Approved: 5/6/09
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 10:00a.m. on May 1, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:
Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Mary Jane Brueck, Committee Assistant

Conferees appearing before the Committee:
Mark Tallman, Kansas Association of School Boards
Dan Murray, State Director of National Federation of Independent Business Kansas
Ken Eckels, Kansas Chamber of Commerce
Brad Harrelson, Kansas Farm Bureau
Tim Witsman, President of Wichita Independent Business Association
Dale Goter, Government Relations Manager, City of Wichita
Don Moler, Executive Director, League of Kansas Municipalities
Kevin Corbett, Olathe Parke and Recreation Director
John Knight, Director, Shawnee County Parks and Recreation
Ernie Shaw, Director, Lawrence Parks and Recreation Department
Curt Loupe, Director of Parks and Recreation, City of Manhattan Kansas
Kansas Recreation and Park Association
Gary Allerhuligen, Kansas Society of CPAs,

Others attending:
See attached list.

Chairman Donovan announced that he would be changing the order that the bills being heard today were listed in the Calendar. He opened the meeting with **SB 337 - Amnesty from assessment or payment of penalties and interest on certain unpaid taxes**. He asked Chris Courtwright, Kansas Legislative Research Department, to give us a recap of what this bill does, then have testimony by Secretary Wagnon, before hearing conferees. Chris explained how the Tax Amnesty process is to work (Attachment 1).

Joan Wagnon, Secretary of the Department of Revenue spoke to this bill. She likened the situation to two buckets. Bucket number one holds cases on appeal. Bucket number 2 holds cases that have had their appeals, and there is an amount due, but is not being paid. This bill will allow those people have a chance to come in and settle their debt. She shared charts showing what sort of monies are possible for collection. (Attachment 2)
Chairman Donovan closed the hearing on SB 337 and opened the hearing on **SB 334 - Rates of estate tax and franchise tax, three-year without reduction**. Chris Courtwright explained this bill also. (Attachment 3) Mark Tallman, representing Kansas Association of School Boards, Kansas National Education Associations, and United School Administrators of Kansas spoke in favor of this bill as well as SB335 and SB 337. (Attachment 4) Secretary Wagnon expressed the departments' strong support of this bill. Dan Murray State Director of National Federation of Independent Business Kansas, spoke in opposition to this bill. (Attachment 5) Ken Eckels, Kansas Chamber of Commerce also expressed their opposition to this bill. (Attachment 6) Brad Harrelson said Kansas Farm Bureau also opposes this bill. (Attachment 7) Tim Witsman, President of Wichita Independent Business Association told of their reasons for opposing this bill. (Attachment 8) The committee also received written testimony from Derrick Sontag, State Director of Americans for Prosperity (Attachment 9), Dave Holtwick of the Overland Park Chamber of Commerce. (Attachment 10), and Mike Beam, Kansas Livestock Association (Attchment 11). Chairman Donovan said there will be another meeting next week to speak to this bill. He closed the hearing.

CONTINUATION SHEET

Minutes of the Senate Assessment and Taxation Committee at 10:300a.m. on May 1, 2009, in Room 535-N of the Capitol.

The next bill to be heard was **SB 338 - Distribution of revenue from tax on privilege of selling alcoholic liquor.** Dale Goter, Government Relations Manager, City of Wichita told the committee the Wichita City Council sends this message: "Do what you think is best to balance the state budget, but be fair in how the burden is distributed." (Attachment 12) John Knight, Director, Shawnee County Parks and Recreation was the first to speak in opposition of this bill. (Attachment 13) Chris Courtwright gave a brief explanation of this bill. (Attachment 14) Ernie Shaw, Director, Lawrence Parks and Recreation Department, told the committee how important it is to their community to continue to receive the funds that are to temporarily be removed from their budget, and explained the reasons for their opposition to this bill. (Attachment 15) Curt Loupe, Director of Parks and Recreation, City of Manhattan Kansas told how this loss of funds will impact Manhattan. (Attachment 16) Kevin Corbett, Olathe Parks and Recreation Director, gave reasons for Olathe's oppositioon to this bill. (Attachment 17) Don Moler, Executive Director, League of Kansas Municipalities asked the committee to take pity on the cities and find a better way to find $9,000,000.00. (Attachment 18) We also had written testimony in opposition to this bill from the Kansas Association of Counties (Attachment 19) and the Kansas Recreation and Park Association (Attachment 20) Chairman Donovan closed the hearing on SB 338.

The Chairman explained to the conferees that he did not think there would be enough time to hold a fair hearing on **SB 335 - Income taxation, deductions, determination of Kansas adjusted gross income and credits, decoupling legislation**. He asked if there were people from out of town who would like to speak to this bill. Gary Allerhuligen, Kansas Society of CPAs asked the committee not to use this method as a short term fix for the state's financial problems. (Attachment 21) Chairman apologized to others who had come to this meeting to speak to this bill . He said the committee will meet next week to look at these bills and have a hearing on SB 335.

The next meeting is scheduled for next week. The time and place are yet to be determined.

The meeting was adjourned at 12:11 p.m.

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: 5/1/09

NAME	REPRESENTING
Michelle Butler	Cap Strategies
Mark Boranyak	" "
John Pederson	" "
Kurt Eckles	KS Chamber of Commerce
Natalie Bright	WIBA
Mark Tallman	KASB
Don Moler	LKM

MEMORANDUM **May 1, 2009**

To: Senate Assessment and Taxation Committee
From: Chris W. Courtwright, Principal Economist
Re: Tax Amnesty

SB 337 would provide a tax amnesty under certain circumstances that would forgive penalties and interest assessed on certain unpaid taxes if the outstanding liability is paid in full from October 1, 2009, to December 31, 2009. Included in the amnesty provisions would be financial institution privilege taxes; estate taxes; income taxes; withholding and estimated taxes; cigarette and tobacco products taxes; sales and use taxes; liquor enforcement taxes; liquor drink taxes; and severance taxes.

The amnesty for income and privilege taxes would be for liabilities for tax periods ending on or before December 31, 2007. For all other taxes, the amnesty would be for tax periods ending on or before December 31, 2008.

The amnesty provisions would not apply if any of the following has occurred on or after September 30, 2009:

1. The taxpayer has received notice of the commencement of an audit;
2. An audit is in progress;
3. The taxpayer has received notice of an assessment pursuant to KSA 79-2971 or 79-3643;
4. The taxpayer has received notice of a proposed or estimated assessment or notice of assessment as the result of an audit;
5. The time to appeal administratively an issued assessment has not yet expired;
6. An assessment resulting from an audit, or any portion of such assessment, is pending in the administrative appeals process before the Secretary of Revenue, Court of Tax Appeals, or the judicial review process.

Amnesty also would not apply to any matter that is the subject of an assessment, or any portion of an assessment, which has been affirmed by a reviewing state or federal district or appellate court.

Amnesty further would not apply to any party to any criminal investigation or to any civil or criminal litigation that is pending in any court for nonpayment, delinquency, or fraud in relation to any tax imposed by the State of Kansas.

The Secretary of Revenue would be required to develop application forms for the amnesty.

Taxpayers electing to participate in the amnesty would be making "an express and absolute relinquishment of all administrative and judicial rights of appeal" with respect to the affected liability. Amnesty payments would be ineligible for refunds or credits. Any payments of penalties or interest made prior to October 1, 2009, would be ineligible for the amnesty.

For tax returns for which amnesty has been requested, nothing in the legislation would be interpreted to prohibit adjustments to such returns resulting from audits.

Finally, fraud or intentional misrepresentation of a material fact in connection with an amnesty application would void the application and any waiver of penalties and interest; and

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discovery of fraud relating to the underlying tax liability would void the abatement of any liability pursuant to the amnesty.

The amnesty proposal is patterned after similar legislation enacted in 2003. The Department of Revenue has indicated that the bill would be expected to increase FY 2010 SGF receipts by $22.0 million.

KANSAS
DEPARTMENT OF REVENUE

Mark Parkinson, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

To the Senate Committee on Assessment and Taxation

Joan Wagnon

May 1, 2009

Testimony in Support of Senate Bill 334

Senator Les Donovan, Chair, and Members of the Committee:

In addressing ways to resolve the State's budget shortfall, Governor Parkinson stated in the House of Representatives Chamber yesterday:

> Fortunately, there is a middle ground. We need to share the sacrifice and address the deficit with both responsible budget cuts and revenue enhancements. Let me be very specific. On the revenue side, there are about $250 million in enhancements that we can make that won't raise a single person's taxes. These include delaying tax cuts, decoupling and recognizing gaming revenue. The good news is that these revenue enhancements don't require us to raise anyone's taxes. Tax cuts would be delayed, but no business or person would see their taxes increase.

Postponing the phase-outs of the estate tax and franchise tax, Senate Bill 335 presents one of those "middle ground" options.

Estate Tax

Section 1 of Senate Bill 334 would amend K.S.A. 79-15,203 to continue through tax year 2011 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 are 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

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Attachment 2

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

Senate Bill 334 would postpone implementation of the current Tax Year 2009 rates until Tax Year 2012, with repeal of the estate tax in Tax Year 2013.

