

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:45 a.m. on February 23, 2004, in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Senator Chris Steineger  
Jason Reed, member, Norton, Wasserman, Jones, and Kelly Law Firm  
Lucky DeFries, Kansas Tax Coalition  
Timothy Rogers, Salina Airport Authority  
Lloyd Hetrick, Hetrick Air Services  
Bud Burke, Cessna Aircraft Company  
Chris Wilson, Kansas Agricultural Aviation Association

Others attending:

See Attached List.

With regard to the hearing scheduled for **SB 494** concerning tax delinquencies on property within a TIF redevelopment district, Senator Corbin announced that the Cloud County official who requested the introduction of the bill indicated last Friday that the bill is no longer needed. He then called the Committee's attention to the minutes of the February 18 meeting.

Senator Donovan moved to approve the minutes of the February 18, 2004, meeting, seconded by Senator Journey. The motion carried.

**SB 521—Business aircraft property tax exemption**

Gordon Self, Revisor of Statutes, pointed out that "corrected" appears at the top of the bill because he discovered an error in the original printing of the bill and subsequently requested that it be reprinted as corrected.

Senator Chris Steinieger testified in support of **SB 521**. He noted that **SB 521** is very similar to **HB 2551**, the industry bill which attempts to reinstate a tax exemption for aircraft owned by leasing companies as it was before a Board of Tax Appeals (BOTA) and Kansas Supreme Court decision in May 2003. He explained that, in order for Kansas not to be known as a state that changes the rules on investment midstream, **SB 521** would protect the exemption of small private planes purchased prior to July 1, 2004. Any planes acquired after July 1 would be on the tax rolls in accordance with the decision of BOTA and the Supreme Court. (Attachment 1)

Senator Steinieger also presented testimony prepared by Philip Burger, who was unable to attend the meeting due to a death in his family. In 1987, Mr. Burger started a small firm called BSC Aviation, Inc., which owns and rents aircraft. When the business was formed, it was granted a personal property tax exemption according to Kansas statute. In 2002, BSC made a decision to trade for a similar replacement aircraft. In early 2003, Mr. Burger received notice that he must reapply for the property tax exemption, based upon a Supreme Court Decision. Since the aircraft replaced one that was exempt for over 15 years, he expected approval of the exemption. He was stunned when he received notice that the exemption was denied. Since that time, he has spent many hours and dollars in an unsuccessful effort to reverse the decision. (Attachment 2)

Jason Reed, a member of the law firm Norton, Wasserman, Jones, and Kelly LLC of Salina, testified in support of **SB 521** only to the extent that an amendment be made to K.S.A. 79-201k as provided in a

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:45 a.m. on February 23, 2004, in Room 519-S of the Capitol.

companion bill, **HB 2551**. He explained that his firm was involved in a May 2003 Kansas Supreme Court case regarding a group of doctors (Central Kansas E.N.T. Associates) who owned an airplane which they used in their line of business to provide health care to rural Kansas patients. In addition to the use of the airplane in their business corporation, the doctors rented the aircraft from their corporation for their personal use and paid the same fees as their patients. In that case, the Supreme Court determined the personal use of the aircraft made the exemption for the ad valorem tax not available. The Supreme Court determined that a 1988 amendment to K.S.A. 79-201k, which provided that the determining factor was whether the aircraft was used to earn income for the owner, did not overrule a case entitled *Kenneth Godfrey Aviation, Inc. v. Smith*, which was decided prior to the amendment. The facts underlying the *Kenneth Godfrey* case were similar to the facts in the *Central Kansas E.N.T.* case. The Court of Appeals determined in the *Kenneth Godfrey* case that there were two simultaneous uses of the property, one by the owner and the other by the lessee, and that both uses had to be exclusively for business in order to receive the tax exemption. In order to strengthen **SB 521**, Mr. Reed recommended that the Committee review **HB 2551** with regard to the use of the aircraft. In his opinion, **SB 521** as currently drafted would not modify the Kansas Supreme Court's interpretation of the *Kenneth Godfrey* case and the requirement of the "simultaneous uses" analysis along with the "exclusively used" requirement, especially after the decision in *Central Kansas E.N.T.* He contended that the focus should remain on the use of the aircraft by the owner. If the owner is using the aircraft to earn income, the use of the lessee should not be considered. In his opinion, this provision is the only way in which the *Central Kansas E.N.T.* opinion could be modified and the results therefore changed. (Attachment 3)

