Approved: February 11, 2009
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:05 a.m. on January 27, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:
- Chris Courtwright, Kansas Legislative Research Department
- Hank Avila, Kansas Legislative Research Department
- Gordon Self, Office of the Revisor of Statutes
- Scott Wells, Office of the Revisor of Statutes
- Kathy Beavers, Committee Assistant

Conferees appearing before the committee:
- Joan Wagnon, Secretary, Kansas Department of Revenue (KDOR)
- Jim Weisgerber, Tax Specialist, Kansas Department of Revenue (KDOR)
- April Holman, Kansas Action for Children
- Mark Desetti, Kansas Association of School Boards (KASB) and Kansas National Education Association (KNEA)
- Kent Eckles, Kansas Chamber of Kansas
- John Donley, Assistant General Counsel for Kansas Livestock Association
- Ashley Sherard, Lenexa Chamber of Commerce
- Dave Holtwick, Overland Park Chamber of Commerce
- Dan Murray, National Federation of Independent Business (NFIB)
- Brad Harrelson, Kansas Farm Bureau
- Natalie Bright, Wichita Independent Business Association

Others attending:
See attached list.

Representative Hawk introduced Kat Brown from K-State. Representative Menghini introduced McKenzie Johnson from Baldwin Middle School. Representative Brown introduced Taylor Sly from Highland Park High School. Representative Lukert introduced Betsy Ludwig from Eisenhower Middle School in Topeka.

Representative Carlson welcomed the students to the Taxation Committee.

The Chairman requested bill introductions.

Bill Introductions:
Representative Anthony Brown made a motion to introduce a bill relating to business employment. Representative Carlson seconded the motion. The motion carried.

John Peterson, Hills Pet Products, requested a bill introduction that would amend **K.S.A. 79-3279** to allow the Secretary of Revenue discretion to extend the deadline in that statute for a period up to six months. Representative Carlson made a motion to accept the bill introduction. The motion was seconded by Representative Powell. The motion carried.

Pat Lehman, Kansas Fire Service Alliance requested two bill introductions:
1. pertaining to sales tax exemptions for Kansas State Firefighters Association.
2. concerning income taxation; relating to credits; service by certain volunteer firefighters and EMS providers. A motion was made by Representative Carlson to accept the bill introductions. Representative Benlon seconded the motion and the motion carried.

Don McNeeley, Kansas Automobile Dealers Association, requested a bill introduction concerning an extension of the Sales Tax Exemptions on Motor Vehicle Manufacturer Rebates (Attachment 1). A motion was made by Representative Carlson to accept Mr. McNeely's bill introduction. Representative Powell seconded the motion. The motion carried.

HB 2047 - Continuation of Kansas estate tax act.

Minutes of the House Taxation Committee at 9:00 a.m. on January 27, 2009, in Room 535-N of the Capitol.

The Chairman opened the hearing on **HB 2047.**

Staff member Chris Courtwright provided information on actual estate tax receipts under the current law for FY 2007-2008 and estimated estate tax receipts for FY 2010-2013 if **HB 2047** were passed (Attachment 2).

Secretary Wagnon testified in support of **HB 2047**. She provided background information on the current estate tax law that is a stand alone estate tax that does not connect with many of the features of the federal law (Attachment 3). Secretary Wagnon stated that the positive fiscal impact would be $5 million for FY 2010, $11 million for FY 2011, $17 million for FY 2012, and $18 million for FY 2013. Administrative cost would be absorbed by the Department of Revenue. She introduced Jim Weisgerber, Financial Specialist with KDOR. Mr. Weisgerber provided testimony on the history of the Kansas estate tax (Attachment 4) and they both stood for questions.

April Holman, Kansas Action for Children testified in support of **HB 2047**. In her testimony she stated that adequate funding for education, healthcare and other important programs for children and families is more important to the people of Kansas than further tax cuts for businesses (Attachment 5).

Mark Desseti testified in support of **HB 2047**. He stated that he understood the need for budget cuts due to the stressed economy. The states commitment to public education has resulted in increased state assessment scores in reading and math, increased Kansas ACT scores, and Kansas has climbed from number 12 in the nation on the National Assessment of Education progress to number 7 (Attachment 6). He encouraged the legislature to make recommendations that would be fair to both businesses and citizens.

Kent Eckles, Kansas Chamber of Commerce, testified in opposition to **HB 2047.** In his testimony he stated that "Repealing the phase out of the estate tax will only serve to exacerbate the competitive disadvantage Kansas has and hurt investment and job creation in the State" (Attachment 7).

John Donley, Assistant General Counsel for Kansas Livestock Association, testified in opposition to **HB 2047.** While KLA recognizes the budgetary problems that Kansas is facing, they do not feel it is right to place the burden of "balancing" the budget on the backs of farmers, ranchers, and small businesses (Attachment 8). He stood for questions.

Ashley Sherard, Lenexa Chamber of Commerce, testified in opposition to **HB 2047**. She stated that the Lenexa Chamber of Commerce strongly urges the committee first amend the bill to contain a sunset or a date certain when the estate tax repeal will be fully implemented (Attachment 9). Ms. Sherard stood for questions.

Dave Holtwick, Overland Park Chamber of Commerce, testified in opposition to **HB 2047**. Kansas is one of 10 remaining states with an estate tax. The repeal of the estate tax will only increase the competitive disadvantage Kansas has and hurt investment and job creation (Attachment 10).

Dan Murray, National Federation of Independent Business (NFIB), testified in opposition to **HB 2047** (Attachment 11). As written, **HB 2047** does not provide any mechanism to restart the reductions in this tax and increased costs are taking a toll on small business.

Brad Harrelson, Kansas Farm Bureau, testified in opposition to **HB 2047.** He stated that one of the reasons for opposition to this bill is that death should not be a taxable event (Attachment 12). Mr. Harrelson stood for questions.

Representative Carlson called attention to the written testimony of Natalie Bright, Wichita Independent Business Association, in opposition to **HB 2047** (Attachment 13).

Chairman Carlson closed the hearing on **HB 2047**.

The next meeting is scheduled for January 28, 2009.

The meeting was adjourned at 10:45 a.m.

