

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 11:35 A.M. on March 29, 2006 in Room 231-N of the Capitol.

All members were present except:

Greta Goodwin- excused

Nick Jordan- excused

Committee staff present:

Chris Courtwright, Kansas Legislative Research

Martha Dorsey, Kansas Legislative Research

Gordon Self, Revisor of Statutes Office

Nancy Kirkwood, Secretary

Conferees appearing before the committee:

Marge Roberson

John Carder

Doug Lawrence

Randy Dallke

Annabeth Surbaugh

Sheriff Frank Denning, written only

Dawn Kuhn

Cindy Green

Scott Lambers

Mayor Carl Gerlach

Others attending:

Hearing was opened on **SB 2689**, authority for countywide retailers' sales tax for certain counties.

The following appeared as proponents to **HB 2689**:

Marge Roberson, Chairman of Harvey County Commission (Attachment 1)

John Carder, Hesston City Administrator

Doug Lawrence, on behalf of Crawford County Commission (Attachment 2)

Randy Dallke, Vice-Chairman of Marion County Commission (Attachment 3)

Annabeth Surbaugh, Chairman of Johnson County Board of Commissioners (Attachment 4)

Frank Denning, Sheriff of Johnson County, written only (Attachment 5)

Chairman Allen announced the Committee received e-mails from the following:

Allen Roth, Mayor of Westwood Hills (Attachment 6)

Bill Kostar, Mayor of Westwood (Attachment 7)

Carol Lehman, Mayor of Gardner (Attachment 8)

Mark Squire, Mayor of Spring Hill (Attachment 9)

The following appeared as opponents to **HB 2689**:

Dawn Kuhn, Councilmember of Shawnee (Attachment 10)

Cindy Green, City Councilmember of Lenexa (Attachment 11)

Scott Lambers, City of Leawood (Attachment 12)

Carl Gerlach, Mayor of Overland Park

Senator Apple questioned why the hearing was held so late in the session. Chairman Allen explained the House had just taken final action on March 24, and this was the first opportunity for this Committee to hear the bill. She also said there was a division in Johnson County on this bill, and she believed the Committee needed a hearing.

Hearing was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 11:35 A.M. on March 31, 2006 in Room 231-N of the Capitol.

Hearing on **HB 2023**, sales tax authority of cities under retailers' sales tax law, was opened.

Proponents appearing were as follows:

- Bill Yanek, Kansas Association of Realtors ([Attachment 13](#))
- Chris Wilson, Kansas Building Industry Association ([Attachment 14](#))
- Martha Neu Smith, Kansas Manufactured Housing Association
- Dave Holtwick, Home Builders Association of Greater Kansas City, written only ([Attachment 15](#))

Appearing in opposition to **HB 2023** were:

- Don Moler, League of Kansas Municipalities ([Attachment 16](#))
- Robert Watson, City Attorney of Overland Park ([Attachment 17](#))
- Thomas Glinstra, City Attorney of Olathe ([Attachment 18](#))
- John Helin, City Manager of Bonner Springs ([Attachment 19](#))
- Marvin Rainey, City Attorney of Shawnee ([Attachment 20](#))
- Michael Boehm, Mayor of Lenexa, written only ([Attachment 21](#))

Email was received from:

- Kevin Jeffries, President of Leawood Chamber of Commerce ([Attachment 22](#))

Committee discussion was held. Senator Lee requested the following to furnish the Committee with the mill levy and valuation of their cities:

- Robert Watson, City Attorney of Overland park
- Tim Glinstra, City Attorney of Olathe
- City of Lenexa
- John Helin, City Manager of Bonner Springs
- Marvin Rainey, City Attorney of Shawnee

Senator Apple questioned the difference on impact and excise taxes. Christ Wilson and Marvin Rainey explained the differences.

The hearing closed.

Being no further business, the Committee adjourned at 12:45 p.m.



# HARVEY COUNTY, KANSAS

## ADMINISTRATION DEPARTMENT

COURTHOUSE  
P.O. BOX 687  
NEWTON, KANSAS 67114-0687

PHONE: 316-284-6806

FAX: 316-284-6856

### TESTIMONY FROM MARGE ROBERSON, CHAIRPERSON OF THE HARVEY COUNTY COMMISSION

Mr. Chairman, members of the House Taxation Committee, thank you for permitting me to testify before your Committee on a bill which would allow the voters of Harvey County to decide whether to increase the County-wide local sales tax by one percent. Presently, Harvey County has a one percent local County-wide sales tax. The County Commission has had a discussion with all of the seven cities in Harvey County concerning a one percent local sales tax increase, including the major city in the County, the City of Newton. The City of Newton had originally proposed a one percent, city only, local sales tax increase. Through discussion and compromise, a consensus was reached with the City of Newton, Harvey County, and the remaining cities in the County to share a County-wide sales tax. This would be a win-win situation for all parties. The City of Newton has been gracious to compromise with the other cities and Harvey County. Without approval of the legislation before you, the City of Newton would probably proceed with a city only one percent sales tax, and the six smaller cities and the rural areas would be left out of the proceeds of the city only sales tax. However, the residents of the six smaller cities and rural areas would still be paying the local sales tax by shopping in Newton. The smaller cities and rural areas generate little sales taxes within their boundaries. The City of Newton can proceed with a one percent city only local sales tax without special legislation.

Throughout the discussions between the County and the seven cities, it is clear that property tax relief is the primary reason for enacting an additional one percent County-wide local sales tax. Given a choice, I believe our citizens and businesses would rather pay sales taxes than pay property taxes. Depending on a city's individual circumstances, a city may wish to use a portion of the increased sales tax monies for infrastructure improvements and/or economic development purposes. In summation, I believe it is important the entire County share in the proceeds of an increased local sales tax. In addition, property tax relief is an important goal for all of the residents and businesses in Harvey County.

Assessment & Taxation  
Date 3-29-06  
Attachment # 1

**Doug Lawrence  
Capitol Consulting Group  
118 SW 8<sup>th</sup> St  
Topeka, KS 66611  
785-806-6639**

March 29, 2006

Testimony in SUPPORT of HB 2689  
On Behalf of the Crawford County Commission  
Before the Senate Assessment and Taxation Committee

HB 2689 is the result of several years of planning and work by the Crawford County Commission.

In its simplest terms, this legislation allows voters in Crawford County to consider a plan for infrastructure improvements and authorize funding for those improvements. In this case, the intended use of these funds is to provide for a number of county road improvements, while reducing pressure on the County's property tax levy.

This bill adds Crawford County to the list of counties authorized to submit a question on the ballot authorizing a countywide sales tax or the purpose of economic development and public infrastructure improvements. **(Section 9 on page 5)**

Current law provides the identical authority to Cowley, Russell and Woodson Counties.

As with the other counties, there is a five year sunset on the sales tax.

While the Crawford County plan is focused on Road and Bridge improvements, the county is considering other projects and opportunities which might appropriately be funded by the sales tax. Those sales tax funded effort would be included in the plan to be presented to the electorate when the question is placed on the ballot.

This legislation simply authorizes the local voters to consider a proposal from the county commission. We ask for your support in providing Crawford County with authority identical to that provided to other counties in Kansas.

Assessment & Taxation  
Date 3-29-06  
Attachment # 2



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS  
**OFFICE OF THE COUNTY CLERK**

P.O. BOX 219  
MARION, KANSAS 66861  
620-382-2185

CAROLA. MAGGARD, CLERK  
COUNTY ELECTION OFFICER

COUNTY COMMISSIONERS  
BOB HEIN  
DANIEL HOLUB  
RANDY DALLKE

**TESTIMONY BEFORE THE SENATE ASSESSMENT AND TAXATION COMMITTEE**

**MARCH 29, 2006**

**SUBSTITUTE FOR HOUSE BILL NO. 2689**

Marion County is in critical need of a new Law Enforcement Center Facility. It is the opinion of the Board of County Commissioners, that should our electorate approve a sales tax increase, that such a revenue stream represents the best option at this time for the county to fund such a facility.

We request your favorable consideration of Substitute for House Bill No. 2689 to give Marion County a one and one half percent (1 ½%) sales tax increase above its current authority, for the purpose of financing a Law Enforcement Center Facility; thus allowing our governing body to submit this option to our electorate.