Estate Tax 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 April 2009 Consensus Revenue Estimate forecasts that FY 2009 estate tax receipts will be $25 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.

Franchise Tax

Section 2 of Senate Bill 334 would amend K.S.A. 79-5401 to continue the franchise tax at the rate in effect for Tax Year 2008 through Tax Year 2011, which is .09375% of Kansas taxable equity for a business entity subject to the tax (Kansas taxable equity of $1 million or more), with maximum tax liability capped at $20,000. For Tax Year 2012, the rate would reduce to .0625%, and would reduce again in Tax Year 2013 to .03125% of Kansas taxable equity. Phase-out of the corporation franchise tax would be effective in Tax Year 2014. Kansas taxable equity is the entity's net book value, net capital accounts, or shareholder's equity as reflected on the balance sheet multiplied by the average percent of property, payroll, and sales attributable to Kansas.

Under current law, foreign and domestic for-profit corporations, professional corporations or associations, limited liability companies, limited partnerships, limited liability partnerships, and business trusts authorized to do business in Kansas with Kansas taxable equity of $1 million or more are subject to the corporate franchise tax. The current rate is .09375% of Kansas taxable equity, dropping to .0625% for Tax Year 2009, .03125% for Tax Year 2010, and phasing out effective in Tax Year 2011. Maximum tax liability is capped at $20,000. Electric co-ops, renewable energy electric co-ops, and not-for-profit corporations are not subject to the franchise tax.

Franchise Tax Background

The corporate franchise tax is one of the oldest taxes in the Kansas tax base, going back almost to the State's infancy, first enacted in 1866. It was administered by the Secretary of State until 2004, when administration was moved to the Department, pursuant to Senate Bill 147.

The corporate franchise tax rates have been changed several times during this decade, most recently in 2007, when House Bill 2264 raised the threshold for a business entity to be subject to the tax from Kansas taxable equity of $100,000 to $1 million. House Bill 2264 also put in place the current rate reduction schedule and phase out of the tax, reducing the rate from .125% of Kansas taxable equity to .09375% effective for Tax Year 2008, with the further rate reductions until total phase out in Tax Year 2011. The annual maximum tax liability cap of $20,000 per entity was not changed.

In 2004, Senate Bill 147 moved administration of the corporate franchise tax from the Secretary of State to the Department of Revenue, reduced the rate from .2% of Kansas taxable equity to .125%, added a threshold of $100,000 in Kansas taxable equity before the entity would be subject to the tax, and raised the annual maximum tax liability cap from $5,000 to $20,000 per entity.

In 2002, Senate Bill 39 raised the corporate franchise tax rate from .1% of Kansas taxable equity to .2%, and raised the annual maximum tax liability cap from $2,500 to $5,000.

The number of business entities subject to the corporate franchise tax has been drastically reduced, as a result of 2004 Senate Bill 147 (which exempted entities with less than $100,000 of Kansas taxable equity) and 2007 House Bill 2264 (which exempted entities with less than $1 million of Kansas taxable equity). The reductions (all estimates) are shown below:

taxable entities prior to 2004 SB 147—80,000
taxable entities after 2004 SB 147—22,000
taxable entities after 2007 HB 2264—7,000

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

FY 1999 $15,866,000

FY 2000	$16,834,000
FY 2001	$16,927,000
FY 2002	$18,520,000
FY 2003	$31,089,000
FY 2004	$36,806,000
FY 2005	$47,085,000
FY 2006	$46,880,000
FY 2007	$47,892,000
FY 2008	$46,659,000

The April 2009 Consensus Revenue Estimate forecasts that FY 2009 corporate franchise tax receipts will be $35 million, with FY 2010 corporate franchise tax receipts dropping to $22 million, due to the Tax Year 2009 rate reduction.

The corporate franchise tax rate of .09375% of Kansas taxable equity proposed in Senate Bill 334 is actually lower than the rate that was in effect prior to 2002, although the current maximum tax liability cap of $20,000 is higher than the $2500 cap in place prior to 2002. At the .09375% rate, an entity would need to have Kansas taxable equity of $21.33 million before the $20,000 cap would apply.

Fiscal Impact

Enactment of Senate Bill 334 should have a positive fiscal impact of $18 million for FY 2010, $40 million for FY 2011, $53 million for FY 2012, and $38 million for FY 2013. Administrative costs to implement this proposal would be absorbed by the Department. The positive fiscal impact per fiscal year (in millions) of the estate tax proposal and the franchise tax proposal in the bill is broken out separately below:

Fiscal Year	2010	2011	2012	2013	2014	2015
Estate tax	$4	$10	$15	$12	$4	$-
Franchise tax	$14	$30	$38	$26	$14	$6
Total	$18	$40	$53	$38	$18	$6

Franchise Tax Distribution

We estimate that under Senate Bill 334, the distribution of corporate franchise tax liability among the estimated 7000 businesses subject to this tax would be as follows:

Net Worth	Average Tax Liability	Number of Businesses
$1-2.5 million	$1641	3100
$2.5-5 million	$3,515	1925
$5-10 million	$7,031	1000
$10-15 million	$11,719	400
$15-21 million	$16,875	300
over $21 million	$20,000	275

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

SB 337

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		Tax Due		Penalty & Interest		Proposed Settlement Amount	% of Total of TIP	
1.	$	9,803,191.00	$	6,539,533.00	$	11,000,000.00	61	
2.	$	3,094,682.00	$	2,987,306.00	$	3,000,000.00	49	
3.	$	4,032,693.00	$	2,925,981.00	$	3,200,000.00	45	
4.	$	758,591.00	$	370,990.00	$	600,000.00	53	
5	$	659,331.00	$	392,567.00	$	390,000.00	37	
6	$	1,080,168.00	$	504,584.00	$	150,000.00	9	
7	$	857,190.00	$	188,041.00	$	700,000.00	66	
8	$	2,300,000.00	$	800,000.00	$	250,000.00	2	t/p paid 2,100,000 under protest 2 is the reamining
9	$	8,052,452.00	$	4,925,111.00	$	8,000,000.00	62	
10	$	2,161,422.00	$	578,029.00	$	2,523,313.00	92	
11	$	2,443,430.00	$	369,656.00	$	-	0	
12	$	2,171,948.00	$	1,182,860.00	$	1,260,000.00	38	
13	$	2,300,849.00	$	764,995.00	$	1,300,000.00	42	
14	$	428,573.00	$	230,975.00	$	250,000.00	38	
15	$	1,258,542.00	$	494,458.00	$	850,000.00	48	
16	$	379,884.00	$	121,519.00	$	250,000.00	50	
17	$	2,635,549.00	$	990,928.00	$	1,000,000.00	28	includes refund on privilege tax appeal
18	$	691,386.00	$	214,615.00	$	450,000.00	50	
19	$	768,196.00	$	206,274.00	$	350,000.00	46	
20	$	314,007.00	$	100,993.00	$	250,000.00	60	
	$	46,192,084.00	$	24,889,415.00	$	35,773,313.00	50	
21	$	(9,883,743.00)			$	(606,262.00)		

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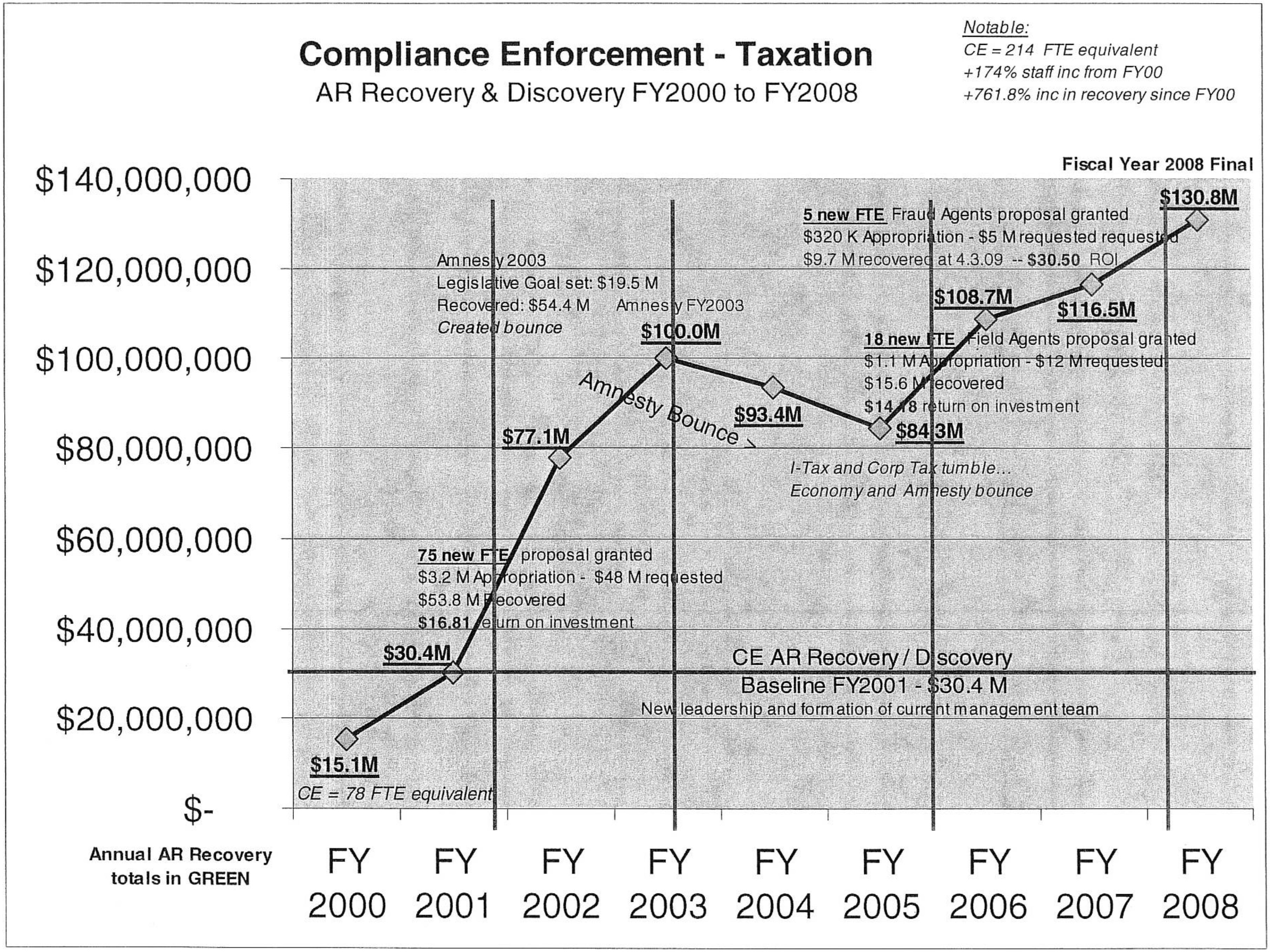