HOUSE TAXATION COMMITTEE

SIGN IN SHEET

DATE: 1-27-09

John A. Donley	KS Lusk. Ass'n
Derek Hein	Hein Law Firm
Dan Murray	NFIB
Michelle Butler	Capitol Strategies
Christy Caldwell	Topeka Chamber of Comm
Kent Eckles	KS Chamber of Commerce
Dave Holtwick	O.P. Chamber of Commerce
Mike Murray	Embarq
J P. SMALL	KOCH INDUSTRIES, INC
Mike Reecht	Gaches Braden
Pam Scott	KS Funeral Directors Assn

Serving The Kansas Automobile & Truck Dealers Since 1932

KANSAS AUTOMOBILE DEALERS ASSOCIATION

January 27, 2009

To: Chairman Richard Carlson and the Members of the House Taxation Committee

From: Don McNeely, KADA President

Re: Bill Introduction Request – Extension of the Sales Tax Exemption on Motor Vehicle Manufacturer Rebates

Chairman Carlson and Members of the Committee:

My name is Don McNeely, President of the Kansas Automobile Dealers Association, a state trade association representing the franchised new car and truck dealers in the state of Kansas. I appear before you this morning to request introduction of an amendment to K.S.A. 79-3601 regarding the extension of the sales tax exemption on motor vehicle manufacturer rebates.

During the 2006 Session, the Kansas Legislature enacted legislation that exempted motor vehicle manufacturer rebates from Kansas sales tax. Due to the uncertainty of the actual fiscal impact to the State, the exemption is scheduled to sunset on June 30, 2009. This proposal seeks to eliminate the sunset provision on the sales tax exemption for manufacturer motor vehicle cash rebates.

On behalf of the Kansas Automobile Dealers Association, I respectfully request the introduction of this bill proposal. Thank you.

Attachment

731 S. Kansas Ave. Topeka, KS 66603 • (785) 233.6456 •

Estate Tax Receipts -- Current Law and Gov's Rec

($ in millions)

		current	hb 2047	f note
actual	FY 2007	$55.620		
actual	FY 2008	$44.247		
est	FY 2009	$32.000		
est	FY 2010	$15.000	$20.000	$5.000
est	FY 2011	$5.000	$16.000	$11.000
est	FY 2012	$0.000	$17.000	$17.000
est	FY 2013	$0.000	$18.000	$18.000

SESSION OF 2006

CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 365

As Agreed to May 5, 2006

Brief*

SB 365 would create a stand-alone Kansas estate tax no longer tied directly to federal law, effective for the estates of decedents dying on and after January 1, 2007. A set of brackets designed to be revenue-neutral relative to current law would be provided for tax years 2007-2009, with an estates valued at $1 million and below exempt from the tax. For tax year 2007, rates would range from 3 to 10 percent. For tax year 2008, rates would range from 1 to 7 percent. For tax year 2009, rates would range from 0.5 to 3 percent.

The tax would sunset, effective for the estates of decedents dying on and after January 1, 2010.

Conference Committee Action

The Conference Committee on May 5 agreed that the House would receded from its amendments.

Background

The original bill would have created a stand-alone estate tax that would have sought to maintain an ongoing revenue stream of $52 million per year, the current estimate for FY 2007.

The current Kansas estate tax is tied mainly to a now-defunct version of the federal law which had been in effect on December 31, 1997. But receipts from the current tax are expected to decrease to zero by FY 2012 as a result of a provision adopted in Kansas in 2002. According to the Department of Revenue, estate tax receipts are expected at the following levels:

———————————

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at http://www.kslegislature.org/klrd

($ in millions)

FY 2007	$	52.0
FY 2008	$	43.0
FY 2009	$	32.0
FY 2010	$	15.0
FY 2011	$	5.0
FY 2012 and thereafter	$	0.0

The Senate Assessment and Taxation Committee amended the bill at the recommendation of a subcommittee chaired by Senator Bruce to replace the proposed bracket system in the original bill with a set of brackets and rates that would provide the same amount of revenue as anticipated under current law; to change the effective date of the bill from July 1, 2006 to January 1, 2007; and to clarify that the Kansas Estate Tax Act would expire, effective for estates of decedents dying on and after January 1, 2010.

Senator Vratil and other conferees spoke during the public hearing about the administrative complexities associated with current law and its relationship with the 1997 federal law. Senator Bruce and the Department of Revenue observed that creating a stand-alone tax, which would decouple Kansas from the federal law, would make the law far easier for both tax practitioners and the department during tax years 2007-2009.

The Kansas Livestock Association supported the provision in section 6 which would provide that for resident decedents, the valuation of land devoted to agricultural use for property tax purposes also would be utilized for estate tax purposes.

The House Tax Committee had amended the bill to set the Kansas estate tax exemption threshold at the same level provided in current federal law. That amendment would have been expected to reduce receipts by $7 million in FY 2008; $4 million in FY 2009; and $2 million in FY 2010.

The House Tax Committee also amended the bill to include most machinery and equipment property tax exemption provisions of HB 2619 as amended by the House Committee of the Whole, with the exception of a floor amendment that would have expanded the school finance "homestead" exemption from $20,000 to $30,000; and the provisions of Sub HB 2525 as amended by the House Committee of the Whole.

Estimated Fiscal Notes for Selected Tax Cuts Enacted Since 2005

($ in millions)

