Approved: 1-29-2007
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 18, 2007 in Room 519-S of the Capitol.

All members were present.

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

Conferees appearing before the committee:
HB 2044
Mike Taylor, United Government Wyandotte County
Matt Shatto, City of Lenexa
Erik Sartorius, City of Overland Park
Don Moler, Kansas League of Municipalities
Dale Goter, City of Wichita
Randall Allen, Kansas Assoc. Of Counties (written only)
Paul Welcome, Office of County Appraiser - Johnson County, (written only)
HB 2031
Ron Thornburg, Secretary of State
Charles Gregor, Leavenworth-Lansing Chamber of Commerce
Pete Schrepermann, Wichita Independent Business Association
Ken Daniels, Midway Wholesale
Marlee Carpenter, Kansas Chamber of Commerce
Alan Cobb, Americans for Prosperity
Brad Harrelson, Kansas Farm Bureau
Christy Caldwell, Topeka Chamber of Commerce
Derrick Sontag, National Federated Independent Business
Brent Haden, Kansas Livestock Association
Karl Peterjohn, Kansas Taxpayers Network
Richard Cram, Kansas Department of Revenue
April Holman, Kansas Action for Children
Mark Tallman, Kansas Association of School Boards
Leslie Kaufman, Kansas Cooperative Council (written only)
Ashley Sherard, Lenexa Chamber of Commerce (written only)
Michael Murray, Embarq Corporation (written only)
Bernie Koch, Wichita Chamber of Commerce (written only)
Duane Simpson, Kansas Grain and Feed Assoc. (written only)

Others attending:
See attached list

HB 2044 - Distributions from the business machinery and equipment tax reduction assistance fund and the telecommunications and railroad machinery and equipment tax reduction assistance fund.

Gordon Self, Office of Revisor of Statutes, briefed the Committee on the law, passed last year, which dealt with exemptions on commercial and industrial machinery and equipment. There was an accompanying provision for both the general machinery and equipment exemption and the telecommunications and railroad machinery and equipment exemption. In conjunction with the exemption provisions, there was a provision that provided a mechanism to have some state funds directed to the local level based on a distribution formula provided in the law. **HB 2044** contains changes that are technical in nature that should be made to this mechanism before it is implemented. He explained the two technical changes.

The Chairman opened the public hearing.

Mike Taylor, United Government Wyandotte County, stood in support of the bill. He said the Legislature intended and thought it was creating a mechanism to reimburse a percentage of the actual losses in machinery and equipment tax revenues. Instead, the legislature devised a formula which reimburses local governments based on mill levy. Everyone admits the law needs to be fixed however, he said that the bill still has a serious problem. He suggested the comparison should be between the ad valorem taxes levied for commercial and industrial machinery and equipment in 2005 and the amount levied for commercial and industrial machinery and equipment in 2007, 2008, 2009, 2010, or 2011 (Attachment 1)

Matt Shatto, City of Lenexa, testified they understand the bill was introduced in an effort to change the distribution formula currently in place for the purpose of reimbursing municipalities for their loss related to the elimination of the personal property tax on machinery and equipment. They recommend that changes in wording related to comparison need to be made, after which they can fully support the legislation (Attachment 2).

Erik Sartorius, City of Overland Park, said a portion of the "slider" is altered by **HB 2044** to reflect legislative intent, however the law lays out a mechanism to distribute the aid within a county based on a taxing jurisdictions's mill levy in relation to the sum of all mills levied in the county. Such a distribution formula bears no relationship to the amount of property tax revenue a city derives fro business machinery and equipment. He suggested the distribution formula needs to be changed to reflect the intent of the original bill (Attachment 3).

Don Moler, Kansas League of Municipalities, said they believe that some of the language found in **HB 2044** needs to be clarified so that it is clear that the amount of money lost, as a result of the M&E exception, is based on actual dollars that could have been collected as compared to actual dollars which were collected (Attachment 4).

Dale Goter, City of Wichita, testified the details of the bill should be carefully analyzed, as there is a significant difference between the intent of the legislation and the likely outcome. He suggested the Legislature consider replacing language in Subsections 1-6 of section b reading *"total ad valorem taxes levied by" with "the total assessed valuation of personal property within."* (Attachment 5)

Randall Allen, Kansas Assoc. Of Counties, submitted written testimony, stating their Association had unanimously endorsed the position that the language of the statute needed amendment to correct problems with calculating the tax reduction assistance funds and its distribution back to the counties (Attachment 6).

Paul Welcome, Office of County Appraiser - Johnson County, submitted written testimony, that stated Johnson County Board of County Commissioner's support of **HB 2044** (Attachment 7).

Seeing no other conferees, the Chairman closed the hearing on **HB 2044.**

HB 2031 - Repealing the Kansas Franchise Tax

Chris Courtwright, Legislative Research Department, briefed the Committee on the background of the franchise tax. Corporations and associations, LLCs, limited partnerships, and business trusts are now required to file annual returns with the Director of Taxation and remit the franchise tax liability before April 15 of each year. The tax is deposited in the State General Fund (SGF) and is scheduled to produce an estimated $44 million for FY 2008. The Secretary of State's Office maintains a separate annual franchise fee of $40 for for-profit and not-for-profit entities. This $40 fee is deposited in the SGF and produces about $4 million per year (Attachment 8).

The Chairman opened the public hearing on **HB 2031.**

PROPONENTS

Ron Thornburg, Secretary of State, offered an amendment that would eliminate the related annual report fee, which is paid by businesses when they file the report in the Secretary of State's office. He said that at this time the franchise tax and the annual report fee amount to duplicate taxes on Kansas businesses. They are a totally fee-funded agency and their amendment would not eliminate the $15 administrative filing fee.

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 18, 2007 in Room 519-S of the Capitol.

The amendment would create a favorable climate in Kansas by reducing costs amounting to $4.6 million annually for Kansas businesses (Attachment 9).

Charles Gregor, Leavenworth-Lansing Chamber of Commerce, testified in support of **HB 2031.** He said the franchise tax was a severely flawed tax and is regressive. Chamber members would like to see continued reduction in the cost of doing business that would result in business and economic growth providing an increase in state revenues (Attachment 10).

Pete Schrepermann, Wichita Independent Business Association, urged the Committee members to support the passage of **HB 2031.** Kansas is in the minority as a state that employs a franchise tax and the bill would remove another impediment to economic development in Kansas (Attachment 11).

Ken Daniels, Midway Wholesale, testified the franchise tax is an aggressively anti-business tax. It is a penalty for making permanent business investments in the state. He gave reasons why the tax should be repealed, and provided a chart comparing Kansas to other states in the region (Attachment 12).

Marlee Carpenter, Kansas Chamber of Commerce, said the Kansas Chamber supports **HB 2031.** The tax is on net worth, requiring a company to pay this tax 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 (Attachment 13).

Alan Cobb, Americans for Prosperity, said repealing the franchise tax is an important first step in helping Kansas become more competitive. The franchise tax penalizes capital formation and business investment through taxation, two crucial aspects to a thriving economy. He urged passage of the **HB 2031** (Attachment 14).

Brad Harrelson, Kansas Farm Bureau, rose in support of **HB 2031.** He said there are a host of economic and tax policy reasons why the Legislature should act now to permanently repeal this tax. The franchise tax appears to be nothing more than an annual bill for the privilege of doing business in Kansas, unrelated to realized income, profitability, or productivity (Attachment 15).

Christy Caldwell, Topeka Chamber of Commerce, testified their business firms appreciate the introduction of this bill and asked for their support for its passage. Repeal of the franchise tax is another step forward for Kansas to be one of the best states for economic development and growth (Attachment 16).

Derrick Sontag, National Federated Independent Business, said in 2006, the elimination of the franchise tax was the second highest priority of small business, with the machinery and equipment tax phase-out being first. If repealed, Kansas will join the more than 30 states that currently, do not have a franchise tax (Attachment 17).

Brent Haden, Kansas Livestock Association, testified the franchise tax is paid by foreign and domestic corporations, associations, limited liability corporations, and limited liability partnerships and is essentially a tax on the privilege of doing business in Kansas. He urged passage of **HB 2031** (Attachment 18).

Karl Peterjohn, Kansas Taxpayers Network, said repealing the Kansas franchise tax would be a significant and important step in improving Kansas' fiscal climate and would end a double taxation on Kansas businesses (Attachment 19).

The Chairman noted that written testimony, in support of **HB 2031**, was received and distributed from the following persons: 1) Leslie Kaufman, Kansas Cooperative Council; 2) Ashley Sherard, Lenexa Chamber of Commerce; 3) Michael Murray, Embarq Corporation; 4) Bernie Koch, Wichita Chamber of Commerce; and 5) Duane Simpson, Kansas Grain and Feed Assoc (Attachment 20).

OPPONENTS

Richard Cram, Kansas Department of Revenue, testified the Department opposed the proposed bill, in that it will permanently shrink the State tax base by eliminating the corporate franchise tax entirely, causing a loss of State General Fund revenue of $44 million for FY 2008, with total revenue loss for FY 2008 through FY 2012 of $230 million. He explained the fiscal and administrative impact of the bill (Attachment 21).

April Holman, Kansas Action for Children, cited 2 reasons why their organization was opposed to the bill: Loss of revenue in the State General Fund; Erosion of the tax base. She suggested the Kansas tax system needs to be studied and a comprehensive modernization plan be developed (Attachment 22).

Mark Tallman, Kansas Association of School Boards, expressed concern over the direction and trends of current state tax policies. Elimination of this significant state tax could worsen those trends and this change should not be done without taking steps to address overall policy issues (Attachment 23).

Seeing no other conferees, the Chairman closed the public hearing on **HB 2031.**

The meeting was adjourned at 10:25 a.m. The next meeting is January 19, 2007.