Respectfully submitted,

Randy Dallke, Vice-Chairman  
Marion County Commission

Assessment & Taxation  
Date 3-29-06  
Attachment # 3



BOARD OF COUNTY COMMISSIONERS  
JOHNSON COUNTY, KANSAS

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Testimony in support of  
Substitute for Substitute for House Bill 2689

presented to the  
Senate Committee on Taxation

by  
Annabeth Surbaugh  
Chairman, Johnson County Board of County Commissioners

March 29, 2006

(913) 715-0430

111 SOUTH CHERRY STREET, SUITE 3300  
OLATHE, KANSAS 66061-3486

(913) 715-0440 FAX

Assessment & Taxation  
Date 3-29-06  
Attachment # 4

Thank you for the opportunity to appear before this Committee and to offer testimony in support of Substitute for Substitute for House Bill 2689. My name is Annabeth Surbaugh. I am the Chairman of the Board of County Commissioners of Johnson County, and I appear here today on behalf of the Board. We ask that this Committee act favorably on the bill and recommend its passage to the Senate.

As drafted, the legislation authorizes several counties to submit proposals to their voters for the levy of special sales taxes. Johnson County is one of those, and the special sales tax we request would be dedicated to fund public infrastructure improvements, including roads and buildings.

Our county has experienced continuous growth of approximately 10,000 new residents each year for the past twenty years. We expect that to continue well into the future. That growth brings ever-increasing demands for public services and facilities, a demand we work hard to satisfy. To be responsive to those demands, our Board has developed, over the past five years, a strategic facilities master plan, which identifies facilities needs for the next two decades. The price tag for the facilities which will be needed within the next five years is estimated to exceed \$500,000,000.00. Financing those projects will be a challenge, and we are seeking this sales tax legislation to help us meet that challenge.

Attached to this testimony is an exhibit which provides a partial listing of the major projects needed for the county in the next five years. The most critical of those projects are the expansion of the jail and the construction of a new courthouse—both of which the county government is required to fund by state law. Under the best circumstances, we are behind the curve on these facilities, experiencing serious overcrowding that has necessitated the boarding of prisoners in other counties at the cost of several million dollars per year and of having no additional remaining space for our courts and district attorney.

All of these critical facilities are “community” facilities. They are for use by the community as a whole, and they benefit directly all areas of the county. For that reason, our Board has determined that a dedicated, countywide retailers’ sales tax is the preferred funding source—particularly when the county’s other general revenue sources, such as ad valorem taxes, will be needed to fund the operating costs of those facilities.

The legislation, as drafted, commits all of the tax revenue to the authorized infrastructure projects. Our Board firmly believes all of the revenue should be dedicated, and that it is not appropriate with this type of special use tax to apportion any part of the revenue for other uses or other entities. We are sensitive to the interests of the cities in our county, but we do not accept that this tax is unfair or adverse to them for the following reasons:

1. The facilities to be funded with the tax revenue are community facilities, such as the jail and the courthouse, which greatly benefit the cities and their residents;
2. The cities do receive part of the county’s general sales tax and, in fact, the cities receive more than the county does;
3. The taxpayers will pay more if the revenue is not completely dedicated to the proposed project or projects;
4. The voters will not necessarily approve use of the revenue if it is not completely committed; and

H-2

5. The tax rate will have to be higher in order to generate the required revenue, which will distort the effective tax rate.

Our capital infrastructure needs do now, and will continue to, dominate our community-building efforts. Meeting those needs will require a variety of committed revenue sources. A dedicated infrastructure sales tax, to be approved by the voters, is an essential part of our financing. We urge the Committee to support passage of this legislation and allow the voters of Johnson County to decide whether and for what use the tax should be levied. The need is not in doubt—only the available funding sources to address that need. This legislation, as drafted, provides us a viable funding source to present to the taxpayers.

We thank you for the time and consideration.



4-2-1

**Johnson County 5 Year Major Capital Projects  
From the County  
Strategic Facilities Master Plan  
&  
Preliminary Capital Improvements Program  
3/21/06**

The following is a list of the capital expenses estimated for the larger projects identified within the next 5 years, it is not an exhaustive list, it is intended to reflect the projects that represent the most significant operational and cost impacts.

**Criminal Justice** – total \$450,000,000 but an additional \$54,000,000 for current jail expansion project is included.

Jail Expansion – Phase 2 expansion at Allenbrand Criminal Justice Center (design underway)	\$ 54,000,000
Jail Intake Expansion – Olathe Adult Detention Center	\$ 11,000,000
Jail Expansion – Phase 3 expansion at Allenbrand Criminal Justice Center	\$ 148,000,000
Crime Lab Replacement	\$ 26,000,000
Adult Residential Work Sentence Facility	\$ 12,000,000
Juvenile Services Building	\$ 16,000,000
Juvenile Detention Expansion	\$ 21,000,000
Courthouse Replacement	\$ 192,000,000

**Transportation Systems** – total \$100,000,000

Public Works - Bridges, Roads & Culverts and Assistance/Partner program	\$ 95,000,000
Public Works - Road Right of Way acquisition	\$ 5,000,000



OFFICE OF THE  
Johnson County Sheriff

*Courthouse*  
125 N. Cherry  
Olathe, Kansas 66061

Frank Denning  
Sheriff

*Telephone*  
913-791-5800

*Fax*  
913-791-5806

David Burger  
Undersheriff

Kevin Cavanaugh  
Undersheriff

To: Chairperson Allen, Vice-Chairperson Donovan, and distinguished members of the Assessment and Taxation Committee.

From: Frank P. Denning, Sheriff

Date: March 29, 2006

Chairperson Allen and Committee Members,

My name is Frank Denning and I am the Sheriff of Johnson County Kansas. Thank you for allowing me to testify this morning in support of House Bill 2689. The Johnson County Sheriff's Office is faced with two significant criminal justice capital projects that directly impact those who live and work in Johnson County.

- First, the Johnson County Sheriff's Office has an immediate need for additional jail bed space. Presently the Sheriff's Office has two detention centers with a combined capacity of 533 beds. Our average daily inmate population is routinely above 875, meaning the Sheriff's Office boards out over 340 inmates at an annual cost of over 8.5 million dollars. Analysis conducted by Carter Goble Associates in 2005 indicated that Johnson County will require 1,376 inmate beds by the year 2010. Adequate jail bed space is a fundamental necessity if we are to maintain public safety in our communities.
- Second, advancements in DNA analysis have yielded a powerful tool that the criminal justice system uses to identify perpetrators of crimes, and hold them accountable. The Sheriff's Office current criminalistic laboratory is overcrowded and further expansion is not a viable alternative. The Johnson County Sheriff's Office has an urgent need for a new criminalistics laboratory that is properly staffed and equipped to handle the tremendous growth in DNA processing and analysis.

Jail expansion and a new criminalistics laboratory are just two of the important public safety projects that must move forward in Johnson County without delay. The decision to increase sale tax by .5 percent to fund public safety infrastructure should be left up to Johnson County voters. I encourage you to support House Bill 2689 and am happy to stand for any questions you may have regarding my testimony.

*Frank Denning*  
Sheriff Frank Denning

Assessment & Taxation  
Date 3-29-06  
Attachment # 5

**From:** "Allen Roth" <allenr@kingstonenv.com>  
**To:** "Senator Barbara Allen" <allen@senate.state.ks.us>, "Senator David Wysong" <wysong@senate.state.ks.us>  
**Date:** Wed, Mar 29, 2006 9:25 AM  
**Subject:** HB 2689

Senator Allen and Senator Wysong,

I am in favor of HB 2689 as it provides the current best hope for Johnson County to provide for much needed funds for infrastructure in the County. These projects, if approved by the voters, will benefit all of Johnson County.

Some of the cities will argue that a 1/2 cent sales tax now, by the County, may hurt their ability to pass their own measures later or that the fact that 100% of the funds under HB 2689 may not allow for a share with the cities for infrastructure projects. The County, however, pledges that a cooperative agreement can be put in place, similar to the CARS program and the Wastewater Management Board. These same cities will argue that it is maybe better to dump this proposal in favor of a plan later (1 or 2 yrs?) to provide legislation with a formula for city/county share of the proceeds.

I am not willing to gamble on Johnson County's ability to get another measure before the Legislature next year or in two years. I believe by teaming this measure with the 4 or so other counties, this year is our best hope, and I am willing to work with the County Commissioners to see that good proposals will be placed before Johnson County voters that benefit both the County and the Cities.