Session	Bill #	Brief Description	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	thru FY 13
2005	SB 256	Inc Tax Exemption - Military Recruitment Bonuses	$0.000	-$0.587	-$0.622	-$0.660	-$0.699	-$0.741	-$0.786	-$0.833	-$0.883	-$5.810
2005	SB 133	Homestead Program - Indexation	$0.000	$0.000	-$0.025	-$0.050	-$0.075	-$0.100	-$0.125	-$0.150	-$0.175	-$0.700
2005	SB 23	Repeal of "Clunker" Sales Tax on Used Vehicles	-$5.000	-$5.175	-$5.356	-$5.544	-$5.738	-$5.939	-$6.147	-$6.362	-$6.584	-$51.845
2005	SB 138	Certain Tax Credits	-$0.500	-$0.500	-$0.500	-$0.500	-$0.500	-$0.500	-$0.500	-$0.500	-$0.500	-$4.500
2005	HB 2040	Sales Tax Ex - Hearing Aid Repair	$0.000	-$0.093	-$0.096	-$0.100	-$0.103	-$0.107	-$0.110	-$0.114	-$0.118	-$0.842
2005	HB 2222	Indiv Dvlpment Account Program	-$0.503	-$0.503	-$0.503	-$0.503	-$0.503	-$0.503	-$0.503	-$0.503	-$0.503	-$4.527
2006	SB 365	Phasing Out of Estate Tax	$0.000	$0.000	$0.000	-$9.000	-$20.000	-$37.000	-$47.000	-$52.000	-$52.000	-$217.000
2006	SB 404	Numerous Sales Tax Exemptions	$0.000	$0.000	-$12.702	-$15.448	-$17.291	-$8.173	-$8.630	-$10.087	-$11.546	-$83.877
2006	HB 2583	M and E	$0.000	$0.000	-$3.500	-$27.162	-$42.737	-$58.905	-$63.698	-$62.729	-$68.869	-$327.600
2007	HB 2031	Soc Sec Exemption and EITC Expansion	$0.000	$0.000	$0.000	-$12.900	-$19.400	-$21.300	-$23.400	-$25.800	-$26.135	-$128.935
2007	HB 2171	Sales Tax Exemptions - Various	$0.000	$0.000	$0.000	-$0.650	-$0.673	-$0.696	-$0.721	-$0.746	-$0.772	-$4.258
2007	HB 2240	Sales Tax Ex - Repair of Transmission Lines	$0.000	$0.000	$0.000	-$3.000	-$3.387	-$3.506	-$3.629	-$3.756	-$3.887	-$21.165
2007	HB 2405	Historic Preservation Tax Credits	$0.000	$0.000	$0.000	-$0.575	-$0.575	-$0.575	-$0.575	-$0.575	-$0.575	-$3.450
2007	HB 2476	Homestead Program Expansion	$0.000	$0.000	$0.000	-$10.500	-$11.000	-$11.600	-$12.200	-$12.800	-$13.500	-$71.600
2007	HB 2264	Franchise Tax Phase Out	$0.000	$0.000	$0.000	-$7.000	-$16.500	-$26.500	-$37.000	-$48.000	-$50.000	-$185.000
2007	HB 2004	Various Tax Credits	$0.000	$0.000	$0.000	-$4.100	-$4.100	-$4.100	-$4.100	-$4.100	-$4.100	-$24.600
2007	HB 2540	Business Disaster Sales Tax Relief	$0.000	$0.000	-$0.400	-$1.600	$0.000	$0.000	$0.000	$0.000	$0.000	-$2.000
2008	HB 2434	Omnibus Tax Bill Includes Corporate Rate Cut	$0.000	$0.000	$0.000	$0.000	$0.141	$0.141	$0.139	$1.079	$1.078	$2.578
	Total These Bills		-$6.003	-$6.858	-$23.704	-$99.291	-$143.140	-$180.104	-$208.985	-$227.975	-$239.070	-$1,135.131

KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

Testimony to the House Taxation Committee

Joan Wagnon

January 27, 2009

Testimony in Support of House Bill 2047

Representative Richard Carlson, Chair, and Members of the Committee:

House Bill 2047 would amend K.S.A. 79-15,203 to continue the estate tax at the rates in effect for Tax Year 2008, which are:

Taxable Estate	Rate
$1 million or less	0
Over $1 million up to $2 million	1% of excess over $1 million
Over $2 million up to $5 million	$10,000 plus 2% of excess over $2 million
Over $5 million up to $10 million	$70,000 plus 5% of excess over $5 million
Over $10 million	$320,000 plus 7% of excess over $10 million

Under current law, the estate tax rates will be reduced for Tax Year 2009, and the estate tax will be repealed, effective for Tax Year 2010 and thereafter. The Tax Year 2009 rates are as follows:

Taxable Estate	Rate
$1 million or less	0
Over $1 million up to $2 million	.5% of excess over $1 million
Over $2 million up to $5 million	$5,000 plus 1% of excess over $2 million
Over $5 million up to $10 million	$35,000 plus 2% of excess over $5 million
Over $10 million	$135,000 plus 3% of excess over $10 million

House Bill 2047 would also stop the repeal of the estate tax that would otherwise occur in Tax Year 2010.

Background

The current estate tax law was adopted in 2006 in Senate Bill 365, which included adoption of the $1 million taxable estate value threshold, the annual rate reductions and phase-out of the tax in Tax Year 2010. The number of estates subject to the estate tax declined as a result of 2006 Senate Bill 365. Attached is a spreadsheet showing the number of estate tax returns processed by calendar year (starting with 2005), the size of the taxable estates by category, and the estate tax liability per taxable estate size category.

The estate tax revenues are deposited in the State General Fund. Estate tax revenue receipts for the past ten fiscal years are shown below:

FY 1999	$81,859,000
FY 2000	$62,888,000
FY 2001	$41,196,000
FY 2002	$48,082,000
FY 2003	$46,952,000
FY 2004	$48,064,000
FY 2005	$51,853,000
FY 2006	$51,806,000
FY 2007	$55,620,000
FY 2008	$44,247,000

The November 2008 Consensus Revenue Estimate forecasts that FY 2009 estate tax receipts will be $32 million, with FY 2010 estate tax receipts dropping to $15 million, due to the Tax Year 2009 rate reduction, FY 2011 estate tax receipts of $5 million when the tax phases out effective in Tax Year 2010, and such receipts going to zero in fiscal years thereafter.

Fiscal Impact

Enactment of House Bill 2047 should have a positive fiscal impact of $5 million for FY 2010, $11 million for FY 2011, $17 million for FY 2012, and $18 million for FY 2013. Administrative costs to implement this proposal would be absorbed by the Department.

History

Jim Weisgerber, Tax Specialist in Policy & Research, will provide testimony on the history of the Kansas estate tax.

Kansas Department of Revenue
Estate Tax Returns Processed by Calendar Year

Total Taxable Estate		Returns 2005	2006	2007	2008
$ -	$ 750,000	330	220	185	188
$ 750,000	$ 1,000,000	298	245	143	120
$ 1,000,000	$ 3,500,000	405	455	548	568
$ 3,500,000	$ 5,000,000	16	21	27	30
$ 5,000,000	$ 10,000,000	20	23	15	23
$ 10,000,000	Over	8	7	11	14
Total		1077	971	929	943

Total Taxable Estate		Estate Tax Liability 2005	2006	2007	2008
$ -	$ 750,000	$ 110,657	$ 103,805	$ 37,617	$ 5,640
$ 750,000	$ 1,000,000	$ 1,829,007	$ 554,052	$ 144,325	$ 48,808
$ 1,000,000	$ 3,500,000	$ 23,826,057	$ 27,674,575	$ 25,564,400	$ 9,493,140
$ 3,500,000	$ 5,000,000	$ 3,318,370	$ 5,443,924	$ 5,261,633	$ 3,244,290
$ 5,000,000	$ 10,000,000	$ 6,754,377	$ 11,719,482	$ 5,404,425	$ 6,092,786
$ 10,000,000	Over	$ 9,141,453	$ 9,748,214	$ 14,318,547	$ 13,905,582
Total		$ 44,979,921	$ 55,244,052	$ 50,730,947	$ 32,790,246

TESTIMONY REGARDING
TAXES IMPOSED ON DECEDENT'S ESTATES IN KANSAS
Before the House Taxation Committee
January 27, 2009

TYPES OF TAXES IMPOSED ON A DECEDENT'S ESTATE

There are two basic types of taxes imposed on decedent's estates - inheritance tax and estate tax. An understanding of two major points is essential to an understanding of the similarities and differences in these systems.