TAXATION COMMITTEE

DATE: January 18, 2007

NAME	REPRESENTING
Ron Thornburgh	Sec State
Melissa Wangemann	Sec of State
Stephanie Mickelsen	Sec of State
Jim Sullivan	KC STAR
Dale Goter	City of Wichita
Duane Simpson	KGFA - KARA
Natalie Bright	Wichita Independent Business
Cliff Jones	WIBA
Ruth [illegible]	WIBA
Erik Sartorius	City of Overland Park
Mike Taylor	Unified Govt/Wyandotte County
Trent Sebits	Americans for Prosperity
Harriet Lange	Ks Assn of Broadcasters
Pat Hubbell	KS Railroads
Mike Murray	Embarq
ALAN COBB	AMERICANS FOR PROSPERITY
Robyn Horton	KS MOTOR CARRIERS ASSOC.
Doug Wareham	Kansas Bankers Assn.
April Holman	Kansas Action for Children

TAX

HOUSE ~~ECONOMIC DEVELOPMENT & TOURISM~~
COMMITTEE GUEST LIST

DATE: 1/18/07

Matt Shatto	City of Lenexa
Don Moler	LKM
Richard Cram	KDOR
STAN FROWNFELTER	Ks House 31st Dist
MARK BECK	KDOR
CHARLIE GREGOR	LV-LANSING AREA CHAMBER OF COMMERCE
Derick Sontag	NFIB
KEN DANIEL	KsSmallBiz.com
Dan Murray	Federico Consulting
TERRY FORSYTH	KNEA
Mark Tallman	KASB
Jesse Borjon	Secretary of State
Nancy Bryant	Secretary of State
Mike Huttles	Southwestern Assoc
Tom Palace	PMCA of KS
Kent Olsen	LGA
Hal Hudson	KS Pest Control Association
Ashley Ahearn	Intern - Rep. Miller
Brent Haden	KLA
Bill Roe	Secretary of State

Ashley Sherard — Lenexa Chamber
Karl Peterjohn — KS Taxpayers Network

TAXATION COMMITTEE

DATE: 1-18-07

NAME	REPRESENTING
Christy Caldwell	Topeka Chamber of Comm
Marlee Carpenter	KS Chamber
Tony A. Scott	KSCPA
Mike Reecht	Gackes Braden
BRAD HARRELSON	KFB
Jamie Rose	KACCT
Derek Hein	Hein Law Firm
Michelle Peterson	Capitol Strategies
Chris Shepard	Damron & Associates
DINA FISK	VERIZON

Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director
913.449.4848 mtaylor@wycokck.org

House Bill 2044
Machinery and Equipment Tax Exemption Correction

Delivered January 18, 2007
House Tax Committee

The Unified Government of Wyandotte County/Kansas City supports the purpose of House Bill 2044, which is to correct the mistake made in the way the Machinery and Equipment Tax exemption law was written last year.

The Legislature intended and thought it was creating a mechanism to reimburse a percentage of the actual losses in machinery and equipment tax revenues. Instead, the legislation devised a formula which reimburses local governments based on mill levy. Everyone admits the law needs to be fixed and that's what this bill is supposed to do.

The Unified Government and the homeowners of Wyandotte County appreciate the commitment to correct the error and to help local governments make-up at least some of the millions of dollars that will be lost due to the machinery and equipment tax exemption. But House Bill 2044 also has a problem. A serious one which I believe again does not deliver the intent of the Legislature as it was discussed during the 2006 session.

The intent of the so-called "slider" formula is to compensate local governments for the actual losses of machinery and equipment tax revenues. But the wording of House Bill 2044 says the calculation is based on the difference in total taxes levied. That means if tax revenues increase for any reason... assessed value changes, mill levy increases, or new development and growth... the compensation for the machinery and equipment loss is reduced. That has the effect of neutralizing the hold harmless intent of the "slider." It means a community which loses a lot of revenue because of the machinery and equipment tax break, but is fortunate enough to experience growth in other areas, still can't get ahead... it's the difference between running down the track and running in place.

The comparison should be between the ad valorem taxes levied <u>for commercial and industrial machinery and equipment</u> in 2005 and the amount levied <u>for commercial and industrial machinery and equipment</u> in 2007, 2008, 2009, 2010, or 2011. The same language is needed for the telecommunications machinery and equipment and railroad machinery section of the bill, and this language needs to be repeated in the distribution sections of the bill.

I appreciate your commitment to correct the issues surrounding the original machinery and equipment tax legislation and those in House Bill 2044.

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 1

Lenexa
KANSAS

TESTIMONY IN SUPPORT OF HB2044

To: House Tax Committee

From: Matt Shatto, Assistant City Administrator

Date: January 16, 2007

Thank you for the opportunity to present testimony regarding HB 2044. The City of Lenexa understands that this bill was introduced in an effort to change the distribution formula currently in place for the purpose of reimbursing municipalities for their loss related to the elimination of the personal property tax on machinery and equipment. The City of Lenexa supports this legislation.

When this committee was discussing HB 2583 last year, the City of Lenexa came before you testifying that the eventual impact on the City would be a decrease in annual revenue of more that $3.5 million per year. Based upon that loss, the City asked that you consider a mitigation strategy to reduce the immediate impact of this legislation and allow the City to attempt to absorb this loss over a longer period. After much discussion, the "slider" amendment was added to HB 2619 for the purpose of helping local jurisdictions adjust to the revenue losses incurred as a result of the implementation of this tax exemption. A sliding scale was introduced that would reduce the immediate impact on local governments and spread such an impact out over the course of five years. The understanding was that the payments from the State would be based upon the actual loss of each local government and would be distributed as follows:

90% of the difference for tax year 2007 (February 2008)
70% of the difference for tax year 2008 (February 2009)
50% of the difference for tax year 2009 (February 2010)
30% of the difference for tax year 2010 (February 2011)
10% of the difference for tax year 2011 (February 2012)

Instead, the language included in HB2583, as adopted, provides that the State will distribute the funds based on the percentage of a jurisdiction's mill levy as compared to all mill levies within their respective county; meaning that local governments will receive reimbursement based upon mill levy as opposed to the actual loss. The impact of this distinction is substantial to the City of Lenexa.

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 2

The estimated impact ranges from $400,000 to $700,000 annually and results in a cumulative impact of more than $2.6 million.

With that said, we want to make sure that the comparison in the bill is between the ad valorem taxes levied for commercial and industrial machinery and equipment in 2005 and the amount levied for commercial and industrial machinery and equipment in 2007, 2008, 2009, 2010, or 2011. The same language is needed for the telecommunications machinery and equipment and railroad machinery section of the bill.

With the aforementioned changes in wording related to comparison, the City of Lenexa is in support of HB 2044 and any other statewide legislation that would aid in mitigating the impact of the personal property tax exemption on machinery and equipment. Please do not hesitate to contact me should you have any questions or if the City of Lenexa can provide you with additional information. Thank you for your consideration.

The City of
Overland
Park
KANSAS

Erik Sartorius

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Overland Park, Kansas 66212
• Fax: 913-895-5003
www.opkansas.org

Testimony Before The
House Taxation Committee
Regarding
House Bill 2044

January 18, 2007

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in support of House Bill 2044.

This legislation would correct an error in the law enacted last year exempting newly purchased business machinery and equipment from property taxes. As this issue progressed through the legislative process last year, this committee in particular worked hard to mitigate the bill's effect on cities and other entities that levy ad valorem taxes.

The mitigation mechanism, which came to be known as the "slider," was designed to provide a soft landing for cities and others as they saw property tax revenue from business machinery and equipment shrink. Over the course of five years, taxing jurisdictions will see from the State partial compensation for their reduction in business machinery and equipment property taxes.

A portion of the "slider" is altered by HB 2044 to reflect legislative intent. The slider was to compensate local governments based on actual losses of machinery and equipment property tax revenue. Instead, the law lays out a mechanism to distribute the aid within a county based on a taxing jurisdiction's mill levy in relation to the sum of all mills levied in the county.

Such a distribution formula bears no relationship to the amount of property tax revenue a city derives from business machinery and equipment. Taxing jurisdictions that may have virtually no business machinery and equipment within their boundaries but have a high mill levy will see a windfall. Meanwhile, taxing jurisdictions with significant business machinery and equipment will see their aid come in dramatically below projections if their mill levies are lower relative to other jurisdictions within the county.

With this in mind, the City of Overland Park asks this committee to give strong support to House Bill 2044 in order to reflect legislative intent.

LKM
League of Kansas Municipalities

300 SW 8th Avenue 00
Topeka, Kansas 66 951
Phone: (785) 354-9565
Fax: (785) 354-4186

To: House Taxation Committee

From: Don Moler, Executive Director

Re: Support with Comments for HB 2044

Date: January 18, 2007

First I would like to thank the Committee for allowing the League to testify today on HB 2044. HB 2044 is essentially a trailer bill to clarify provisions of the machinery and equipment bill from last session. It's focus is the need to directly return to those units of government who will experience economic shortfalls as a result of the M&E exception, monies based on the slider formula which is now found in K.S.A. Supp. 79-2978 and 79-2979. We support the concept, and believe that the need for this legislation is clear to fully enact the intention of the slider provisions from last session.

That said, we believe that some of the language found in HB 2044 needs to be clarified so that it is clear that the amount of money lost, as a result of the M&E exception, is based on actual dollars that **could** have been collected as compared to actual dollars which **were** collected. The language, as we now read it, merely compares ad valorem levies between years, and this does not provide the difference upon which the slider was intended to operate. We will be more than happy to assist, in any way that we can, to help craft language which will more adequately reflect the difference between the amount of money collected, versus the amount of money which would have been collected had new machinery and equipment remained on the tax roll. Thank you very much for allowing the League to testify today on HB 2044.

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 4

TESTIMONY

CITY OF WICHITA
Dale Goter
Government Relations Manager

City of Wichita
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.268.4351
dgoter@wichita.gov

Kansas State House
House Committee on Taxation

House Bill 2044
Distributions From The Business Machinery and Equipment Tax Reduction

January 18, 2007

The City of Wichita is supportive of House Bill 2044 and its intent to mitigate the loss of tax revenue resulting from passage of last year's machinery and equipment tax exemption; however, details of the bill and even details of KSA 79-2978 generally should be carefully analyzed. We believe there is a significant difference between the intent of the legislation and the likely outcome.

As currently written, HB 2044 bases the distribution of replacement funds on the amount of ad valorem *taxes levied* in a given county. Use of "taxes levied" involves many variables that distort the original purpose of mitigating the impact of the M&E exemption. Variables that can impact taxes levied include changes in use of property (from agriculture to a commercial building), changes in mill levy rates, changes in the market value of property and (impacting distributions from the County Treasurer to local taxing subdivisions) territory added or removed.

Possibly, the legislation should be based on the assessed valuation of personal property. That is the element that most closely relates to Machinery and Equipment valuation and which would best isolate the impact of the M&E exemption legislation. The point of the legislation should be to isolate and mitigate that impact.

Under the current version of HB 2044, the state probably won't be sending *any* M&E mitigation money to Sedgwick County because the County raised its mill levy this past year. That means the "*total ad valorem taxes levied by the county for all taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for the tax year 2005*" is essentially GUARANTEED to be substantially less than that same figure in 2007 because the mill levy rate for 2007 will be significantly higher than the 2005 mill levy rate. There will be a significant impact from the M&E exemption. The share of tax base that consists of personal property from machinery and equipment will be much less. Local subdivisions within the County will have significantly less revenue upon which to operate and provide government services. But there will be no mitigation or replacement revenue received.

It is estimated that the total annual impact of the M&E exemption upon the City of Wichita General Fund will be approximately $7 million, or 3.8% of the fund's resources.

We suggest the Legislature consider replacing language in Subsections 1-6 of section b reading "*total ad valorem taxes levied by*" with "*the total assessed valuation of personal property within.*"

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 5

KANSAS
ASSOCIATION OF
COUNTIES

Written Testimony

concerning House Bill No. 2044

Re: Business Machinery and Equipment Tax reduction assistance funds

House Taxation Committee
Submitted by Randall Allen, Executive Director
Kansas Association of Counties
January 17, 2007

Chairmen Wilk and members of the committee, thank you for the opportunity to submit written testimony ***in support of HB 2044*** on behalf of the Kansas Association of Counties and its 98 member counties.

We appreciate the legislature addressing the mitigation of business machinery and equipment tax exemption through tax reduction assistance funds. Without such mitigation residual taxpayers would absorb a larger tax burden. We believe this bill corrects the inadvertent error in calculation discovered in the original legislation.