Lucky DeFries, attorney at law, testified in support of **SB 521** on behalf of the Kansas Tax Coalition. He noted that, when the Legislature amended the statute in 1988 to clarify the business aircraft exemption to address concerns raised by the *Godfrey* decision, it was believed that business aircraft would be exempt from property taxation if rented or leased. When determining whether an exemption is appropriate, the Board of Tax Appeals has focused on whether the aircraft is being used exclusively by the owner to earn income in a rental business. The May 2003 Kansas Supreme Court decision suggests that the 1988 legislation may not have accomplished its intended purpose. Mr. DeFries urged the Committee to consider revising **SB 521** by including language substantially similar to that contained in **HB 2551**. (Attachment 4) In response to committee questions, Mr. DeFries explained that **HB 2551** provides that use by a lessee will not be a disqualifier, and the term "predominant" is defined as 80% or more. The bill also includes language concerning deductibility for federal tax purposes.

Timothy Rogers, Salina Airport Authority, noted that, although the Airport Authority appreciates the effort to address an ad valorem tax exemption for business aircraft through **SB 521**, it would not resolve the problem for future business aircraft owners. He recommended that, instead, the Committee support the provisions in **HB 2551**. He emphasized that exempting Kansas based aircraft used in business and industry is vital to the continued economic growth of communities such as Salina. (Attachment 5)

Lloyd Hetrick, Hetrick Air Services, explained that his company applied for an exemption in January 2003 for two helicopters and one aircraft which are used for rental and instruction. The exemptions had been approved in the past. Therefore, he was surprised when he received notice in December 2003 that both the aircraft and helicopters had been denied exemption because the people who rent them use them for personal use. He emphasized that, as the owner of the aircraft, he uses them solely for business purposes. He noted that, if the ruling is allowed to stand, it will have detrimental effects for himself and other small aviation business aircraft owners. The tax will be passed to the end user, which will mean fewer rentals. In his opinion, the Board of Tax Appeals interpretation of the law is not the original intent of the law nor is it an interpretation that will benefit general aviation in the state. Mr. Hetrick urged the Committee to pass legislation to correct the current interpretation of the Board of Tax Appeals. (Attachment 6)

On behalf of Cessna Aircraft Company, Bud Burke, testified in support of the portion of **SB 521** which would exempt aircraft used in business form property tax in cases after the Supreme Court decision until July 1, 2004. He noted that the grandfather portion of the legislation would restore what owners of business aircraft believed to be the intent of the law since its enactment in 1982. In addition, Mr. Burke expressed support for the language in **HB 2551**. He urged the Committee to amend **SB 521** with the same or similar language. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:45 a.m. on February 23, 2004, in Room 519-S of the Capitol.

Chris Wilson, Kansas Agricultural Aviation Association (KAAA), testified in support of the goal of **SB 521**. KAAA members currently have an exemption for aircraft used in their agricultural aviation businesses. Occasionally, they have a use for spray planes which could bring their exemption into question in light of the Court's decision. For example, many members fly on a volunteer basis for the U.S. Department of Interior to suppress wildfires. This is not part of their business nor does it generate income. KAAA members believe the statute should clearly reflect that business aircraft is exempt when it is predominantly used in the business. For this reason, Ms. Wilson suggested that the language in **HB 2551** be used. (Attachment 8)

Senator Corbin called attention to written testimony submitted by Marlee Carpenter, Kansas Chamber of Commerce, which includes comments on **SB 521** and support for the language found in **HB 2551**. (Attachment 9)

Senator Corbin suggested that conferees work with the Revisor of Statutes to amend provisions of **HB 2551** into **SB 521** as they suggested and that, due to time constraints, the proposed amendments be presented at the next committee meeting. With this, the hearing on **SB 521** was closed.