First, an inheritance tax system and an estate tax system are similar in that they include essentially the same assets in the gross estate (the starting point in determining what is subject to tax), and value these assets in essentially the same manner.

Second, the principal differences between an inheritance tax system and an estate tax system are (1) the concept by which the tax is imposed, and (2) the treatment accorded a situation in which the estate contains property with a tax situs in another jurisdiction. In other words, while the same assets are subject to tax, the manner in which the tax is computed is different.

In order to compare and contrast the inheritance tax and the estate tax it is necessary to understand the concepts under which the taxes are imposed.

An inheritance tax is imposed on the right of a beneficiary to receive property, and is levied on the value received by each beneficiary. The individual heirs and beneficiaries are responsible for the payment of tax, unless a will or trust specifically provides otherwise. Inheritance taxes may generally be structured to achieve a particular tax incidence policy in that different classes of beneficiaries may be subjected to selective tax rates and exemptions.

An estate tax is imposed on a decedent's right to transfer property, and is levied on the net value of the decedent's estate. The estate is responsible for the payment of tax. The estate tax lacks the flexibility of an inheritance tax in that selective tax rates and exemptions may not be applied to particular classes of beneficiaries, but has the advantage of ease of computation and administration.

In addition, it is necessary to consider the treatment accorded a situation in which the estate contains property with a tax situs in another jurisdiction.

Under an inheritance tax concept, assets which are beyond the jurisdiction of the taxing authority are set apart before the tax is imposed. Most deductions for debts and expenses, federal tax, and claims for exemption which are personal to the distributee, are prorated to reflect the percentage that property within the taxing jurisdiction bears to the total of all property in the estate.

Under an estate tax concept, the tax liability of the estate is determined before the tax situs of property comprising the estate is considered. After the tax liability has been determined the total liability is then prorated to reflect the percentage that property within the taxing jurisdiction bears to the total of all property in the estate.

There is (was) another type of death tax that may be used alone, or in connection with either an inheritance tax or an estate tax. It is called a "pick-up" tax.

The pick-up tax taxes the estate in an amount equal to the federal credit for state death taxes. Under a pick-up tax system, the estate tax liability is equal to the federal credit allowed. Absent a state death tax, liability in an amount at least equal to the state death tax credit would be owed to the federal government. Stated differently, a state pick-up tax system does not increase total federal and state death tax liability, but merely causes a portion of the death tax liability to be paid to the state instead of to the federal government.

History Of The Kansas Inheritance / Estate Tax

Inheritance Tax

From 1915 through 1978, Kansas had its own, stand-alone, inheritance tax (K.S.A. 79-1501 through 79-1536). Under this act, the state made a completely independent determination of what assets were to be included in the gross estate, the value of those assets, the type and amount of deductions, how the estate was to be distributed, and the amount of tax due from the estate.

During the 1978 Legislative Session it was decided Kansas law should "conform" to federal law. As a result, effective for dates of death occurring on or after January 1, 1979, the "old" inheritance tax act was repealed and a "new" inheritance tax act applied. The "old" inheritance tax expired December 31, 1988 (in accordance with K.S.A. 79-1529).

The inheritance tax act was replaced in 1998.

The "Pick-Up" Tax
Phase I
(Alternative Tax to the Inheritance Tax)

In 1941, under the "old" inheritance tax act, Kansas first imposed a "pick-up" tax by referencing federal law of 1926 (K.S.A. 79-1501a). The pick-up tax and the inheritance tax served, in effect, as alternative taxes. If the inheritance tax was larger than the pick-up tax, it was assessed. If the pick-up tax was larger than the inheritance tax, it was assessed.

When the "new" inheritance tax was enacted in 1978, the pick-up tax was part of the act (K.S.A. 79-1539). As with the pick-up tax under the "old" inheritance tax act, the pick-up tax and the inheritance tax served, in effect, as alternative taxes.

The "Pick-Up" Tax
Phase II
(As the Only Kansas Tax)

During the 1998 Legislative Session it was decided to eliminate the inheritance tax and impose only a tax equal to the federal credit for state death taxes; a "pick-up tax". The law became effect for the estates of decedents dying on or after July 1, 1998.

The "Pick-Up" Tax
Phase III
Changes in Federal Law – Summer 2001

During the summer of 2001 federal estate tax law was changed dramatically by increasing the federal filing threshold (over time) from $700,000 to $3,500,000 and phasing out the federal credit for state death taxes starting in 2002 and eliminating it in 2005. The changes in federal law did not automatically mean a change in the manner in which the state "pick-up tax" was to be determined, however, because state law is based on federal law as it existed on December 31, 1997. In other words, the effect of the changes in federal law was that state and federal law were no longer in total conformity. And, as time went on, the differences between the two laws increased.

Kansas Succession Tax Act

The effects of the 2001 changes in federal law were not specifically addressed during the 2002 Legislative Session. However, during the closing days of the 2002 Session the Kansas Legislature did pass the Kansas succession tax act. This tax, which was an incomplete attempt at reinstating the inheritance tax, applied to the estates of persons who died on or after June 6, 2002.

In the final days of the 2003 Session, the Kansas Legislature passed HB2005. New Section 49 of the bill (K.S.A. 79-15,128) provided for the retroactive repeal of the succession tax that was imposed on the estates of decedent's dying on or after June 6, 2002.

The "Pick-Up" Tax
Phase III - Contnued
The "Gap" Problem

Federal law and state law were no longer in conformity, but the Department found it necessary read and interpreted all dispositive instruments in the same manner for Kansas purposes as they were read and interpreted for federal purposes. Following this practice created a "gap" problem for estates of decedents dying on or after January 1, 2002.