Allen Roth,  
Mayor, Westwood Hills

**CC:** "John St. Clair, Jr." <johnwstclairjr@aol.com>, "Carl Wilkes" <mayorw@merriam.org>, "Laura McConwell" <laura@mccconwell.com>, "David Fromm" <david.fromm@hwins.com>, "David Patzman" <patzman@kc.rr.com>, "Ron (BWR) Shaffer" <rshaffer@bwrcorp.com>, "Steve Petrehn" <spetrehn@roelandpark.org>, "Bill Kostar" <westwoodcityhall@aol.com>

Assessment & Taxation  
Date 3-29-06  
Attachment # 6

**From:** cityhall cityhall <westwood1564@sbcglobal.net>  
**To:** "allen@senate.state.ks.us" <allen@senate.state.ks.us>, Mike Boehm <mboehm@ci.lenexa.ks.us>, "brownlee@senate.state.ks.us" <brownlee@senate.state.ks.us>, "carter@house.state.ks.us" <carter@house.state.ks.us>, "colloton@house.state.ks.us" <colloton@house.state.ks.us>, "cox@house.state.ks.us" <cox@house.state.ks.us>, Carl Gerlach <carl.gerlach@opkansas.org>, "huff@house.state.ks.us" <huff@house.state.ks.us>, "jordan@senate.state.ks.us" <jordan@senate.state.ks.us>, "kiegerl@house.state.ks.us" <kiegerl@house.state.ks.us>, "Kinzer@house.state.ks.us" <Kinzer@house.state.ks.us>, "morrisonj@house.state.ks.us" <morrisonj@house.state.ks.us>, "o'connor@senate.state.ks.us" <o'connor@senate.state.ks.us>, "o'malley@house.state.ks.us" <o'malley@house.state.ks.us>, "olson@house.state.ks.us" <olson@house.state.ks.us>, "owens@house.state.ks.us" <owens@house.state.ks.us>, "pilchercook@house.state.ks.us" <pilchercook@house.state.ks.us>, "schwab@house.state.ks.us" <schwab@house.state.ks.us>, "sharps@house.state.ks.us" <sharps@house.state.ks.us>, "storm@house.state.ks.us" <storm@house.state.ks.us>, "vratil@senate.state.ks.us" <vratil@senate.state.ks.us>, "wilson@senate.state.ks.us" <wilson@senate.state.ks.us>, "wolf@house.state.ks.us" <wolf@house.state.ks.us>, "yoder@house.state.ks.us" <yoder@house.state.ks.us>, "yonally@house.state.ks.us" <yonally@house.state.ks.us>  
**Date:** Wed, Mar 29, 2006 9:30 AM  
**Subject:** Johnson County Sales Tax

As this issue is debated, I'm in strong agreement with Mayors Carl Gerlach and Mike Boehm that the Johnson County cities should be a part of the enabling legislation. The current 2/3-1/3 split works well.

There are three important considerations:

- 1) Enabling legislation should look to the long term, not some specific need, and including the cities gives the tax greater flexibility and usefulness in the years ahead.
- 2) With 20 cities in Johnson County, it's always helpful for proposals to pull us together like CARS, SMAC, and others do.
- 3) Passage of sales tax issues are greatly enhanced if residents throughout the County realize that local projects will be undertaken in their communities.

Please take the long-term view.

Bill Kostar  
Mayor, Westwood

Assessment & Taxation  
Date 3-29-06  
Attachment # 7

**From:** "Carol Lehman" <clehman@gardnerkansas.com>  
**To:** <allen@senate.state.ks.us>  
**Date:** Wed, Mar 29, 2006 10:33 AM  
**Subject:** House Bill 2689

Senator Allen:

Thank you for asking our input on this important matter.

The Gardner City Council has not had the opportunity to discuss this matter, so we have no "official" position. Speaking only for myself, I am in support of HB 2689 because I feel the full amount of the sales tax should go to the county without a split to the cities. County projects benefit all citizens in the Johnson County community.

Regards,

Carol Lehman, Mayor  
City of Gardner

Assessment & Taxation  
Date 3-29-06  
Attachment # 8

**From:** "Mark Squire" <squiremark@earthlink.net>  
**To:** <allen@senate.state.ks.us>, "Pat Apple" <apple@senate.state.ks.us>, "Karin Brownlee" <brownlee@ink.org>  
**Date:** Wed, Mar 29, 2006 10:25 AM  
**Subject:** HB 2689 / Jo. Co. 1/2cent sales tax

Senators, this communication is to relay my thoughts on HB 2689. As the county looks to direct revenue sources to its infrastructure needs I see that 2689 gives a good option as to how that revenue would be secured. Currently the County has two options to find dollars for infrastructure, cut other projects/services or increase advolum tax. 2689 gives a third option of sales tax revenue, and it gives the decision to the voters. I would prefer that the County not be in a position to look at an increase in property tax, which puts the full burden on our businesses and residents. A sales tax option on the other hand will pull some of those dollars from outside the County. Giving the voters the ability to indicate how they would prefer to give that revenue is a very positive move. I want the County to provide the services and protection that their layer of government is responsible for, I think this is an important reason why people live and work in our cities. If our County is strong than its city's are also in a better position. I support 2689 in its current form, for me that's my piece of the pie.

Mayor, Mark T. Squire

Spring Hill Ks.

**CC:** "Annabeth Surbaugh" <amber.duren@jocogov.org>, "Governing Body" <council@springhillks.com>, "Jonathan Roberts" <robertsj@springhillks.com>

Assessment & Taxation  
Date 3-29-06  
Attachment # 9

**Testimony to the Senate Tax Committee**  
**HB No. 2689**  
**March 29, 2006**

Chairman Allen and members of the Committee, I am Dawn Kuhn, Councilmember from Ward 3 in the City of Shawnee. I am here representing the Mayor, my fellow Councilmembers and the residents and businesses of Shawnee. We are asking that you remove the language regarding sales tax authority for Johnson County from HB2689.

The City of Shawnee is a suburban community in a metropolitan region. As a community, the Mayor, other City Council members and I work together to provide quality local government services at reasonable costs to our tax payers. Additionally, our 56,000 residents pay taxes and fees for a variety of basic services provided by many public agencies other than our City. We believe in a metropolitan area it is imperative that the many public agencies work together to capitalize on economies of scale and minimize redundancies in services, consequently giving the taxpayer the most value for their dollar.

The cities and Johnson County have a long history of working effectively together to create very efficient and equitable funding programs that address critical regional infrastructure issues such as major road construction and stormwater. All Johnson County cities, including Shawnee, have significant infrastructure needs. No recent countywide discussions have been to discuss the countywide infrastructure needs and consequently believe that this sales tax would be premature.

In recent years, the citizens of Shawnee have approved two additional sales taxes, one for parks and stormwater improvements, and one for public safety. A sales tax was approved countywide to assist with school funding. There are other sales tax efforts being put forth and we in Shawnee have not had time to analyze the implications of an additional sales tax burden on our businesses and our residents.

Consequently, the City of Shawnee does not support the current language of HB 2689 and would ask that the provisions related to additional sales tax authority in Johnson County be stricken from the bill in order to provide us time to further discuss, and to create consensus with other cities and the County on the issues I have described.

Thank you for allowing me to appear today on behalf of the City of Shawnee.

Testimony on HB 2689  
Presented by Dawn Kuhn, Councilmember, City of Shawnee

Assessment & Taxation  
Date 3-29-06  
Attachment # 10



## TESTIMONY IN OPPOSITION TO HB 2689

To: Honorable Barbara Allen, Chair  
Members of Senate Assessment and Taxation Committee

From: Cindy Green, City Councilmember, City of Lenexa, Kansas

Date: March 29, 2006

Chairperson Allen, members of the Committee, good morning and thank you for the opportunity to testify before your committee today. My name is Cindy Green and I am a member of the Lenexa City Council.

Today I represent the approximately 47,000 residents of Lenexa and regrettably ask that you oppose language granting Johnson County the authority to levy up to an additional half cent of sales tax for the financing of public infrastructure.

While we fully understand and appreciate the County's growing needs for facilities to provide municipal services, we do not feel an adequate dialogue has taken place between the County and all of the Johnson County cities for this legislation to move forward. We believe it is very important for the County to discuss with Johnson County cities the ramifications of this additional sales tax authority, specifically related to its omission of language that addresses the current formula for sharing sales tax revenues with all cities of Johnson County as is currently the practice.