Compliance Enforcement - Taxation
AR Recovery & Discovery FY2000 to FY2008
Notable:
CE = 214 FTE equivalent
+174% staff inc from FY00
+761.8% inc in recovery since FY00
Fiscal Year 2008 Final
$140,000,000
$120,000,000
$100,000,000
$80,000,000
$60,000,000
$40,000,000
$20,000,000
$-
$15.1M
CE = 78 FTE equivalent
$30.4M
$77.1M
$100.0M
$93.4M
$84.3M
$108.7M
$116.5M
$130.8M
Amnesty 2003
Legislative Goal set: $19.5 M
Recovered: $54.4 M
Created bounce
Amnesty FY2003
Amnesty Bounce
5 new FTE Fraud Agents proposal granted
$320 K Appropriation - $5 M requested requested
$9.7 M recovered at 4.3.09 -- $30.50 ROI
18 new FTE Field Agents proposal granted
$1.1 M Appropriation - $12 M requested
$15.6 M recovered
$14.78 return on investment
I-Tax and Corp Tax tumble...
Economy and Amnesty bounce
75 new FTE proposal granted
$3.2 M Appropriation - $48 M requested
$53.8 M Recovered
$16.81 return on investment
CE AR Recovery / Discovery
Baseline FY2001 - $30.4 M
New leadership and formation of current management team
Annual AR Recovery totals in GREEN
FY 2000
FY 2001
FY 2002
FY 2003
FY 2004
FY 2005
FY 2006
FY 2007
FY 2008

MEMORANDUM **May 1, 2009**

To: **Senate Assessment and Taxation Committee**
From: **Chris W. Courtwright, Principal Economist**
Re: **Estate Tax**

Legislation adopted in 2006 created a stand-alone Kansas estate tax no longer tied directly to federal law and has scheduled the tax to sunset altogether, effective for the estates of decedents dying on and after January 1, 2010.

Governor Sebelius in January proposed HB 2047 to permanently freeze the law that had been in effect for tax year 2008 (rates ranging from 1 to 7 percent with a $1 million exemption threshold). Current law provides for rates ranging from 0.5 to 3 percent for tax year 2009.

SB 334 would freeze the tax year 2008 rate structure in place through 2011 and would resume the phaseout in tax year 2012 (rates of 0.5 to 3 percent that had been scheduled to take effect in tax year 2009). The tax would be repealed altogether effective for estates of decedents dying on and after January 1, 2013.

The provisions of HB 2047 would be expected to boost FY 2010 receipts relative to current law by $5 million in FY 2010; $11 million in FY 2011; $17 million in FY 2012; and $18 million in FY 2013 and subsequent years. The provisions of SB 334 would be expected to increase estate tax receipts by similar amounts through FY 2012 before the phaseout resumes.

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Attachment 3

MEMORANDUM **May 1, 2009**

To: 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 less than $10,000 of paid-up capital stock to $2,500 for over $5 million of paid-up capital stock. From 1972 to 2001, the tax was set at $1 per $1,000 or corporation's shareholder's 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 pay $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 tax. 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 percent. 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. (Banks, insurance companies, savings and loans, firemen's relief associations and certain venture capital companies are exempt from the tax altogether.)

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, limited liability companies, 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).

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 SGF and produces about $4 million per year.

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.

Legislation enacted in 2007 (HB 2264 as amended by SB 215) provided for the phase out of the tax collected by the Department of Revenue that is deposited in the SGF. For tax year 2007, the exemption threshold was increased from $0.1 million to $1.0 million. The rate was reduced from $1.25 per $1,000 of equity to $0.9375 in tax year 2008; to $0.625 in tax year 2009; to $0.3125 in tax year 2010. The tax is scheduled to be repealed altogether starting in tax year 2011.

HB 2028 and SB 334

Governor Sebelius at the outset of the 2009 Session made a number of tax and budget recommendations, including those relating to the franchise tax embodied in HB 2028.

That proposal would freeze the franchise tax rate structure permanently at the tax year 2008 level ($1.0 million exemption threshold and rate of $0.9375) and repeal the phase out.

The following table shows a recent history of tax and fee collections deposited in the SGF:

($ in millions)

Actual SGF Receipts and April Consensus Estimate		HB 2028 and SB 334	Fiscal Note
FY 2001	$16.927		
FY 2002	$18.520		
FY 2003	$31.089		
FY 2004	$36.806		
FY 2005	$47.085		
FY 2006	$46.880		
FY 2007	$47.892		
FY 2008	$46.659		
FY 2009 est	$35.000		
FY 2010 est	$22.000	$36.000	$14.000

Under HB 2028, receipts for FY 2010 and future years would be expected to stabilize at around $36.0 million.

SB 334 would instead freeze the rate for three additional years (tax years 2009-2011) at the tax year 2008 level ($1.0 million exemption threshold and rate of $0.9375) before resuming the phase out – the rate would be $0.625 in tax year 2012; $0.3125 in tax year 2013; and the tax would be repealed altogether beginning in tax year 2014). Receipts in FY 2010 through FY 2012 would be expected to stabilize at around $36.0 million before beginning to decline significantly again in FY 2013.

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

Testimony before the
Senate Assessment and Taxation Committee
on
State Revenue Measures: SB 334 (Estate and Franchise), SB 335 (Decoupling), SB 337 (Tax Amnesty)
by

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

Also Representing:
Kansas National Education Association and United School Administrators of Kansas

May 1, 2009

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to speak today for teachers, administrators, school board members and most importantly the students of Kansas in asking you to support revenue measures to mitigate the impact of budget cuts on the current and future Kansas economy.

Specifically, we are supporting the suspension of corporate and estate tax cuts, decoupling from the tax cuts contained in the federal tax code, and the tax amnesty proposal. We believe that NONE of these provisions increase the RATE of taxation. At most, these bills defer further tax cuts in order to avoid even deeper cuts in vital public services and the jobs associated with those services.

Some say not getting a promised tax cut is the same as a tax increase. If that is so, then not getting a promised funding increase is a funding cut. School districts were "promised" an increase funding of over $142 million next year. They were told to "count" on that that money for planning. Funding was placed in a "lock box." Based on those commitments, schools have already been "cut" $174 million so far this session – over five percent – and would be cut nearly $250 million (7.2%) under the Senate Ways and Means omnibus bill and nearly $300 million (8.5%) under the House bill. Even without the increase for FY 2010, school districts will receive much less than they did a year ago. Most other state programs have been cut even more. But under these tax proposals, tax rates would remain exactly the same as one year ago.

Some say these tax measures will cost jobs. Today is the deadline for districts to notify their employees if they will have a job next year. Preliminary information suggests that at least 1,000 jobs for teachers, administrators and support staff have been cut so far. School district job cuts will only go deeper if further cuts in state aid are imposed, and these cuts will be felt in virtually every community in Kansas, including many communities where the school district is one of, if not the, largest employer.

Some say because private sector employers have shed jobs, schools and other public agencies should as well. No one has explained how it helps a family who has lost a job, for example at an aircraft plant, to lose the second income provided by a teacher, a bus driver or a school food service worker

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Some say public sector spending is a drain our economy. On the contrary, public sector spending almost always puts money immediately back INTO the economy. Most of what we spend is for salaries that allow our employees to purchase good and services in Kansas, or for goods and services schools buy directly, usually from Kansas companies. Taxes supporting public-funded education from preschool to graduate school recycle and multiply through the state economy, but as they pass through our schools, colleges and university system, they increase the knowledge and skills of students, enhancing the productively of our workforce and business climate, and raising incomes and living standards.