The meeting was adjourned at 11:45 a.m.

The next meeting is scheduled for February 24, 2004.



SENATE ASSESSMENT AND TAXATION COMMITTEE  
GUEST LIST

DATE: February 23, 2004

NAME	REPRESENTING
Lucky DeFries	Kan. Tax Coalition
Jason Reed	
Janna Johnson	KDOR-PVD
Richard Cram	KDOR
Steve Johnson	Kansas Gas Service
Bud Burke	Cessna Aircraft Co
April Holman	Kansas Action for Children
LARRY R. BAER	LKM
Chris Wilson	KS Ag Aviation Ass'n
Timothy F. Rogers	Salina Airport Authority
Jim Gregory	Salina Airport Authority
Ann Durbin	DOB
Bill Brady	SBG/Poyless
Tom Slattery	AGC/KS
Tom Bruno	GBBA
Leslie Kaufman	Ks Co-op Council
JP SMALL	KOCH INDUSTRIES, INC.
Natalie Haag	Security Benefit Group
Lloyd Hetrick	Hetrick Aircraft



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SENATE CHAMBER

COMMITTEE ASSIGNMENTS

MEMBER: COMMERCE  
FINANCIAL INSTITUTIONS AND  
INSURANCE  
PUBLIC HEALTH AND WELFARE  
LEGISLATIVE POST AUDIT  
RULES AND REGULATIONS  
ARTS AND CULTURAL RESOURCES  
INFORMATION AND TECHNOLOGY

## Senate Bill 521 – Airplane Tax Bill

Taxability of aircraft owned by leasing companies

Previous to Board of Tax Appeals (BOTA) and Supreme Court decision in May, 2003, aircraft owned by leasing companies were tax exempt.

**Problem:** Aircraft purchased previous to 2003 under the old rules are now unexpectedly subject to taxation.

**Problem:** We (Kansas) should not be known as a state that changes midstream the rules on business investment.

**Solution:** Senate Bill 521 exempts aircraft purchased previous to 07-01-2004; thereafter, implements the decision of the BOTA and the Supreme Court

*Senate Assessment + Taxation  
2-23-04  
Attachment 1*

**Philip M. Burger**  
**26622 West Greentree Court**  
**Olathe, KS 66061**

Good morning. My name is Phil Burger and I live in Olathe, Kansas. I have been a Kansas resident for nearly six decades. I grew up in Wellington, just south of Wichita and graduated from high school there in 1962. After graduation I served four years in the US Navy in the Pacific fleet. In the fall of 1966 I entered the Mechanical Engineering program at the University of Kansas, graduating with the BSME degree in 1970. During my years at KU I worked as an intern each summer. One summer I had the good fortune to work for Lawrence entrepreneur Gene Burnett, president and owner of a very successful medical products company. Mr. Burnett was a great teacher and role model for me.

I knew immediately that I wanted to be an entrepreneur. While still a student I formed a partnership with KU classmate Dave Carson and we offered "technical services" to businesses. Since we were still in school we could not yet call ourselves engineers. We landed a few projects, but one in particular was pivotal. We did an automation study for newly formed Packer Plastics Company in Lawrence that led to development of a patented technique for stacking plastic lids. Dave and I brought in a 3<sup>rd</sup> partner with manufacturing experience and started building stacking machinery using our patented method. We called the fledgling company CBW Automation. By 1975 we employed nearly 20 people, had built a new building in Lawrence, and were selling our equipment all over the country. A dispute with my partners led to my departure in 1975.

