current Countywide  
Sales Tax Rate                      Counties:

1.10%	Johnson
1.25%	Barton, Labette, Miami, Seward, Sherman, Wabaunsee
1.50%	Atchison, Cherokee, Franklin, Russell
2.00%	Cheyenne, Republic, Wichita

As the data demonstrate, the local-option sales tax law applying to counties is a patchwork quilt. Counties identifying a need for revenue which cannot be satisfied with property taxes (because of citizen fatigue with property taxes) or from existing sales tax authority (because the county is at the maximum allowed by statute) are forced to request, on a case by case basis, legislative authority for additional local sales tax authority. The Legislature has historically granted such authority, in view of the requirement for voter approval within the county.

The far simpler approach would be to remove the caps on local-option sales tax rates, and allow the citizens of each county, both through their direct votes and also through their elected representatives, to determine the appropriate sales tax rate within each county. Citizens would naturally take into account the effective state and local sales tax rate in determining whether to authorize any increase to the local-option sales tax rate. Most importantly, they would retain the choice – through the ballot box.

For these reasons, the KAC supports HB 2285, and urges the committee to report it favorably for passage. Thank you for the opportunity to state our position on this matter.

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



League of Kansas Municipalities

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

**TO:** House Taxation Committee  
**FROM:** Don Moler, Executive Director  
**RE:** Support for HB 2285  
**DATE:** January 27, 2004

First I would like to thank the Committee for allowing me to come and testify today concerning HB 2285, a bill which was requested by the League and which will allow cities and counties to levy local sales taxes at a rate determined locally. 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 2285, which would remove the present statutory cap on the amount of local sales tax that cities and counties can impose. The bill permits the governing body of a city or county to pass an ordinance or resolution to establish an appropriate sales tax rate, and then a vote of the electors of the city or county would be required to approve the imposition of the sales 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 2285.

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Attachment 7

Date 1-28-04



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 8

Date 1-28-04





League of Kansas Municipalities

**TO:** House Taxation Committee  
**FROM:** Don Moler, Executive Director  
**RE:** Support for HB 2344  
**DATE:** January 27, 2004

First I would like to thank the Committee for allowing me to come and testify today concerning HB 2344, a bill which was requested by the League and which will allow cities and counties to levy a local motor fuels 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 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 LG gas. As with both of the other tax proposals, a vote of the electors of the city or county would be required to approve the local motor fuels 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 2344.

HOUSE TAXATION

Attachment 9

Date 1-28-04



Testimony: House Tax Committee  
From: Thomas M. Palace  
Date: January 21, 2004  
RE: Local Option Fuel Tax

Mr. Chairman, and members of the House Tax Committee: My name is Tom Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 360 independent Kansas petroleum companies and convenience store owners throughout Kansas.

We appreciate the opportunity to appear before you in opposition to HB 2344.

The retail industry has been decimated the last few years with the increase in state taxes that have hit at the very core of our industry. Kansas retailers remain at a competitive disadvantage with our neighboring states when comparing the tax rates on gasoline, cigarettes and sales tax. Any additional increase to gasoline and sales tax further exacerbates our retailers' ability to maintain their customer base in Kansas. Whenever there is a discussion by the legislature to increase motor fuel taxes, our retailers that compete on the border wonder why they not only have to compete with a convenience store down the street, but legislative initiatives that make it more difficult to sell products in Kansas.

I have attached to my testimony a "motor fuel rate comparison" that indicates how Kansas ranks nationwide and how we compare with our surrounding states. Kansas gasoline tax is the second highest in the six-state region and is tied for 11<sup>th</sup> in the United States. Missouri and Oklahoma enjoy an 8 cent tax differential for gasoline and when comparing diesel fuel excise taxes, Kansas has the highest in a six state region and tied for 12<sup>th</sup> highest in the United States. The Kansas diesel tax is ten-cents higher than Missouri and thirteen cents higher than Oklahoma. (*2004 Guide to Kansas Small Business*)

Another attachment to my testimony shows a full page ad that one of my members in Colby sent me. It is an example of the type of advertising campaigns that retailers face in Kansas. This particular add states "No 6% tax on food in Colorado...Like there is in Kansas!" Although, we do not have specific ad copy, Oklahoma aggressively advertises to Kansas communities the tax advantage they have on sales tax, cigarettes, gasoline and food...and they sell alcohol on Sunday.

Clearly, Mr. Chairman Kansas retailers that market on the border have a difficult time competing given the state excise tax disparity. To compound their inability to compete on the border, by allowing local government to impose an additional 3 cent gas tax will undoubtedly further erode their customer base. Additionally, if this bill is passed, any retailer could be

Petroleum Marketers and Convenience Store Association of : HOUSE TAXATION  
201 NW Highway 24 • Suite 320 • PO Box 8479 Attachment 10  
Topeka, KS 66608-0479 Date 1-28-04  
785-233-9655 Fax: 785-354-4374

adversely affected by another Kansas retailer in the adjoining county if that county does not impose the local tax. The retailer operating along the state border would now be at a competitive disadvantage on the state border and county border as well.

Motor fuel taxes, by statute, have a stated purpose: "to defray in whole, or in part, the cost of constructing, widening, purchasing of right-of-way, reconstructing, maintaining, surfacing and repairing public highways." HB 2344 does not state the purpose of the local option tax, and if the money is used for anything other than the stated purpose as referenced in Chapter 79-3402, (above), it would be a violation of the current state law.