Some say we can't "tax our way to prosperity." Yet American history is filled with examples of publicly funded initiatives that have fostered prosperity: internal improvements such as canals and roadways from the early days of the Republic; the development of the common schools and their expansion to universal education through high school; state universities, land-grant colleges, community and technical colleges; the GI bill; local and state transportation systems; the interstate highway system; a modern criminal justice system to protect public safety; and innumerable innovations from military and civilian research projects.

In fact, while some say Kansas is harmed by its tax rates compared to our neighbors, it is never explained why Kansas never the less consistently has among the highest per capital incomes in our region. We suggest the most important reason is that our education system delivers among the highest outcomes in the region, and educational attainment is strongly associated with income. In fact, most states with more "prosperity" than Kansas have either higher education levels, higher taxes, or both.

Some say in those tough economic times, schools must join in downsizing. But most of the deeply distressing job losses in the private sector occur because demand is down for their products and services. Demand for education at all levels is actually up. Schools must provide just as many "units" of education next year, and in fact, both education standards and state mandates will continue to increase.

Some say school funding can be reduced because it has been dramatically increased in recent years. But remember, the funding added after the Supreme Court rulings in *Montoy* was based on the Legislature's own independent studies of the cost of meeting the state's own goals for student achievement – goals which have increased significantly since 2005. Our members fully understand that Kansas is facing an unprecedented financial crisis in the midst of a staggering national economic crisis. Yet they are being asked to take deeper cuts at a time when educational expectations have never been higher. No one, either in response to *Montoy* or now, has proposed REDUCING educational goals or requirements.

Some say there is no connection between education funding and student learning. But the Legislative Post Audit cost study found a nearly one-to-one relationship between state spending and student outcomes. Based on similar significant progress on student achievement demonstrated over the past five to eight years as funding has increased, there can be no reasonable doubt that deep cuts in state aid to school districts will risk the education attainment of tens of thousands of Kansas students.

Furthermore, there is no doubt educational attainment is absolutely critical to individual, state and national success. Our citizens must compete in a world that puts a premium on high skills. Dismantling educational progress will turn an immediate financial crisis into a long-term economic disaster. Yet so far this session, the Legislature's attention has focused entirely on the spending side, with almost no attention to the revenue side. This cannot be because taxpayer concerns have been ignored. In 2010, the impact of tax cuts just since 2005 equal an estimated $180 million. Kansas businesses have already received an $80 million tax break for FY 2009 because the state did not "decouple" from the federal tax. Virtually all Kansans, including small businesses, will benefit from tax reductions at the federal level under the American Recovery and Reinvestment Act. All of those benefits will remain place if all the tax measures before you today are adopted.

Our education system provides business with skilled workers who increase productivity and earn higher salaries that drive consumer spending; and enhances the quality of life to attract business and employees. We suggest this is as valuable to our economic development as preserving even more tax cuts. Thank you for your consideration.

NFIB

The Voice of Small Business®

Senate Assessment & Taxation Committee
Daniel S. Murray: State Director, NFIB-Kansas
Testimony in Opposition to SB334
May 1, 2009

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 SB334.

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 SB334.

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.

Franchise Tax

Our members have overwhelmingly supported previous legislation to phase-out the franchise tax. In one poll, 77% of our members that voted were in favor of repealing the state corporate franchise tax. **The franchise tax is bad public policy.** Companies pay this tax just for the *privilege* of doing business in the Kansas. Further, the franchise tax is a tax on a companies' net worth and can be considered a "success tax."

Again, NFIB-KS members understand the state is in dire budget straits. We do not envy the difficult task you face in balancing this and future budgets. However, the legislature must do all it can to ensure Kansas' business tax climate stimulates job creation and capital investment, particularly in a recession.

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.

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Testimony before the Senate Assessment & Taxation Committee
Senate Bill 334 – Estate & Franchise Taxes
Presented by J. Kent Eckles
Vice President of Government Affairs
Friday, May 1st, 2009

achieve more

Mr. Chairman & Members of the Committee, the Kansas Chamber appreciates the opportunity to appear before you in opposition to Senate Bill 334, which would delay the phase-outs of both estate & franchise taxes.

Quite simply, the Kansas Chamber considers this a tax increase to temporarily halt the phase out of estate and franchise taxes. Employers throughout Kansas have planned and budgeted for the elimination of these taxes. Now the State is considering telling the very entities that create jobs to pay MORE in taxes than originally promised. <u>That is a tax increase</u>.

With regard to the estate tax, Kansas will remain at a competitive disadvantage unless we allow this tax burden to expire as scheduled. Kansas is one of only ten states with an estate tax and while only two of our peer states (Nebraska & Iowa) have it, even they have exemptions for direct descendents, which Kansas does not.

The estate tax is clearly an obstacle for small & family owned businesses in leaving the businesses to family members upon death. When combined with the federal estate tax, 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. 70% of families choose to cash out or abandon their business after one generation, laying off workers in the process. Only 13% survive into the 3rd generation.

Business owners can easily relocate to neighboring states to avoid this tax and will certainly do so, taking their sales and income tax revenues with them.

It's suggested state revenues will increase by $5m for FY 2010 if estate taxes are frozen at current rates. However, considering estate taxes are computed based on property tax values, which have plunged dramatically during this economic downturn, we'd submit actual tax receipts will be much lower, which doesn't help to close the budget gap as much as envisioned.

With regard to the franchise tax, it is merely a tax just for the privilege of doing business in the state and is based on a company's net worth, which essentially makes this tax a "success tax." There are no offsets for corporate subsidiaries, which must pay the full franchise tax and are thus penalized under Kansas law.

When these tax measures were considered before the House Taxation Committee during the regular session, the Kansas Secretary of Revenue said continually manipulating the estate & franchise taxes for revenue purposes contributes to the unstable tax climate reputation the state currently has, yet the state continues to do so sending an unwelcome signal to businesses considering locating in or leaving Kansas.

According the Kansas Chamber-commissioned 2009 Annual Competitiveness Index study, Kansas' business tax burden is currently ranked 38th in the nation and worse than all of its peer states (surrounding states plus Iowa). In 2008, the Tax Foundation ranked Kansas as having the 21st highest state and local tax burden and 33rd ranked business climate overall.

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We would ask; "Does the state really want to "pile on" and exacerbate matters by increasing the tax burden on those who employ hard-working Kansas families?" Instead, the state should be stimulating job creation and investment by employers, not adding additional burdens that will only serve to hinder our economic rebound.

Employers have "skin in the game" with regard to the State's budget problems: Employers have been severely harmed by the economic downturn, which is clear from the drop in business revenues and increased layoffs throughout the state. Unemployment figures are at a 26-year high - There are 97,421 Kansans without a job compared to 62,202 a year ago.

The Kansas Chamber appreciates the opportunity to appear before the Committee and will stand for questions at the appropriate time.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the premier state-wide pro-business advocate with over 700 small, medium and large employers amongst our ranks. Our mission is to make Kansas the best state in which to live and do business.

THE KANSAS CHAMBER

835 SW Topeka Blvd. Topeka, KS 66612 785.357.6321

Business Tax Increases and the Kansas Economy

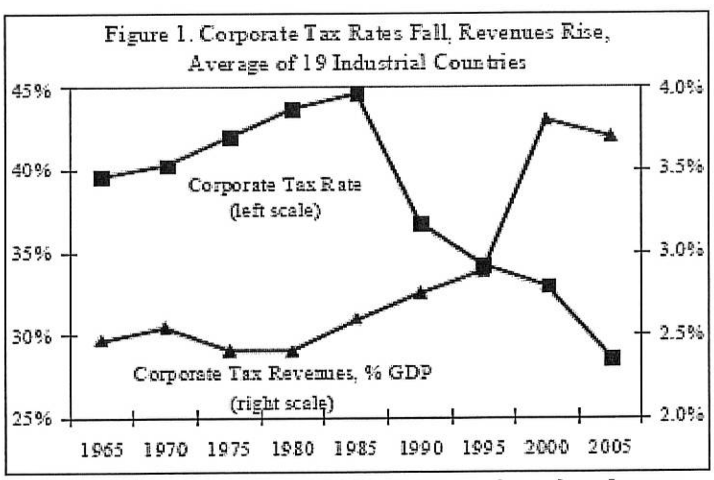
Some interest groups are calling on the Kansas Legislature to move away from more budget cuts towards increasing revenue streams in the form of higher taxes. Tax increases have been talked about as an effective way to cut the budget deficit. The Kansas Chamber maintains that taxing Kansas industry should not be seen as a cure-all for the State's budget problems. Below is some information for the debate on business tax increases:

- **What does President Obama think about taxes?:** "If we're still in a recession, I'm going to go through with my tax ***cuts***. That's my priority." ~President Obama on ABC Sunday, September 7, 2008 interviewed by George Stephanopoulos.