The "Pick-Up" Tax
Phase IV
Post 2003 Legislative Session

During the 2003 Session the Senate Assessment and Taxation Committee of the Kansas Legislature reviewed the manner in which taxes are imposed on decedent's estates. At issue was the question of whether to retain, alter or repeal the estate tax (pick-up tax) and the succession tax. The Committee heard testimony regarding and considered just about every type (and combination of types) of tax that could be imposed on a decedent's estate, including a stand alone estate tax (SB148) and returning to an inheritance tax.

In the final days of the 2003 Session, the Kansas Legislature passed HB2005, which was effective May 22, 2003. The bill amended the existing pick-up tax law (K.S.A. 79-15,101 and 79-15,102, respectively) to tie the filing thresholds of estates of decedents dying on or after January 1, 2007 to the filing thresholds established by the 2001 Internal Revenue Code. The bill also provided clarification and added administrative and enforcement provisions to the pick-up tax. And, as previously noted, the bill (K.S.A. 79-15,127) provided for the retroactive repeal of the succession tax that was imposed on the estates of decedents dying on or after June 6, 2002.

CURRENT LAW

During the 2006 Legislative Session the question of whether to impose a tax on decedents' estates and how such a tax should be structured was again considered. Two bills were introduced to focus the discussion. One bill, SB 356, proposed the outright repeal of the Kansas pick-up tax. The other bill, SB 365, proposed a stand alone Kansas estate tax.

As introduced, SB 365 was an updated version of SB148, the stand alone estate tax, which had been introduced in, but not passed by, the 2003 Session. As introduced, SB365 included a rate structure which was designed to preserve the $50M+ revenue stream generated by the current pick-up tax. The bill also contemplated an on-going estate tax

During its consideration of SB365 the Senate Assessment and Taxation Committee made two major changes to the bill. First, it altered the rate structure to result in a phase-out of the tax over three years; 2007, 2008 and 2009. Second, it provided for the outright repeal of the estate tax for estates of decedents dying after 2009.

HB 2047
PROPOSED AMENDMENTS

The proposed amendments to the current estate tax act found in HB2047 make two major changes. First, the repeal of K.S.A. 79-15,253 (Section 3) is a "repeal of the repeal" of the act. K.S.A. 79-15,253 currently provides:

> On January 1, 2010, the provisions of K.S.A. 2007 Supp. 79-15,201 through 79-15,253, and amendments thereto, are hereby repealed.

By repealing K.S.A. 79-15,253 the estate tax act will continue indefinitely.

Second, the amendments to K.S.A. 15,203 (Section 1) establish the ongoing rates of tax at the 2008 rates. The starting rate, for taxable estates in excess of $1,000,000 is 1%. The top rate of 7% applies to taxable estates of more than $10,000,000.

The amendments found in K.S.A. 79-15,251 (Section 2) relate to the old pick-up tax. Because taxes imposed at death are based on the date of death the law continues in effect indefinitely. This amendment provides for the "sunset" of the pick-up tax after ten years. The language is nearly identical to that used to sunset the inheritance tax.

FISCAL FOCUS

Budget and Tax Policy in Perspective

April Holman, Director of Economic Policy
Kansas Action for Children
House Taxation Committee
January 27, 2009
Legislative Testimony - HB 2047

Good morning Chairman Carlson and members of the Committee. On behalf of Kansas Action for Children (KAC), I would like to thank you for this opportunity to testify in favor of HB 2047.

KAC is a not-for-profit child advocacy organization that has been in existence since 1979. We work to promote policies that improve child well-being in the areas of health, education and family economic success. Several years ago KAC developed Fiscal Focus as part of this work to improve the economic security of Kansas children and their families, and ensure a balanced and fair tax system and budget process that promotes both the well-being of children and families and provides a stable system of state revenues.

We stand in support of HB 2047 and ending the phase out of the Estate Tax. Our support of this policy is a very practical acknowledgement of the extremely difficult fiscal situation in our state. In order to pass a balanced budget for fiscal year 2009 and 2010 state expenditures must be cut or revenues must be found to meet spending needs.

The budget shortfall that we face is not entirely a function of a struggling economy. We know that our state's current tax structure is no longer keeping pace with public infrastructure costs. Although major components of the Kansas tax structure have been in place for quite some time, the strength of our tax policy has eroded little by little through legislative action each year. In the past four years alone, tax cuts including the elimination of the estate tax and the franchise tax have resulted in a State General Fund revenue reduction of almost $150 million in this fiscal year alone. This cut in the tax base grows to $180 million dollars in fiscal year 2010.

At the heart of this process is an analysis of the priorities of our state. In this year of extremely difficult decisions, we believe that adequate funding for education, healthcare and other important programs for children and families is more important to the people of Kansas than further tax cuts for businesses. The resources we dedicate to our next generation this Session will determine whether Kansas has a short-term economic problem or a long-term crisis.

Without legislative action, the Estate Tax will be eliminated entirely in 2010. While that might have been feasible several years ago, this is not the time to eliminate entire sources of revenue to the State General Fund. We urge your support of HB 2028.

knea

Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Mark Desetti, Testimony
On behalf of Kansas NEA and the Kansas Association of School Boards

House Committee on Taxation
January 27, 2009

HB 2047

Mr. Chairman, members of the committee, thank you for the opportunity to submit written testimony to share our thoughts on **HB 2047.**

As written, HB 2047 would freeze the estate tax at the 2008 tax year level, eliminating the further reduction in this tax contemplated for the 2009 tax year. In light of the current fiscal crisis facing the state, we support this proposal.

Some will note that this is a permanent freeze, eliminating the future reduction entirely, and will argue for restoring the 2009 cut in some future year. We do not have a position on that and consider it a policy matter to be determined by this committee and the full legislature.

In this crisis, we simply wish to remind legislators that decisions that put Kansans out of work will only serve to exacerbate the economic challenges we face. You have, in the past few years, made a historic commitment to public education. And that commitment has resulted in significantly improved student performance. School districts have – for the first time – been able to plan in advance knowing how much funding would be available. School employees who had been laid off in the wake of a $27 per pupil cut some years back were brought back to work. And student achievement is at an all time high.