The Kansas Association of Counties membership in November 2006 unanimously adopted the position that the language of the statute needed amendment to correct problems with calculating the tax reduction assistance funds and its distribution back to the counties.

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

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Fax 785•272•3585

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 6

MEMORANDUM

Office of the County Appraiser Johnson County, KS

Named "Distinguished Assessment Jurisdiction" for 2000

TO: House Taxation Committee

FROM: Paul Welcome, CAE, ASA & RMA Johnson County Appraiser

RE: **HB 2044**

DATE: January 18, 2007

Good Morning, my name is Paul Welcome, Johnson County Appraiser and I am here to express the Johnson County Board of County Commissioner's legislative position for this proposed legislation.

The county supports this bill that corrects the redistribution formula in the business machinery and equipment property tax exemption slider mechanism passed in the 2006 Legislature in Substitute for House Bill 2583. The reimbursement formula in this bill will make those jurisdictions with lost business property tax revenue be proportional to the revenue lost.

The county supports this bill.

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KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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kslegres@klrd.state.ks.us http://www.kslegislature.org/klrd

January 17, 2007

To: House Taxation Committee
Senate Assessment and Taxation Committee

From: Chris W. Courtwright, Principal Economist

Re: Corporation Franchise Tax

History

Originally enacted in 1866, the corporation franchise tax was the third tax enacted in the state's history. From 1866 through 1912, various charter and miscellaneous fees were required to be paid by corporations. From 1913 to 1971, the tax ranged from $10 for corporations with less than $10,000 of paid-up capital stock to $2,500 for those with over $5 million of paid-up capital stock. From 1972 to 2001, the tax was set at $1 per $1,000 of corporations' shareholders' equity attributable to Kansas, with a minimum tax of $20 and a maximum of $2,500. (Legislation enacted in the 1990s required limited liability companies (LLCs) to pay $1 per $1,000 of net capital accounts located in or used in the state, also with a minimum tax of $20 and a maximum of $2,500. One-member LLCs taxed as sole proprietorships paid $1 per $1,000 of net book value as calculated on an income tax basis.)

An omnibus tax bill enacted late in 2002 sought to effectively double the amount of revenues received under the corporation franchise taxes. The tax was increased to $2 per $1,000 of shareholder equity up to a maximum of $5,000. This law remained in effect for tax years 2002 and 2003.

Legislation enacted in 2004 subsequently made numerous structural changes in the franchise tax, effective for tax year 2004 and thereafter. The rate of the tax was reduced from $2 per $1,000 of shareholder equity or net worth to $1.25. The maximum liability cap of $5,000 also was increased to $20,000; and a new exemption was provided for entities with equity or net worth of $100,000 or less.

Administration of the franchise tax based on shareholder equity or net worth was relocated from the Office of the Secretary of State to the Department of Revenue. Corporations and associations, LLCs, limited partnerships, and business trusts are now required to file annual returns with the Director of Taxation and remit the franchise tax liability before April 15 of each year. The franchise tax is deposited in the State General Fund (SGF) and is scheduled to produce an estimated $44 million for FY 2008.

The Secretary of State's Office maintains a separate annual franchise fee of $40 for for-profit and not-for-profit entities. This $40 fee is deposited in the SGF and produces about $4 million per year.

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 8

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The Secretary of State also collects a $10 administrative fee and a $5 technology fee on all annual reports of for-profit entities pursuant to statutory authority contained in KSA 75-438 and 75-444. These fees are deposited in fee funds.

Exemptions

In addition to the exemption for entities with net worth of $100,000 or less, banks, insurance companies, savings and loans, firemen's relief associations, and certain venture capital companies also are exempt from the tax.

Franchise Tax Proposals

HB 2031, which would repeal the tax collected by the Department of Revenue, would reduce SGF receipts by the following amounts:

($ in millions)

FY 08	$ (44.0)
FY 09	(45.0)
FY 10	(46.0)
FY 11	(47.0)
FY 12	(48.0)
5-yr total	$ (230.0)

The Governor's franchise tax proposal, which involves raising the $100,000 exemption threshold to $1.0 million, would reduce SGF receipts by the following amounts:

($ in millions)

FY 08	$ (7.3)
FY 09	(7.6)
FY 10	(7.9)
FY 11	(8.2)
FY 12	(8.5)
5-yr total	$ (39.5)

The bill introduced on January 17 in the House Taxation Committee, which would phase out the tax out over three years, would be expected to reduce SGF receipts by the following amounts:

($ in millions)

FY 08	$ (14.7)
FY 09	(30.0)
FY 10	(46.0)
FY 11	(47.0)
FY 12	(48.0)
5-yr total	$ (185.7)

CWC/kal

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RON THORNBURGH
Secretary of State

Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564

TESTIMONY OF THE SECRETARY OF STATE
TO THE HOUSE TAXATION COMMITTEE
ON HB 2031

January 18, 2007

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear today to offer an amendment to HB 2031.

The purpose of HB 2031 is to eliminate the franchise tax paid by Kansas businesses. My amendment would eliminate the related annual report fee, which is paid by businesses when they file the report with my office. I propose this amendment because at this time the franchise tax and the annual report fee amount to duplicate taxes on Kansas businesses.

The annual report fee paid to us is married to the franchise tax paid to the Kansas Department of Revenue as a result of legislative action during the 2004 session. At that time the legislature moved the franchise tax, which previously was paid to our office, to the Department of Revenue and, then, created the new annual report fee in our office. They were a package deal, contained in the same bill and subject of the same committee hearings. Therefore, if the legislature decides to eliminate the franchise tax on business, it is appropriate to eliminate the annual report fee as well. By whatever names, the franchise tax and annual report fee currently amount to duplicate taxes on Kansas businesses.

You are aware we are a totally fee-funded agency. The effect of this amendment would eliminate the annual report fee of $40. It would not eliminate the $15 administrative filing fee, similar to a fee that applies to every filing our agency receives and maintains for public access, so our ability to support agency activities using fee funds is not jeopardized.

In conclusion, my amendment creates a favorable climate in our state for business by reducing costs amounting to $4.6 million annually for Kansas businesses.

Ron Thornburgh
Secretary of State

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 9

AMENDMENT

Section 1. K.S.A.17-1513. Each corporation organized under the provisions of this act shall make an annual report to the secretary of state~~, and pay the annual report fee,~~ as prescribed by K.S.A. 17-7503 and amendments thereto.

Sec. 2. K.S.A. 17-1618. Each association formed under this act, or acts amendatory thereto, shall prepare and make an annual report to the secretary of state~~, and pay the annual report fee,~~ as prescribed by K.S.A. 17-7504 and amendments thereto, except that the report shall be filed at the time prescribed by law for filing the association's annual Kansas income tax return.

Sec. 3. K.S.A. 17-2036. (a) Every business trust shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the business trust at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the business trust's annual Kansas income tax return. The report shall contain the following:

(1) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, which have been adopted and have not theretofore been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed therein for each such amendment; and

(2) a verified list of the names and addresses of its trustees as of the end of its tax period.

(b) ~~(1) At the time of filing its annual report, the business trust shall pay to the secretary of state an annual report fee in an amount equal to $40.~~

~~(2)~~ The failure of any domestic or foreign business trust to file its annual report ~~and pay its annual report fee~~ within 90 days from the date on which ~~they are~~ <u>it is</u> due, as aforesaid, shall work a forfeiture of its authority to transact business in this state and all of the remedies, procedures, and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation which fails to file its annual report within 90 days after ~~they are~~ <u>it is</u> due, shall be applicable to such business trust.

(c) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order and subsection. All copies of such applications shall be preserved for one year and until the secretary of state orders that the copies are to be destroyed.

(d) A copy of such application shall be open to inspection by or disclosure to any person designated by resolution of the trustees of the business trust.

Sec. 4. K.S.A. 17-2037. Any business trust, domestic or foreign, which has obtained authority under this act to transact business in Kansas may surrender its authority at any time by filing in the office of the secretary of state a certified copy of a resolution duly adopted by its trustees declaring its intention to withdraw, accompanied by a withdrawal fee of $20; and filing all annual reports ~~and paying all annual report fees~~ required by K.S.A. 17-2036 and amendments thereto~~, and~~ not previously filed ~~and paid~~. During a period of five years following the effective date of such withdrawal the business trust shall nevertheless be entitled to convey and dispose of its property and assets in this state, settle and close out its business in this state, and perform any other act or acts pertinent to the liquidation of its business, property, and assets in this state, and to prosecute and defend all suits filed prior to the expiration of such five year period involving causes of action arising prior to the effective date of such withdrawal or arising out of any act or transaction occurring during such five-year period in the course of the liquidation of its business, property or assets. The withdrawal of a business trust as provided in this section shall have no effect upon any suit filed by or against it prior to the expiration of such five-year period until such suit has been finally determined or otherwise finally concluded and all judgments, orders and decrees entered therein have been fully executed, even though such final determination, conclusion, or execution occurs after the expiration of such five-year period. With respect to a foreign business trust, withdrawal pursuant to this section shall not affect its written consent to be sued in the courts of this state, or the jurisdiction over such foreign business trust of the courts of this state, with respect to any cause of action which arose prior to the effective date of its withdrawal.

Sec. 5. K.S.A. 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state an annual report in writing and a copy or duplicate thereof, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return. The report shall be made on a form provided by the secretary of state, containing the following information:
(1) The names and addresses of all officers, directors and shareholders of the professional corporation;
(2) a statement that each officer, director and shareholder is or is not a qualified person as defined in K.S.A. 17-2707, and amendments thereto, and setting forth the date on which any shares of the corporation were no longer owned by a qualified person; and
(3) the amount of capital stock issued.
(b) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall be dated and subscribed by the person as true, under penalty of perjury. The copy of the annual report or the duplicate original copy of the annual report shall be forwarded to the regulatory board which licenses the shareholders described in the report. ~~At the time of filing its annual report, each professional corporation shall pay the annual report fee prescribed by K.S.A. 17-7503, and amendments thereto.~~

Sec. 6. K.S.A. 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make an annual report in writing to the secretary of state stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed on or before the fifteenth day of the

fourth month following the close of the tax year of the electric cooperative. The report shall be made on a form provided by the secretary of state, containing the following information:
(1) The name of the corporation;
(2) the location of the principal office;
(3) the names and addresses of the president, secretary, treasurer and all directors;
(4) the number of memberships issued; and
(5) the change or changes, if any, in the particulars made since the last annual report.
(b) Such reports shall be signed by the president, vice-president or secretary of the corporation, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. ~~At the time of filing such annual report, each such corporation shall pay an annual report fee in an amount equal to $40.~~

Sec. 7. K.S.A. 17-4677. (a) Every cooperative organized under the renewable energy electric generation cooperative act shall make an annual report in writing to the secretary of state stating the prescribed information concerning the cooperative at the close of business on the last day of its tax period next preceding the date of filing, but if any such cooperative's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed on or before the 15th day of the fourth month following the close of the tax year of the electric cooperative. The report shall be made on a form provided by the secretary of state, containing the following information:
(1) The name of the cooperative;
(2) the location of the principal office of the cooperative;
(3) the names and addresses of the president, secretary, treasurer and directors of the cooperative;
(4) the number of members of the cooperative; and
(5) the change or changes, if any, in the particulars made since the last annual report.
(b) The annual report shall be signed by the president, vice-president or secretary of the cooperative, sworn to before an officer duly authorized to administer oaths, and forwarded to the secretary of state. ~~At the time of filing such annual report, the cooperative shall pay an annual report fee in an amount equal to $40.~~

Section 8. K.S.A. 17-7002. (a) Any corporation may procure an extension, restoration, renewal or revival of its articles of incorporation, if a domestic corporation, or its authority to engage in business, if a foreign corporation, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities which had been secured or imposed by its original articles of incorporation, and all amendments thereto, or by its authority to engage in business, as the case may be, and may designate a new registered office and resident agent in the following instances:

(1) At any time before the expiration of the time limited for the corporation's existence;

(2) at any time, where the corporation's articles of incorporation, if a domestic corporation, or the authority to engage in business, if a foreign corporation, has become inoperative by law for nonpayment of taxes or fees, or for failure to file its annual report;

(3) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has expired by reason of failure to renew it;

(4) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has been renewed, but through failure to comply strictly with the provisions of this act, the validity of such renewal has been brought into question; and

(5) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has been forfeited pursuant to subsection (c) of K.S.A. 17-6206 and amendments thereto.