- **Governor Sebelius on taxes:** "We've also concentrated on creating a business climate suitable to industry growth and expansion. We've eliminated the taxes on new business machinery and equipment. We've eliminated the Franchise Tax for approximately 16,000 small businesses by raising the net worth exemption to one million dollars. We've reduced unemployment insurance taxes for employers by $80 million, and have one of the lowest workers' compensation rates in the country. **We've got a great business climate and people are noticing.**" ~ June 2, 2008 Press Release

- **What do the experts think about corporate tax cuts?** "Overall growth is… higher with lower taxes… And with tax incentives aligned to encourage work, more firms and more jobs are created. One study shows a cut of one percentage point in corporate tax rates is associated with up to a 3.7 percent increase in the number of firms and up to 1.1 percent higher employment. ~World Bank "Paying Taxes: The Global Picture"

- **Have tax cuts ever worked to stimulate growth?** The average rate was 40 percent or more prior to the mid- 1980s. But then supply-side tax policies gained support, and tax rates plunged. The average rate in the 19 countries fell from 45 percent in 1985 to 29 percent by 2005. During the same period, corporate tax revenues soared from 2.6 percent to 3.7 percent of GDP. ~Chris Edwards, Cato Institute



Source: Author, based on data for 19 OECD countries. See endnote 2.

- **How do tax cuts affect revenues?** A modest corporate tax rate cut would likely result in no government revenue losses in the long-term. However, the goal of policy should be to maximize growth, not revenues, and thus a much larger rate cut is in order. ~Chris Edwards, Cato Institute

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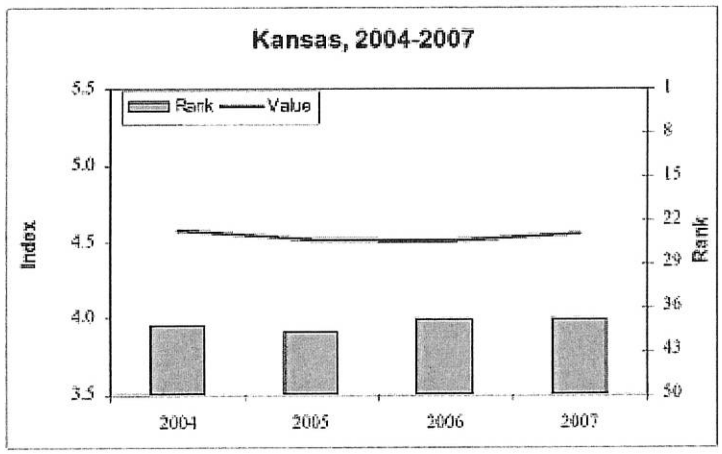
- **What do Kansas businesses think?** In our 2008 survey, Kansas CEOs listed lower taxes as the most important issue for the profitability of their company.

- **Why not increase business taxes?** "What would a world look like where two-thirds of all small-business income would be taxed at a 50 percent rate? The economic law that "taxing something more and getting less of it" would apply. Fewer Americans would be interested in opening or expanding small businesses. Tax evasion and legal tax avoidance would spike, as tax shelters would once again become a booming industry. Since small businesses create a majority of jobs in America, Main Street closing up shop will have a direct impact on the family budget, as well." ~Grover Norquist in Politico

- **How does the Kansas business tax structure rank?** Kansas has consistently ranked in the high 30s in business taxes. At rank 38 it is worse than all of its peer states except for Iowa.

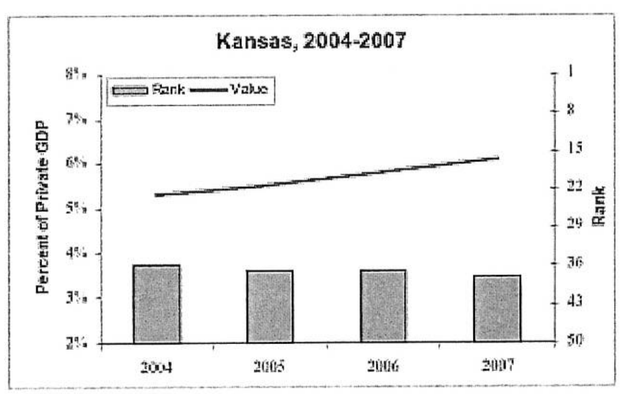


- **Are businesses being hurt by this recession as much as their workers are?** "U.S. corporate profits plunged a record $120.1 billion in the fourth quarter as the economy shrank at its fastest pace since 1982… The Commerce Department said after-tax corporate profits dropped 10.7 percent in the fourth quarter, the largest decline since the first quarter of 1994. Profits fell $5.2 billion in the third quarter." ~Reuters March 26, 2009

- **Unemployment zoomed to 8.5 percent last month, the highest in a quarter-century, as employers axed 663,000 more workers and pushed the nation's jobless ranks past 13 million.** The hard times were only expected to get harder -- a painful 10 percent jobless rate before long. ~ Yahoo! Finance April 3, 2009

- **How has private-sector employment been affected?** "Private sector employers cut 742,000 jobs from payrolls in March, according to ADP's national employment report…the largest monthly payroll decline since ADP began tracking it in January 2001." ~BizJournals.com April 1, 2009

- **How high is Kansas' business tax burden?** Kansas' business tax burden as a percent of the private sector GDP has been growing steadily since 2004. Kansas is currently ranked 38th in the nation and worse than all of its peer states.



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KANSAS FARM BUREAU
The Voice of Agriculture

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PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

RE: SB No. 334 – an act concerning the Kansas Estate and Franchise Tax; relating to imposition of tax and continuation

May 1, 2009
Topeka, Kansas

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

Chairman Donovan, and members of the Senate Committee on Assessment and 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 SB 334. 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.

In 2007 Kansas Farm Bureau supported repeal of the Kansas franchise tax. Again, aside from the issue of fundamental fairness, there were a host of economic and tax policy reasons why the Legislature took affirmative action and passed legislation to phase out 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 re-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, modern production agriculture is a very capital-intensive business and it doesn't take a very large operation to exceed the minimum $1,000,000 threshold of net worth as proposed in SB 334. 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 explore many avenues to find new sources of revenue. However, the legislature agreed repeal of this onerous tax was good public policy two years ago. Simply because the state has fallen on hard economic times doesn't change that fact. We believe elimination of the Kansas Estate Tax and 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 not pass favorably SB 334. 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.

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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

RE: Support for HB 2379

March 17, 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 in support of HB 2379. 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.

Many of you will recall action by the legislature in 2006 to "decouple" Kansas death taxes from federal law to address a number of inconsistencies and streamline administration of estates. Part of the compromise in that legislation was a phase out of the tax which will occur in 2010. The 2006 effort also clarified that agricultural land values for estate tax purposes would be determined as it is for property taxes at "use value."

Recently we have become aware of a dispute in interpretation of the 2006 law whereby the Kansas Department of Revenue has determined that only land directly by the decedent can be valued according to "use value" method. The result being that land held by any other entity is given a market value. This interpretation negates many of the business structures employed by farm families across the state to facilitate the timely and smooth transition of operations between generations and to coordinate the ongoing management of the operation between members who continue to farm and those who do not. The department is attempting to value land based upon ownership rather than by its use as agricultural land. HB 2379 clarifies this inconsistency – it is parallel to the discussions and intent behind the 2006 changes. KFB strongly supports this effort.

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. Aside from the issue of fundamental fairness, there are a host of economic and tax policy reasons why the Legislature should clarify the 2006 action and retain the elimination of the tax in 2010.

Kansas small businesses and family farms face the threat of a punitive death tax that could undo a lifetime of hard work and thrift. Farming and ranching is a very capital-intensive business. Farms and ranches are increasing in size by necessity, and a Kansas estate tax adversely affects those estates with decedents involved in farming and ranching. The future of agriculture in Kansas lies with the children and grandchildren of existing farmers and ranchers. Taxing inherited property is another impediment to the successful transfer of family farms to succeeding generations. When this occurs, the economic viability of the business can be severely damaged, even destroyed. This is particularly important in a time when fewer and fewer young producers are returning to the farm.

Kansas Farm Bureau respectfully urges your recommendation to pass favorably HB 2379. 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

Senate Committee on Taxation
Testimony in Opposition to SB 334 and SB 335

By:
Tim Witsman, President
Wichita Independent Business Association and Kansas Independent Business Coalition
May 1, 2009

Chairman Donovan and honorable committee members:

My name is Tim Witsman, and I am the President of the Wichita Independent Business Association (WIBA) and our statewide organization, the Kansas Independent Business Coalition (KIBC). As a representative of organizations charged with the mission to promote a strong business environment in Kansas, I am here as the voice for more than 1,000 business members from across the state of Kansas. Thank you for the opportunity to testify in opposition to the tax proposals set out in SB 334, which proposes a three-year moratorium on estate tax and franchise tax reductions and SB 335, which proposes that the state of Kansas decouple from federal income tax deductions.

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. Putting a three-year moratorium on the phase out of the corporate franchise tax will only create an even bigger financial burden for struggling Kansas businesses and discourage capital investment at a time when the state needs it most. I have attached a copy of testimony offered by Pete Schrepferman, a WIBA member, during the 2007 Legislative Session, which articulates the negative impact franchise tax has on his small business in Kansas.