I shared with you some of the data in my testimony last week but let me simply highlight a few of the improvements:

- For our most challenging students, state assessment scores in reading and math have increased dramatically. In 2000, for example, only 18.6% of English language learners were proficient or above in reading; today 62.8% are.
- Since 2003, Kansas ACT scores have increased every year and are now well above the average of the "Big 12" states. At the same time we are among the top performing states in the nation while testing over 75% of our high school students.
- Since 2003, Kansas has climbed from number 12 in the nation on the National Assessment of Education Progress to number 7.

Your investment is paying off. Kansas is crafting a work force that will be second to none in the nation. I want you to consider the importance of the education system in your overall efforts on behalf of economic development.

A performance audit report released by the Legislative Division of Post Audit in August 2008 reported that tax incentives have very little impact on job creation or the decision of companies to locate in a particular place or expand. In fact, the study twice suggested that research would indicate that education was a more important factor.

House Taxation Committee
1-27-09
Attachment 6

> "Literature suggests that economic development assistance (such as tax incentives) isn't a priority criterion for businesses when making decisions about where to locate their operations. One reason is that many communities offer similar types of tax incentives. According to research, the factors that businesses place more importance on include the following:
>
> the availability of skilled labor…"[1]

> "A recent Kauffman Foundation study suggests that cities and states should look at other areas of government policy to promote economic growth. This study, which reviewed the importance of entrepreneurship in building and sustaining economic growth, pointed to the importance of dedicating public funds to areas other than typical economic development assistance as a means of supporting entrepreneurial activity. It suggested that government entities should emphasize providing communities where businesses will want to come, and not focus primarily on recruiting businesses to the area.
>
> The specific areas the Kauffman study suggested for funding or improving are summarized below:
>
> education (direct funding of research, subsidies of student costs, and regulatory oversight)…"[2]

We all know that in tough economic times, it is important to do nothing that would result in increased unemployment. Businesses need to thrive and the state must recognize those things that help businesses to thrive. We all know that people – and businesses – love a good tax break. We also know that businesses love a well-educated workforce and that businesses need the infrastructure that allows them to acquire resources and move products. Both of those economic development tools are what government does best. Government provides quality education for our citizens and government maintains our infrastructure.

We would suggest that decisions that will hamper the ability of our schools to continue their improvement and potentially harm the future work force of our state will do little to encourage business investment; particularly in the kinds of businesses in the bio-sciences that you have worked so hard to attract.

Remember that a child gets only one chance at first grade or one shot at that bio-chemistry class. The quality of that child's education must not be dictated by economic circumstances.

I would also remind you that up to 85% of a school district's budget is directed toward employee salaries and benefits. A large reduction in school funding would result in lay-offs among school employees. These employees would then represent a strain on other state services. In addition, since school work cannot be outsourced, nearly every dollar they earn is reinvested in the Kansas economy. They eat in our restaurants and shop in our stores.

We realize that there will be a reduction in school funding this year and probably next. We urge the legislature to do what it takes to minimize those reductions. Tax policy must not be "off the table."

As part of the discussion, the consideration of freezes such as the one in HB 2047, decoupling from the federal tax code where changes would result in revenue reductions to the state, rescinding some earlier tax cuts, and even possible tax increases should all be part of your deliberation.

In closing, we would once again urge the legislature to form a blue ribbon panel of economists, legislators, business representatives, and non-profit representatives to thoroughly examine the Kansas tax system and make recommendations that would make the system capable of providing for quality state services through good and bad economic times and be fair to both businesses and citizens.

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[1] Economic Development: Determining the Amounts the State has Spent on Economic Development Programs and the Economic Impacts on Kansas Counties, State of Kansas Legislative Division of Post Audit, August 2008, p30.

[2] Ibid. p 32.

achieve more

Testimony before the House Committee on Taxation
HB 2047 – Repeal of the Estate Tax Phase Out
Presented by J. Kent Eckles, Vice President of Government Affairs

Tuesday, January 27th, 2009

The Kansas Chamber of Commerce appreciates the opportunity to submit testimony in opposition to HB 2047, which would repeal the estate tax phase out by permanently freezing the tax at 2008 rates. This tax was scheduled to go away completely this year (2009).

Under House Bill 2047, businesses with under $1m in assets remain exempt from the estate tax; however, assets over $1m would be taxed as follows:

Assets of $1m - $2m would pay a 1% tax
Assets of $2m to $5m would pay $10,000 plus 2% of excess over $2m
Assets of $5m to $10m would pay $70,000 plus 5% of excess over $5m
Assets of $10m + would pay $320,000 plus 7% plus excess over $10m

Kansas will remain at a competitive disadvantage unless we allow this tax burden to expire as scheduled. Kansas is one of only 10 remaining with an estate tax and only Iowa and Nebraska are our peer states with it. However, even Iowa and Nebraska have exemptions for direct descendents, which Kansas does not.

The Kansas estate tax is clearly an obstacle for small and family owned businesses in leaving their businesses to family members upon death. U.S. Chamber of Commerce data shows family businesses can lose up to 55% of all its assets when it passes from one generation to the next. Because of this, 70% of families choose to cash out or abandon their businesses after one generation and only 13% survive into the 3rd generation. Business owners can certainly locate in neighboring states to avoid this tax and will certainly do so, taking their sales and income tax revenues with them.

It would be unfortunate if the State's business tax structure were to regress after seeing positive gains thanks to the legislature over the past three sessions. Repealing the phase out of the estate tax will only serve to exacerbate the competitive disadvantage Kansas has and hurt investment and job creation in the State.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have any questions regarding these comments.

THE KANSAS CHAMBER

835 SW Topeka Blvd. Topeka, KS 6(

KANSAS LIVESTOCK ASSOCIATION

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TESTIMONY

To: House Committee on Taxation
Representative Richard Carlson, Chairman

From: John Donley, Assistant General Counsel

Date: January 27, 2009

Re: Estate Taxes: Opposing HB 2047

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing approximately 5,500 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, dairy production, cattle feeding, grazing land management and diversified farming operations.

The Kansas Livestock Association has repeatedly supported the repeal of estate and inheritance taxes in Kansas. This issue has been before the legislature several times over the years. Today, we ask you to oppose HB 2047.

KLA and our national organization the National Cattlemen's Beef Association (NCBA) have worked aggressively to pass a permanent repeal of the federal estate tax. There are several economic and political reasons that the estate tax should be repealed.

The tax disrupts businesses. The estate tax is assessed at the time of death which is not an income producing event. A key aspect of any "good" tax is that it is assessed at a time when income is available to pay the tax. Since death is not an income producing event, there is no revenue to pay the tax. Small businesses and agricultural operations are often broken apart to pay the tax. Typically small business owners have their family's net worth invested in the business. Estate taxes often put a large cash demand onto businesses which typically do not have liquid assets.

