

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 31, 2006 in Room 519-S of the Capitol.

All members were present except:
Representative Lana Gordon - excused

Committee staff present:
Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:
Representative Jim Morrison
Kevin Rasure, Sherman County Commissioner
Representative Lynne Oharah
Marlee Carpenter, Vice President of Government Affairs, The Kansas Chamber
Mark Beshears, Vice President of State and Local Taxes, Sprint Nextel
Mike Beam, Senior Vice President, Kansas Livestock Association
Hal Hudson, KS State Director, National Federation of Independent Business
Karl Peterjohn, Executive Director, KS Taxpayers Network
Duane Simpson, KS Grain and Feed Association and KS Agric. Bus. Retailers Assoc.
Leslie Kaufman, Executive Director, Kansas Cooperative Council (written only)
Kenneth L. Daniels, Midway Sales and Distributing, Inc. (written only)

Others attending:
See attached list.

HB 2698 - Authorizing countywide retailers' sales tax in Sherman county for roadway improvements.

Representative Jim Morrison said the bill is a request for Legislative authorization to permit Sherman County to place a 1% county-wide sales tax option on the April ballot. The tax increase is to help improve roadways so that a currently being built wind, Ethanol, and Coal-fired power plant, west of Goodland, will have adequate highway access. There is an identical bill in the Senate to expedite the process of placing the issue before the voters in April of this year (Attachment 1).

Kevin Rasure, Sherman County Commissioner, introduced Goodland Officials and Community Leader: Rick Billinger, Mayor; Wayne Hill, City Manager; and Larry McCants, Banker. He said this project has unanimous support from both City and County Commissions. A sales tax will generate revenues from people who use the roads. The only other option is through property tax, not a good option in their farming community. He urged the Committee to let residents choose the method of taxation (Attachment 2).

The Chairman closed the public hearing on **HB 2698**.

There being no objection to considering action on **HB 2698**, the Chairman questioned the desire of the Committee.

Representative Owens made the motion to recommend **HB 2698**, favorable for passage. Representative Thull seconded the motion. The motion passed.

HB 2548 - This bill would amend K.S.A. 79-5401 to change franchise tax.

Chris Courtwright explained that **HB 2548** bill would reduce the annual franchise tax from: 2005 - 125%; to 2006 - .83%; 2007 - .041%; and be eliminated for 2008 and beyond. The fiscal impact of the bill is \$42 million over the next three years. The provisions of this bill shall apply to the tax years 2004 to 2008, and the franchise tax will be abolished for all tax years after 12-31, 2007.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 31, 2006 in Room 519-S of the Capitol.

The Chairman opened the public hearing on **HB 2548**.

Representative Lynne Oharah spoke of the variety of changes to tax laws since 2001 and said, "Franchise taxes in Kansas are burdensome and unfriendly to business (Attachment 3). **HB 2548** serves to simplify the franchise tax issue in Kansas and make Kansas a preferred place to establish and conduct business."

Marlee Carpenter, Vice President of Government Affairs, The KS Chamber, said **HB 2548** is another way to incrementally improve the Kansas business climate. If this tax is phased out it would send a pro-business message to the companies that grow and create jobs in the state (Attachment 4). She spoke of data from a chart on franchise tax rates that compared other states in the region, listed on page three of written testimony from Kenneth L. Daniel.

Mark Beshears, Vice President of State and Local Taxes, Sprint Nextel appeared in support of **HB 2548**. He said prior to the franchise tax cap being raised in 2004, Sprint paid approximately \$20,000 per year in franchise tax and now their franchise taxes exceed \$400,000 per year (Attachment 5).

Mike Beam, Senior Vice President, Kansas Livestock Association said the franchise tax is essentially a tax on the privileges of doing business in Kansas. It is paid by foreign and domestic corporations, associations, limited liability partnerships (Attachment 6).

Hal Hudson, KS State Director, National Federation of Independent Business said **HB 2548** would phase out the franchise tax completely, leaving only the annual fee. They believe the \$40 fee is adequate to support the record keeping of the Secretary of State's office and urge passage of the bill that would reduce the financial burdens on businesses operating in Kansas (Attachment 7).

Karl Peterjohn, Executive Director, KS Taxpayers Network gave several reasons why passing **HB 2548** is necessary. He said this tax is levied regardless of the profitability of the business. This places Kansas firms in a competitive disadvantage with their competitors in neighboring states with either a lower franchise tax or are among the 31 states, like Colorado, which do not impose this tax (Attachment 8).

Duane Simpson, KS Grain and Feed Association (KGFA) and KS Agric. Bus. Retailers Assoc.(KARA) testified that while KGFA and KARA support repealing the estate tax and providing property tax relief for new business machinery and equipment purchases. Their members believe repealing the franchise tax will have a more significant effect on the bottom line. Eliminating the M&E tax does nothing to prevent local mill levies or valuations to increase eliminating any potential gains (Attachment 9).

The Chairman noted that written testimony had been received and distributed from: Leslie Kaufman, Kansas Cooperative Council; Kenneth L. Daniels, Midway Sales and Distributing, Inc.; and David White, AT&T (Attachment 10).

There being no opponents to **HB 2548**, the Chairman closed the public hearing.

Conversation followed regarding bills being discussed the remainder of the week.

The meeting was adjourned at 10:45 A.M. The next meeting is February 1, 2006.