Johnson County and the cities of Johnson County have enjoyed a great working relationship for many years. Thus, the City of Lenexa is asking for additional time to work with Johnson County and all of the other Johnson County cities in order to better understand this proposed legislation and the thought process behind its creation. I have no doubt that if allowed the time to work with the County and all of the other Johnson County cities related to this topic, consensus can be built in a way that would address the concerns currently held by the cities representing the majority of Johnson County residents.

To that end, I respectfully ask that you provide all Johnson County cities the opportunity to gain further insight from the County related to this issue by opposing this legislation or providing adequate time for all parties to engage in additional dialogue related to this legislation. Thank you for your time and consideration.





# City of Leawood

4800 Town Center Drive • Leawood, Kansas 66211 • (913) 339-6700  
(913) 339-6781 Fax  
(913) 339-6225 TDD

March 28, 2006

Senator Barbara Allen  
Chair, Senate Assessment and Taxation Committee  
State Capital  
Topeka, Kansas 66612

Dear Chairwoman Allen and Members of the Senate Assessment and Taxation Committee:

I am writing to you on behalf of the Governing Body of the City of Leawood with regards to House Bill 2689. On Monday, March 27, 2006, the Leawood City Council met in a Special Call meeting to discuss the portion of House Bill 2689 as it relates to Johnson County. Leawood City Administrator Scott Lambers presented the details of the bill and the implications for the City of Leawood. After some discussion by the members of the City Council, a motion to oppose the section of House Bill 2689 as it relates to Johnson County with regards to the proposed distribution allocation was passed unanimously.

It is our request that any action on House Bill 2689 be deferred in order to provide the opportunity to achieve an amicable compromise between Johnson County and the cities with regards to the allocation of the revenues that would be derived from the proposed sales tax upon its approval by the voters of Johnson County.

I thank you for your consideration of our position.

Respectfully,

CITY OF LEAWOOD, KANSAS

Peggy J. Dunn  
Mayor, City of Leawood

by  
LAMBERS

Assessment & Taxation  
Date 3-29-06  
Attachment # 12



TO: SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: BILL YANEK, KAR DIRECTOR OF GOVERNMENTAL RELATIONS

DATE: March 29, 2006

SUBJECT: Sub. House Bill 2023

The Kansas Association of REALTORS asks that you support HB 2023 (as amended).

Since 2001, the Kansas House has been debating limitations on the levying of excise taxes on new development.

Since last year, the Department of Revenue worked with development stakeholders to craft a compromise bill that would make the Kansas sales tax statute uniform AND add limitations to the use of new development excise taxes.

HB 2023 grandfathers in existing excise taxes and allows for existing ticket taxes.

HB 2023 prohibits new excise taxes on new development.

The Kansas Association of REALTORS urges your support of this amendment which will solve an issue that has been debated for years.



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Assessment & Taxation  
Date 3-29-06  
Attachment # 13

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**STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION**

**TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE**

**SENATOR BARBARA ALLEN, CHAIR**

**REGARDING SUBSTITUTE FOR H.B. 2023**

**March 29, 2006**

Chairman Allen and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Building Industry Association. Kansas Building Industry Association (KBIA) is the association of home builders in Kansas, with over 2000 member companies, and local home builders associations throughout the state.

**KBIA supports Substitute for HB 2023, which passed the House 108-16.** This bill would restore uniformity to the state sales tax laws. Currently, the law is non-uniform due to the four classes of cities specified in the KS Constitution being inadvertently exceeded.

This bill restores uniformity and caps the local sales tax rates – at 2 cents for regular sales tax and 1 cent for special purpose sales taxes.

Reasons we support Sub. for HB 2023:

**\*\* These rates are consistent with where some cities are at this time, so it does not present a large potential increase for those cities already at the highest levels.**

**\*\* This bill requires that local sales taxes must be approved by voters.**

**\*\* Currently, there are no caps, because the statute is non-uniform. Without uniformity, cities can charter out and impose whatever sales and excise taxes they wish to – the limitations in the statute do not apply when the law is non-uniform and cities can charter out.**

**We further support the amendment overwhelmingly adopted in the House which grandfathers existing cities' excise taxes on development at their current level, but does not allow additional cities to impose them in the future, once uniformity is restored. This is part of the original agreement of the stakeholders which was presented to the House Taxation Committee, but the issue was divided in Committee and not considered as a whole. A broader excise tax provision was considered, allowing all cities to impose excise taxes on development, but that measure was tabled.**

**Sub. for HB 2023 as you have it before you embodies the product of a working group of stakeholders during the last interim, in which we participated. That group proposed a provision to grandfather but cap existing excise taxes on development. Current ones are grandfathered at their current level. In addition, admission ticket excise taxes are permitted. During House Taxation Committee consideration, some of the working group participants did not support the**

proposal. Therefore the two issues were divided, and the excise tax portion is not included in Sub. HB 2023 as it went to the floor. However, the House of Representatives amended the bill to include the excise tax provisions.

Excise taxes on development are an anomaly, created by a handful of cities due to a non-uniform law. They are not widely used in Kansas and certainly not nationally. Once uniformity is restored, they would not be permitted under a uniform K.S.A. 12-194.

**Development is paying its way without excise taxes on development!** Developers and home builders are committed to development paying its way, but there are much better approaches than excise taxes on development, that do not result in so much additional cost to the price of a home. Excise taxes on development add \$5,000 - \$15,000 to the cost of a home, which is already burdened with other infrastructure financing fees – and that can easily price many out of the housing market. Having affordable housing for Kansas families is a priority of builders. **Other cities successfully use special assessments and finance citywide thoroughfares through property taxes on the theory that all residents use the thoroughfares, so the cost should not be borne only by homebuyers in new developments.**

Thank you for your consideration of Substitute for HB 2023.



**HOME BUILDERS ASSOCIATION  
OF GREATER KANSAS CITY**



600 EAST 103<sup>RD</sup> STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • WWW.NAHC.ORG

March 29, 2006

**Testimony in Support of HB 2023 as passed last week**

Dear Chairperson Allen and Committee members:

I am sorry that I can not appear in person today to share this information but thank you for allowing me to submit this information in writing.

HB 2023, which restores uniformity to Kansas State Sales Tax Law and restores some of the limits on the use of excise taxes by local units of government, is very important to the State of Kansas and to the residential construction industry. Since part of the bill deals with local units of government (primarily in Johnson County) imposing excise taxes on the platting of land during the development process, I wanted to offer some background on how this works from my perspective.

Please understand that as long as our state sales tax laws are non-uniform, it makes no difference what state law says about sales tax rate authority or limitations on other taxes because cities can "charter out" of this section of state law and impose taxes of whatever type or rate they decide to.

First off, we are willing to pay our fair share to provide the infrastructure necessary to support growth. Developers invest a lot of money to provide the streets, sewers, water and other services in their sub-divisions and it would not make sense to leave that investment stranded by not having streets to get to the developments.

At the heart of our concern is the desire for accountability by local governments for the millions of dollars collected as excise taxes on new development and there are tools available for their use that do provide this accountability. Most cities collect excise taxes when the plat is filed and work can not begin until the excise tax is paid. Most cities say the funds collected are to be dedicated to streets and roadways but the money goes in to the general fund and it is difficult to track.

The tax in most cities is now 21.5 cents per square foot on the gross square footage in the development. There are 43,560 square feet in an acre so at 21.5 cents per square foot, that equates to \$9,365.40 per acre. On a 50 acre development, for example, that means \$468,270 is paid up front to the city just for excise taxes before any work begins.

We have several concerns with excise taxes:

1. Excise tax rates are the same for a single family home as for a fast food restaurant, a big box retail store or a retail center, all of which generate more "trips per day", an industry standard used to determine impact on streets and thoroughfares.
2. Excise taxes have become the beginning point for negotiating development approvals. In addition to paying the excise tax, many cities are also requiring developers to make or pay for additional improvements to streets in the vicinity of the development such as road widening, turn signals and turning lanes, etc., before the development is approved.
3. Little or no documentation is provided by many cities for the excise tax rate that is charged or how the monies are expended. Since it is a "tax" and not a "fee", less reporting is required.