After a three-year stint as manufacturing VP with a Kansas City company I started a new business in Olathe called Burger Engineering, Inc.-this time with no partners. Over the last 26 years this business has grown into a respected high technology manufacturer in

*Senate Assessment + Taxation*  
*2-23-04*  
*Attachment 2*

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February 23, 2004

Mr. David Corbin, Chairman  
Senate Assessment and Taxation Committee

RE: Senate Bill 521

Dear Chairman Corbin and Members of the Committee:

Good morning. My name is Jason Reed. I am a member in the law firm of Norton, Wasserman, Jones & Kelly, L.L.C. in Salina, Kansas. I have been asked by Senator Steineger to speak to you today regarding Senate Bill 521 with regard to the exemption from ad valorem taxation for aircraft. The reason that this bill and similar bills are currently before the legislature relates to a case decided by the Kansas Supreme Court in which our office was integrally involved early in 2003. The name of the case is *In the Matter of the Application of Central Kansas E.N.T. Associates, P.A., for Exemption of Ad Valorem Taxation in Saline County, Kansas*, 275 Kan. 893 (May 30, 2003). In that particular case, a group of doctors owned an airplane through their corporation which they used in their line of business to provide healthcare to Kansas patients. In addition to their use in their business, the doctors would also rent the aircraft from the corporation, paying the standard fees as were charged to the patients, for personal use. The Kansas Supreme Court determined that the amendment which was made to K.S.A. 79-201k in 1988 which provided that the determining factor was whether the aircraft was used to earn income for the owner of the aircraft did not overrule a case decided prior to the amendment entitled *Kenneth Godfrey Aviation, Inc. v. Smith*, 12 Kan. App. 2d 434 (1987), hereinafter referred to as *Kenneth Godfrey*, despite the language in K.S.A. 79-201k being amended subsequent to the opinion.

The facts underlying the *Kenneth Godfrey* case were similar to the facts in the *Central Kansas E.N.T.* case. The owners of the aircraft rented the same to individuals who would use the aircraft for both business use and recreational use. Additionally, in each case, the owner was paid rental rate. The Court of Appeals in the *Kenneth Godfrey* case determined that there were two simultaneous uses of the property; one by the property owner and the other by the lessee. The Court of Appeals determined that both uses had to be exclusively for business use in order to receive the exemption. However, K.S.A. 79-201k at that particular point in time provided that “. . . all aircraft

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actually and regularly used exclusively in the conduct of a business or industry.” Therefore, the determination by the Court of Appeals at that point in time was correct.

Subsequent to the *Kenneth Godfrey* opinion, the Kansas Legislature amended K.S.A. 79-201k to provide that an exemption from taxation was available whereby “all aircraft actually and regularly used to *earn income for the owner* in the conduct of *the owner’s* business or industry.” Therefore, it was our interpretation of K.S.A. 79-201(k) that the addition of the language “earn income for the owner” and “the owner’s” business or industry modified the analysis as to what was required to receive the exemption. The analysis should stop at whether the owner earned income from the aircraft by renting the same whether for personal or business use, the earning of income was the only requirement. The Kansas Supreme Court determined otherwise and held “contrary to the arguments of E.N.T., the issue in this case is not whether the planes are used exclusively to earn income. Rather, the issue is whether E.N.T.’s airplanes are actually and regularly used exclusively to earn income for the owner in the conduct of the owner’s business or industry.”

In furtherance of our position in the *Central Kansas E.N.T.* case, we cited to the legislative history behind the enactment of the 1988 amendment. Mr. Douglas Martin, the then Shawnee County Counselor, testified before the March 2, 1988 House Committee on Taxation. Mr. Martin believed the amendment as it was written would exempt a majority of aircraft.