The estate tax reduces incentives to save and invest. The estate tax results in the direct loss of capital because it forces privately-held assets to be liquidated to pay the tax upon the death of the person holding those assets.

The estate tax is complicated, and it is difficult to administer. Estate holders spend thousands of dollars on tax planning. Tax liability often depends upon the skill of the estate planner, rather than the capacity to pay. This does not always result in what most people would consider "fair and equitable" treatment.

House Taxation Committee
1-27-09
Attachment 8

HB 2047

KLA policy strongly opposes the imposition of any estate tax. KLA and many other groups stood united in support of the currently scheduled phase-out when it was passed. While we recognize the current budgetary problems that the state is facing, we do not feel that it is proper to place the burden of "balancing" the state's budget on the backs of farmers, ranchers, and small businesses.

As many of you know, agriculture is a capital intensive business. While some farmers and ranchers may have a fairly extensive estate, they have long operated with a tight budget and small margins. It is not good state or federal policy to punish somewhat for creating a profitable business by managing their bottom line through good times and bad. Additionally, these businesses have paid taxes on the income that they have had throughout the years, so an estate tax inequitably taxes the business on the assets that they were able to retain.

HB 2047 is not a "freezing" of the estate tax phase-out. It is a repeal of the phase-out. With the language in this bill, citizens in this state will be subject to an estate tax every year in the future. KLA believes that the good policy that was passed to phase-out the estate tax should continue to be followed, and the current phase-out should be allowed to run its due course.

We appreciate the opportunity to address this bill. Thank you.

Lenexa Chamber of Commerce

The Historic Lackman-Thompson Estate
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www.lenexa.org

TO: Representative Richard Carlson, Chairperson
Members, House Taxation Committee

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

DATE: January 27, 2009

RE: **HB 2047—Continuation of Kansas Estate Tax**

The Lenexa Chamber of Commerce would like to express its concern regarding HB 2047, which would continue the Kansas estate tax at 2008 levels rather than phasing it out according to the statutory schedule previously approved by the legislature.

Businesses have faced particularly difficult economic challenges in recent years. The current estate tax contributes yet another competitive disadvantage and economic disincentive at a time when the ongoing viability of many businesses is at a crossroads, for smaller and family-owned businesses in particular. For these reasons, we believed the legislature's repeal of the estate tax was a critical step in the right direction, helping to maintain an important economic base that will provide jobs, investment, and revenue to the state over the long-term.

But the state is facing an historic budget deficit, and we understand that every Kansan will need to contribute to the solution. We hope the legislature will not find it necessary to suspend previously approved tax cuts – which we believe will help the economy to recover at this critical time – but if so, we are concerned that HB 2047 appears to continue the estate tax at 2008 levels indefinitely.

If the committee ultimately intends to move the bill out favorably, **the Lenexa Chamber of Commerce strongly urges that it only do so after first amending it to contain a sunset or a date certain when the estate tax repeal will be fully implemented.**

Thank you for your time and consideration of this important issue.

Overland Park
Chamber of Commerce

Testimony in opposition to HB 2047

Submitted by Dave Holtwick
On behalf of the Overland Park Chamber of Commerce

House Committee on Taxation
Tuesday, January 27th, 2009

Chairman Carlson and Committee Members:

My name is Dave Holtwick and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. Our association has nearly 900 member companies and I am appearing on their behalf today. I appreciate the opportunity to share testimony in opposition to House Bill 2047.

Estate taxes often deplete the estates of those who have saved for their entire lives, force family businesses to liquidate and lay off workers, and motivate people to make financial decisions for estate tax purposes rather than for business or investment reasons. Family-owned businesses should not be punished because they are successful or because their owners die.

Passage of HB 2047 will place Kansas at a competitive disadvantage since Kansas is one of only 10 remaining states with an estate tax. While Iowa and Nebraska have an estate tax, even then allow exemptions for direct descendents, which Kansas does not.

The Kansas estate tax is clearly an obstacle for small and family owned businesses in leaving their businesses to family members upon their death. With our membership of nearly 900 business companies, approximately 50 %, have 10 employees or less. Data from the U.S. Chamber of Commerce shows that family businesses can lose up to 55% of all its assets when it passes from one generation to the next because of estate taxes. Because of this, approximately 70% of families choose to cash out or abandon their businesses after one generation, releasing workers in the process. Only 13% survive into the 3rd generation.

It would be unfortunate if the State's business tax structure were to regress after seeing positive gains thanks to the legislature over the past three sessions. We must avoid forcing business owners to relocate to neighboring states to avoid this estate tax, taking their sales and income tax revenues with them.

Repealing the phase out of the estate tax will only increase the competitive disadvantage Kansas has and hurt investment and job creation in the State. I encourage you to oppose HB 2047 as it is currently written.

Thank you very much for your time today.

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t: 91

House Taxation Committee
1-27-09
Attachment 10

NFIB
The Voice of Small Business®

House Taxation Committee
Daniel S. Murray: State Director, NFIB-Kansas
Testimony in Opposition to HB2047
January 27, 2009

NFIB-KS members find it unconscionable that after a lifetime of paying sales, income, property, social security taxes, etc. that the tax collector gets to take one last whack at their wallet as they exit this mortal realm.

Mr. Chair, Members of the Committee: My name is Dan Murray and I am the State Director of the National Federation of Independent Business-Kansas. NFIB-KS is the leading small business association representing small and independent businesses. A nonprofit, nonpartisan organization founded in 1943, NFIB-KS represents the consensus views of its 4,000 members in Kansas. Thank you for the opportunity to comment on HB2047.

NFIB-KS recognizes the severity of the state's economic crisis. Our members appreciate the legislature's difficult task of balancing the state's budget. If anyone can understand the challenge of balancing income and expenses, it's small and independent businesses. Further, we fully understand that "desperate times call for desperate measures," and that you must consider every option. However, NFIB-KS and its 4,000 members oppose HB2047.