In addition, I ask that you recognize estate planning is a vital component to the survival of small businesses and placing a three-year moratorium on the phase out of estate tax will further interject uncertainty into today's small business community making survivability uncertain for small businesses in transition. 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

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estates have the resources to avoid death taxes through elaborate trusts and other estate planning devices that smaller operations can not afford.

Finally, our members are concerned with the impact SB 335 will have on our economy. While our members have not had ample time to determine the full impact decoupling will have on our members, we do believe if this bill is passed, it will divert business investment in the state at a time when the state needs it most. If SB 335 is enacted, Kansas businesses will have an additional burden of keeping an additional set of depreciation books. This will add time, expense and complexity for businesses in Kansas. This would be especially burdensome for small companies that do not have the staff and technology to keep up with the different state requirements.

Businesses 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. However, in a recession, the worst thing the State can do is to increase taxes on Kansas businesses because they are our very source for creating jobs, making investments and stimulating the Kansas economy. If you increase their tax liability, you will leave them with a smaller cash flow to keep their doors open.

WIBA joins thirteen other business associations in asking that you develop policies and business practices that will afford the state of Kansas the ability to remain competitive in both the good and bad economic times. Please find attached our letter outlining the legislative proposals we believe will impact the business community's bottom line.

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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 Schrepfermann 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.

AFP AMERICANS FOR PROSPERITY
KANSAS

Testimony in Opposition to Senate Bill 334
Senate Taxation Committee
May 1st, 2009

Mister Chairman and Members of the Committee:

On behalf of the more than 30,000 members of Americans for Prosperity-Kansas, I submit testimony in opposition to SB 334, which would increase the tax burden on businesses by halting tax relief phase-outs relating to the state franchise tax and estate tax. In other words, Senate Bill 334 would enact a tax increase on Kansas businesses.

Things to consider concerning the Kansas tax climate:

- In 2008, the Tax Foundation ranked Kansas as having the 21st highest state and local tax burden and 33rd overall business climate.
- Kansas already ranks 38th nationally in Business Tax structure, behind all of its peer states except Iowa at 45th. Peer states include all surrounding states plus Iowa. *(Growth Economics Inc. Annual Competitive Index 2009).*
- Kansas also ranks 38th nationally in Business Tax Burden. *(Growth Economics Inc. Annual Competitive Index 2009)*
- The truism of "if you want less of something, tax it more" applies. The state should be growing our way out of this recession, not exacerbating it and slowly our recovery by taxing businesses.
- Halting these reductions will perpetuate the "unstable tax climate" associated with the state.

At a time when unemployment is at a 26 year high, the last thing the legislature should do is increase the tax burden on employers. In looking into the numbers from the Bureau of Labor Statistics and the U.S. Census Bureau, AFP found that the Kansas private sector economy is struggling, losing 14,600 jobs over the past year. This doesn't include the recent announcement from Cessna, indicating that an additional 1,300 Wichitans will soon be losing their jobs.

The private sector is struggling to retain, let alone add employees at this time. Increasing their tax burden will do nothing but add to the problem.

Sincerely,

Derrick Sontag, State Director

Senate Assessment and Taxation
5-1-09
Attachment 9

Overland Park
Chamber of Commerce

Written Testimony in opposition to SB 334

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

Senate Assessment and Taxation Committee
Friday, May 1st, 2009

Chairman Donovan and Committee Members:

My name is Dave Holtwick and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am appearing today on behalf of our board of directors and our nearly 900 member companies. I appreciate the opportunity to appear before you today to share testimony in opposition to Senate Bill 334.

For years, The Chamber has had a position in their legislative agenda supporting the elimination or reduction of the franchise tax and our members were pleased when the Franchise Tax Phase out legislation was passed in 2007. Our legislative agenda now includes positions opposing increases in corporate taxes and changes in tax law that negatively impact our competiveness with neighboring states. I believe SB 334 would do both.

We understand the significant budget issues the state is facing but we do not believe tax increases on businesses at this time will do anything but cause further injury to the state's economic condition. Some have said that this bill is not a tax increase but I believe eliminating a tax reduction is a tax increase. SB 334 will negatively impact our business climate and give companies seeking to locate in Kansas or retain their facilities in Kansas one more reason to question that decision. We need incentives to help us attract and retain business in our state – not to reduce our competiveness with other states.

Reversing this significant decision of just two years ago does reduce our competitiveness. Recognizing that our state faces budget challenges, we still need a regulatory framework that results in consistent and predictable policies, procedures and regulations and that includes tax policy.

Another concern in this bill deals with estate taxes. These 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. The Kansas estate tax is clearly an obstacle for small and family owned businesses in leaving their businesses to family members upon their death.

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Again, 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.

Slowing 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 this provision of SB 334, too.

The business community in Kansas has seen significant impact from the economic downturn already. Many companies have been forced to lay off employees, cut wages, reduce work schedules for employees, suspend benefits, etc. Now is not the time to place additional burdens on Kansas businesses. I encourage you to oppose SB 334.

Thank you very much for allowing me to submit this written testimony today.

KANSAS LIVESTOCK ASSOCIATION

Since 1894

TESTIMONY

To: The Senate Assessment & Taxation Committee
Sen. Les Donovan, Chairperson

From: Mike Beam, Sr. Vice President

Date: May 1, 2009

Subj: **Senate Bill No. 334** – Increasing the Kansas estate tax & annual franchise tax.
Senate Bill No. 335 – Decoupling the Kansas income tax from federal income tax deductions.

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,000 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, dairy production, grazing land management and diversified farming operations.

The Kansas Livestock Association (KLA) opposes SB 334 and SB 335.

Kansas estate tax changes (SB 334)

KLA was an avid supporter of the 2006 legislation to phase out the Kansas estate tax for estates of decedents dying on and after January 1, 2010. SB 334 proposes to continue this "death tax" until January 1, 2013. Our members find the death tax punitive to farmers and ranchers who desire to pass on their business to the next generation. Estate taxes often put a large cash demand onto agricultural production businesses which typically do not have liquid assets. It often takes several generations to build a land base that will sustain a viable farm and ranch enterprise, especially for multiple heirs that intend to be partners in the operation. We urge the legislature to continue the phase out and repeal of this tax, as prescribed by current law, and not advance SB 334 for passage.

Kansas franchise tax changes (SB 334)

This bill also proposes to delay the phase out of the corporate franchise tax. In 2007 the Kansas Legislature began the process of phasing out the state franchise tax. Many Kansas businesses, including KLA members, have created corporations or limited liability companies or partnerships for liability protection. This is a technique that attorneys and tax practitioners have recommended and utilized for years in business planning. Additionally, many businesses have multiple business entities that make up their entire business structure for a multitude of reasons.

There are numerous reasons that Kansas needs to continue down the path of phasing out this tax. First, the franchise tax is a burden on Kansas businesses that competitors in many other states do not have to bear. The franchise tax applies disproportionately due to the structure of the business. Finally, the franchise tax is levied upon a business regardless of the profitability of the business due to the fact that it is assessed on the assets a business owns.

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6031 SW 37th Street • Topeka, KS 66614-5129 • (785) 273-5115 • Fax (785) 273-3399

In production agriculture, net worth is built up in order to make it through tough economic times such as the current economic situation. A tax on an entity's net worth discourages savings to help make it through tougher economic periods. Essentially, the franchise tax penalizes well run businesses for planning ahead.

We ask that you not pass legislation to continue the franchise tax, but support the current phase out provided in current law.

Decoupling from the federal income tax (SB 335)
The American Recovery and Reinvestment Act of 2009 (federal stimulus bill) contained several tax provisions aimed at encouraging small businesses to make purchases. One provision was a continuation of a 2008 federal income tax provision that allows a 50-percent additional first year depreciation deduction for certain types of new property. This provision is contained in Section 168(k) of the federal code.

In addition, the federal stimulus bill reauthorized "Section 179 expensing" to $250,000, which was $125,000 prior to 2008.

SB 335 would disallow these tax deductions for Kansas income tax purposes.

These enhanced deductions are beneficial for agricultural producers who need to make large capital purchases for their business needs. These tools are helpful when managing for the high income years and low income years, which are often driven by weather, export demand, consumer spending, and other variables that are beyond the control of the individual producer and taxpayer.
We must assume Congress included these provisions in the 2008 and 2009 federal stimulus bills as a means of stimulating purchases of new equipment. When farmers and ranchers make such purchases it is a benefit to other businesses and the state's economy.

We suggest now is not the time to depart from federal tax policy, especially one that's designed to spur purchases and capital investments.

KLA urges you to not pass SB 335.

Mr. Chairman, and committee members, we understand and appreciate the budgetary challenges of the 2009 Kansas Legislature. I'm sure you all realize the decline in state revenues is a reflection of the downward economic condition of the business sector, including agricultural production. We believe these bills will add harm to the financial situation of the business community and should not advance this session.

Thank you for considering our comments.

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

City of Wichita Testimony on Senate Bill 338
Senate Assessment and Taxation Committee
May 1, 2009

Throughout the 2009 session, the City of Wichita has been supportive of the Kansas Legislature as you have searched for solutions to the difficult budget challenges brought about by economic declines of historic proportions.