(b) The extension, restoration, renewal or revival of the articles of incorporation or authority to engage in business may be procured by executing and filing a certificate in accordance with K.S.A. 17-6003, and amendments thereto.

(c) The certificate required by subsection (b) shall state:

(1) The name of the corporation, which shall be the existing name of the corporation or the name it bore when its articles of incorporation or authority to engage in business expired, except as provided in subsection (e);

(2) if a new registered office and resident agent is designated, the address of the corporation's registered office in this state, which shall include the street, city and zip code and the name of its resident agent at such address;

(3) whether or not the renewal, restoration or revival is to be perpetual and, if not perpetual, the time for which the restoration, renewal or revival is to continue; and, in case of renewal before the expiration of the time limited for its existence, the date when the renewal is to commence, which shall be prior to the date of the expiration of the old articles of incorporation or authority to engage in business which it is desired to renew;

(4) that the corporation desiring to be renewed or revived and so renewing or reviving its corporate existence was duly organized under the laws of the state of its original incorporation;

(5) the date when the articles of incorporation or the authority to engage in business would expire, if such is the case, or such other facts as may show that the articles of incorporation or the authority to engage in business has become inoperative or void or that the validity of any renewal has been brought into question; and

(6) that the certificate for revival is filed by authority of those who were directors or members of the governing body of the corporation at the time its articles of incorporation or the authority to engage in business expired, or who were elected directors or members of the governing body of the corporation as provided in subsection (g).

(d) Upon the filing of the certificate in accordance with K.S.A. 17-6003, and amendments thereto, the corporation shall be renewed and revived with the same force and effect as if its articles of incorporation had not become inoperative and void or had not expired by limitation. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed within the scope of its articles of incorporation by the corporation, its officers and agents during the time when its articles of incorporation were inoperative or void or after their expiration by limitation, with the same force and effect and to all intents and purposes as if the articles of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, which belonged to the corporation at the time its articles of incorporation became inoperative or void, or expired by limitation and which were not disposed of prior to the time of its revival or renewal shall be vested in the corporation after its revival or renewal, as fully and amply as they were held by the corporation at and before the time its articles of incorporation became inoperative or void or expired by limitation, and the corporation after its renewal or revival shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its officers and agents prior to its reinstatement, as if its articles of incorporation had remained at all times in full force and effect.

(e) If, since the articles of incorporation became inoperative or void for nonpayment of taxes, <u>failure to file annual reports</u> or expired by limitation, any other corporation organized under the laws of this state shall have adopted the same name as the corporation sought to be renewed or revived or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or revived, or any foreign corporation qualified in accordance with K.S.A. 17-7301, and amendments thereto, shall have adopted the same name as the corporation sought to be renewed or revived, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or revived, then in such case the corporation to be renewed or revived shall not be renewed under the same name which it bore when its articles of incorporation became inoperative or void or expired, but shall adopt or be renewed under some other name; and in such case the certificate to be filed under the provisions of this section shall set forth the name borne by the corporation at the time its articles of incorporation became inoperative or void or expired and the new name under which the corporation is to be renewed or revived.

(f) Any corporation seeking to renew or revive its articles of incorporation under the provisions of this act shall file all annual reports and pay to the secretary of state an amount equal to all fees and any penalties thereon due. Nonprofit corporations shall file only the annual reports for the three most recent reporting periods, but shall pay all fees due.

(g) If a sufficient number of the last acting officers of any corporation desiring to renew or revive its articles of incorporation are not available by reason of death, unknown address or refusal or neglect to act, the directors of the corporation or those remaining on the board, even if only one, may elect successors to such officers. In any case where there shall be no directors of the corporation available for the purposes aforesaid, the stockholders may elect a full board of directors, as provided by the bylaws of the corporation, and the board shall then elect such officers as are provided by law, by the articles of incorporation or by the bylaws to carry on the business and affairs of the corporation. A special meeting of the stockholders for the purpose of electing directors may be called by any officer, director or stockholder upon notice given in accordance with K.S.A. 17-6512, and amendments thereto.

(h) After a revival of the articles of incorporation of the corporation shall have been effected, except where a special meeting of stockholders has been called in accordance with the provisions of subsection (g), the officers who signed the certificate of revival jointly shall call forthwith a special meeting of the stockholders of the corporation upon notice given in accordance with K.S.A. 17-6512, and amendments thereto, and at the special meeting the stockholders shall elect a full board of directors, which board shall then elect such officers as are provided by law, by the articles of incorporation or the bylaws to carry on the business and affairs of the corporation.

(i) Whenever it shall be desired to renew or revive the articles of incorporation of any corporation not for profit and having no capital stock, the governing body shall perform all the acts necessary for the renewal or revival of the articles of incorporation of the corporation which are performed by the board of directors in the case of a corporation having capital stock. The members of any corporation not for profit and having no capital stock who are entitled to vote for the election of members of its governing body shall perform all the acts necessary for the renewal or revival of the articles of the corporation which are performed by the stockholders in the case of a corporation having capital stock. In all other respects, the procedure for the renewal or revival of the articles of incorporation of a corporation not for profit and having no capital stock shall conform, as nearly as may be applicable, to the procedure prescribed in this section for the renewal or revival of the articles of incorporation of a corporation having capital stock.

Section 9. K.S.A. 17-7503. (a) Every domestic corporation organized for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return. The report shall contain the following information:
(1) The name of the corporation;
(2) the location of the principal office;
(3) the names and addresses of the president, secretary, treasurer or equivalent of such officers and members of the board of directors;
(4) the number of shares of capital stock issued;
(5) the nature and kind of business in which the corporation is engaged; and
(6) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.
(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:
(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
(4) the total number of stockholders of the corporation;
(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
(6) the number of acres of agricultural land, held and reported in each category under provision (5), stated separately, being irrigated; and
(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.
(c) The report shall be executed in accordance with the provisions of K.S.A. 17-6003, and amendments thereto. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall be dated and subscribed by the person as true, under penalty of perjury. ~~At the time of filing such annual report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state an annual report fee in an amount equal to $40.~~

Sec. 10. K.S.A. 17-7504. (a) Every corporation organized not for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed on

the 15th day of the sixth month following the close of the taxable year. The report shall contain the following information:
(1) The name of the corporation;
(2) the location of the principal office;
(3) the names and addresses of the president, secretary and treasurer or equivalent of such officers, and the members of the governing body;
(4) the number of memberships or the number of shares of capital stock issued; and
(5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.
(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:
(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
(4) the total number of stockholders or members of the corporation;
(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
(6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and
(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.
(c) The report shall be executed in accordance with the provisions of K.S.A. 17-6003, and amendments thereto. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall be dated and subscribed by the person as true, under penalty of perjury.
~~(d) At the time of filing such report, each nonprofit corporation shall pay an annual report fee in an amount equal to $40 for all tax years commencing after December 31, 2003.~~

Sec. 11. K.S.A.17-7505 (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year. The report shall be made on a form prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return. The report shall contain the following facts:
(1) The name of the corporation and under the laws of what state or country it is incorporated;
(2) the location of its principal office;

(3) the names and addresses of the president, secretary, treasurer, or equivalent of such officers, and members of the board of directors;
(4) the number of shares of capital stock issued;
(5) the nature and kind of business in which the company is engaged;
(6) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.
(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:
(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
(4) the total number of stockholders of the corporation;
(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
(6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and
(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.
(c) The report shall be executed in accordance with the provisions of K.S.A. 17-6003, and amendments thereto. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall be dated and subscribed by the person as true, under penalty of perjury.
~~(d) At the time of filing its annual report, each such foreign corporation shall pay to the secretary of state an annual report fee in an amount equal to $40.~~

Sec. 12. K.S.A.17-7507. No corporation shall be required to file its first annual report under this act~~, or pay any annual report fee required to accompany such report,~~ unless such corporation has filed its articles of incorporation or foreign corporation application at least six months prior to the last day of its tax period.

Sec. 13. K.S.A.17-7509. (a) In case any corporation organized for profit which is required to file an annual report ~~and pay the annual report fee~~ prescribed by this act shall fail or neglect to make such report at the time prescribed, such corporation shall be subject to a penalty of $75. Such penalty ~~and the annual fee or fees~~ required to be paid by this act may be recovered by an action in the name of the state, and all moneys recovered shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.
(b) The penalties provided for in subsection (a) also may be assessed against any corporation for the reason that such corporation has been canceled or its existence forfeited pursuant to the Kansas general corporation code. No penalty shall be charged pursuant to this subsection, if a corporation is assessed penalties pursuant to grounds specified in subsection (a).

Sec. 14. K.S.A. 17-7510. (a) In addition to any other penalties, the failure of any domestic corporation to file the annual report in accordance with the provisions of this act ~~or to pay the annual report fee provided for~~ within 90 days of the time for filing ~~and paying~~ the same shall work the forfeiture of the articles of incorporation of such domestic corporation. Within 60 days after the date such annual report ~~and fee are~~ is due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report ~~and fee~~ when due that its articles of incorporation shall be forfeited unless the annual report is filed ~~and the fee is paid~~ within 90 days from the date such report ~~and fee were~~ was due. Any corporation that fails to submit such report ~~and fee~~ within such time shall forfeit its articles of incorporation, and the secretary of state shall notify the attorney general that the articles of incorporation of such corporation have been forfeited.
(b) In addition to any other penalties, the failure of any foreign corporation to file the annual report ~~or pay the annual report fee~~ prescribed by this act within 90 days from the time provided for filing ~~and paying~~ the same shall work a forfeiture of its right or authority to do business in this state. Within 60 days after the date such annual report ~~and fee are~~ is due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report ~~and fee~~ when due that its authority to do business in this state shall be forfeited unless the annual report ~~and fee is paid~~ is filed within 90 days from the date such report ~~and fee were~~ was due. Any corporation that fails to submit such report ~~and fees~~ within such time shall forfeit its authority to do business in this state, and the secretary of state shall publish a notice of such forfeiture in the Kansas register. This section shall not be construed to restrict the state from invoking any other remedies provided by law.
(c) The secretary of state shall not issue certificates of good standing for any corporation that has failed to file its annual report ~~or pay its annual report fee~~.