Clearly from the testimony that was introduced, the intention of the amendment was to avoid the unintended results from the statute as initially introduced and decided in *Kenneth Godfrey*. The purpose was to look to see whether income was being earned by the business, not what the aircraft was being used for. If the business was earning income, the exemption should be allowed. That was the purpose of the amendment. However, the Kansas Supreme Court in the *Central Kansas E.N.T.* case determined

E.N.T. points to Martin’s testimony before the House Committee on Taxation in support of its contention that the 1988 amendment to K.S.A. 79-201k erased the Court of Appeals ruling in *Godfrey Aviation*. While the minutes reflect Martin’s belief that the 1988 amendment would bring E.N.T. within the exemption, Martin’s belief and interpretation of that amendment is not controlling. The 1988 amendment still requires exclusive use and did nothing to modify the “simultaneous uses” reasoning set forth in *Godfrey Aviation*.

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Therefore, given that the interpretation of the Kansas Supreme Court is requiring an inquiry into the "simultaneous uses" of the owner and the lessor and that the same must be for business purposes, regardless of whether the owner is earning income from renting the aircraft for personal use, an amendment to the statute is required. Our firm represents a number of aircraft leasing companies. Based on the opinion of the Kansas Supreme Court, the owner of an aircraft must inquire of the pilot and lessee what the purpose of the rental will be before each flight. If there is any personal use, regardless of whether rent is paid to the owner, the aircraft would not be exempt.

Being as integrally involved in this case as our office is, and the need for a modification in the statute, we would be in support of Senate Bill 521 only to the extent that an amendment should be made to K.S.A. 79-201k. It is my understanding that the House of Representatives has a companion bill proposing an amendment to K.S.A. 79-201k. After reviewing the House Bill and Senate Bill 521, I would recommend that the Committee take an opportunity to review House Bill 2551 with regard to the use of the aircraft. It is my opinion, and that of our firm, that Senate Bill 521 as it is currently written would not modify the Kansas Supreme Court's interpretation of *Kenneth Godfrey* and the requirement of the "simultaneous uses" analysis along with the "exclusively used" requirement especially after the decision in *Central Kansas E.N.T.* Based on the language of the bill as written, a focus is being placed on the lessee and then a determination of whether the use is a disqualifying use. This could have unintended results from those exemptions that have been granted by the Kansas Board of Tax Appeals based on the inquiry of the use by the owner. The focus should remain on the use of the aircraft by the owner. If the owner is using the aircraft to earn income, the use of the lessee should not be considered. This in my opinion would be the only way in which the *Central Kansas E.N.T.* opinion would be modified and the results therefore changed.

I would be happy to respond to any questions that the Committee might have



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Jason L. Keed  
Norton, Wasserman, Jones & Kelly, L.L.C.

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\*ALSO ADMITTED IN MISSOURI

February 20, 2004

Mr. David Corbin, Chairman  
Senate Assessment and Taxation Committee

Re: Senate Bill 521

Dear Chairman Corbin and Members of the Committee:

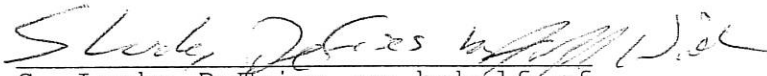
My name is Lucky DeFries, and I am appearing today on behalf of the Kansas Tax Coalition in connection with Senate Bill 521. Some of you may recall that back in 1988 I was involved with legislation which we had hoped would clarify the business aircraft exemption. After the flying club cases involving Beechcraft and Cessna, the Kansas Court of Appeals handed down an opinion in the case of *Kenneth Godfrey Aviation, Inc. v. Smith*, 12 Kan. App. 2d 434 (1987) wherein the Court held that it was necessary to look at the use by the lessees in determining whether or not an exemption was appropriate. Because of some potential inconsistencies between the *Godfrey* decision and the flying club cases, legislation was sought to clarify the issues. Since the Legislature amended the statute in 1988, it was believed that business aircraft were exempt from property taxation if "rented" or "leased." When determining whether an exemption was appropriate, the Kansas Board of Tax Appeals has focused on whether the aircraft was being used exclusively by the owner to earn income in the owner's business (i.e. the business of renting airplanes).