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: January 31st

NAME	REPRESENTING
Wayne Hill	City of Goodland
Kevin Rascoe	Sherman County
Mike Beam	Ks. LUSTK. ASSN.
Hal Hudson	NFIB/KS
D Pann Williams	Ks Motor Carriers Assoc.
Mark Beshears	Sprint
Mike Murray	Sprint
Andy Shaw	Goodyear Tire & Rubber
Natalie Haeg	Security Benefit
John Zelenik	Bosch
Kyle Beckett	Gachis Brader
Linda Gidder	Rep. Owens
Garin Dorman	Paul Davis
Marlee Carpenter	Kansas Chamber
David Cunningham	Ks Assoc. of School Bds
Ronald Richey	N/E
Brandy Wilson	Secretary of State
Ben Cleaves	DOTS
Dan Murray	Federico Consulting

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STATE OF KANSAS

JIM MORRISON
REPRESENTATIVE, 121ST DISTRICT
(Sherman, Thomas, Sheridan and Graham Counties)
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TOPEKA

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Member
UTILITIES
Member
Joint Committee on Information
Technology
Member
Health Care Stabilization
Committee

January 30, 2006

Testimony in support of HB 2698

Chairman Wilk and members of the House Tax Committee I thank you for this opportunity to appear in support of legislation requested by the City of Goodland and Sherman County. In short they are requesting the Legislature permit Sherman County to place a request for a 1% county-wide sales tax on the ballot for this year's April elections. The monies raised amounting to approximately 12 Million Dollars will be used to improve deteriorating roads in the county.

Sherman County is in a wonderful growth situation that requires improvement of several aging roadways. Sherman County Commissioners can answer questions regarding which roads and the details of the projects. My support for the tax increase is to help improve roadways so that a currently being built Wind, Ethanol, and Coal-fired power plant for the resale of electricity West of Goodland will have adequate highway access.

Other projects that may or may not have been announced are on the drawing boards which will help create many new jobs and improve the economic structure of my district. I ask your favorable action on this bill and that it is expedited in the interest of placing the issue before the voters in April of this year. Thank you for your attention and support.

Sincerely,

A handwritten signature in black ink that reads "Jim Morrison". The signature is fluid and cursive, with the first name "Jim" being particularly prominent.

Representative Jim Morrison

Sherman County Commissioners

Sherman County Commission
813 Broadway, Rm. 101
Goodland, Kansas 67735

Phone: 785-899-4807
FAX: 785-899-4809
email:

January 31, 2006

To: Chairman Kenny Wilk and Members of the House Taxation Committee

Re: HB #2698

We are here today to ask for your support in granting us the ability to ask our citizens for the opportunity to maintain and upgrade a vital part of our infrastructure, our roadways. This is a project that has unanimous support from both City and County Commissions. These are elected officials that consist of several retail business people, a farmer, a banker, and a landlord. As elected officials, we take seriously the implications of additional taxes, but we take the responsibility of keeping our infrastructure up even more seriously. Our roadways are vital in serving our farming community, businesses, residents, visitors and economic development.

We are fortunate to have a coal fired power plant, an ethanol plant and a bio-diesel plant that will be starting this spring. Many of these roads that we want to improve have a direct effect on the movement of product to and from these plants. These plants will employ approximately 200 construction workers and will employ 70 to 100 full time people when in full operation.

We have in our county, a former state highway consisting of almost 40 miles. This road is crucial in moving our crops, getting our citizens to Goodland and back from our rural areas and providing a paved road to help carry our children to and from school. All the roads and streets that the sales tax will fund are key in providing safe transportation to our businesses and residents of the Goodland area. In combining the efforts of the city and county, we can address the most important roadways and by doing them as a combined project, we can get a much greater return on the dollars spent. This will enable us to get competitive bids from contractors, lower financing costs and less inconvenience to our residents.

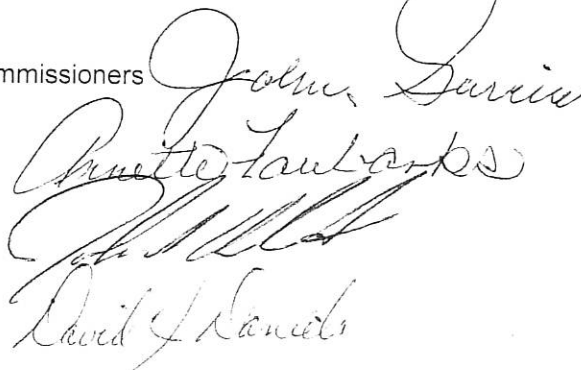
With the sales tax, we can generate the revenues from all the people who use the roads in Goodland and Sherman County. The only other option we have to raise additional funds is through property tax, and we don't feel that is a very good option in our farming community. Our county and city budgets don't allow for us to take on projects like this, especially with the loss of the demand transfers several years ago. The loss of those funds hurt all communities, but in our farming community it severely hurt our ability to maintain and upgrade our transportation system both in our city and county. The proposed project will be a \$12 million dollar bond issue with a projected payoff of 10 to 13 years.

We sincerely hope that your committee will let our residents choose whether or not to spend our own money to maintain and improve our transportation system within our county. We thank you for your time and consideration.