Sec. 15. K.S.A. 17-76,125. A foreign limited liability company may cancel its registration by filing with the secretary of state a certificate of cancellation executed by the members, together with the fee required by this act and the annual report ~~and annual report fee~~ for any tax period which has ended. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business in the state of Kansas.

Sec. 16. K.S.A.17-76,139. (a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:
(1) The name of the limited liability company; and
(2) a list of the members owning at least 5% of the capital of the company, with the post office address of each.
(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the

limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be signed by a member of the limited liability company and forwarded to the secretary of state. ~~At the time of filing the report, the limited liability company shall pay to the secretary of state an annual report fee in an amount equal to $40.~~

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report ~~or pay the required annual report fee,~~ and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report ~~or pay the required annual report fee,~~ shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report ~~or pay the annual report fee~~ within 90 days of the time prescribed in this section for filing ~~and paying~~ the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file an annual report ~~or to pay the required annual report fee,~~ the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state ~~all fees, including~~ any penalties ~~thereon,~~ due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

(e) When reinstatement is effective, it relates back to and takes effect as of the effective date of the forfeiture and the company may resume its business as if the forfeiture had never occurred.

(f) No limited liability company shall be required to file its first annual report under this act~~, or pay any annual report fee required to accompany such report,~~ unless such limited liability company has filed its articles of organization or application for authority at least six months prior to the last day of its tax period.

(g) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or subsection (h). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

(h) A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company during any part of the period covered by the extension.

Sec. 17. K.S.A. 56-1a606. (a) Every limited partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the

year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.
(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:
(1) The name of the limited partnership; and
(2) a list of the partners owning at least 5% of the capital of the partnership, with the address of each.
c) Every limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:
(1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and
(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.
(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. ~~At the time of filing the report, the limited partnership shall pay to the secretary of state an annual report fee in an amount equal to $40.~~
(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report ~~or pay the required annual report fee,~~ and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file an annual report ~~or pay the required annual report fee,~~ shall be applicable to the certificate of partnership of any limited partnership which fails to file its annual report ~~or pay the annual report fee~~ within 90 days of the time prescribed in this section for filing ~~and paying~~ the same. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file an annual report ~~or to pay the required annual report fee,~~ the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state ~~all fees, including~~ any penalties ~~thereon,~~ due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 18. K.S.A. 56-1a607. (a) Every foreign limited partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.
(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited partnership.
(c) Every foreign limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of agricultural land in this state owned or leased by the limited partnership; and
(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.
(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. ~~At the time of filing the report, the foreign limited partnership shall pay to the secretary of state an annual report fee in an amount equal to $40.~~
(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report ~~or pay the required annual report fee,~~ and the provisions of subsection (b) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file an annual report ~~or pay the required franchise annual report fee,~~ shall be applicable to the authority of any foreign limited partnership which fails to file its annual report ~~or pay the annual report fee~~ within 90 days of the time prescribed in this section for filing ~~and paying~~ the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file an annual report ~~or to pay the required annual report fee,~~ the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state ~~all fees, including~~ any penalties ~~thereon,~~ due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 19. K.S.A. 56-1a608. No limited partnership shall be required to file its first annual report under this act~~, or pay any annual report fee required to accompany such report,~~ unless such limited partnership has filed its certificate of limited partnership or certificate of good standing at least six months prior to the last day of its tax period.

Sec. 20. K.S.A. 56a-1201. (a) Every limited liability partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability partnership's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability partnership's annual Kansas income tax return.
(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:
(1) The name of the limited liability partnership; and
(2) a list of the partners owning at least 5% of the capital of the partnership, with the address of each.
(c) The annual report shall be signed by a partner of the limited liability partnership and forwarded to the secretary of state. ~~At the time of filing the report, the limited liability partnership shall pay to the secretary of state an annual report fee in an amount equal to $40.~~
(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report ~~or pay the required franchise annual report fee,~~ and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for

failure of a corporation to file an annual report ~~or pay the required franchise annual report fee,~~ shall be applicable to the statement of qualification of any limited liability partnership which fails to file its annual report ~~or pay the franchise annual report fee~~ within 90 days of the time prescribed in this section for filing ~~and paying~~ the same. Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file an annual report ~~or to pay the required annual report fee,~~ the limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state ~~all fees, including~~ any penalties ~~thereon,~~ due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 21. K.S.A. 56a-1202. (a) Every foreign limited liability partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the foreign limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the foreign limited liability partnership's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the foreign limited liability partnership's annual Kansas income tax return.
(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the foreign limited liability partnership.
(c) The annual report shall be signed by a partner of the foreign limited liability partnership and forwarded to the secretary of state. ~~At the time of filing the report, the foreign limited liability partnership shall pay to the secretary of state an annual report fee in an amount equal to $40.~~
(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report ~~or pay the required annual report fee,~~ and the provisions of subsection (a) of K.S.A. 17-7510, and amendments thereto, relating to penalties for failure of a corporation to file an annual report ~~or pay the required franchise annual report fee,~~ shall be applicable to the statement of foreign qualification of any foreign limited liability partnership which fails to file its annual report ~~or pay the franchise annual report fee~~ within 90 days of the time prescribed in this section for filing ~~and paying~~ the same. Whenever the statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file an annual report ~~or to pay the required annual report fee,~~ the statement of foreign qualification of the foreign limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state ~~all fees, including~~ any penalties ~~thereon,~~ due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 22. K.S.A. 56a-1203. No limited liability partnership or foreign limited liability partnership shall be required to file its first annual report under this act~~, or pay any annual report fee required to accompany such report,~~ unless such partnership has filed its statement of qualification or foreign qualification at least six months prior to the last day of its tax period.

REPEAL. K.S.A. 75-446. The secretary of state shall remit all moneys received from annual report fees, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Leavenworth-Lansing Area Chamber of Commerce

TESTIMONY OF CHARLES H. GREGOR, JR.
EXECUTIVE VICE PRESIDENT
LEAVENWORTH-LANSING AREA CHAMBER OF COMMERCE
HOUSE TAXATION COMMITTEE
January 18, 2007

Mister Chairman, members of the Committee, on behalf of the Board of Directors and members of the Leavenworth-Lansing Area Chamber of Commerce, I thank you for the opportunity to come before you to speak on behalf of House Bill 2031.

We have a situation here. We are again looking at the so-called "franchise tax". Why? Well, let me suggest that the real and underlying reason is that is a bad tax, a severely flawed tax. The first time I testified before this committee on this tax, in January of 2001, there was general recognition that it was a bad tax, poorly conceived and applied, and we, i.e. you, were trying to fix it. The extent to which this negative characterization of the franchise tax is valid is borne out by the fact that attempts to "fix" it have been made in every legislative session since, some producing changes in the law governing the tax and some dying here in committee.

So, again, in this 2007 session, we meet again to try to "fix" the Kansas Franchise Tax. Again, the question "why?" is valid. I offer that it because the tax is regressive. Our businesses find them selves taxed simply for existing and being in business in Kansas. The tax is applied unevenly, based on formulae applied to net worth. It thus penalizes successful businesses that want to grow, want to purchase real estate for expansion and build new facilities, open subsidiaries elsewhere in the state, thus expanding their labor force and doing all those things a successful expanding business wants to do. This tax is a cost that inhibits such business growth.

Over the past two years the Kansas Legislature has been very successful in reducing the cost of doing business in Kansas. I congratulate the legislature on what it has done. The elimination of the business machinery and equipment tax on new machinery and equipment and the deminimus increase on business personal property taxes has had its impact already. Kansas businesses have already responded. This fiscal year, through the end of December, tax receipts only show an increase of close to $60 million over last year. Current Kansas economic growth is real and in response to the confidence business has been given through those tax reductions you have provided. I would suggest to you that the lesson here, albeit qualified, is that **business tax reductions increase state revenue**.

My members would like to see this trend continue in both areas….continued reduction in the cost of doing business and resulting business and economic growth that provides an increase in state revenues. Fair taxes are recognized as necessary. The franchise tax does not fit into that category. We support HB 2031 and urge repeal of the franchise tax.

Thank you. I am glad to stand for any questions.

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Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

Kansas House Taxation Committee

Testimony in support of:
House Bill 2031

By:
Pete Schrepfermann, Past Chairman
Wichita Independent Business Association
Kansas Independent Business Coalition
445 N Waco, Wichita, KS 67202
Phone 316 267 8987 – Fax 316 267 8964

Chairman Wilk and Honorable Committee members:

Thank you for the opportunity to appear before you in favor of HB 2031, which proposes to repeal the Kansas franchise tax. My name is Pete Shrepfermann and I am the past chairman of WIBA/KIBC. I am the owner of Johnstone Supply, an air conditioning and refrigeration distributor.

For several years, the members of WIBA and KIBC have advocated for the elimination of the franchise tax because we believe it is an anti-business tax that disproportionately burdens small business. It also penalizes Kansas businesses for making investments in our state. Franchise tax is levied whether a business is profitable or not because it is assessed against a businesses net worth. Similar types of businesses, when organized differently, pay widely varying amounts. For instance, a business that needs little capital, such as a lawyer or doctor, will typically pay little franchise tax. However, businesses such as machine shops, manufacturers, distributors, require heavy capitalization and therefore pay a significant amount in franchise tax. Some have made the analysis that the franchise tax is in essence a form of property tax on Kansas corporations.

For our small business owners, much if not all of their personal net worth is invested in their business. For instance, I started my business in 1981. We have built our equity to slightly under $900,000, which resulted in a franchise tax for 2006 of $1,084; in addition to our corporate income taxes and personal income taxes. Thus, the franchise tax is in essences a tax on my life savings. To illustrate how much this tax is slanted against small businesses, compare our payment with a large corporation whose equity is hundreds of times greater than ours yet their franchise tax is capped at $20,000.

Great strides have been made over the past few years with the phasing out of the business machinery and equipment tax and the Kansas estate tax. The members of WIBA/KIBC are pleased that the Kansas Legislature is looking at eliminating this tax and getting serious about removing another impediment to economic development in Kansas. Kansas is in the minority as a state that employs a franchise tax. We urge you to support the passage of HB 2031. Thank you for considering our position.

Presentation to the House Taxation Committee
January 18, 2007

By Kenneth L. Daniel
C.E.O., Midway Wholesale, Topeka
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 KsSmall.Biz.com.

I strongly encourage you to support House Bill 2031.

The Kansas Franchise Tax 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, and at least one of those is phasing it out completely.

Top Priority for Repeal

Now that property taxes on business machinery and equipment and the Kansas estate tax are being phased out, the franchise tax stands out as a tax that makes us compare badly to most other states.

Kansas needs to eliminate the franchise tax for all businesses:

- It 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 2007, because of two increases in recent years, it will raise $44 million.