However, in a case handed down just this past May, the Kansas Supreme Court suggested that the legislation which this body passed in 1988 for the express purpose of clarifying the situation after the *Godfrey* decision was handed down may not have accomplished its intended purpose. [See *In the Matter of the Application of Central Kansas E.N.T. Associates, P.A., for exemption of Ad Valorem Taxation in Saline County, Kansas*, 275 Kan. 893 (May 30, 2003)] Unfortunately, we do not believe the language currently contained within Senate Bill 521 will address the concerns which presently exist and preserve what we believe to be the status quo. The language in the bill as written references a renter's or lessee's non-business use, and the basis upon which the Board of Tax Appeals has been granting these exemptions has been focused on the exclusive use being made of the aircraft by the owner/lessor. Consequently, a great many of the exemptions previously granted would be

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Attachment 4

invalidated by the language contained within this bill. Additionally, this bill does not address the prospective concerns that have arisen in the aftermath of the Supreme Court's decision. If the desire of this committee is to try and return to where all of us thought we were previously, some alternate language would need to be considered. As an alternative, we believe the language contained within House Bill 2551 would represent an approach that could be considered. The intent of this legislation is to try and return to where everyone thought we were when the Legislature addressed this issue in 1988 while at the same time providing a small degree of additional flexibility to address certain instances that could be viewed as gray areas (i.e. instances where aircraft owners are provided the opportunity to use their aircraft for charitable purposes, etc.).

The Kansas Tax Coalition would urge this committee to consider revising Senate Bill 521 by including language substantially similar to that contained within House Bill 2551 in the hopes that this legislation will clarify the issues raised by the Supreme Court and return us to where everyone believed we were following the Legislature's action in 1988. I would be happy to respond to any questions that the Committee might have.

  
S. Lucky DeFries on behalf of  
the Kansas Tax Coalition

SLD:lkj

**Written Testimony Before the Kansas Senate  
Assessment and Taxation Committee**

**By**

**Timothy F. Rogers, A.A.E.  
Executive Director  
Salina Airport Authority**

**Monday, February 23, 2004**

Good morning Mr. Chairman and members of the committee. Thank you for taking time to consider the Salina Airport Authority's views concerning ad valorem tax exemptions for general aviation aircraft used business and industry travel.

The Airport Authority appreciates the Senates efforts to address the issue with SB 521, which attempts to clarify that business aircraft based in Kansas are exempt from property taxes, However, in our opinion, SB 521 would not solve the situation for business aircraft owners into the future. Consequently, we recommend that this committee support instead the language contained in HB 2551 for the following reasons.

The Salina Airport Authority supports the exemption of Kansas based aircraft used in business and industry from ad valorem tax imposed by the state and its taxing subdivisions. Such an exemption is vital to the growth of Kansas.

Today, the travel method used by business and industry is shifting to an increased utilization of general aviation business aircraft. This is due in large part to the efficiencies and security benefits offered by these types of aircraft. By exempting business aircraft from ad valorem taxes, the state will promote the use of business aircraft by both existing and new business and industry.

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*Attachment 5*



The continued economic growth of communities such as Salina is contingent upon access to the national air transportation system. By offering the benefits of an ad valorem tax exemption to business and industry, Kansas airports of all size are able to play a vital role in the economic development of their respective communities and regions. The exemption will encourage businesses to take advantage of the benefits using a business aircraft to reach destinations throughout the United States and the world.

Thank you for your consideration of the Salina Airport Authority viewpoint on this issue.



February 3, 2004

My name is Lloyd Hetrick and I have been an Aviation Small Business owner for over 25 years. The last 21 of those years, as a Fixed Based Operator in Lawrence. We provide total aircraft services to Eastern Kansas, including aircraft rental and instruction. I have filed applications for aircraft tax exemption over the years on a number of aircraft we have owned and have never been denied exemption.