The message from the Wichita City Council has been: Do what you think is best to balance the state budget, but be fair in how the burden is distributed.

As you look for the final piece to this challenging puzzle, please keep that message in mind. To assist you in your decision making, the following information is intended to provide a context for the cuts in liquor tax distribution you are considering today.

The one-third portion of the liquor tax under consideration today is dedicated to Parks and Recreation. In Wichita, it is applied to programs that have their greatest impact on those least able to afford recreational activities.

By statute, these dollars must fund recreational programs. In 2008, the City of Wichita spent more than $2.5 million for recreational programming that was NOT reimbursed or recovered by user fees. The liquor tax funds offset nearly $2 million of this, including $373,524 for operational costs of 11 swimming pool, $1,189,761 for 10 recreation center costs, and $157,883 for the operation of Watson Park.

Through programming at the City's 10 recreation centers, hundreds of youth are provided drug and alcohol counseling during summer months when children are most likely to experiment with these substances.

Currently, the liquor tax funds also provide year-round mentors for in-school and after-school programs. Elimination or reduction of those programs will result in an increase in juvenile crime. The success of the programs is demonstrated by the City of Wichita's PACK program (Plainview Activity Camp for Kids) in the city's low-income Plainview neighborhood. In its first year of the program, juvenile crime was reduced by 33 percent, and has remained low ever since.

Obviously, as other state funding reductions such as the "slider" allocation are imposed, it becomes much more difficult for cities such as Wichita to absorb additional cuts and still maintain these important services.

Thank you for your thoughtful consideration of this issue.

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Shawnee County Parks & Recreation
John E. Knight, Director
3137 SE 29th
Topeka, KS 66605-1885
Phone: 785.267.1156
Fax: 785.266.0308

Randy J. Luebbe, Recreation Director
Mike Killion, Park Ranger Supervisor

John D. Kennedy, Park Director
Thomas D. Opat, Golf Course Superintendent

May 1, 2009

To: Senate Taxation Committee

From: John E. Knight, Director
Shawnee County Parks & Recreation

Re: Senate Bill No. 338

On Friday, May 01, 2009, the Senate Taxation Committee will hear Senate Bill No. 338. I urge you to oppose this Bill. Parks and Recreation agencies across the entire State of Kansas are currently struggling with significant reductions in "User Fees" as well as reductions in local tax support from their Cities and/or Counties. The loss of this source of funding would present yet another large obstacle in funding programs and services.

Specifically, Shawnee County Parks & Recreation receives approximately $30,000 from the Alcohol Tax Fund. These funds are used to offset the costs to programs offered by Shawnee County Parks & Recreation, which have little or no income/revenue production yet provide valuable programs that affect the "Quality of Life" of many citizens of Shawnee County. Programs and services likely to be affected by the elimination of funds received from the Alcohol Tax Fund would likely include the Before/After School programs, and summer camp programs. Within Shawnee County, the largest recipient of funding from the Alcohol Tax Fund is the City of Topeka. Parks & Recreation of Topeka would be looking at more than $500,000 loss in funding. The impact on the Topeka/Shawnee County community would be very significant and result in the elimination or reduction of valuable community services.

The Alcohol Tax Fund was created in 1979 and distribution of funds back to the local communities has been a valuable resource to Park and Recreation agencies across the State of Kansas for many years. I realize that the Kansas Legislature is working hard to address the difficult fiscal situation the State is in. But please consider the importance the importance and impact of the programs and services offered by Parks and Recreation agencies and their effect on healthy lifestyles of children, adults, senior citizens and families in our communities.

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MEMORANDUM **May 1, 2009**

To: Senate Assessment and Taxation Committee
From: Chris W. Courtwright, Principal Economist
Re: SB 338 – Disposition of Liquor Drink Tax Revenues

SB 338 would make a number of changes in the disposition of revenue for the liquor drink tax for FY 2010 only. That portion of the tax currently earmarked for distribution to local parks and recreation funds would be diverted to the State General Fund (SGF) throughout FY 2010.

The disposition of revenue provided for under current law would resume in FY 2011.

The liquor drink tax is a 10 percent gross receipts tax that is generally imposed on the sale of alcoholic liquor by clubs, caterers, and other drinking establishments. Under current law, 70 percent of the tax receipts are deposited in the Local Alcoholic Liquor Fund (LALF); 25 percent in the SGF; and 5 percent in the Community Alcoholism and Intoxication Programs Fund.

Governor Sebelius in January proposed diverting the full amount of LALF fund receipts to the SGF as part of her budget and tax recommendations. SB 338 represents a more modest version of that concept by proposing to divert only one third of the LALF receipts to the SGF. SGF receipts would increase by $9.0 million in FY 2010; and LALF receipts would decrease by the same amount.

Relative to the portion deposited in the LALF under current law:

* Cities of more than 6,000 get to keep the full amount of the 70 percent of liquor drink taxes collected from establishments located inside their city limits. The money is subsequently deposited in equal shares into three funds -- city general funds; special parks and recreation funds; and special alcohol and drug programs funds.

*Counties also keep the full 70 percent of the tax collected from clubs, caterers, and drinking establishments located outside city limits. The money is subsequently deposited in equal shares into three funds - county general funds; special parks and recreation funds; and special alcohol and drug programs funds.

*Cities of 6,000 or less get to keep two thirds of the 70 percent (or 46.67 percent); while the remaining one third (23.33 percent) is given to the counties where the small cities are located. The small cities split the money they retain in equal shares for their general funds and special parks and recreation funds. The share of tax collected inside small cities that goes to the counties is required to go to the counties' special alcohol and drug program funds.

SB 338 would make a series of statutory changes designed to assure that for FY 2010 only, the two thirds of LALF receipts earmarked for local general funds and alcohol and drug program funds would still be distributed; but that the one third of LALF receipts earmarked for local parks and recreation funds would be diverted to the SGF. These changes would boost the SGF's effective share of receipts for FY 2010 from 25 percent to 48.33 percent.

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Taxation and Annexation Committee
Hearing on Senate Bill # 338
Testimony of Ernie Shaw, Director of Lawrence Parks and Recreation Department
Friday, May 01, 2009

The elimination of the Special Alcohol Tax as a funding source would severely cripple Lawrence Parks and Recreation Department. Our Parks and Recreation Department depends on this annually appropriated funding, equal to approximately $600,000, to deliver many of our programs and services. A repeal of any funding would create a hardship for the department to continue providing the programs and services to all the demographics we serve, which is everyone in our community –young and old alike. The reduction of $600,000 annually would: 1. Cut the hours of operation at all facilities; 2. Force the closure of some facilities; 3. Eliminate programs and activities; and 4. Eliminate jobs through layoffs. This is only the tip of the iceberg because the impact on our 2010 budget would take the cuts even further.

Targeting parks and recreation isn't the answer. Our agencies across the State of Kansas assist in developing and enhancing the quality of life of a community. One of the major demographics benefiting from parks and recreation is the youth population. Through their participation, youth develop life skills, self esteem, teamwork and confidence – attributes needed to be a productive member of the future workforce. Much of the programming is made available to the under-represented and marginalized, assisting as a part of the safety net of the community, not to mention the life blood for those with special needs who may need additional assistance to participate and fully be integrated into a community.

Plus with the current recession, people are staying closer to home to take part in activities that won't strain their pocketbook. Parks and Recreation agencies provide low-cost, family fun activities, so all families may take part and still be able to pay their monthly food, utilities and shelter bills. Besides eliminating some programs, we would have to increase fees for both access to services and programs.

Public parks and recreation facilities provide safe, environments for all ages. Walking trails, parks and open spaces continue to assist in combating the every growing obesity epidemic plaguing today's society. Maintaining parks and trails, as well as recreation facilities, along with the ever-increasing cost of utilities, parks and recreation agencies continue to be operating in a lean and mean mode, finding ways to be cost efficient and effective in all they do for the community.

Communities have grown to see the Special Alcohol Tax as a viable way to fund their parks and recreation initiatives for the past 30 years. The concept of having a majority of the monies collected from the tax going back into the community in which it was collected to enhance its quality of life only helps the State in the long run. Many parks and recreation agencies operate facilities and venues, which draw populations from surrounding areas and across the state's boarders, bring new dollars to the State economy. A strong and vibrant parks and recreation agency assists in attracting businesses and industry to either start up or relocate to a community. If you eliminate this tax as a funding source, the quality of life of communities will suffer greatly. It will have a long-lasting, negative effect to our city and many cities across the State of Kansas.

Comments on SB 338 from Curt Loupe, Director of Parks and Recreation City of Manhattan, Kansas Ways & Means Committee May 1, 2009

Good Morning and thank you for the opportunity to provide a concrete example of the negative impact of SB 338 in my community, and for other communities across the state.

Manhattan is undergoing intense growing pains associated with the expansion of Fort Riley and the new troops becoming part of our community. One of the greatest needs is to see to the conservation of greenspace and parkland before development for housing takes all available land.