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.

Comparison to Other States in the Region

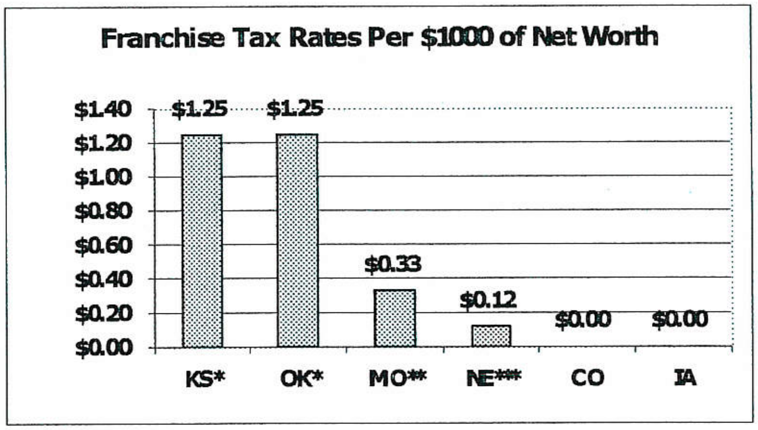
Kansas is tied for the highest tax rate in the region.

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

Comparison to Other States Nationwide:

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.

CORPORATION FRANCHISE TAXES
October, 2004

State	***Highest Rate (per $1000)***	***Maximum Tax***	***Comments***
West Virginia	$7.00	No maximum	In addition, has license tax of $.15 to $.40 per $1000.
Pennsylvania	$6.99	No maximum	Phasing down to zero in 2010
Louisiana	$3.00	No maximum	$1.50 on first $300,000 of net worth
Mississippi	$2.50	No maximum	
Tennessee	$2.50	No maximum	TN has no personal income tax.
Kentucky	$2.10	No maximum	"Corporation License Tax"
New York	$1.78	$350,000	Alternatives reduce rate for most businesses
Alabama	$1.75	$15,000	Must have $2.5 million in income to pay max. rate
North Carolina	$1.50	No maximum	
KANSAS -- NEW	**$1.25**	**$20,000**	
Oklahoma	$1.25	$20,000	
Georgia	$1.00	$5,000	Rates go down to $.02 for bigger businesses.
Illinois	$1.00	$1,000,000	
South Carolina	$1.00	No maximum	
Missouri	$0.33	No maximum	No tax on first $1,000,000 in net worth
Arkansas	$0.27	$1,075,000	
Delaware	$0.20	$150,000	
Wyoming	$0.20	No maximum	
Nebraska	$0.12	$11,995	

States With A Net Worth Alternative Calculation in Their Income Tax:

Ohio	$4.00	$150,000	Alternate income tax calculation--not a separate tax.
Connecticut	$3.10	No maximum	Alternative calculation for income tax.
Massachusetts	$2.60	No maximum	Alternative income tax calculation--not a separate tax.
Texas	$2.50	No maximum	Plus tax on earnings, all in lieu of corp. income taxes
Rhode Island	$0.25	No maximum	Capital Stock Tax--alternative to income tax

States with No Net Worth Taxes:

Alaska	None	
Arizona	None	
California	None	Their "franchise tax" is their income tax.
Colorado	None	
Florida	None	
Hawaii	None	
Idaho	None	
Indiana	None	
Iowa	None	
Maine	None	
Maryland	None	
Michigan	None	
Minnesota	None	
Montana	None	
Nevada	None	
New Hampshire	None	
New Jersey	None	
New Mexico	None	Has a flat $50 "franchise tax" which is only a filing fee.
North Dakota	None	
Oregon	None	
South Dakota	None	
Utah	None	
Vermont	None	

Legislative Testimony

HB 2031

January 18, 2007

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

THE KANSAS CHAMBER

The Force for Business

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Chairman Wilk and members of the committee;

The Kansas Chamber and our over 10,000 members encourages the Kansas Legislature to look at pro-growth business tax policy that will encourage capitol investment and job creation in the state. The Kansas Chamber represents business of all sizes and from all part of the state. More than 95% of our members have less than 50 employees so we speak on behalf of large medium and small business.

On behalf of the entire business community, we would like to thank the legislature for working to pass the repeal of the property tax on newly purchased business machinery and equipment as well as increasing the deminimus property tax exemption to $1,500. These tax changes will help grow the Kansas economy and will encourage businesses to locate and expand in the state. This tax change along with the repeal of the Kansas Estate Tax is much needed and a positive step in the right direction however, the Kansas business climate still needs attention.

Businesses in Kansas are producing more tax revenue dollars than forecasted. The corporate income tax continues to grow as well as the individual income tax, which most Kansas small businesses pay. Much of this growth can be attributed to the positive changes made last session and the positive outlook of businessmen and women.

The Kansas Chamber supports HB 2031, the repeal of the franchise tax. 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 many subsidiary companies are penalized under Kansas law and the penalty has increased significantly over the last few years.

The Kansas business community again thanks the legislature and the administration for passing the M&E and the estate tax repeal last session. These tax changes will improve the state business climate. However, the Kansas business climate still needs attention and changes that will foster additional job growth and creation. With revenue from business coming into the state well above expectations, the legislature, the administration and the business community have another opportunity to work to improve the Kansas business climate.

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

The Kansas Chamber, with headquarters in Topeka, is the statewide business advoca[...] becoming the best state in America to do business. The Kansas Chamber and its affili[...] Chamber Federation, have more than 10,000 member businesses, including local and [...] and trade organizations. The Chamber represents small, medium and large employers

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 13

AFP AMERICANS FOR PROSPERITY KANSAS

Testimony for HB 2031
Repealing the Franchise Tax

There is an economic truism: The more you tax something, the less of it you get & the less you tax something, the more of it you get. This truism is often touted when it comes to the "merits" of a cigarette tax. However, this same principle surely applies to corporations and where they choose to reside. With that in mind, Kansas cannot afford to have a higher-than-average corporate franchise tax; especially when you combine that with a punitive corporate income tax. Kansas is not keeping up, over the long-term, by most any economic measure, especially in private sector job creation. In 2006, Kansas ranked near the bottom among of the fifty states in private sector job growth.

Repealing the franchise tax is an important first step in helping Kansas become more competitive. The franchise tax is an aggressively anti-business tax. Why? Because it penalizes capital formation and business investment through taxation, two crucial aspects to a thriving economy. The franchise tax is also unfair because it imposes a tax, regardless of whether a business is profitable or not. Businesses that require little capital outlays (such as service providers) will pay little tax while capital intensive industries will pay a lot. For many small business owners, much of their life savings are wrapped-up in the value of their business. This tax is nothing less than a tax on their retirement savings.

At the Kansas rate of $1.25 per thousand dollars net-worth, Kansas is tied for the highest tax rate in the region. Oklahoma has an identical tax rate and cap as Kansas. However, Missouri and Nebraska have significantly lower franchise tax rates with Colorado and Iowa having no tax at all.

Taxes Matter - I think we can all agree that higher taxes certainly do not help Kansas' long-term economic growth. A recent study by Dr. Arthur Laffer proved just that point. The 10 states with the lowest tax burden had HIGHER Gross State Product growth, Personal Income Growth and Population Growth compared to the 10 highest tax states (1994-2004). Certainly Kansas would welcome higher levels of all three of these measures.

In 2006, the franchise tax will bring in $46 million to the state of Kansas. That is $46 million that businesses just over the border in Colorado don't have to pay a penny of. Why continue to penalize corporations just for the pleasure of doing business in this state.

Thank you for your time and opportunity to testify.

Alan Cobb
State Director
Americans for Prosperity -Kansas

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 14

KANSAS FARM BUREAU
The Voice of Agriculture

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800 SW Jackson St., Suite 1300, Topeka, Kansas 66612-1219 • 785-234-4535 • Fax 785-234-0278

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

RE: HB 2031 – an act repealing the Kansas franchise tax.

January 18, 2007
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Wilk, and members of the House Committee on Taxation, thank you for the opportunity to appear before you today. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Kansas Farm Bureau policy supports HB 2031 and repeal of the Kansas franchise tax. Aside from the issue of fundamental fairness, there are a host of economic and tax policy reasons why the Legislature should act now to permanently repeal this tax.

Everyone can agree that it is in the state's best interest to have a healthy, vibrant economy that encourages creation of jobs and wealth. It seems counterintuitive to impose a tax that discourages growth and penalizes accumulation of assets. The franchise tax appears to be nothing more than an annual bill for the privilege of doing business in Kansas, unrelated to realized income, profitability, or productivity.

Many farm and ranch operations are structured in a way that meets the definition and threshold of businesses that must pay the tax. Furthermore, it is not uncommon for agricultural businesses to create multiple subsidiaries or related businesses for liability protection. As such, operators may have the additional burden of tax liability for each individual entity.

As you know, production agriculture is a very capital-intensive business and it doesn't take a very large operation to exceed the minimum $100,000 threshold of net worth under current law. Unfortunately, farms and ranches operate on very narrow margins compared to investment. In many cases, absorbing the tax is much more burdensome to the bottom line of these family businesses than say a large public company.

Kansas Farm Bureau recognizes the budgetary challenges currently faced by the legislature. You will likely ask the question of how the state can withstand lost revenues by repeal of the franchise tax. We believe that is a fair and responsible question. We believe elimination of the franchise tax will likely have a beneficial fiscal impact. A more favorable tax policy can only help attract new business. Furthermore, elimination of this deterrent to growing assets will stimulate new economic growth, and increased opportunities in a state desperately needing it.

In conclusion, Kansas Farm Bureau respectfully urges your recommendation to pass favorably HB 2031. Thank you, once again, for the opportunity to appear before you and share the policy of our members. KFB stands ready to assist you as you consider this important measure. Thank you.

GREATER TOPEKA CHAMBER

GO TOPEKA

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Testimony – House Tax Committee
January 18, 2006
HB 2031
By Christy Caldwell ccaldwell@topekachamber.org
Greater Topeka Chamber of Commerce

Chairman Wilk, and members of the Committee:
The Greater Topeka Chamber of Commerce would like to express our strong support for HB 2031, the repeal of the franchise tax.

Since 2002, this tax has increased dramatically. Before 2002, the franchise tax was administered by the Secretary of State's office and there was a rate of $1.00 per $1000 of a company's net worth and there was a cap of $2,500. Now the tax is at the rate of $1.25 per $1000 of net worth with a $20,000 cap. This tax is almost like a second income tax on corporations and limited liability partnerships, but it must be paid whether the business makes a profit or not.

Less than half of the states in the U.S. have a franchise tax; Missouri and Nebraska have rates less than a third of the Kansas rate and Colorado and Iowa do not have a franchise tax at all. The repeal of the Kansas franchise tax will continue the positive actions by the Legislature to make Kansas more desirable for business expansions and relocations.

The 1300 business firms who are members of the Greater Topeka Chamber of Commerce appreciate the introduction of this bill and ask for your support for its passage. Repeal of the franchise tax is another step forward for Kansas to be one of the best states for economic development and growth.

