

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on March 22, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative Vaughn Flora- 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:

Jim Edwards, Kansas Association of School Boards
Don Moler, Kansas League of Municipalities
Randy Allen, Association of Counties

Others attending:

See Attached List

The Chairman opened the meeting for any bill introductions. There were none.

Representative O'Malley was recognized with the announcement that the excise tax subcommittee would be meeting today at 12:00 noon in Room 235.

The Chairman then turned committee attention to **HB 2935** and explained that the bill does away with the fiction that we are ever likely to return to demand transfers and provides for the application at the local level, i.e., city, county, or USD for the implementation of earning tax and/or income tax and/or sales tax. In each case for the entity to do that they have to pass the implementing legislation by 2/3 vote of their body and it has to pass a vote of the people in the affected areas on the general election ballot by a simple majority. It also allows for people who are of the opinion that their taxes are too high to access the ballot by a 5% ballot access petition to seek to have their taxes lowered by a simple majority.

With no proponents, the Chairman recognized Jim Edwards, Governmental Relations Specialist, Kansas Association of School Boards as an opponent of **HB 2935**. This bill provides the authority to local units of government, including school boards, to levy earnings, income surcharge and sales taxes. They oppose this bill for one reason. Kansas' courts have consistently noted the dis-equalizing effect that local taxes have on school funding when not accompanied by state equalizing assistance. (Attachment 1)

Next to appear was Don Moler, Kansas League of Municipalities who provided neutral testimony regarding **HB 2935**. After reviewing the bill, Mr. Moler stated that they feel the provisions which would allow cities and counties to adopt a local earnings tax, local income tax, and which remove the cap on the local retailers sales tax, to be genuinely positive provisions. However, there are a number of items contained in this legislation which they feel will need considerable discussion, review, and analysis before the League could endorse any legislation of this type. They request that school districts be left out of the bill. (Attachment 2)

Randall Allen, representing the Kansas Association of counties provided neutral testimony regarding **HB 2935**. If enacted, this legislature would represent a marked departure in policy for the financing of local governments in Kansas. They have found aspects of the bill that are quite promising and other aspects that are quite troubling. What they do appreciate in the bill is an attempt to address how we are going to finance Kansas local governments in the 21st century from a macro-policy approach. Mr. Allen listed the organizations initial comments and reactions to the legislation and stated that they would like to continue to work with the committee on it. (Attachment 3)

There were no further conferees and the Chairman closed the public hearing on **HB 2935**.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 22, 2004 in Room 519-S of the Capitol.

Chairman Edmonds called committee attention to **HB 2559** and requested a briefing on the bill by Chris Courtwright of the Legislative Research Department. This would require that the words "building on lease ground" appear on page one of the bill.

Representative Gilbert made a motion that **HB 2559** be moved out favorable for passage. The motion was seconded by Representative Larkin. Vote taken. Motion adopted.

Chairman Edmonds asked the committee to address **HB 2910**. Representative Goering made a motion to pass out **HB 2910** favorable for passage. Representative Schwab made a second to the motion. Vote was taken. Motion adopted.

Chairman Edmonds asked the committee to turn their attention to **HB 2882** and **HB 2883** and requested that Mr. Courtwright give a review of the bills. Regarding **HB 2882** he related that basically under the commercial industrial machinery and equipment income tax credits and property taxes paid, the Secretary of Revenue would be required to adopt rules and regulations regarding the filing of documents to authenticate and support the amount of credits claimed pursuant to the section.

On review of **HB 2883** the payable penalty on estimated tax dollars would be changed from \$200 to \$500.

The Chairman stated that in **HB 2883** he thought a provision that would be worth adding would indicate that in the event that the taxpayers federal tax liability was zero that he would expect tax on the state level. He also suggested that the committee might want to consider putting **HB 2882** and **HB 2883** together.

Representative Larkin moved that the proposed balloon be added into **HB 2883**. The motion was seconded by Representative Goering. Vote taken. Motion passed.

Representative Larkin moved that the language of **HB 2883** be amended into **HB 2882**. The motion was seconded by Representative Thull. Vote taken. Amendment adopted.

Representative Huff made a motion to pass the amended **HB 2882** favorable for passage. Representative Sawyer seconded the motion.

Richard Cram from the Department of Revenue stood to offer the Department's support for both **HB 2882** and **HB 2883**.

Vote was taken to pass the amended **HB 2882** favorable for passage. Motion passed.

Next the Chairman turned committee attention to **HCR 5031**

Representative Faber made a motion that **HCR 5031** be moved out favorably. Representative Goering made a second to the motion.

Representative Schwab made a statement that he would agree with the motion.

Representative O'Malley requested by brief overview of the resolution by Chris Courtwright from the Research Department.

Mr. Courtwright related that the resolution authorizes legislature, if it wishes, to provide for any limitations that it might see fit on annual valuation increases for residential properties.

Vote on Representative Faber's motion was taken. Motion adopted.

Chairman Edmonds turned to **HCR 5032**.