*Do Business With A Member*

Assessment & Taxation  
Date 3-29-06  
Attachment # 15

4. There are other financing tools available that allow for development to help pay it's own way and provide accountability for monies collected and expended.

I have a summary that I can provide that might help explain some of the terms and practices that are part of this discussion. Please let me know if you are interested in it and I will get it to you. If you have questions or need additional information, I would be glad to meet with you or try to provide you with answers to your questions.

Thank you, again, for working on this extremely important issue!

Sincerely,



Dave Holtwick  
Staff VP-Kansas Government Affairs  
Home Builders Association of Greater Kansas City  
600 E. 103rd Street  
Kansas City, MO 64131  
816 733-2211 (Direct)  
816 942-8367 Fax  
dave@kchba.org



League of Kansas Municipalities

300 SW 8th Avenue, Suite 100  
Topeka, Kansas 66603-3951  
Phone: (785) 354-9565  
Fax: (785) 354-4186

**To:** Senate Assessment and Taxation Committee  
**From:** Don Moler, Executive Director  
**Re:** Opposition to Sub. HB 2023  
**Date:** March 29, 2006

**Sales Tax Uniformity Overview.** The League maintains our position of opposition to the bill as it is not necessary at this time and unduly restricts the ability of cities to use local excise taxes. This bill creates uniformity in the state sales tax act, and in doing so, limits the ability of cities to impose excise taxes. The proponents of this legislation argue that some "rogue" city MIGHT charter out of the sales tax act and throw the entire state out of compliance with the streamlined sales tax act. Not only is this scenario highly unlikely, but in the event it happened, the State could seek an injunction against the city and ask the Legislature to deal with it at that time. Bottom line is that this bill is unnecessary and it unduly restricts existing taxing authority for cities.

#### **Talking Points.**

**LKM Position is Clear.** Proponents of this legislation state that the League agreed to the bill and then withdrew our support. This is simply not the case. The League's position has been clear from the start. We do not have an overall problem with sales tax uniformity so long as nothing restricts the current authority that cities have under constitutional home rule to impose excise taxes or the flexibility that cities have in setting local sales tax rates.

**HB 2023 is Not Necessary.** Proponents of this legislation argue that the sales tax act should be made uniform so that cities will not have the ability to exempt themselves by charter ordinance. There is a fear that if a city were to charter ordinance certain aspects of the act, it would throw the entire state out of compliance with the streamlined sales tax act. No city has passed any charter ordinance which puts the state at risk of being out of compliance with the streamlined sales tax project. If any city were to do anything of that sort, the State could simply get an injunction from a court and the Legislature would have plenty of time to act to remedy the situation.

**HB 2023 Takes Away Existing Excise Tax Authority from all cities not now levying an excise tax, and freezes the excise tax in those cities which are now using this authority.**



City Hall • 8500 Santa Fe Drive  
Overland Park, Kansas 66212-2899  
TEL 913.895.6080/6083 • FAX 913.895.5095  
E-MAIL Bob.Watson@opkansas.org

TESTIMONY IN OPPOSITION TO SUBSTITUTE FOR HOUSE BILL NO. 2023  
AS AMENDED BY THE HOUSE COMMITTEE OF THE WHOLE

TO: The Honorable Barbara Allen, Chair  
Members of the Senate Assessment and Taxation Committee

Date: March 29, 2006

RE: Substitute for House Bill No. 2023 -- Proposed legislation regarding sales and excise taxes.

Ladies and Gentlemen:

The City of Overland Park does not oppose returning the local retailer's sales tax act to uniform applicability, but the City has serious concerns with respect to HB 2023 as amended by the House Committee of the Whole. The culprit is subparagraph (d) of Sec. 3 which would freeze forever the development excise tax rate in Overland Park. The City urges you to remove subparagraph (d). Subparagraph (d) can be removed without affecting the main purpose of the bill, which is to return the local sales tax act to uniform applicability.

A freeze on the City's development excise tax rate would result in the City's property and sales tax payers having to pick up a larger and larger share of the cost of building thoroughfares in the city to accommodate new development. When the City passed its first development excise tax in 1994 the rate developers paid was 10 cents per square foot of platted land. The rate today is 21.5 cents per square foot. The reason for the increase in the rate over the last 12 years is the increase in the cost of building a mile of thoroughfare over the last 12 years, which has risen from approximately \$500 per lineal foot to approximately \$1,266 per lineal foot over the period.

The City's goal has been for the development community to pay 43% of the cost of thoroughfares and the City to pay 57% of the cost of thoroughfares. In fact, the City has been unable to collect development excise tax from each square foot of land in a section of land at the points in time when thoroughfares have been constructed due to the fact that thoroughfare improvements are needed before all development has taken place, and the fact that not all land in a square mile will be platted and pay the development excise tax. Actual excise tax

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March 29, 2006

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collections have funded approximately 22% of the thoroughfare projects constructed between 1994 and 2005.

The City has provided to the homebuilders and to anyone else who has asked for it a full accounting of these costs in the past and remains ready and willing to do so in the future.

With all due respect to all of the participants in the now infamous meeting in Lenexa on November 14, 2005, there was no "agreement" among the parties present at that meeting to freeze development excise tax rates. The only agreement that both the city representatives and the homebuilder representatives reached at that meeting regarding development excise taxes was that they should not be dealt with at all in the legislation. When the draft bill was disseminated five weeks following the meeting, the Kansas City Home Builders Association voiced opposition to the provision in it that dealt with development excise taxes in an e-mail exchange with the Office of the Secretary of Revenue sent on December 22, 2005, a copy of which is enclosed and marked as Attachment No. 1. The City of Overland Park also voiced opposition to the development excise tax provision in the draft bill and raised other concerns that had not been addressed in the draft bill. See the letters I sent to the attorney for the Secretary of Revenue dated January 23 and January 5, 2006, a copy of each of which is also enclosed and marked as Attachment No. 2 and Attachment No. 3, respectively.

Finally, the City would echo the League of Kansas Municipalities position that Kansas' continued participation in the Streamlined Sales Tax Agreement is not in jeopardy under the *status quo* and questions whether HB 2023 is needed at all.

Thank you for your consideration.



Robert J. Watson  
City Attorney

Enclosures

RJW/rjw

17-2

# ATTACHMENT NO. 1

## Watson, Bob

---

**From:** Richard\_Cram@kdor.state.ks.us  
**Sent:** Thursday, December 22, 2005 11:33 AM  
**To:** Dave Holtwick  
**Cc:** abrown@swassn.com; allen@kansascounties.org; bailey-allen@kc.rr.com; Watson, Bob; burghart@aldersonlaw.com; cchronis@sedgwick.gov; charmison@ci.lenexa.ks.us; chris@kansasbuilders.org; Chris Neal; chrisc@klrd.state.ks.us; dmoler@lkm.org; doug@propertylawfirm.com; drobinson@ci.lenexa.ks.us; esartorius@cox.net; McClain, Evalin; gordons@rs.state.ks.us; jglendening@kansaschamber.org; jlee@ink.org; Joan\_Wagnon@kdor.state.ks.us; kdaniel@kssmallbiz.com; kmha1@sbcglobal.net; kwilk@kc.rr.com; ldondist27@aol.com; mboehm@ci.lenexa.ks.us; mshatto@ci.lenexa.ks.us; nshortlidge@stinsonmoheck.com; Siegfroid@sbcglobal.net; sjacquot@lkm.org; Steven\_R\_Brunkan@kdor.state.ks.us; TomT@centralnational.com  
**Subject:** RE: Local Sales Tax Uniformity Proposal Draft

Dave,

This is language that Gordon and I came up with after the Nov. 14 meeting, in an effort to capture what we thought were the results of the negotiations at that meeting. I thought the agreement was that any already existing local excise tax would be grandfathered and ticket taxes (either current or future) would be specifically authorized, but otherwise, 12-194 would prohibit any other local excise taxes. If that understanding is not accurate, then looks like 12-194 needs further discussion.