NFIB

The Voice of Small Business®

Legislative Testimony
Derrick Sontag, NFIB State Director
House Bill 2031
January 18, 2007

Mr. Chairman and members of the committee:

Thank you for the opportunity to appear before you in support of House Bill 2031.

As many of you may know, NFIB/KS determines its' legislative agenda by balloting the more than 5,400 NFIB members in Kansas. A large majority of those balloted must respond in the affirmative, in order for NFIB to support or oppose the issue in question. This process allows the organization's legislative agenda to be determined by the thousands of Kansans who are operating small and independent businesses on a daily basis.

Specific to this issue, NFIB members have long supported the elimination of the franchise tax. In the weeks leading up to the 2005 legislative session, members were asked to respond to a ballot survey containing the following question:

Should legislation be enacted to phase out the Kansas franchise tax completely over five years?
Results: Yes – 77.1% No – 12.6% Undecided – 10.3%

As you can see, an overwhelming majority supported the elimination of the tax, in this case by means of a phase-out. It is important to note, that while members supported eliminating the tax, many of them expressed frustration when informed that it may be accomplished by means of a phase-out. This response continues to reflect the mindset of the membership. In 2006, the elimination of the franchise tax was the second highest priority of small business, with the machinery and equipment tax phase-out and the estate tax phase-out being first and third, respectively.

NFIB members continue to be appreciative of the rate reduction and the $100,000 in net worth exemption, enacted during the 2004 legislative session. However, the continued existence of this tax creates an atmosphere in which limited liability entities are penalized for increasing their net worth. Further, members have grown increasingly frustrated in being subject to double taxation on their physical assets. Simply put, the franchise tax serves as a disincentive for small business to explore continued growth.

The membership of NFIB/KS urges you to support House Bill 2031. In doing so, you will join the more than 30 states that currently, do not have a franchise tax.

Thank you for your time and consideration on this important matter.

Derrick Sontag, Kansas State Director
National Federation of Independent Business
785-213-9769
Derrick.sontag@nfib.org

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 17

KANSAS LIVESTOCK ASSOCIATION

Since 1894

TESTIMONY

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

From: Brent Haden

Date: January 18, 2007

Subj: **House Bill 2031** –Repeal of 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 2031.

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 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.

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 18

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 2031.

Thank you.

KANSAS TAXPAYERS NETWORK
P.O. Box 20050
Wichita, KS 67209
www.kansastaxpayers.com
316-684-0082

17 January 2007

Testimony in Support of H.B. 2031
Karl Peterjohn, Exec. Dir.

Kansas has state taxes on both income as well as on the assets of businesses that are incorporated. The latter tax is the state's franchise tax. This is doubled taxation placed upon Kansas businesses. This is a tax that exists regardless of whether the firm is making or losing money. This places an extra burden on Kansas businesses. S.B. 50 would improve the Kansas business and fiscal climate by repealing the Kansas franchise tax.

State tax revenues have been growing rapidly and this is now possible to do so without having to actually cut existing spending. Revenue growth in Kansas has grown at a lower percentage rate, approximately 60 percent, of the growth in federal tax revenues during the last two years. Relative to the other 49 states, Kansas is not keeping up with the rest of the country. Kansas has an excessive level of taxation that is a major reason for our relatively low levels of economic and income growth in this state. Passage of S.B. 50 would be a significant step to addressing this growth problem.

The state generates less than $50 million a year from the franchise tax. This is less than 1 percent of the state's General Fund budget. This is a tax that has become almost an annual legislative issue as various proposals to modify, change, increase, exempt, and finally now this year, finally a repeal of the entire Kansas business franchise tax. In 2002 the legislature doubled this tax as part of the major tax hikes enacted that year. This perpetual legislative effort to restructure and modify this tax into something that is acceptable is impossible to do. This is a another reason to repeal it.

Repealing the Kansas franchise tax would be a significant and important step in improving this state's fiscal climate. Repealing this tax would end a double taxation on Kansas businesses. Repealing this tax would provide a significant step of progress to help making this state's fiscal climate competitive with the other 49 states.

A repeal of this tax and KSA 79-5401 is preferable to modification since this has been a battle for shifting this tax from various sized firms since 2002. In the last five years I have seen this taxed raised significantly for firms with multiple subsidiaries. I have seen this tax raised onto small businesses. I have seen this tax raised onto big businesses. I have heard that businesses are incorporating outside of Kansas and thus avoiding this tax. There are a significant number of states that do not have a franchise tax. Kansas needs to make progress by becoming the next state without this tax burden on assets.

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 19

Kansas Cooperative Council
816 S.W. Tyler St., Suite 300
Topeka, Kansas 66612

Phone: 785-233-4085
Fax: 785-233-1038
Toll Free: 888-603-COOP (2667)
Email: council@kansasco-op.coop

www.kansasco-op.coop

WRITTEN TESTIMONY ONLY

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

House Committee on Taxation

January 18, 2007

Topeka, Kansas

HB 2031 – Repeal of the franchise tax.

Chairman Wilk and members of the House Taxation Committee, thank you for the opportunity to share our support for HB 2031 which repeals the state 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, financial and consumer cooperatives. Many of our cooperative members, particularly those on the agricultural side, have created or joined in forming limited liability companies (LLCs) to carry -on other business endeavors.

The franchise tax is an issue for these limited liability companies. Our member cooperatives and their LLCs often operate on narrow margins. They are subject to weather influences and a host of other market factors largely beyond their control. 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 repeal of the franchise tax.

Passage of HB 2031 will help lighten the overall state tax burden on companies, thus benefiting our member businesses. We encourage this committee to act favorably on this measure.

Thank you.

Leslie Kaufman, Executive Director
Kansas Cooperative Council

Lenexa Chamber of Commerce

The Historic Lackman-Thompson Estate
11180 Lackman Road
Lenexa, KS 66219-1236
913.888.1414
Fax 913.888.3770

TO: Representative Kenny Wilk, Chairperson
Members, House Taxation Committee

FROM: Ashley Sherard, Vice-President
Lenexa Chamber of Commerce

DATE: January 18, 2007

RE: **HB 2031—Repeal of Kansas Franchise Tax**

The Lenexa Chamber of Commerce would like to express its support for HB 2031, which would repeal the Kansas franchise tax.

Businesses have faced particularly difficult economic challenges in recent years, including dramatically rising costs for employee health care benefits. The state's current franchise tax simply contributes yet another burden at a time when many businesses are at a crossroads in their recovery.

We believe HB 2031 represents a key step in the right direction. Repealing the franchise tax would save Kansas employers millions of dollars a year, helping to prevent additional job loss and encouraging the economic recovery and competitiveness that will provide jobs and revenue to the state over the long-term.

For these reasons, the Lenexa Chamber of Commerce urges the committee to consider HB 2031 favorably. Thank you for your time and consideration of this important issue.

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EMBARQ™

Embarq Corporation
800 SW Jackson
Suite 1108
Topeka, KS 66612
EMBARQ.com

January 18, 2007

TO: Members of the House Taxation Committee
FROM: Michael R. Murray, Director of Governmental Affairs
RE: HB 2031, Repeal of the State Franchise Tax

Thank you for the opportunity to comment on HB 2031.

Embarq fully supports this legislation which repeals the state franchise tax.

The franchise tax is an additional and unnecessary cost of doing business. It has increased rapidly from a cap of $2,500 in 2002; to $5,000 in 2003; to $20,000 in 2004 where it remains today. Embarq's Kansas franchise taxes exceed $200,000 per year.

Such an onerous tax on net worth discourages business expansion, investment, and job creation in Kansas, not to mention the disincentive it provides for new businesses to locate in Kansas making our state less competitive with our neighbors and nationwide. Franchise tax repeal will also reduce the compliance costs, audit costs, and administrative costs for the Department of Revenue saving money for both the State and taxpayers.

We urge the Committee to recommend HB 2031 favorable for passage.

Michael R. Murray
DIRECTOR
GOVERNMENTAL AND PUBLIC AFFAIRS
Voice: (785) 232-3826
Fax: (785) 234-6420
michael.r.murray@EMBARQ.com

Testimony on House Bill 2031 (Submitted)
Repeal of the Kansas Franchise Tax
January 18, 2007

Bernie Koch
VP/Government Relations
Wichita Metro Chamber of Commerce

Chairman Wilk and members of the Committee, thank you for the opportunity to submit written testimony in support of House Bill 2031, which repeals the Kansas Franchise Tax.

I am the Vice President For Government Relations at the Wichita Metro Chamber of Commerce. Our organization has over 1,800 members. Their employees make up approximately 55 percent of the workforce of the four-county Wichita Metropolitan Area, comprised by Sedgwick, Harvey, Butler, and Sumner Counties.

This year, our Government Relations Committee and Board of Directors added this statement to our policy positions: *"The Chamber supports elimination of the business franchise tax."*

We would point out that the Kansas franchise tax is based on Kansas net worth. A portion of that net worth is determined in part by inventories, land, depletable assets, and buildings and other depreciable assets.

It would be accurate to say generally that the more property your company has, the higher the likely franchise tax, for those who currently must pay the tax.

In essence, the Kansas franchise tax can be viewed as a second property tax on much of what a company owns. The same property can be taxed twice: once in the form of the ad valorem property tax, and again in the form of the Kansas franchise tax.

That does not seem fair.

We urge you to give serious consideration to favorable passage of House Bill 2031.

Thank you for your consideration.

STATEMENT OF THE

KANSAS GRAIN & FEED ASSOCIATION

AND THE

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

SUBMITTED TO THE

HOUSE TAXATION COMMITTEE

IN SUPPORT OF HOUSE BILL 2031

REP. KENNY WILK, CHAIR

JANUARY 18, 2007

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.

816 SW Tyler, Topeka KS 66612 – 785-234-0461 - Fax: 785-234-2930

Thank you Chairman Wilk and members of the House Taxation Committee; I am Duane Simpson, Vice President of Government Affairs for the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA). 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 2031.

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. It is a tax that surrounding states do not charge and it puts our members at a severe competitive disadvantage.

There are other proposals that attempt to continue "soaking big business" while giving relief to smaller businesses. Those proposals all suffer from the same basic flaw of the current law - - the value of a company's assets is not an indication of its ability to pay taxes. Agribusinesses routinely survive on the very thinnest of margins yet are considered "big business" because of their high capital costs.

On behalf of the members of KGFA and KARA, I urge you to repeal the franchise tax in its entirety.

Testimony to the House Taxation Committee

Richard Cram

January 18, 2007

Opposition to House Bill 2031

Representative Wilk, Chair, and Members of the Committee:

House Bill 2031 proposes to repeal the corporate franchise tax. The Department opposes this proposal, in that it will permanently shrink the State tax base by eliminating the corporate franchise tax entirely, causing a loss of State General Fund revenue of $44 million for FY 2008, with total revenue loss for FY 2008 through FY 2012 of $230 million. Once repealed, this tax is unlikely to ever be reinstated. There are no proposals to replace that revenue stream. The Department's fiscal note for this proposal is attached.

Can the State afford to watch a revenue stream of $44-plus million per fiscal year simply disappear?