Representative Tapanelli moved that **HCR 5032** be passed out favorable for passage. Representative Goering made a second to the motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 22, 2004 in Room 519-S of the Capitol.

Representative Larkin addressed the committee saying that because of the way the amendment is drafted he opposes. He felt it was not appropriate for the committee to be passing a resolution such as this. He felt it was more appropriate for the committee to be expanding the homestead exemption if they are truly interested in helping seniors who are on fixed income.

Representative Goering thinks that the assets of people 65 years and older are not liquid. Sometimes they have a lot of assets on the books, but very little liquid income. For that reason, he thinks that even though it may look as if they are as well off as others, he doesn't think that is so in respect to their liquid income. For that reason he supports **HCR 5032**.

Representative Huntington asked the fiscal note on the resolution. Chris Courtwright from the Research Department stated it was \$3.97 million.

Representative Jack stated he is opposed to the resolution as he sees some real problems with it.

Representative Kirk also opposed the resolution.

Representative O'Malley was recognized in opposition to the resolution.

Representative Huntington states that she is unsure which direction she would go on this resolution.

Representative Sawyer thinks that we should take more time before doing anything with this resolution and does not support it.

Representative Brunk asked if we were to adopt **HB 5031** would we be able to come back and do **HCR 5032**. The Revisor's answer was yes.

Representative Thull stated that he is from Harvey County and he has been advised that over 30% of the appraised value of property of Harvey County is tax exempt. The county commissioners estimate that alone costs about \$35 per taxpayer in Harvey County. He is opposed to a measure like this because it simply adds more burden to those people who are paying tax.

There was no further discussion. In his closing statement to the committee Representative Tapanelli stated that some seniors are forced to make a life altering decision because of a rise in property evaluation.

Vote was taken on the Tapanelli motion. Motion failed.

With no further business before the committee, the meeting was adjourned.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

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Testimony on **HB 2935**
before the
House Taxation Committee

by

Jim Edwards, Governmental Relations Specialist
Kansas Association of School Boards

March 22, 2004

Chairman Edmunds and members of the Committee:

I appreciate the opportunity to appear in front of you today to oppose HB 2935, a measure that provides the authority to local units of government, including school boards, to levy earnings, income surcharge and sales taxes. We oppose specifically the sections dealing with school boards.

We oppose this expansion of locally imposed taxes for one reason. Kansas' courts have consistently noted the disequalizing effect that local taxes have on school funding when not accompanied by state equalizing assistance. I remind you that there is a drastic difference in county taxable resources per capita. Individual income tax liability ranges from \$158 to \$782, sales tax ranges from \$137 to \$855 and real/personal property ranges from \$437 to \$3,336. In short, it would take much more tax effort in some counties to raise the same funding, no matter which tax they would levy.

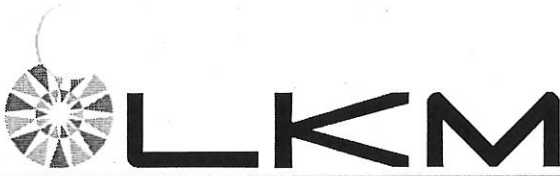
In his preliminary opinion, Judge Terry Bullock noted that "*Plaintiff school districts raise less money per pupil with each mill levy than wealthier districts and increased reliance on local taxes has resulted in a less advantageous education in the plaintiff school districts than in wealthier districts.*" With the differences of required effort noted above in all three taxes, any further reliance on local taxes without state equalizing assistance will surely bring future constitutional challenges.

I thank you for the opportunity to appear before you today and would ask you leave school districts out of this bill. I would be happy to stand for questions.

HOUSE TAXATION

Attachment 1

Date 3-22-04



League of Kansas Municipalities

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TO: House Taxation Committee
FROM: Don Moler, Executive Director
RE: Comments on HB 2935
DATE: March 22, 2004

First I would like to thank the Committee, and especially Chairman Edmonds, for being willing to engage in a dialogue on the finance of local government, and specifically cities, in the 21st Century. As you know, the League introduced three pieces of legislation last year concerning local government finance alternatives. These included: a local income tax, a local motor fuels tax, and removal of the cap on the local sales tax. We feel these initiatives are important as we are now seeing an ever increasing reliance on the local property tax. To diversify the funding base for local governments in Kansas, we need alternatives which will ultimately reduce the reliance on the property tax.

After a quick review of HB 2935, we see it as being a step down the road of allowing local revenues to be diversified in Kansas. We feel that the provisions which would allow cities and counties to adopt a local earnings tax, a local income tax, and which remove the cap on the local retailers sales tax, to be genuinely positive provisions which we believe should be more fully explored by the legislature in future sessions.