City of Goodland--City Commissioners



Sherman County--County Commissioners



House Taxation
1-31-06
Attachment 2

**ESTIMATED COSTS FOR
PROJECTED
CITY/COUNTY PLAN**

***** ALL COSTS ARE PRELIMINARY *****

2.2

STREETS

Street	Line Item	Location	Unit	Quantity	2005	
					Unit Price	Total
Caldwell & Toelkes to Bridge	Inplace Cold Recycle	Armory to Bridge	sy	13,000	\$4.00	\$52,000.00
	Inplace Cold Recycle	Toelkes to Armory	sy	6,500	\$4.00	\$26,000.00
	6" Asphalt		sy	19,500	\$18.00	\$351,000.00
	8" Concrete	Int of Armory/Caldwell	sy	750	\$40.00	\$30,000.00
	Signage		ea	30	\$500.00	\$15,000.00
	Shoulder Dirtwork		lf	7,000	\$15.00	\$105,000.00
	Contingency				10%	\$57,900
						\$636,900
	Design				5%	\$31,845
	Inspection				10%	\$63,690
TOTAL COST ESTIMATE						\$732,435

Caldwell & 8th St to Toelkes	6" Mill		sy	13,333	\$2.00	\$26,666.67
	6" Asphalt		sy	13,333	\$18.00	\$240,000.00
	Contingency				10%	\$26,667
						\$293,333
	Design				5%	\$14,667
					\$322,667	
Inspection				5%	\$14,667	
TOTAL COST ESTIMATE						\$322,667

Caldwell & 8th Intersection	C&G		lf	400	\$20.00	\$8,000.00
	8" Concrete street		sy	1,200	\$40.00	\$48,000.00
	Base work		sy	1,200	\$25.00	\$30,000.00
	Storm sewer		lf	400	\$75.00	\$30,000.00
	Storm inlets		ea	3	\$7,500.00	\$22,500.00
	Removal of existing street		sy	1,200	\$20.00	\$24,000.00
	Subsidiary work		ea	1	\$15,000.00	\$15,000.00
	Contingency				10%	\$17,750
						\$195,250
	Design				6.0%	\$11,715
Inspection				8.0%	\$15,620	
TOTAL COST ESTIMATE						\$222,585

8th & Cattletrail to D'Lao Dr	C&G		lf	200	\$20.00	\$4,000.00
	8" Asphalt		sy	2,650	\$24.00	\$63,600.00
	Base work		sy	2,650	\$12.00	\$31,800.00
	Removal of existing street		sy	2,650	\$20.00	\$53,000.00
	Subsidiary work		ea	1	\$25,000.00	\$25,000.00
	Contingency				9%	\$15,966
						\$193,366
	Design				6.0%	\$11,602
	Inspection				8.0%	\$15,469
	TOTAL COST ESTIMATE					

CITY STREETS (continued)

Street	Line Item	Location	Unit	Quantity	2005		
					Unit Price	Total	
17th - Railroad to Main Street	C&G		lf	4,100	\$20.00	\$82,000.00	
	8" Concrete street		sy	9,500	\$40.00	\$380,000.00	
	Base work		sy	9,500	\$25.00	\$237,500.00	
	Storm sewer		lf	3,500	\$70.00	\$245,000.00	
	Storm inlets		ea	10	\$5,500.00	\$55,000.00	
	Entrances/side streets		ea	30	\$5,000.00	\$150,000.00	
	Removal of existing street		sy	9,500	\$20.00	\$190,000.00	
	Subsidiary work		ea	1	\$75,000.00	\$75,000.00	
	Contingency				5%	\$70,725	
						\$1,485,225	
	Design				4.0%	\$59,409	
	Inspection				8.5%	\$126,244	
	TOTAL COST ESTIMATE						\$1,670,878

COUNTY ROADS

Old Hwy 24 AKA Rd 64/64.2	Milling to 3" Depth		ton	79,000	\$5.00	\$395,000.00
	3" Overlay		mile	33	\$135,000.00	\$4,455,000.00
						\$4,850,000
Engineering				7.0%	\$339,500	
TOTAL COST ESTIMATE						\$5,189,500

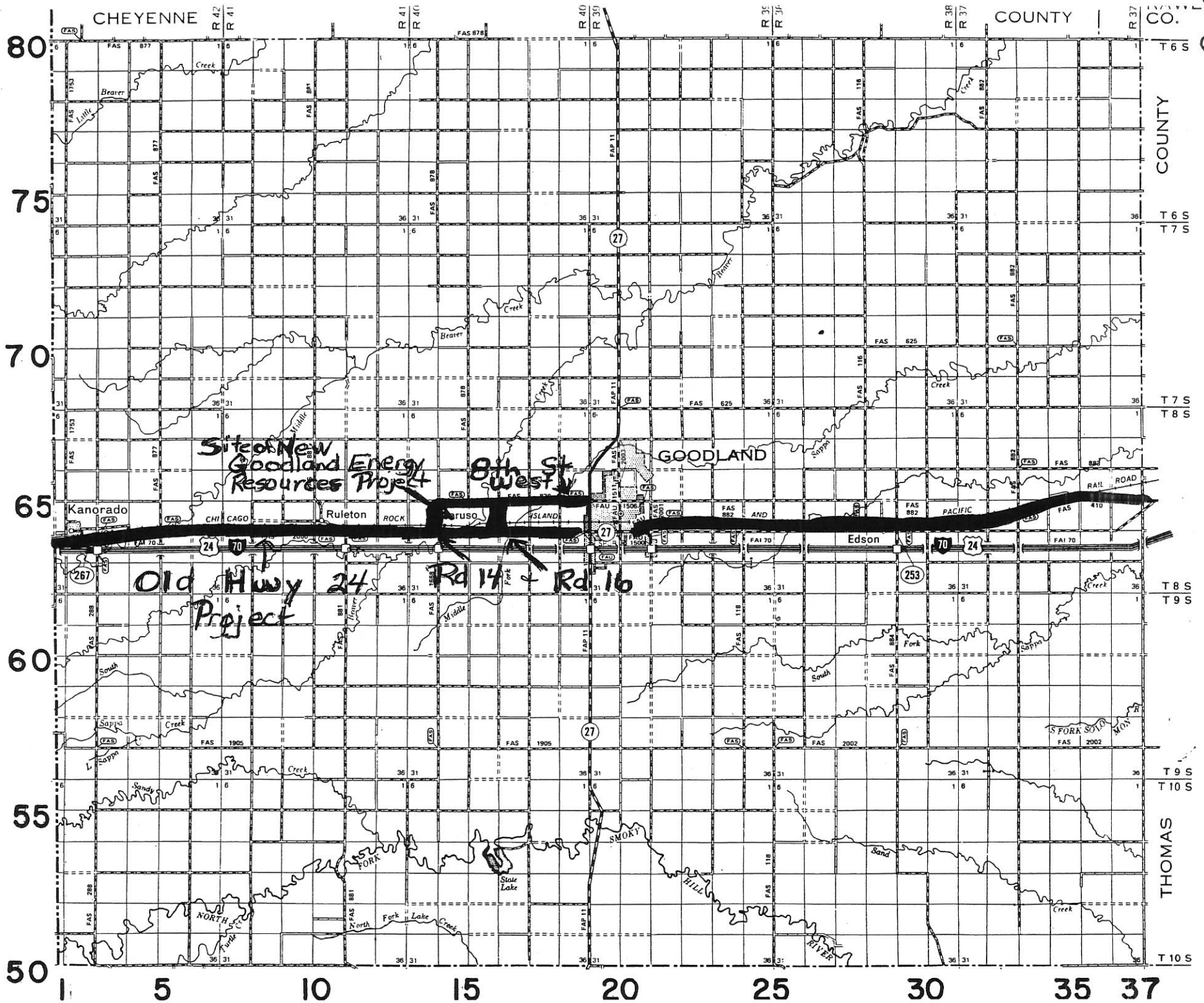
8th St. West of Goodland & Rd 14 Between Rd 64 & 65	7" Milling, Subgrade Modification and Bituminous Surfacing		mile	6.5	392,910.00	\$2,553,915.00
						\$2,553,915.00
<i>NOTE: This is a 7" overlay, if decrease depth it will be less cost.</i>						
Engineering				7.0%	\$178,774	
TOTAL COST ESTIMATE						\$2,732,689