While I know this is not a referendum on the estate tax, I am compelled to share with you NFIB's steadfast position on the estate tax. **Simply, we support the full and permanent repeal of the death tax**. The inheritance tax, death tax, or "estate tax," affects all Kansans, especially small-business owners. The death tax creates a disincentive to expand a business, create jobs, and far too often, literally taxes family businesses right out of the family. It is important to note that much of the cost of the death tax occurs before the tax itself is levied. The threat of the tax actually forces small-business owners to pay for expensive estate planning if they want to keep their business in the family. Please consider the following:

- **The death tax is unfair.** The estate passed on from parents to their children didn't just appear by magic. Someone worked over a lifetime to earn that money. During that lifetime the government collected income and other taxes. The government has already taken its fair share and the estate should not be taxed again upon the owner's death.

- **The death tax is confusing and complex.** The threat of the death tax forces small business owners to spend thousands of dollars on accountants, lawyers and financial planners so that they can try to ensure the survival of their business after their death.

- **The death tax can deal a deathblow to a small business.** Small, family-owned businesses are especially vulnerable to this unfair tax. Unlike corporate CEOs, most small-business owners have the entire value of their business in their estate. While heirs to a family business work to carry an enterprise to the next generation, both the State and Federal Governments immediately "inherit" a large chunk of the estate—a blow that many small businesses cannot survive.

Again, NFIB-KS members understand the state is in dire budget straits. Although we would eventually love to see the demise of the death tax, we are not here today asking for the phase-out of the estate tax—that would be imprudent in this economy. However, we are here to oppose HB2047. Like HB2028, the bill does not provide any mechanism to restart the reductions in this tax. Further, particularly in a bad economy, we believe repealing existing law that reduces the tax burden on those who create jobs is bad policy.

Increasing costs of healthcare, transportation, etc. are already taking their toll on small businesses. Please do not further burden small businesses with confusing and uncertain tax policy. Thank you for the opportunity to speak.

National Federation of Independent Business – KANSAS
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KANSAS FARM BUREAU
The Voice of Agriculture

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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

RE: HB No. 2047 – an act concerning the Kansas Estate Tax; relating to imposition of tax and continuation

January 27, 2009
Topeka, Kansas

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

Chairman Carlson, 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.

Farm Bureau policy, on both the state and national levels, has long opposed any form of "death tax" and permanent repeal is a top priority. We therefore, oppose HB 2047. Aside from the issue of fundamental fairness, there are a host of economic and tax policy reasons why the Legislature should allow the statutory phase out to be fully implemented.

Across Kansas, small businesses and family farms face the threat of a punitive death tax that could undo a lifetime of hard work and thrift. By necessity, these farms and ranches are increasing in size, providing opportunities for the next generation of Kansas agriculture. These new, larger farms are now more than ever, very capital-intensive businesses which face increasing pressure when it comes to passing the family business to the next generation. The death tax is a significant impediment to the successful transfer of family farms. It can severely damage, and even destroy the economic viability of the business. In a time when fewer and fewer of our young people are choosing to return to the farm, it's important that we provide every incentive to encourage that decision.

The Kansas estate tax also causes persons who have a choice of residence to consider relocating to one of the many states that has no death tax. The inadvertent costs of the death tax are high—the loss of valuable citizens, and the loss of income and sales tax revenue they would otherwise contribute to the health of our economy. Further, the death tax discourages savings and investment. Not only is this a perverse dis-incentive, it punishes a lifetime of success. But perhaps the most important reason to permanently repeal the death tax is the common-sense presumption that death should not be a taxable event.

Nationally, farm and ranch estates face heavier, potentially more disruptive estate tax burdens than other estates. Roughly twice the number of farm estates paid federal estate taxes in the late 1990's compared to other estates. We assume comparable impacts were seen in Kansas during the same time frame. Additionally, the average farm estate tax is larger than the tax paid by most other estates. Again, more reasons to move forward with a total repeal.

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 estate tax. We believe that is a fair and responsible question. You will likely explore many avenues to find new sources of revenue. However, the legislature overwhelmingly agreed repeal of this onerous tax was good public policy three years ago. Simply because the state has fallen on hard economic times doesn't change that fact. We believe elimination of the estate tax may have a potentially beneficial fiscal impact. In time, we firmly anticipate more accumulated wealth will remain in the state. Furthermore, elimination of this deterrent to growing wealth will encourage new economic growth, and increased opportunities for younger Kansans, especially in rural areas of the state, where the need is great.

In conclusion, Kansas Farm Bureau respectfully urges your recommendation to not pass favorably HB 2047. 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.

Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

Kansas House Taxation Committee
Written testimony in opposition of:
House Bill 2047—Continuation of the Kansas Estate Tax
January 27, 2009

Presented by Natalie S. Bright

Chairman Carlson and honorable committee members:

Thank you for the opportunity to appear before you in opposition to HB 2047, which proposes to repeal the phase out the Kansas Estate Tax. I am submitting written testimony on behalf of the members of the Wichita Independent Business Association (WIBA), who have supported the repeal of the Kansas Estate Tax because it is an obstacle for small and family owned businesses in leaving their businesses to family members upon death and only contributes to the cost of doing business in Kansas.

Estate planning is a vital component to the survival of any small businesses if it is to exist beyond the death of the owners and the uncertainty HB 2047 interjects into the death tax laws in Kansas make survivability uncertain for small businesses. The amount of time and expense a small business must endure when planning for a succession is extraordinary and such planning consumes vital proceeds that otherwise could be spent in the private market expanding their businesses. One of the compelling reasons the Kansas Legislature voted to eliminate the death taxes for small businesses is that an estate tax is a double taxation on assets because much of what is accumulated in a business estate has already been taxed. When an estate tax is in place family-owned businesses are often forced to sale off assets to raise cash to pay the taxes after the owner dies. Unfortunately, this is primarily a small-business phenomenon because larger estates have the resources to avoid death

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through elaborate trusts and other estate planning devices that smaller operations can not afford. WIBA members are sensitive to the severe budget deficits the state is experiencing because many of our members are having similar declines in their revenue and are struggling to remain competitive in this uncertain economy. Retaining the estate tax in an effort to fix the state budget will only create an even bigger financial burden for struggling Kansas businesses and discourage growth of capital investment at a time when the state needs it most.

While the members of WIBA encourage you to oppose HB 2047, they do sympathize with the quandary this Legislature is facing. However, the worst thing the State can do during a recession is to increase taxes on Kansas businesses who are the very source for creating jobs, making investments and stimulating the Kansas economy. If you increase business tax liability, you ultimately leave a smaller cash flow in the free market. The members of WIBA ask the state to join us in our efforts to trim our budgets and develop policies and business practices that will afford us the ability to remain competitive in both the good and bad economic times.