The Governor's tax proposal includes, among other provisions, increasing the Kansas net worth threshold for entities subject to the corporate franchise tax from $100,000 to $1 million, which would eliminate corporate franchise tax liability for approximately 16,000 small businesses that are currently paying this tax. This change would cost the State General Fund $ 7 to 8 million per fiscal year over the next five fiscal years. The State tax base would not be harmed, in that the rate and liability cap would remain unchanged and those entities exceeding the $ 1 million Kansas net worth threshold (approximately 5500) will continue to pay the corporate franchise tax.

The Governor's tax proposal, in addition to simplification of business incentive tax credits, also includes a reduction of the corporate income tax surcharge rate over 2 years from 3.35% to 2.75%, beginning in tax year 2008. The base rate of 4% remains the same for Kansas taxable income below $50,000. For income above that level, the total of base rate plus the surtax will decrease from 7.35% to 6.95%, and in tax year 2009, that total will decrease again to 6.75%. This rate reduction will benefit all corporations with Kansas taxable income above $50,000, and it will preserve the tax base.

2007 House Bill 2031b Fiscal Note

Introduced as a House Bill

Brief of Bill

2007 House Bill 2031, as introduced, would repeal the Kansas franchise tax. The bill shall be effective after its publication in Kansas statute book.

Fiscal Impact

The bill will reduce the state general fund by $44 million for FY 2008. The fiscal impacts for the 5 years from FY 2008 to FY 2011 are listed below:

FY 08 -44.0 million
FY 09 -45.0 million
FY 10 -46.0 million
FY 11 -47.0 million
FY 12 - 48.0 million

5-year total -230.0 million.

Administrative Impact

The bill would repeal the Kansas franchise tax. The total IS resources needed to implement the bill are 160 hours of user testing time and 240 hours of IS time. Repealing of the tax will also save the department about 104 hours of administrative time in developing the franchise tax booklet, as well as $4120.22 in printing and correspondence. The net administrative cost, at $80/hour contract rate, is about $19,559.78.

Administrative Problems and Comments

None.

Taxpayer/Customer Impact

None.

Legal Impact

None.

April Holman
Legislative Testimony
House Bill 2031
House Taxation Committee
January 18, 2007

Good morning Chairman Wilk and members of the Committee. On behalf of Kansas Action for Children (KAC), I would like to thank you for this opportunity to testify on House Bill 2031.

KAC is a not-for-profit child advocacy organization that has been in existence since 1979. We advocate for policies and programs that ensure and improve the physical, emotional, and educational well-being of all Kansas children and youth. As a part of these efforts KAC began the Fiscal Focus initiative in 2003. The purpose of Fiscal Focus is to improve the economic security of Kansas children and their families and ensure a balanced and fair tax system and budget process that protects the well-being of children and families as well as a stable system of state revenues.

As child advocates, we have several concerns about the potential impact of House Bill 2031. These include the loss of revenue resulting from elimination of the franchise tax, further erosion of the state tax base, and the need for a comprehensive approach to modernizing the Kansas tax structure.

Loss of Revenue

The first concern is that elimination of the franchise tax would result in less money available for vital programs and services impacting children and their families. With an estimated reduction of $48 million in fiscal year 2008, this bill represents a significant loss of state revenues.

Erosion of the Tax Base

The second concern is that elimination of the franchise tax further contributes to the erosion of the Kansas tax base. While the state may be able to sustain a $48 million loss of revenues in the upcoming fiscal year, the current strong economy will not last forever. When the Kansas economy reaches the next downturn this source of revenue will no longer be available to the state. As recently as the late 1990's a similar erosion of the Kansas tax base took place during times of a strong economy only to result in revenue shortfalls in the early 2000's when the economy slowed down.

Modernizing the Kansas Tax Structure

It is our belief that major tax policy changes such as the elimination of the franchise tax should be done in the context of a comprehensive modernization of the Kansas tax system. Recent reports from the Kansas Department of Revenue show that Kansas taxes disproportionately impact the poor and that both the sales tax and property tax bases have been eroded significantly in recent years. This has resulted in tax shifts as well as revenue shortfalls and the need in some years to increase tax rates. In order to address these issues as well as the changing nature of the Kansas economy a comprehensive plan should be created for modernizing Kansas taxes. Only after this comprehensive plan is created should major tax policy changes be undertaken.

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An initiative of Kansas Action for Children

KANSAS ASSOCIATION OF SCHOOL BOARDS
1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on **HB 2031**
before the
House Taxation Committee
by

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards
(Also representing Kansas National Education Association)

January 18, 2007

Mr. Chair:

KASB is a voluntary association providing services to local school boards. Currently, all but two of the 296 districts in Kansas are members. Our policy positions are adopted by members at our annual convention, following extensive discussion of issues at ten regional meetings held twice a year. We have traditionally not adopted positions on specific tax measures, but we have always expressed support for policies that provide adequate support for public education and other important state functions. This year, the school finance resolution, adopted by our members, calls for a comprehensive review of state and local tax policies to ensure that they provide a fair, balanced and economically responsive source of revenue.

Our members are increasingly concerned by the direction of state tax policies. It seems to us that elimination of a significant state tax could worsen those trends. At a minimum, this change should not be done without taking steps to address overall policy issues.

The total state and local tax burden as a percentage of Kansas personal income has remained remarkably constant in recent years – and in fact, over more than half a century. State and local taxation has generally remained between 10 and 12 percent of Kansas personal income. Despite the tremendous increase in the scope and cost of government programs, total taxes have not risen faster than the ability of Kansans to pay, based on personal income.

Of course, this is only true in the aggregate. Certainly, any individual or group's tax bill may have increased faster than their income – but that means someone else has had a reduction in taxes relative to *their* income.

In addition, the mix of tax sources has changed, and is becoming less balanced and more skewed toward the property tax. Between 1998 and 2005, the percentage of state and local taxes from property increased from 30.9 to 34 percent; while the percent of income and privilege taxes fell from 28 to 23.3 percent. Revenues from sales and use taxes remained relatively stable: 28.1 to 26.8 percent.

Not only has this change made the mix of revenues less balanced, it has tended to shift the burden to those who have less ability to pay. As the Special Tax Committee heard this summer, property and sales taxes are very regressive: they fall hardest on the lowest income levels. The income tax, which is most closely tied to ability to pay, can help offset this imbalance, but income taxes are declining as a revenue source.

HS TAXATION COMMITTEE
1-18-2007
ATTACHMENT 23

When state level support for governmental services is curtailed, those services must either be reduced .fted to local units of revenues. This is extremely clear in the case of education funding. Although the Kans. Constitution clearly makes public education a state responsibility, much of the revenues are raised locally by school districts. When state funding is inadequate, districts are forced to raise local dollars, which in almost all cases means the property tax.

In the eight years between FY 1997 and 2005, school district general funds (the base budget and weightings) increased an average of less than 2 percent per year, while inflation averaged about 2.7 percent and Kansas personal income rose an average of 5.7 percent. To keep up with rising costs, school districts increased their local option budgets by $362 million – about three-quarters of that paid by property taxes.

Last year, FY 2005-06, in response to the *Montoy* school finance case, the state increased education funding by about 10 percent - a significant, appreciated increase, but one that must be seen in the context of at least eight years of underfunding. The "three year plan" adopted last session is expected to provide annual increases in base support of slightly less than 5 percent per year – less than the actual KPI increase of 6.4 percent for 2006, and the projected increases of 5.3 and 5.2 percent in 2007 and 2008.

Under the three-year plan, most of the state funding goes to targeted programs such as at-risk, bilingual and special education. Base budget increases in each of the three years are less than half the recent inflation rate, which will further increase pressure on the LOB. In fact, we believe the LOB will have increased from 8.7 percent of district operating expenses in 1997 to over 20 percent at the end of the three years.

Although the Legislature is taking steps to insure that funding promised for the three-year plan will be provided, KASB is deeply concerned about the funding situation beyond that plan. Significant state tax reductions will limit the ability of the state to ensure current levels of funding and educational quality are maintained for all districts.

Due to local wealth, some districts can easily raise funding for education locally. Their major concern is that the state is holding them back financially. But most of our members are deeply concerned about trends that shift school funding from state sources to one of the least equitable, and certainly most unpopular – the property tax. It means local school boards have to choose between quality schools for their children, or higher property taxes on seniors, farmers and small businesses. Furthermore, when some districts increase local revenues, most of the money goes to teachers' salaries, and other districts must follow if they are going to compete.

For KASB, this is particularly concerning because we believe high quality education is *at least* as important as tax policy for economic development and quality of life. A paper from the Tax Foundation distributed by Secretary Wagnon states "there are many non-tax factors that affect a state's business climate: its proximity to raw materials or transportation centers, its regulatory or legal structure, the quality of its education system and the skill of its workforce, not to mention the intangible perception of a state's 'quality of life.'" We believe the quality of education, workforce skills and quality of life issues ARE tax issues, because these factors depend on public financial support.

Funding does not guarantee quality education, but it is a necessary component. The Legislative Post Audit outcomes cost study found a nearly one-to-one correspondence between higher school funding and higher student performance. The states with the highest educational outcomes tend to spend more than those with the lowest outcomes. In our region, the states with the highest spending per pupil – Colorado, Iowa, Nebraska and Kansas – have significantly higher performance than low-spending Oklahoma and Missouri. Educational attainment is the greatest factor in personal income levels. In the long run, increasing individual skills is the only way our society will continue to be able to compete economically. (Likewise, low taxes do not guarantee a growing economy.)

School board members are taxpayers. They are parents, they are farmers, they are senior citizens, they are business owners, they are employees. They would like nothing more than to support tax cuts. But the strong message from our members at meetings across the state is that they are deeply concerned about the trends in Kansas tax policy, and suggest that the state needs to develop a more balanced, equitable and sustainable approach to public revenues.

Thank you for your consideration.

KANSAS ASSOCIATION OF SCHOOL BOARDS
1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

FROM: Mark Tallman, Assistant Executive Director/Advocacy
TO: House and Senate Tax Committees
DATE: January 18, 2006

Education Costs and Outcomes

	Kansas	Missouri	Oklahoma	U.S. Average
Spending per Pupil (1)	$7,776	S7,542	$6,154	$8,310
2006 Combined State and Local Tax Burden (2)	10.7%	9.9%	9.6%	
Adding Federal Taxes (2)	30.5%	29.4%	28.2%	
Adults with High School Diploma (3)	86.5%	82.4%	81.3%	81.7%
Adults with Bachelor's Degree (3)	29.2%	24.0%	22.0%	26.6%
2005 Combined NEAP: (4)				
• All students	309	290	274	280
• African American	210	179	180	193
• Hispanic	241	194	218	216
• Low Income	259	236	236	221
2006 ACT Average Composite Score (5)	21.8	21.6	20.5	21.1
2006 ACT Participation (5)	75	70	72	40
High ACT/SAT scores (9)	193.9	179.9	138.9	175.4

Sources:
(1) National Center for Educations Statistics, 2003-04
(2) Bureau of Economic Analysis, Department of Commerce, Tax Foundation
(3) Standard and Poors "School Matters"
(4) National Assessment of Education Program Reading and Math Combined Scores
(5) American College Testing Program
(6) National Center for Higher Education Management Systems report