Approval of the exemption has always been based on the fact that all our aircraft are used exclusively to earn income in the process of conducting business.

As I understand it, the State of Kansas denied exemption to Godfrey Aviation in Topeka back in 1988 due to the fact that his business aircraft were rented out for different uses. His primary business was giving flight instruction, photo flights and aircraft rental. This denial was reversed which has allowed for our aircraft to be exempt since that time.

In January of 2003 I sent in for exemption on two helicopters through our business Capitol Helicopter Inc.

One for the tax years 2000, 2001 and 2002 in Shawnee County and the other for the tax years 2001 and 2002 in Douglas County. These helicopters were used for instruction, photo flights, pipeline flying etc. One of the helicopters was leased to a business in Downtown Kansas City for several years. We received our exemption for the helicopter in Shawnee County with an approval date of 7/2/2003 and one years back taxes. While we were surprised and disappointed that we did not receive full payment of back taxes we now understand that the law regarding payment of back taxes had recently changed and as it was our tardiness that caused that issue there was not much we could do on that matter.

At the same time we applied for exemption for the two helicopters we also applied for exemption for one aircraft in Douglas County for the tax years 2002 & 2003. It also is used for aircraft rental and instruction.

We were however surprised when we received notice (in December 2003) that both the Aircraft and Helicopter had been denied exemption in Douglas County. The exemptions had been sent in at the same time, the law as far as we know has not changed and we have always been approved in the past. We were told we were denied because the people who rent our aircraft use them for personal use. Even though, we who own the aircraft that applied for exemption, use them solely for business purpose.

*Senate Assessment & Taxation  
2-23-04*

**1930 Airport Road • Lawrence, Kansas 66044**  
**785-842-0000 • Fax 785-842-0569 • [www.hetrickairservices.com](http://www.hetrickairservices.com)**

*Attachment 6*

The flight school portion of my business also operates two aircraft that are leased to me by two separate owners. One of the owners has a second aircraft based in Olathe that he uses in his primary business so he never uses the aircraft leased to us. If this ruling is allowed to stand his exemption would also not apply even though it is purely a business use aircraft for him.

This ruling if allowed to stand has and will have detrimental effects for myself and other small aviation business owners and business aircraft owners. At this time the increased cost to my operation is about 14% and this will increase if I lose the potential for business investors to lease aircraft back to me due to the fact that they can no longer receive exemptions. This cost will have to be passed on to the end user which could mean fewer rentals and aircraft owners which effectively could put me and other smaller general aviation business out of business.

The Board of Tax Appeals wants to interpret the law based on the end user of the aircraft and not the business that owns it. I do not believe this was the original intent of the law or an interpretation that will benefit general aviation in the State of Kansas.

Aviation as a whole has taken a hit since September 2001. Who would have ever thought that all the General Aviation Airports in the country would be shut down for days?

I am not the only small aircraft company that has or will be affected by this ruling. I would ask you to think hard about what the intent is and should be of this law, and if you like myself agree that the current interpretation by the Board of Tax Appeals is not correct that you would also consider making any changes retroactive to cover previous years.

Thank you for allowing me to express my view point and for your time and consideration on this matter.



Lloyd A. Hetrick

# ISSUES



## MANAGEMENT GROUP, INC.

TESTIMONY REGARDING SB 521

FEBRUARY 23, 2004

Mr. Chairman and Member of the Committee:

My name is Bud Burke and I appear today on behalf of Cessna Aircraft Company regarding SB 521.

We support what we believe was the intent of a portion of the legislation that would exempt aircraft used in business from the property tax in those cases from the time of the Court decision until July 1, 2004. The Grandfather portion of the legislation would restore what owners of business aircraft believed to be the intent of the law since its enactment in 1982.

We support language found in HB 2551, or similar language that makes it clear that the Preamble to K.S.A. 79-201K found in Section 1 (a) expresses the importance of this vital component of our economy as well, perhaps, as recognizing the mobility of aircraft. We encourage the Committee to amend SB 521 with the same or similar language.