Sincerely, Richard

"Dave Holtwick"  
<dave@kchba.org>

To: <Richard\_Cram@kdor.state.ks.us>,  
<kmha1@sbcglobal.net>,

<jglendening@kansaschamber.org>,  
12/22/2005 11:16  
<mshatto@ci.lenexa.ks.us>,  
AM  
<esartorius@cox.net>,

"Chris Neal" <chris@kchba.org>,  
<mboehm@ci.lenexa.ks.us>,

<sjacquot@lkm.org>,  
<abrown@swassn.com>,  
<bob.watson@opkansas.org>,  
<chris@kansasbuilders.org>,  
<dmoler@lkm.org>,

<burghart@aldersonlaw.com>,  
<nshortlidge@stinsonmoheck.com>,

<evalin.mcclain@opkansas.org>,

<drobinson@ci.lenexa.ks.us>,

<chrisc@klrd.state.ks.us>,

<charmison@ci.lenexa.ks.us>,

<doug@propertylawfirm.com>,  
<Joan\_Wagnon@kdor.state.ks.us>,  
<allen@kansascounties.org>,

<kwilk@kc.rr.com>, <bailey-

<jlee@ink.org>, <ldondist27@aol.com>,  
<TomT@centralnational.com>,

<kdaniel@kssmallbiz.com>

cc:

<gordons@rs.state.ks.us>

<Steven\_R\_Brunkan@kdor.state.ks.us>,

Subject: RE: Local Sales Tax Uniformit\_

Proposal Draft

Richard,

I do not have time to respond in depth to this e-mail but the changes to 12-194 are not what I and the development community agreed to at the last meeting. I specifically said there should be no change to 12-194 and the municipal representatives in attendance seemed to agree. What happened since that meeting? The Home Builders Association of Greater Kansas City did not agree to this and I would like to know how this language was derived at.

Please respond at your earliest convenience.

Sincerely,

Dave Holtwick  
Staff VP-Kansas Government Affairs  
Home Builders Association of Greater Kansas City 600 E. 103rd Street Kansas City, MO 64131  
816 733-2211 (Direct)  
816 942-8367 Fax  
dave@kchba.org

-----Original Message-----

From: Richard\_Cram@kdor.state.ks.us  
[mailto:Richard\_Cram@kdor.state.ks.us]  
Sent: Thursday, December 22, 2005 10:10 AM  
To: kmhal@sbcglobal.net; jglendening@kansascchamber.org; Chris Neal;  
mshatto@ci.lenexa.ks.us; mboehm@ci.lenexa.ks.us; esartorius@cox.net;  
burghart@aldersonlaw.com; nshortlidge@stinsonmoheck.com; sjacquot@lkm.org;  
evalin.mcclain@opkansas.org; abrown@swassn.com; drobinson@ci.lenexa.ks.us;  
bob.watson@opkansas.org; chrisc@klrd.state.ks.us; chris@kansascbuilders.org;  
charmison@ci.lenexa.ks.us; Dave Holtwick; dmoler@lkm.org; doug@propertylawfirm.com;  
Joan Wagnon@kdor.state.ks.us; allen@kansascounties.org; cchronis@sedgwick.gov;  
kwilk@kc.rr.com; bailey-allen@kc.rr.com; jlee@ink.org; ldondist27@aol.com;  
TomT@centralnational.com; Siegfried@sbcglobal.net; kdaniel@kssmallbiz.com  
Cc: Steven\_R\_Brunkan@kdor.state.ks.us; gordons@rs.state.ks.us  
Subject: Local Sales Tax Uniformity Proposal Draft

Attached please find the latest draft of the local sales tax uniformity proposal prepared by Gordon Self, Revisor, per the discussion at our last Working Group meeting in Lenexa on November 14, 2005. I would welcome any suggestions/comments/feedback that you have concerning this.

Thank you for assistance and I hope everyone enjoys the Holidays.

Sincerely, Richard Cram

----- Forwarded by Richard Cram/Revenue/KDOR on 12/22/2005 10:04 AM -----

"Brenda Guay"

<Richard\_Cram@kdor.state.ks.us>  
.ks.us>  
<GordonS@rs.state.ks.us>  
To:  
cc: "Gordon Self"  
Subject: Re: Gordon

12/21/2005. 11:47

AM

(See attached file: 5rs1449.rtf) (See attached file: 5rs1342.rtf)

# ATTACHMENT NO. 2

City Hall • 8500 Santa Fe Drive  
Overland Park, Kansas 66212-2899  
TEL 913.895.6080/6083 • FAX 913.895.5095  
E-MAIL Bob.Watson@opkansas.org

January 23, 2006

Richard Cram, Esq.  
Director of Policy and Research  
Kansas Department of Revenue  
Docking State Office Building  
Room 230  
915 S. W. Harrison Street  
Topeka, KS 66612

RE: Proposed Sales and Excise Tax Legislation.

Dear Richard:

This is in response to your e-mail of January 19, 2006, and the draft bill attached thereto.

As I stated in my letter to you dated January 5, 2006, the City of Overland Park is opposed to any changes to K.S.A. 12-194 except for an amendment to it to deal with ticket/concession taxes. Thus, we are opposed to inclusion of sub-paragraph (4) of Sec. 3 of your proposed new bill sent to us last Thursday. Our position is that the current K.S.A. 12-194 does not prohibit the enactment or subsequent amendment of development excise taxes, as held by the Kansas Court of Appeals in the Homebuilders case. Nor do we consider inclusion of sub-paragraph (4) to be necessary in order to protect the State of Kansas from exclusion from the Streamlined Sales Tax Agreement. In addition, we do not understand why the State of Kansas would want to prohibit cities from enacting development excise taxes after January 1, 2005, if cities' doing so would not jeopardize the State of Kansas' continued participation in the Streamlined Sales Tax Agreement. Finally, we consider sub-paragraph (4) to lack clarity with respect to future adjustments to the excise tax rate by cities that already have an excise tax in effect; sub-paragraph (4) doesn't address the subject.

We also must insist on inclusion of the following sub-paragraph, as we have discussed at length during the process of crafting this bill:

Levying an excise tax on concession services and food and beverage services sold on the premises of an arena or event center owned by a city or county.



Richard Cram, Esq.  
Director of Policy and Research  
Kansas Department of Revenue  
January 23, 2006  
Page 2

Our position is that we currently have such authority by charter ordinance, that we do not want to lose this authority, and that such authority, standing alone, does not jeopardize participation by the State of Kansas in the Streamlined Sales Tax Agreement.

In addition, we suggest insertion of the word "citywide" in several places in your draft bill as a modifier of the phrase "retailers' sales tax" to distinguish the tax levied by K.S.A. 12-187 et seq. from sales taxes that are not citywide, such as the Transportation Development District sales taxes. Use of the word "citywide" also parallels use of the word "countywide" already found throughout K.S.A. 12-187 et seq. We suggest insertion of the word "citywide" before the word "retailers'" in lines 2 and 5 of the first paragraph of Section 1 on Page one of the bill, and we suggest expansion of the word "city" to the word "citywide" in four places on page 16 of the bill: before the word "retailers'" in lines 2, 4, 9 and 12. We also suggest insertion of the words "pursuant to this act" after the word "tax" in line 17 of page 9 of the bill.

Next, we suggest that the second sentence of Sec. 2 on page 10 of the bill read as follows:

~~Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, The rate of any class A, class B or class C citywide~~ retailers' sales tax shall be fixed in increments of .05% and in the an amount of .25%, .5%, .75% or 1% or .125% up to a maximum aggregate rate of not to exceed 2% for general purposes and not to exceed 1% for special purposes which amount shall be determined by the governing body of the city.

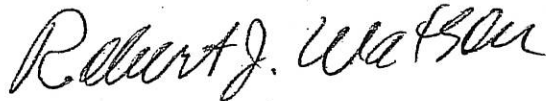
This would authorize the 1/8 cent special purpose taxes, as we suggested in our January 5, 2006, letter, and would authorize 1/8 cent as an increment in general purpose sales taxes as well.

Finally, the draft bill also does not address the issue raised in the last paragraph of my January 5, 2006 letter to you. Existing subsection (h) of K.S.A. Supp. 12-187 provides: "The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition." I am aware that a number of cities have enacted sales taxes under the general taxing authority of subsection (a)(1) of 12-187 and have stated limited purposes for the proceeds of the tax revenues. The amount of such taxes fell within the maximum rate limitations imposed by 12-189. In contrast to the special purpose taxes authorized for class D cities in subsection (e) of 12-187, the duration of such taxes was not limited, because the tax was imposed under the general taxing authority. In some instances, the total amount of such taxes may currently exceed 1%.