Road 16	5 or 6" Resurfacing		mile	1.0	300,000.00	\$300,000.00
						\$300,000.00
Engineering				7.0%	\$21,000	
TOTAL COST ESTIMATE						\$321,000

TOTAL CITY STREETS REQUESTED \$3,169,002

TOTAL COUNTY ROADS REQUESTED \$8,243,189

TOTAL CITY STREETS & COUNTY ROADS \$11,412,191



2-13

CHEYENNE COUNTY

THOMAS COUNTY

LYNNE OHARAH
REPRESENTATIVE, FOURTH DISTRICT

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2120 95TH STREET
UNIONTOWN, KANSAS 66779

OFFICE ADDRESS:
STATE CAPITOL, SUITE 427-S
TOPEKA, KANSAS 66612-1504
(785) 296-7655



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HB 2548

Mr. Chairman
Members of the committee

Economic development is a complicated puzzle and each piece of that puzzle plays a valuable role in improving the perception of Kansas in the eyes of business. One key piece that I would like to discuss today is the Kansas Franchise Tax. I would like to share the recent history of this tax and how House Bill 2548 will improve the Kansas economy.

Some variety of change has been proposed to the tax each year since 2002. Imagine being an accountant for a corporation doing business in our State. It must be like shooting at a moving target.

In 2002, the Legislature passed a bill doubling the tax rate and the maximum amount a corporation would have to pay from \$2,500 to \$5,000.

In 2003, the Senate attempted to revert the tax rate back to the 2002 levels. The House agreed, but also wanted to increase the maximum tax a corporation would have to pay from the 2002 level of \$2,500, up to \$8,000. In addition, this Committee also recommended that the administration and collection of the tax be moved from the Secretary of State's office to the Department of Revenue.

As a result of a study conducted between the 2003 and 2004 sessions, the responsibility for the collection of the franchise tax was moved from the Secretary of State to the Department of Revenue, but a small filing fee was still required to be paid to the Secretary of State.

The list of changes proposed, enacted and repealed goes on, but you get the idea. Franchise taxes in Kansas are burdensome and unfriendly to business. House Bill 2548 serves to simplify the franchise tax issue in our State and make Kansas a preferred place to establish and conduct business.

House Taxation
1-31-06
Attachment 3

HB 2548 would eliminate the tax completely, phasing it out over the next three years. For the tax year ending December 31, 2005, the rate would be .125%. In 2006, the rate would reduce to .083%, for 2007 it would decline to .041% and be eliminated for 2008 and beyond. This gradual reduction would allow for new business to recognize the changing tide in Kansas and for existing businesses to begin seeing results immediately. Nearly half of all States in the U.S. have no franchise tax at all, and I would like to see Kansas join that list. Several of our Midwestern neighbors such as Colorado, Iowa, Indiana and South Dakota have taken this progressive step and it is important that Kansas not be left behind in the competition for new business development.

Tax estimates show that approximately \$45 million will be collected in 2006 by this tax. The recovery of our State and National economy will produce revenues that far outweigh this figure and offset its elimination. Revenue projections are being raised monthly and the latest numbers predict collections in the State General Fund at \$221 million above FY '05 receipts. By passing this bill, Kansas would take another major step toward becoming a hub of commerce in the United States and send a positive message to corporations around the World. The three-year phasing out of this tax will grow the Kansas economy, increase State revenue and provide job growth for our citizens. I would ask for the Committee's support of HB 2548.

Legislative Testimony

HB 2548

January 31, 2006

**Testimony before the Kansas House Taxation Committee
By Marlee Carpenter, Vice President of Government Affairs**

I am Marlee Carpenter with the Kansas Chamber and our over 10,000 small, medium and large businesses support HB 2548, the phase out of the franchise tax.