By domiciling aircraft in Kansas we enjoy the multiplying benefits of the jobs that are necessary to service, maintain and operate the aircraft as well as attracting and retaining the corporate headquarters and service centers associated with such aircraft.

We believe that the cost/benefit ratio of the tax exemption is a winning situation for Kansas and a shot in the arm for a struggling but vitally important segment of our economy.

Thank you again for the opportunity to appear before you today. I will be happy to respond to your questions.

Respectfully,

Bud Burke

*Senate Assessment & Taxation  
2-23-04*

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*Attachment 7*

**STATEMENT OF THE KANSAS AGRICULTURAL AVIATION ASSOCIATION  
TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE**

**SENATOR DAVID CORBIN, CHAIR**

**REGARDING SB 521**

**February 23, 2004**

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Agricultural Aviation Association (KAAA). Our approximately 300 members include 125 agricultural aviation businesses. KAAA supports the goal of SB 521. We appreciate the Senate's recognition that this is an issue that needs to be addressed.

We do have a concern about the recent Supreme Court decision that brings into question the status of the business aircraft property tax exemption. KAAA members currently have this exemption for their aircraft used in their agricultural aviation businesses. Occasionally they have a use for these spray planes that could bring into question their exemption under this Court decision. For instance, we have a current project through which many of our members are flying on a volunteer basis for the U.S. Department of Interior to suppress wildfires. This is not part of their businesses, nor does it generate income.

We believe the statute should be clear that the business aircraft is exempt when it is predominantly used in the business, not only in the case where it is leased. For that reason, we would suggest that you use the language in HB 2551 to resolve this issue and clarify that the business aircraft exemption applies to aircraft used predominantly for business purpose, as defined in HB 2551.

Thank you for the opportunity to support the goal of SB 521. We urge the Committee to clarify this bill through amendment of the language in HB 2551 and report it favorably for passage.

*Senate Assessment & Taxation  
2-23-04  
Attachment 8*



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February 23, 2004  
Kansas Senate Assessment and Taxation Committee  
SB 521

The Kansas Chamber of Commerce appreciates the opportunity to provide written comment on SB 521, which attempts to clarify that business aircraft based in Kansas are exempt from property taxes. However SB 521 does not provide for future property tax exemptions for business aircraft. The Chamber suggests the committee support instead the language contained in HB 2551. HB 2551 more clearly explains that aircraft based in Kansas, which are used in the conduct of business or industry, are exempt from future property taxes.

Civil aviation links Kansas with the rest of the country and the world. Aviation has been an historical catalyst for the growth of commerce everywhere. The world's small aircraft, more than half built right here in Kansas, allow rural areas and smaller cities to enter the mainstream of commerce in markets around the globe. Business aircraft are crucial tools for commercial enterprises across Kansas. Enacting the language continued in HB 2551 is one step that the Legislature could take that would keep the costs of doing business in Kansas competitive as the state searches for ways to help business and industry create more jobs.

More than 20 states, none of which enjoys the concentration of high technology aircraft manufacturing jobs that Kansas possesses, have wisely decided to entirely exempt aircraft based within their borders from property taxes, according to the National Business Aviation Association.

An NBAA report cites the following 21 states that have zero personal property tax for aircraft: Arizona, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Maryland, Massachusetts, Michigan, Mississippi, Montana, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Pennsylvania, Vermont, and Wisconsin. The Kansas Chamber of Commerce urges the Senate Assessment and Taxation Committee to substitute the language contained in HB 2551 as a step toward keeping Kansas attractive to business and industry.

*The Kansas Chamber is the statewide business advocacy group, with headquarters in Topeka. It is working to make Kansas more attractive to employers by reducing the costs of doing business in Kansas. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have nearly 7,500 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, medium and large employers all across Kansas.*

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Attachment 9