With that said, there are a number of items contained in this legislation which we feel will need considerable discussion, review, and analysis before the League could endorse any legislation of this type. Issues which are raised by this legislation, and which had not been considered by the League in our policy discussions prior to today, include: the sharing of the local sales tax authority with unified school districts; the repeal of the demand transfer statutes, including the local ad valorem tax reduction fund (LAVTR); the city county revenue sharing fund (CCRS); and the special city county highway fund (SCCHF). Furthermore, the ability of a very small group of electors to repeatedly force elections on local tax matters, would be something that we believe would add a high level of cost and uncertainty to local government finance in Kansas. As a result, we cannot support any of these changes at this time.

We will be most happy, however, to engage in a dialogue with the Kansas Legislature, and other interested parties, to discuss these and other issues arising from the funding questions surrounding local government. Perhaps this would be a good topic for an interim study which would allow some thoughtful discussion and debate on the various new provisions and initiatives which are contained in this legislation. Also, the League would want to offer our own variations of these proposed changes. Thank you once again for being willing to consider the League proposals. We look forward to working with you on this and other matters of common concern.



**KANSAS
ASSOCIATION OF
COUNTIES**

**TESTIMONY
concerning House Bill No. 2935
Financing of Local Government
Presented by Randall Allen
House Taxation Committee
March 22, 2004**

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to offer comments concerning HB 2935, which, if enacted, would represent a marked departure in policy for the financing of local governments in Kansas. In the short time we have had to review HB 2935, we find aspects of the bill which are perhaps quite promising and other aspects which are quite troubling. What we appreciate in the bill, however, is an attempt to address how we are going to finance Kansas local governments in the 21st century from a macro-policy approach, and for this attention, we offer thanks to the Chairman and the Committee for your willingness to begin a dialogue about this most important issue.

In a nutshell, HB 2935 offers municipalities (herein defined as cities, counties, and unified school districts) several options for presenting to their voters proposals to fund cities, counties, and school districts from the following sources: 1) a local earnings tax; 2) a local income tax-surcharge; 3) a local sales tax (without maximum limitations as contained in current law); and 4) local intangibles taxes as an option for school districts (currently only an option for cities, counties, and townships). In addition, the bill appears to repeal the historic demand transfer programs, including the Local Ad Valorem Tax Reduction (LAVTR) Fund, the City-County Revenue Sharing Fund, and the Special City-County Highway Fund (SCCHF), from which cities, counties, townships, community colleges, and other local districts have relied.

Our initial comments and reactions to HB 2935 can be summarized in the following points:

1) We interpret the introduction of this bill as a real willingness of the committee to seriously dialogue about how local government in Kansas should be financed in the next several decades. In no way do we support passage of this bill during this legislative session. There must be a full airing of these proposals among state and local elected officials and the citizenry before this proposal should be acted upon.

2) Having said that, you have granted in HB 2935 something that we have been asking for, i.e. removal of the cap on the local option sales tax. This is good, and we applaud this aspect of the bill. However, you have extended local sales tax authority to unified school districts. Given the practical limitations on the sales taxes imposed in Kansas, we are not overly excited about unified school districts sharing local sales tax authority with cities and counties. We would like to study this policy

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HOUSE TAXATION

Attachment 3

Date 3-22-04

proposal in more depth and have many more discussions with you and others about this feature of HB 2935.

3) As to the other options for financing local governments, including counties (e.g. local earnings and local income tax surcharge), the Kansas Association of Counties has no position on these additional options. The League of Kansas Municipalities has offered these proposals at various times, but our membership has not yet studied them and taken any position.

4) I must indicate that while the possibility of the state granting a menu of local revenue options for local governments (including counties) is very attractive, realistically this offering looks very different depending on where you live in this state. The fact is that for some counties in Kansas, none of the options are especially attractive, and none are as attractive as the redistributive impact of the demand transfers which were removed during the 2003 legislative session. For small, rural counties with relatively small commercial bases, unlimited sales tax authority means very little, for example. A 10% local sales tax in some counties would not generate sufficient revenue to make a huge impact, while the tax rate would drive away remaining business to other counties or in the case of border counties, to other states. As such, we might be in a position to say that at least for small, rural counties, a return of the demand transfer programs might be better public policy than an expanded menu of revenue options. For mid-size and urban counties, particularly those which are commercial/regional centers, the reaction might be very different.

5) While the state did not finance either the LAVTR or City-County Revenue Sharing programs in FY 04 and will probably not do so in FY 05, total abandonment of these programs for the future represents a huge change in revenue policy for the State vis-à-vis its units of local government, and one for which we are uncomfortable. The abandonment of the Special City-County Highway Fund (SCCHF), which finances about 29% of aggregate county road and bridge fund budgets in Kansas, is totally unacceptable. It would devastate road and bridge fund maintenance on our county system, with significant impacts on school bus safety, economic development, the movement of agriculture products from farm to market, *et. al.*

In summary, we commend the Chairman and the committee for thinking seriously about how local governments should be funded in the future. HB 2935 is a beginning to the dialogue. We hope it is definitely not an end to the discussion. We would like to work with this committee

and other legislators as well as the Governor, and other organizations such as the League of Kansas Municipalities and Kansas Association of School Boards to explore these subjects further. Thank you for the opportunity to address the committee on this bill.

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.