The franchise tax has undergone many changes in the last few years. This tax has been used to help balance the state's budget in tough times and has ballooned from its \$1.00 per thousand dollars of net worth with a cap of \$5,000 to \$1.25 per thousand dollars of net worth with a cap of \$20,000. This is now a significant tax and an additional cost of doing business in the state that was not in place a few years ago.

The franchise tax is a tax on net worth, or said another way, a company's success. A company must pay this tax in Kansas for the privilege of doing business in the state. The tax has no bearing on whether the company made money, had any new investments or created any jobs but a tax on growing a business and the assets obtained to be successful.

In addition, there is no offset for companies' subsidiaries. Each subsidiary must pay the full franchise tax. Companies that choose to organize with several subsidiaries are penalized under Kansas law and the penalty has increased significantly over the last few years.

The Kansas Chamber supports HB 2548 as another way to incrementally improve the Kansas business climate. We encourage the legislature to phase out this tax and send a pro-business message to the companies that grow and create jobs in the state. Thank you for your time and I'll be happy to answer any questions.



**THE KANSAS
CHAMBER**

The Force for Business

835 SW Topeka Blvd.

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Fax: 785-357-4732

E-mail: info@kansaschamber.org

www.kansaschamber.org

The Kansas Chamber, with headquarters in Topeka, is the statewide business advocacy group moving Kansas towards becoming the best state in America to do business. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have more than 10,000 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, medium and large employers all across Kansas.

House Taxation
1-31-06
Attachment 4

Under the current law, businesses with less than \$100,000 in net worth are exempt entirely from the franchise tax. Above \$100,000, the tax rate is \$1.25 per \$1000 of net worth, and applies to the first \$16 million of net worth.

In 2004, the \$55 franchise fee was separated from the franchise tax. The tax is paid to the Department of Revenue, while the fee is paid to the Secretary of State. The \$55 fee funds the operations of the Secretary of State's office. The fee applies to all limited liability entities, even those under \$100,000 in net worth.

Comparison to Other States in the Region

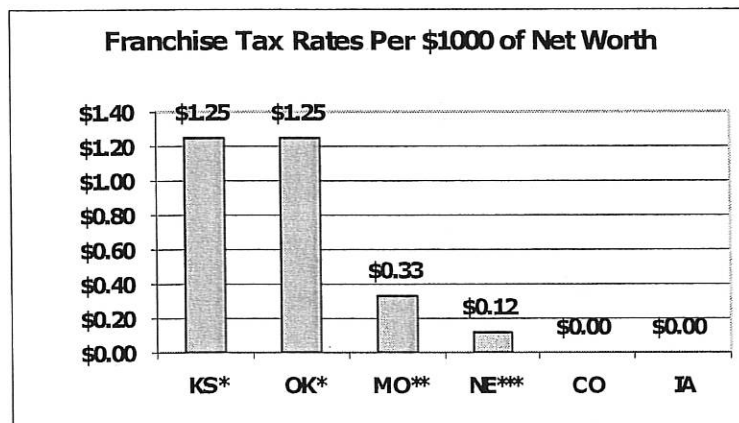
At the lowered rate of \$1.25 per thousand, Kansas is still tied for the highest tax rate in the region².

The Oklahoma version, at \$1.25 per thousand, is capped at \$20,000 of tax, which equates to a \$16,000,000 net worth. This is exactly the same as the new Kansas tax.

The Missouri version, at \$.33 per thousand, applies only to the portion of corporate net worth in excess of \$1 million, thereby eliminating this tax for most small businesses. The Missouri version is more of tax on medium and large businesses.

The Nebraska version, at \$.12 per thousand, is capped at \$11,995 of tax (\$15,000 for out-of-state corporations) which equates to \$100,000,000 of net worth, making it the same percentage for almost all businesses in the state, and enabling the rate to be kept very low.

Colorado and Iowa, like many other states across the nation, do not have this tax at all.



* Kansas and Oklahoma tax is capped at \$20,000 per year.

** Missouri's tax applies only to the portion of net worth over \$1,000,000.

² Edward Jones "State Tax Handbook 2003", CCH Incorporated, "Information by State" pages.

Sprint



Together with NEXTEL

Sprint Nextel

Mailstop: KSOPHL0512-5A904

6500 Sprint Parkway

Overland Park, KS 66251

Office: (913) 315-5833 Fax: (913) 523-0588

Mark Beshears

Vice President

State & Local Tax

Before the House Taxation Committee

Tuesday, January 31, 2006

HB 2548

Mark Beshears, Vice President, State and Local Tax, Sprint Nextel

Mr. Chairman and Members of the Committee:

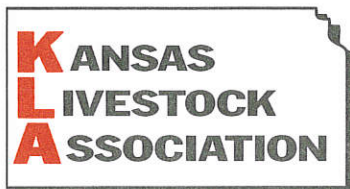
I am Mark Beshears, Vice President of State and Local Taxes for Sprint Nextel and I am here today to support HB 2548 which phases out the Kansas Franchise Tax after 2008.

Prior to the franchise tax cap being raised in 2004, Sprint paid approximately \$20,000 per year in franchise tax and now our franchise taxes exceed \$400,000 per year.

As a result, if we create new legal entities that might create a franchise tax we now incorporate them in Delaware where the maximum franchise tax is \$100 per legal entity.

The changes enacted a couple of years ago also transferred the compliance and audit function from the Secretary of State to the Department of Revenue. The phase-out of the franchise tax will reduce the compliance costs, audit costs, and administrative costs for the Department of Revenue saving money for both the State and the tax payers.

It is our hope that the Committee will act favorably on HB 2548, and I'd be happy to stand for questions at the appropriate time.