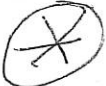
Mr. Chairman, committee members, PMCA asks for your support to oppose HB 2344.

## CHAPTER 11: FUEL TAXES

The following is based on information from the American Petroleum Institute<sup>83</sup> that was updated on July 1, 2003.


**Gasoline Taxes Plus Add-ons:** Kansas is 21.6% higher than the average for the other five states in the region. Gasoline taxes including all add-ons<sup>84</sup> in cents per gallon:

NE 25.50, **KS 25.00**, CO 22.00, IA 21.30, MO 17.00, OK 17.00

 Kansas' Gasoline Tax is the second highest in the six-state region and tied for 11th in the U.S.<sup>85</sup>. The eight-cent difference with Missouri and Oklahoma are the most problematic because of the concentration of Kansans along those borders. A year ago, the difference was only six cents. Kansas has gotten even less competitive.

**Diesel fuel taxes Plus Add-ons:** Kansas is 35.1% higher than the average for the other five states. Diesel fuel taxes including all add-ons in cents per gallon:

**KS 27.00**, NE 24.90, IA 23.50, CO 20.50, MO 17.00, OK 14.00

 Kansas' Diesel Fuel Tax is the highest in the six-state region and tied for 12th highest in the U.S.<sup>86</sup> The ten-cent difference with Missouri is the most problematic, while the thirteen-cent difference with Oklahoma is also a very big problem. One year ago, the difference with Missouri was eight cents and the difference with Oklahoma was eleven cents. Kansas has gotten even less competitive.

# Kansas Statutes Annotated

Updated Through the 2002 Legislative Session

**Statute Number:** 79-3402  
**Chapter Title:** TAXATION  
**Article Title:** MOTOR VEHICLE FUEL TAXES  
**Tax Type:** Motor Vehicle Fuel Tax  
**Brief Description:** Purpose of tax.  
**Keywords:**

---

## Body:

79-3402

Chapter 79.--TAXATION

Article 34.--MOTOR VEHICLE FUEL TAXES

79-3402. Purpose of tax. The tax imposed by this act is levied for the purpose of producing revenue to be used by the state of Kansas to defray in whole, or in part, the cost of constructing, widening, purchasing of right-of-way, reconstructing, maintaining, surfacing, resurfacing and repairing the public highways, including the payment of bonds issued for highways included in the state system of this state, and the cost and expenses of the director of taxation and the director's agents and employees incurred in administration and enforcement of this act and for no other purpose whatever.

History: L. 1933, ch. 317, § 2; L. 1995, ch. 262, § 25; July 1.

**Date Composed:** 03/06/2003 **Date Modified:** 03/12/2003

10-4

Burlington Chamber of  
Commerce members  
remind you. . .

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right . . .

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in Kansas!**

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it does in our neighboring state.

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# KANSAS MOTOR CARRIERS ASSOCIATION

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**Legislative Testimony  
before the  
House Taxation Committee  
Representative John Edmonds, Chairman  
Tuesday, January 27, 2004**

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

I am Deann Williams, director of industry relations for the Kansas Motor Carriers Association. I appear here this morning representing our 1,250 member companies in opposition to House Bill No. 2344.

KMCA opposes allowing cities and counties the authority to levy up to a \$.03 per gallon tax on motor fuels. Under current law, cities and counties are guaranteed 35.4% of the state motor fuel tax, amounting to \$144.5 million distributed through the Special City/County Highway Fund in FY 2003. This is equivalent to an \$.08 per gallon statewide fuel tax.

Allowing local governments the ability to tax motor fuels would diminish the State's ability to raise needed revenue to fund future transportation plans. Kansas continues to have a high fuel tax rate for diesel compared to our bordering states. The Kansas fuel tax rate for diesel is \$.26 per gallon, while Oklahoma charges \$.13 per gallon and Missouri charges \$.17 per gallon. The Kansas fuel tax is scheduled to increase by \$.01 per gallon on July 1, 2004. Approval of HB 2344 could further exaggerate the difference between Kansas fuel tax rate and the rate in surrounding states.

In addition, the motor fuel tax levied by local government would not necessarily be directed to road or transportation projects. It would be up to the local government to designate where the funds could be spent. This is a departure from traditional highway user taxes.

For motor carriers operating under the International Fuel Tax Agreement, no allocation or apportionment of local fuel taxes would be allowed. Motor carriers operating in and through Kansas pay every state their fuel tax based on the miles traveled and the fuel purchased. We have been told by a representative of the Kansas Department of Revenue that Kansas would only base fuel tax reporting on the state rate, therefore not recognizing taxes paid by truckers to local governments.

HOUSE TAXATION

Attachment 11

Date 1-28-04

**Legislative Testimony – HB 2344 – January 27, 2004 – Page 2**

The Kansas Constitution states, “The state shall have the power to levy special taxes, for road and highway purposes, on motor vehicles and on motor fuels.” No where in the Constitution does it say that local governments shall have the same power. Let’s keep it that way and not allow local option fuel taxes.

The Kansas Motor Carriers Association respectfully asks the House Taxation Committee to report HB 2344 **unfavorably**. We thank you for the opportunity to appear before you and would be pleased to respond to any questions you may have.