Richard Cram, Esq.  
Director of Policy and Research  
Kansas Department of Revenue  
January 23, 2006  
Page 3

So once again, the question remains, how those taxes would be treated under your general purposes/special purposes distinction on page 10 of the draft bill?

Yours very truly,



Robert J. Watson  
City Attorney

RJW/rjw

cc: Evalin McClain, Assistant City Manager  
Erik Sartorius  
Local Sales Tax Uniformity Working Group

# ATTACHMENT NO. 3

City Hall • 8500 Santa Fe Drive  
Overland Park, Kansas 66212-2899  
TEL 913.895.6080/6083 • FAX 913.895.5095  
E-MAIL Bob.Watson@opkansas.org

January 5, 2006

Richard Cram  
Director of Policy and Research  
Kansas Department of Revenue  
Docking State Office Building  
Room 230  
915 S. W. Harrison Street  
Topeka, KS 66612

RE: Proposed Sales and Excise Tax Legislation.

Dear Richard:

This is in response to your e-mail of December 22, 2005, and the draft bills attached thereto. Forgive us for not responding sooner, but with the holidays, it was difficult to get in touch with everyone that we needed to confer with. Prior to sending this response, we consulted with the Lenexa City Attorney, who concurs with the thoughts we express herein, but we have not conferred with and, therefore, are not authorized to speak on behalf of any other cities. We also conferred with representatives of the League of Kansas Municipalities, who, we understand, have responded to you separately.

Let us begin by addressing the excise tax bill. We thought that we had made it clear that the amendments to K.S.A. 12-194 should be part of the larger bill. We thought that the various parties who were around the table were there seeking to negotiate a compromise of all issues. Our agreement to the amendments limiting cities' current sales tax authority is conditioned upon the current provisions of K.S.A. 12-194 remaining as they are except for the amendment to deal with ticket/concession taxes. This is a package deal and should be presented to the Legislature as such.

Our second point with respect to the amendment to K.S.A. 12-194 is that it does not address an excise tax on concessions. Overland Park now has the authority to impose such an excise tax by charter ordinance. Our understanding was that the Department of Revenue was agreeable to allowing Overland Park and any other city to which the amendment might apply to have ticket and concession taxes so long as they were not structured like a sales tax. Overland Park has not given a lot of thought to how the concession tax would be structured to

Richard Cram  
Director of Policy and Research  
Kansas Department of Revenue  
January 5, 2006  
Page 2

avoid its resembling a sales tax, but we need to have this amendment provide the latitude to do so.

In the main sales tax bill, the rate structure in the proposed amendment to K.S.A. 12-189 does not appear to authorize the 1/8 cent special purpose tax currently authorized for Class D cities. As you know, Overland Park currently has a 1/8 cent special purpose tax. We note that the proposed amendment to subsection (d) of K.S.A. 12-187 would grandfather existing taxes. Was it your intent that existing taxes that had been adopted for special purposes would be treated as general purpose taxes for purposes of the rate limitations set forth in K.S.A. 12-189? A related question has to do with the treatment of local sales taxes adopted under the general authority of K.S.A. 12-187 where the city voluntarily limited the use of the revenue for certain purposes pursuant to the provisions of K.S.A. Supp. 12-187(h). For example, we are aware of cities that have adopted a sales tax of indefinite duration to be used for recreational facilities. Would such taxes be considered to be general purpose taxes within the meaning of K.S.A. 12-189? If so, that should be made more transparent.

Yours very truly,



Robert J. Watson  
City Attorney

RJW/rjw

cc: Evalin McClain, Assistant City Manager  
Erik Sartorius

17-12

**TESTIMONY IN OPPOSITION TO SUBSTITUTE FOR HOUSE BILL NO. 2023  
AS AMENDED BY THE HOUSE COMMITTEE OF THE WHOLE**

To: The Honorable Barbara Allen, Chair  
Members of the Senate Assessment and Taxation Committee

Date: March 29, 2006

RE: Substitute for House Bill 2023—Proposed legislation regarding sales and excise taxes.

The City of Olathe remains the state's fastest growing major city, and has been one of the state's most important tools to offset overall population loss.

This dramatic growth for Kansas has been only made possible because of tools like excise taxes that have allowed us to pay for the many costs associated with growth. It is abundantly clear that the excise tax has not been a deterrent to growth. Olathe uses excise taxes, and we are one of the fastest growing major cities in the entire country.

HB 2023 dramatically undermines this tool and, if passed as is, would force Olathe to dramatically curtail our residential growth or significantly increase costs for our current residents.

With escalating costs of commodities such as asphalt, current levels of excise taxes will not cover the costs of roads for new development. Please consider the following:

- The City's philosophy since the 1970's has been that development pays its own way.
- The purpose of the philosophy is to avoid unduly burdening existing property owners with the costs of infrastructure for new development and added property taxes.
- The City's excise tax (\$0.215 per square foot) is designed to collect new development's fair share of the costs for new arterial (thoroughfare) streets.
- Section 3 (d) of House Bill 2023 would cap the amount of money the City could collect to pay for arterial roads for the foreseeable future.
- If Section 3 (d) is passed, it will not take long before the City will not be able to construct street projects without adding more City at large money to complete these projects because the \$.215 will not be sufficient to pay the new development's fair share of the cost.
- This cost will either have to be borne by the existing residents through raising taxes, or through finding alternative revenue sources.
- The City would also respectfully ask the Committee to consider that existing excise taxes only apply to a small number of cities, primarily in Johnson County. The removal of this tool for other cities to capture new development costs would only hurt the taxpayers in such communities should the cities need this tool.

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Date 3-29-06  
Attachment # 18

March 29, 2006  
Page 2

For these reasons the City would respectfully request that Section 3 (d) be taken out of the Bill or the Bill be rejected in its entirety.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Thomas A. Glinstra". The signature is fluid and cursive, with a large initial "T" and "G".

Thomas A. Glinstra  
City Attorney

# *City of Bonner Springs*

205 E. 2<sup>nd</sup> Street, P.O. Box 38

Bonner Springs, KS 66012

(913) 422-1020

## **Testimony on Substitute for HOUSE BILL No. 2023**

Presented by: John N. Helin, City Manager, City of Bonner Spring, KS

The City of Bonner Springs thanks Senator Allen and her committee for giving us the opportunity to address our issue with Substitute for HOUSE BILL Number 2023.

The purpose of my testimony is to request that you amend line 10 on page 11 of Substitute for HOUSE BILL Number 2023 by adding the words, "**or county**" to the end of the sentence ending "*...performances which take place on property owned by a city.*"

While the City supports the League of Kansas Municipalities' position in overall opposition to this bill, I am here to address that specific portion of the bill that directly affects the City of Bonner Springs. The portion of this bill that specifically impacts us is on page 11, line 10, which states the following exemption to the statute: "*(e) levying an excise tax on tickets for admissions to concerts, theatrical performances, sports contests or other similar performances which take place on property owned by a city.*"

The City of Bonner Springs is unique in the state because we have two large outdoor entertainment venues within our city limits, Verizon Wireless Amphitheater and the Kansas City Renaissance Festival. They are, however, both situated on County owned property. Because they are on County property and not on property owned by the city, we are concerned that without the proposed change in language, we will lose this important revenue source.

In May of 2001, the City passed a charter ordinance and entered into an agreement with these two entities to establish an "Amusement Attendance Tax" of 25 cents per paid ticket. The tax was established in order to offset the costs of the City that are incident to



these type of venues. These two venues bring over 411,000 people per year to our City, and this requires us to provide emergency and other municipal services to them. This large influx of people strained our ability to pay for the services they need, therefore we initiated this tax in order to help offset these costs and not require our citizen taxpayers to solely bear the burden. We believe this tax is appropriate as those who directly benefit from the services and have caused the added expense to provide them, actually help shoulder some of the cost.

This source of revenue became even more important to us in 2002 when the state stopped their demand transfer of funds to municipalities. Due to this action, our city lost over \$100,000 a year in revenue that we had depended upon to serve our citizens. While the amount this entertainment tax brings in does not offset this loss, it is an important revenue source which allows us to be able to provide the necessary services for these two large entertainment venues.

We believe we have the support of the Department of Revenue for the proposed change in language. Attached to the paper copy of my testimony is an email from the State Department of Revenue indicating their support to amend this bill with the language we are proposing.

Do you have any questions of me?