Since 1894

TESTIMONY

To: The House Committee on Taxation
Rep. Kenny Wilk, Chairperson

From: Mike Beam, Senior Vice President

Date: January 31, 2006

Subj: **House Bill 2548** -A bill to phase out the Kansas franchise tax.

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.

The Kansas Livestock Association supports HB 2548.

The franchise tax is essentially a tax on the privileges of doing business in Kansas. It is paid by foreign and domestic corporations, associations, limited liability corporations, and limited liability partnerships.

In 2004 the Legislature changed the franchise tax by raising the cap on the tax from \$5,000 to \$20,000 and lowering the rate from 0.2 percent of shareholder equity or net worth to 0.125 percent. The legislature also provided for an exemption for entities with equity or net worth of \$100,000 or less.

We recently contacted tax practitioners and sought their input on the franchise tax. One practitioner indicated that many of his customers have created corporations or limited liability corporations or partnerships for liability protection. This is a technique that has been recommended and utilized for years in business planning.

Our feedback also concluded the 2004 reduced rates helped some smaller operations, but penalized those mid-sized to larger entities. A \$20,000.00 tax or fee may not be a significant expenditure for a large, publicly traded company. The tax, however, is a significant cost for family owned agricultural businesses.

House Taxation
1-31-06
Attachment 6

In addition, the increased franchise tax was especially notable to those who have formed subsidiaries or related companies in recent years.

Many agricultural entities that did not pay the tax, or paid a maximum of \$5,000.00, have recently been paying additional franchise taxes. We've received numerous calls from members inquiring and complaining about these changes. During our 2005 convention and business meeting, our members voted to seek the repeal or reduction of the franchise tax.

We ask your support for HB 2548.

Thank you.

KANSAS

**Statement by
Hal Hudson, Kansas State Director
National Federation of Independent Business
Before the
House Taxation Committee
Tuesday, January 31, 2006**

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to support enactment of House Bill 2548.

As you may know, NFIB/Kansas has advocated reducing the franchise tax or fee, whichever name you choose to call it, since it was doubled in the 2002 session. Our position is supported by member response to our ballot survey before the 2005 session. *We asked: Should legislation be enacted to phase out the Kansas franchise tax completely over five years?* And the response, as you might guess, was a resounding YES.

The franchise tax (or fee) is an annual payment every limited liability entity (corporation – “C” or “S”), limited liability partnerships, etc. must pay. It is a tax on the privilege of doing business in Kansas. Most of our members are proprietorships, subchapter “S” corporations, or limited liability corporations. Of these, only proprietorships escape payment of the franchise tax.

This tax was doubled on 2002 as the legislature sought to balance the state budget. The 2004 session reduced the franchise tax rate from \$2.00 per \$1,000 of net worth to \$1.25; granted an exemption for entities with a net worth of \$100,000 or less, but raised the cap from \$5,000 to \$20,000 on the tax the largest entities must pay. In addition, a \$40 franchise “fee” was implemented, and is payable by all the above to the Secretary of State. HB 2548 proposes is to phase out the “tax” completely over three (3) years. Only the \$40 annual fee would remain.

Those who favor this proposal say the franchise tax is an unfair tax imposed on the privilege of doing business in Kansas, and discriminates against those who organize their business as a limited liability entity. (It is not owed by proprietorship businesses.) Further, it incrementally increases the tax businesses must pay as they grow and increase their assets. It is, in fact, double taxation on physical assets, including both real and personal property.

We believe the \$40 “fee” is adequate to support the record keeping of the Secretary of State's office. A representative from the Secretary of State's office has confirmed, before this committee, that the \$40 fee is adequate to support the record keeping function in that office.

Thank your for your consideration of the concerns of Kansas small business.

KANSAS TAXPAYERS NETWORK

P.O. Box 20050
Wichita, KS 67208
January 31, 2006

web:www.kansastaxpayers.com

316-684-0082

Fax 316-684-7527

Testimony Supporting HB 2548
By Karl Peterjohn, Executive Director

Kansas businesses are currently charged a large laundry list of taxes, fees, and assessments to operate in this state. In 2002 the business franchise tax was doubled as part of the major statewide tax hike enacted that year and has since been revised by statute because of the disparity and other problems created by that legislation.

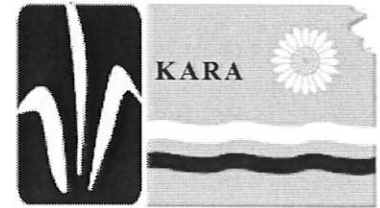
If the legislature does not remove this tax on assets by approving HB 2548 it is likely that this tax will continue to shift statutorily on business the way that we've seen the Kansas death tax shift in the last decade.

Passing HB 2548 is necessary for a number of reasons. Since this is a tax on assets, it makes it harder for Kansas firms to increase productivity of their workers by investing in the assets and capital needed to expand productivity and attract business as well as the capital needed to conduct business to our state.

This tax is levied regardless of the profitability of the business. This places Kansas firms in a competitive disadvantage with their competitors in neighboring states with either a lower franchise tax or are among the 31 states, like Colorado, which do not impose this tax.

Kansas needs to focus upon becoming more competitive economically. Now that Arkansas has passed Kansas in population, the need to focus on improving the fiscal climate in this state this issue should become a paramount issue for the 2006 legislature and Governor Sebelius. Kansas tax revenues are growing so that a phase out of the franchise tax can occur without requiring any cuts in state spending or even freezing state spending. While state General Fund revenues grew over \$322 million last year, the franchise tax generated \$47.1 million in revenue during FY 2005 and this is projected to drop to \$45 million in FY 2006.

Since the franchise tax is currently not a rapidly growing tax under the most recent and revised state statute there is a chance to improve this state's fiscal appearance by eliminating this tax and make this state more competitive economically. Kansas Taxpayers Network views this tax as a major drag on productivity in Kansas. Ending the franchise tax would help all Kansas businesses, large and small, that operate under a corporate structure in this state and begin the process of getting Kansas moving economically.



STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION
AND THE
KANSAS AGRIBUSINESS RETAILERS ASSOCIATION
SUBMITTED TO THE
HOUSE TAXATION COMMITTEE
IN SUPPORT OF HOUSE BILL 2548
REP. KENNY WILK, CHAIR
JANUARY 31, 2006

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

Thank you Mr. Chairman and members of the House Taxation Committee, I am Duane Simpson, Vice President of Government Affairs the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state. KARA's membership includes over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. On behalf of these organizations, I am testifying in support of House Bill 2548.

As you know tax revenues have exceeded expectations recently reversing a long trend when the Legislature had to find ways to increase revenue. One of the unfortunate decisions of the Legislature was to increase the franchise fee, creating a tax and then to increase the tax. As it now stands, a Kansas business can pay up to \$20,000 per year in taxes for the "privilege" of doing business in our state. This tax hits any business worth more than \$100,000, including virtually all of agribusiness.

While KGFA and KARA support repealing the estate tax and providing property tax relief for new business machinery and equipment purchases; our members believe repealing the franchise tax will have a more significant effect on their bottom line. Eliminating the M&E tax does nothing to prevent local mill levies or valuations to increase eliminating any potential gains. Estate tax repeal will save some of our members' families from having to sell their business in order to pay death taxes, but it does not affect as many businesses as repealing the franchise tax.

On behalf of the members of KGFA and KARA, I urge you to make repealing the franchise tax your highest priority.



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House Committee on Taxation

January 31, 2006

Topeka, Kansas

HB 2548 - Phase-out of the franchise tax.

Chairman Wilk and members of the House Taxation Committee, thank you for the opportunity to share our support for HB 2548. As you know, this measure phases-out the franchise tax. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit and consumer cooperatives. Many of our cooperative members, especially those on the ag side, are also participants in joint ventures, which are generally organized as limited liability companies (LLCs).

The franchise tax is an issue for these limited liability companies. Our member cooperatives and their joint-venture LLCs often operate on tight margins. They are subject to weather influences and a host of other market factors largely beyond their control. We continue to have rural areas of the state plagued by poor weather conditions. Measures intended to relieve regulatory and financial burdens on our member businesses are appreciated. This relief can translate into increased business investment leading to growth in the economy. Thus, we support the phase-down and eventual repeal of the franchise tax.

Passage of HB 2548 will help alleviate the overall state tax burden on business and help make our companies stronger. We encourage this committee to act favorably on this measure. Thank you.

House Taxation
1-31-06
Attachment 10

**Presentation to the House Taxation Committee
January 31, 2006**

**By Kenneth L. Daniel
Chairman and C.E.O., Midway Sales & Distributing, Inc. d/b/a Midway Wholesale
and
Publisher, KsSmallBiz.com**

Mr. Chairman and Members of the Committee:

My name is Kenneth Daniel. I am the C.E.O. of Midway Wholesale, a building materials distributor headquartered in Topeka with branches in six other Kansas Cities. I am also the publisher of KsSmallBiz.com.

I strongly encourage you to support House Bill 2548.

Last week I told you that, in my opinion, the business machinery and equipment property tax is the single biggest impediment to Kansas business as a whole. The second biggest impediment, in my opinion, is the franchise tax. These two, along with death taxes, are three taxes that are much lower or nonexistent in other states, and place Kansas business at a severe disadvantage.

Points about this tax:

- It is an aggressively anti-business tax.**
- It is basically a penalty for making permanent business investments in the state. Only 19 states have a franchise tax, soon to be fewer.**
- It is a highly unfair tax. Identical businesses, organized differently, will pay widely varying amounts.**
- It is levied whether a business is profitable or not.**
- For most small business owners, this is nothing less than a tax on their life savings. (Because their personal net worth is mostly invested in their business.)**

The following is a chapter from the 2006 Guide to Kansas Small Business Issues, which will be published later this week. The Guide is sponsored by the Kansas Small Business Coalition, a loosely-knit group of more than twenty Kansas associations heavy with small-business members.

CHAPTER 12: FRANCHISE TAX

The Kansas Franchise Tax is an aggressively anti-business tax. This tax is basically a penalty for making permanent business investments in the state. Only 19 states have a franchise tax, and at least one of those is phasing it out completely¹.

Top Priority for Repeal

The franchise tax and the property taxes on business machinery and equipment are the two biggest tax impediments to economic development in Kansas. Kansas needs to adopt a long-term phase-out of the franchise tax for all businesses.

The tax is a highly unfair tax. It is levied whether a business is profitable or not. Identical businesses, organized differently, will pay widely varying amounts. Businesses that need little capital—doctors, lawyers, and service providers, for instance—will pay little tax. Businesses that require heavy capitalization—banks, medium to large contractors, manufacturers, transportation, and distribution—will pay a lot of tax.

For most small business owners, much or all of their personal net worth is invested in their business, so this tax is nothing less than a tax on their life savings.

What is the Franchise Tax?

The tax is levied on the net worth of corporations and limited liability partnerships. The “franchise” in the name of the tax refers to the right to operate in Kansas as a limited liability entity. (At least theoretically, the business can be sued, but the stockholders, owners, management and employees are protected from liability arising out of the business.)