I thank you for your time and hope that you will amend the language to this bill so that we do not lose this important revenue source for our city.

## John Helin

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**From:** Steven\_R\_Brunkan@kdor.state.ks.us  
**Sent:** Monday, March 27, 2006 12:40 PM  
**To:** Tillie Laplante  
**Cc:** John Helin  
**Subject:** Re: Sales Tax Uniformity Bill

Tillie,  
Thanks for the note, I meant to call you this morning. Secretary Wagnon will request the bill be amended to include county facilities.

Steve

"Tillie Laplante"  
<Tilliel@bonnersprings.org>  
<Johnhelin@bonnersprings.org>  
03/27/2006 11:34 AM

To: "Steve Brunkan (Steve Brunkan)"  
<steven\_brunkan@kdor.state.ks.us>  
cc: "John Helin"  
Subject: Sales Tax Uniformity Bill

Steve,

I spoke with our City Manager this morning. He has contacted the league and is contacting our State Senator and State House Representative regarding this bill. In reading HB 2023, it seems to us that everyone was grandfathered on this bill except the City of Bonner Springs. As we talked about last Friday, the bill does not include an excise tax on county owned property. The two venues which are located in Bonner Springs on which we currently collect amusement tax are both on county owned property. We would appreciate your help in getting the language changed to reflect county as well as city owned property. In my conversations with you, it seemed that the Department of Revenue was trying to keep cities from losing current taxes already imposed. Your help in the matter is appreciated.

If there is someone else with the Department of Revenue who I should contact, please let me know.

Thank you,

Tillie LaPlante  
Finance Director  
City of Bonner Springs, Ks.  
(913) 667-1709

**STATEMENT ON BEHALF OF THE CITY OF SHAWNEE IN OPPOSITION TO  
SUBSTITUTE FOR HOUSE BILL NO. 2023, AS AMENDED**

To: The Honorable Barbara Allen, Chair, and Members of the Senate Assessment and Taxation Committee:

From: Marvin E. Rainey

Date: March 29, 2006

Re: Substitute for House Bill No. 2023, Proposed Legislation Regarding Sales Tax, Limitations on Excise Taxes and Amending K.S.A. 12-194

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The City of Shawnee does not oppose the provisions of the Bill insofar as it restores uniformity to the Retailers' Sales Tax; however, the City strongly opposes and expresses our concern regarding the provisions that would limit the excise tax imposed pursuant to K.S.A. 12-194 on the platting of real property. The excise tax on the platting of property generates revenue needed to finance the construction of major collector and arterial streets in the growing and developing parts of the City. In recent years this excise tax revenue has generated about 10% of the funds needed to pay for major collector and arterial street improvements made by the City. Most but not all of these improvements are in the newly developing part of the City. The excise tax on platting means simply that new development pays a part of the cost of providing the street network necessary for the new development.

The City of Shawnee, like other cities that have imposed an excise tax on platting, is a fast growing city. The population has more than doubled in the last 20 years. From 1990 to 2000 there was a 27% increase in the number of households. Providing the infrastructure needed for a community that is adding several thousand residents each year, generally in new subdivisions, is a challenge for the local officials. Those local officials who are close to the citizens can best determine the needs of the community and how to finance the infrastructure made necessary by growth.

Shawnee is an east/west city, by that I mean it is growing from east to west, it is about 11 miles from the east city limit to the Kaw River on the west and has a north/south dimension of about 4 miles. About the two-thirds of the population is east of I-435, what unfortunately is sometimes called Old Shawnee or East Shawnee. The western part of Shawnee, generally bisected by K-7 Highway, is all new development and growth. Shawnee leaders struggle to avoid an east/west split, a split between the generally older east part of the City and the new west part of the City. The west part of the City that could be described as an area of two plus miles east and west of K-7 Highway is basically all new subdivisions requiring new collector and arterial streets. Those streets are expensive. A couple of years ago the City spent \$8,500,000 for improving Woodland Drive to arterial standards, that's only one of many streets. The excise tax on platting

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does not pay all of the costs of these streets but is a major source of funding. It frankly reduces the grumbling from voters and residents of the older part of the City that their taxes are being increased to pay for new development in what they consider new west Shawnee.

The Shawnee excise tax was last changed a few years ago to 21.5¢ per sq. ft. of land being platted. Because of the topography of our City and the development patterns this pays a smaller percentage of the cost of major streets than may be the case in Overland Park or some other cities. The City this year amended the tax to exempt schools and other governmental entities and to adjust the credit or exemptions in the tax. That amendment although passed this year is not in effect and will not take effect if HB2023 is passed in its present form.

A growing city has many needs. The excise tax on platting is an important tool. It is important that cities have the flexibility to make changes and to continue to utilize it to fund infrastructure needs for new development. We urge that provisions limiting the excise tax by changing K.S.A. 12-194 be eliminated from HB2023.

Marvin E. Rainey  
City Attorney, City of Shawnee



**TESTIMONY IN OPPOSITION TO SUBSTITUTE FOR HOUSE BILL 2023  
AS AMENDED BY THE HOUSE COMMITTEE OF THE WHOLE**

To: Honorable Barbara Allen, Chair  
Members of Senate Assessment and Taxation Committee

From: Lenexa, Kansas City Council  
Michael Boehm, Mayor  
Eric Wade, City Administrator

Date: March 29, 2006

The City of Lenexa opposes Substitute for House Bill 2023 as amended by the House Committee of the Whole, as it relates to Section 3(d) regarding the "freezing" of all development excise taxes in effect as of January 1, 2006. Lenexa believes it is possible to delete Section 3(d) from this bill while still maintaining the primary purpose of this bill which is sales tax uniformity in Kansas. Lenexa supports such an amendment.

Lenexa first adopted a development excise tax on February 17, 1998. The original tax was 15 cents/sq. ft. and paid at the time of final platting. In developing the City's excise tax and its rate, the City created a task force comprised of City staff and two elected officials, several residential builders, an HBA representative and several commercial developers. The purpose of the task force was to evaluate various funding methods, as well as determine the costs associated with major thoroughfares and the appropriate cost sharing of their construction. After considering the task force recommendation and evaluating the impact on the development community, the Lenexa Governing Body chose to adopt an excise tax that would approximate 20% of the cost of constructing these improvements.

In Lenexa, the excise tax is dedicated, by ordinance, for the construction of major thoroughfares. In a growth community like Lenexa, the excise tax is a tool to help facilitate development growth without undue burden on the general taxpayers. The ordinance contains a two year mandatory rate review to increase or decrease the rate as a result of such things as changes in construction costs, road needs, etc. In the 8 years since its adoption, the City has increased the excise tax rate twice, to its current rate of 21.5 cents/sq. ft. Without this important and viable economic development tool, the cost of providing infrastructure to support new development, and residential development in particular, cannot occur without unduly burdening existing taxpayers or creating the situation where such development simply is not allowed to occur because of inadequate infrastructure.

The city of Lenexa respectfully requests Section 3(d) be stricken from this bill.



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Senator Barbara Allen  
Chair, Senate Assessment and Taxation Committee  
State Capital  
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2006

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Marsha Monica  
Mayor Peggy  
Dunn, *Advisory  
Director*

Dear Chairwoman Allen and Members of the Senate Assessment and Taxation Committee:

I am writing to you on behalf of the Board of Directors of the Leawood Chamber of Commerce regarding HB 2689. The Chamber Board, while supportive of giving Johnson County voters the opportunity to vote for a sales tax increase to fund various County services (including a new jail), expressed concern about the details of the proposed legislation with regards to how the funds are allocated between City and County government. It was the Board's feeling that based on precedent with allocation of funds generated from County sales taxes, that a portion of these funds might appropriately be allocated to the cities where these sales taxes are generated and collected from consumers. This position was the consensus of the Board members at their meeting on Monday, March 27

The Board of Directors requests that you defer action on HB 2689 until such time that the city and county governments in Johnson County reach some sort of reasonable agreement regarding allocation of the funds collected by the sales taxes that would be generated under HB 2689.

Thank you for your consideration of our position.

Respectfully,

Kevin W. Jeffries, President & CEO  
Leawood Chamber of Commerce

11300 Tomahawk Creek Pkwy #240 • Leawood, KS. 66211  
913-498-1514 • Fax: 913-491-0134 • [www.leawoodchamber.org](http://www.leawoodchamber.org)

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