The franchise tax is not imposed on sole proprietorships or standard partnerships. The owners of those types of businesses, which constitute 79% of all businesses in the U.S., do not enjoy limited liability protection. The individuals and the businesses are one and the same, and the owners’ personal assets are at risk in lawsuits and government seizures.

In 2001, this tax raised \$17 million dollars. In 2006, because of two increases in recent years, it will raise \$46 million, making it the equivalent of the Estate Tax in terms of revenue.

¹ Pennsylvania is in a franchise tax phase-out process.

Under the current law, businesses with less than \$100,000 in net worth are exempt entirely from the franchise tax. Above \$100,000, the tax rate is \$1.25 per \$1000 of net worth, and applies to the first \$16 million of net worth.

In 2004, the \$55 franchise fee was separated from the franchise tax. The tax is paid to the Department of Revenue, while the fee is paid to the Secretary of State. The \$55 fee funds the operations of the Secretary of State's office. The fee applies to all limited liability entities, even those under \$100,000 in net worth.

Comparison to Other States in the Region

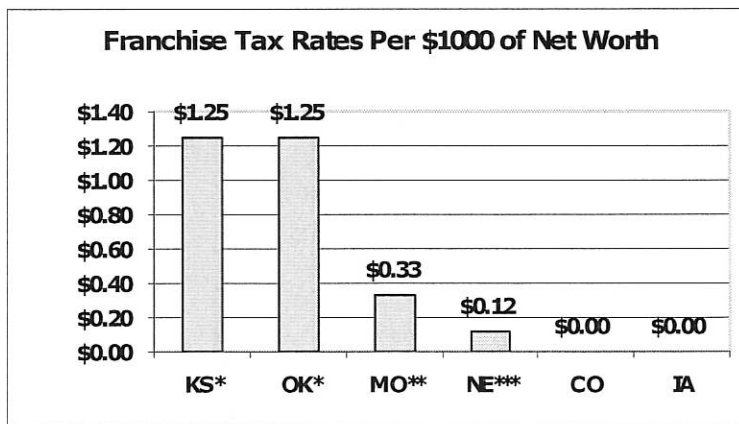
At the lowered rate of \$1.25 per thousand, Kansas is still tied for the highest tax rate in the region².

The Oklahoma version, at \$1.25 per thousand, is capped at \$20,000 of tax, which equates to a \$16,000,000 net worth. This is exactly the same as the new Kansas tax.

The Missouri version, at \$.33 per thousand, applies only to the portion of corporate net worth in excess of \$1 million, thereby eliminating this tax for most small businesses. The Missouri version is more of tax on medium and large businesses.

The Nebraska version, at \$.12 per thousand, is capped at \$11,995 of tax (\$15,000 for out-of-state corporations) which equates to \$100,000,000 of net worth, making it the same percentage for almost all businesses in the state, and enabling the rate to be kept very low.

Colorado and Iowa, like many other states across the nation, do not have this tax at all.



* Kansas and Oklahoma tax is capped at \$20,000 per year.

** Missouri's tax applies only to the portion of net worth over \$1,000,000.

² Edward Jones "State Tax Handbook 2003", CCH Incorporated, "Information by State" pages.

*** Nebraska's tax is capped at \$11,995 per year.

Comparison to Other States Nationwide³:

Only 24 states have a franchise tax or any similar tax based on net worth. For 5 of those states, it is an alternative calculation method for the corporate income tax and not a separate tax.

Of the 19 states that have a stand-alone franchise tax, Kansas has the 10th highest tax rate. At \$20,000, Kansas is tied for the 4th lowest "cap" or maximum. Ten of the nineteen states have no "cap" at all. With Kansas' combination of a low cap and a high rate, Kansas still has the distinction of having one of the most regressive franchise taxes in the nation.

³ "Fifty State Comparison of Franchise Taxes", www.KsSmall.Biz.com.



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**Written Testimony on behalf of AT&T Inc.
Before the House Taxation Committee
January 31, 2006**

My name is David White. I am the Assistant Vice President for Tax Policy for AT&T. On behalf of AT&T, I appreciate the opportunity to provide written testimony in support of HB 2548.

AT&T and its affiliates have been doing business in Kansas for over a century. Kansas is important to AT&T as demonstrated by the investment of over \$3 billion in the Kansas communications infrastructure. AT&T has also shown its commitment to Kansas by employing over 2,000 hardworking Kansas citizens – who keep AT&T's premier communications network up and running --24 hours a day, 365 days a year.

As the result of AT&T's commitment to Kansas, AT&T finds itself among the State's largest corporate citizens and one of the State's largest taxpayers. In addition to the State's franchise tax, the company, and in many cases the services provided, are subject to a myriad of taxes and fees – including corporate income tax, property tax, the public utility assessment, State and local sales taxes, universal service fees, 911 fees, municipal right-of-way fees – and others.

In many cases, even taxes which are levied on general businesses are levied unfairly on the telecom industry. For example, unlike most other manufacturers in Kansas, telecom equipment purchases are subject to State and local sales taxes as telecom equipment does not qualify for the sales/use tax "manufacturing" exemption. As another example, telecom personal property is assessed utilizing an income approach – while general business personal property is assessed utilizing a cost / depreciation table approach. The income approach often results in the value of telecom personal property increasing while general business personal property depreciates.

Therefore, House Bill 2548, as introduced, would help reduce AT&T's excessive tax burden in Kansas by phasing out the franchise tax over a period of years. This has the effect of reducing the cost of doing business in the State and we believe it rewards businesses for their commitment to Kansas.

On behalf of AT&T, I want to personally thank Representative Oharah for sponsoring HB 2548 as AT&T looks forward to working with the Committee to eliminate the State's franchise tax.