The City of Manhattan secured a donation of 30 acres of parkland with a value of $450,000 from a developer with an awareness of community needs. That land lies adjacent to 40 acres the City is purchasing on contract from that developer to set aside for the future land for park development. This agreement was reached via a very successful public-private partnership

If Senate Bill 338 becomes a reality not only are you removing the sole means our community has for park and recreation improvements, you are also removing the source of funding for the next five years payments to purchase the land. Our contract specifies that all land reverts back to the developer if the City defaults on a payment. We do not have another source for the $60, 000 per year payments.

The City of Manhattan receives nearly $350,000 annually from the Special Alcohol Tax fund. To single Parks and Recreation out to be removed from funding eliminates the source of funding that has brought improvements to people's lives for thirty years. Our community has used these funds as intended, to provide alternatives to the mis-use of alcohol by its citizens through recreational trails, parks, and recreation facilities.

We urge you to continue to provide a high quality of life to all the citizens of Kansas through the maintenance of funding for Special Parks and Recreation via the Alcohol Tax monies. To do otherwise will insure a less healthy and economically-competitive Kansas in the 21st century. Thank you.

Impacts of Alcohol Tax Parks and Recreation Funding for Olathe, Kansas
Kevin Corbett – Olathe Parks and Recreation Director

Annual Funding of Local Parks and Recreation Alcohol Tax - $400,000

Operations

- Currently funds 4 park construction/maintenance positions in the Parks and Recreation Department (34 total park maintenance positions)
- 3 positions have been eliminated in past 12 months due to City budget reductions
- 2010 Parks and Recreation Budget reductions of $440,000

Facilities

Currently funds the Parks and Recreation Department Capital Improvement program repairing and replacing park facilities

- 50+ Parks
- 6 Lakes
- 1300 Acres
- Playgrounds (35)
- Trails (22 miles)
- 4 Pools/Aquatic Center
- 50 Shelters
- 60 sports fields

Alcohol Funds provided funding for award winning Skate Park

Our Philosophy on Budget Reduction Management

Questions to Answer:

How will budget reductions (service levels) affect our residents?
- Front line services take priority

Are service reductions equitable?

Are we providing balance?

What expectations or promises have been made with the community?

Are these reductions sustainable?

Local Parks and Recreation Services and Facilities Are More Critical Now Than Ever!

High Unemployment – Free park access, fishing
Stress Release – Health, fitness, nature
Family Unity – Grant programs to provide reduced or free recreational services

LKM
League of Kansas Municipalities

300 SW 8th Avenue, 00
Topeka, Kansas 66603-3951
Phone: (785) 354-9565
Fax: (785) 354-4186

To: Senate Assessment and Taxation Committee

From: Don Moler, Executive Director

Re: Opposition to SB 338

Date: May 1, 2009

First I would like to thank the Committee for allowing the League to testify today in opposition to SB 338. In a nutshell SB 338 would eliminate $9 million dollars of alcoholic liquor money which has for decades been directed to parks and recreation activities across the State of Kansas. Quite simply, in many small cities across the State of Kansas, this allocation represents 100% of the parks and recreations budget. While we understand there is a significant state budget crises at this time, we believe that the monies have already been taken from local government, and those which are still on the table with proposals to be taken, more than adequately represent a contribution towards this crises by local units of government. The $9 million dollars that is proposed to be taken by SB 338 is a mere drop in the bucket of the state fiscal crises. As a result we would urge you take pity on the parks and recreation programs of local governments in the State of Kansas, and urge you to reject the proposal found in SB 338. I will be happy to answer any questions the committee may have concerning the League's position on this matter.

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KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE ON SB 338

Mr. Chairman and Members of the Committee:

I am offering written testimony in opposition to SB 338.

SB 338 would divert the portion of alcohol tax monies received by counties that is deposited in counties' special parks and recreation funds. The source of these monies is the alcohol tax collected in the unincorporated areas of the state.

In FY 2010, we estimate the loss to be approximately $391,000. Because these monies are appropriated by county commissioners for purposes such as the purchase of playground equipment, improvement of outdoor recreational facilities, and parks, the impact is a reduced ability of counties to maintain these facilities without levying additional property taxes. The economic development of our state depends on attracting and retaining young families and others who enjoy amenities such as playgrounds, softball diamonds, and other outdoor recreational facilities. Kansas is already behind the curve (among states) in providing such facilities to our citizens, and we need to think seriously about investing more, not less, monies in park and outdoor recreational facilities. As a result, we must oppose the diversion of these funds to the State General Fund (SGF).

We would appreciate your consideration of other methods to balance the budget.

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Fax 785•272•3585

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KRPA seeks your continued support of funding from the Alcohol Tax Fund to cities and counties to support a healthy lifestyle for all Kansans.

To Members of the Kansas Legislature

"We hear parks and recreation is not a 'CORE' program, yet in these times when citizens are losing jobs, facing lower wages and facing rising costs we are as 'CORE' as any function in our communities. We are the outlet for so many that turn to us for their affordable physical and mental release in the numerous activities we offer."
- Ernie Shaw, Lawrence Parks and Recreation

"Direct impacts from the loss of the Alcohol Tax Fund will be seen in our ability to provide recreational facilities to meet the demands of the community. Maintaining facilities such as playgrounds in a safe condition will be compromised. Closure of facilities will be considered if funds are not available to meet safety criteria."
- Kevin Corbett, Olathe Parks and Recreation

The Kansas Recreation and Park Association (KRPA) seeks your continued support of funding from the Alcohol Tax Fund to cities and counties.

As you wrestle with the state fiscal situation and the 2010 state budget, we hope that as a member of the Kansas Legislature you will be mindful of the impact the Governor's proposed funding solutions will have in support of your local park and recreation agency.

Specifically, the Governor has proposed the elimination of $27,200,000 to cities and counties from the Alcohol Tax Fund. The Alcohol Tax Fund was created by the legislature in 1979 and the department of revenue sends 70% of it back to the cities/ counties where the alcohol was consumed. It's then split into three equal shares with a portion to the general fund, a portion to a special drug and alcohol program and a share to parks and recreation.

If this funding source is eliminated, citizens in your community may lose free or low-cost facility or programming opportunities that represent their most significant healthy lifestyle resource.

Local park and recreation agencies already face the grim forecast of a significant reduction in tax revenue and fees from existing programs. The loss of the Alcohol Tax Fund dollars, for many agencies, would represent a major budget setback.

The Kansas Recreation and Park Association (KRPA) surveyed local park and recreation agencies in the state to better understand the full impact if this funding is eliminated. Listed in the box to the right are some of the programs and services that are supported by the Alcohol Tax Fund and could be cut in communities across Kansas.

We urge each of you to consider the importance of healthy lifestyles for children, adults, senior citizens and families in your community and look for better solutions to our economic crises.

We fully realize that every member of the Kansas Legislature will be doing his or her best to make what each believes to be the right decision to address the State's fiscal situation. We sincerely appreciate your past and future support, and we would ask your consideration of our interests as you make these important decisions.

Kansas Recreation and Park Association • 700 SW Jackson Street, Ste 805 • Topeka, KS
Doug Vance, Executive Director - 785-235-6533
Pat Lehman, Lobbyist - 785-832-9400
John Knight (Shawnee County), Public Policy Chair - 785-267-1156

Programs/Services Funded In Local Communities by the Alcohol Tax Fund

Impact on Programs/Services (Eliminated or Reduced)
- Youth athletic programs
- Afterschool programs
- Health and fitness classes
- Special population programs
- Open gym times
- Nature Center classes/school field trips
- Youth camp programs
- Summer jobs
- Staff reductions, both full-time and part-time positions

Impact on Facilities (Eliminated or Reduced)
- Hours for public pools and recreation centers
- Closing of nature center
- Accessibility upgrades in park system
- Wetlands construction project
- Playground construction and safety surface installation
- Playground equipment
- Pool renovations
- Needed floor resurfacing of recreation center
- Improvements for youth/adult athletic complex
- Replacement of outdated park equipment
- Trail development in public parks or green space
- Playground equipment
- Making a 40-year-old park ADA compliant
- Cemetery maintenance
- Park restroom repair
- Closure of city pools
- Closure of a community center
- Reduction of capital purchases such as mowers and other park maintenance equipment
- Park landscaping
- Annual erosion control
- Arts and craft programs
- Tennis Court resurfacing
- Fence replacement for youth ball fields
- Downtown landscaping program

Funding to local park and recreation agencies in Kansas cities or counties from the Alcohol Tax Fund

Wichita - $1.3 million
Wyandotte County - $620,000
Lawrence - $596,000
Topeka - $534,000
Olathe - $400,000
Manhattan - $330,000
Ottawa - $87,500
Garden City - $67,000
Johnson County - $26,751
Chanute - $20,000
Baldwin City - $19,000
Hutchinson - $16,000
Abilene - $15,689.53
Merriam - $13,000
Tonganoxie - $12,500
Beloit - $7,169
Ellis - $5,728.25

*Totals represent some of the responses from the KRPA survey, but should not be considered a full list of those local agencies being funded.

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A Stimulus Package You Might Overlook – Parks and Recreation

The phrase "stimulus package" has become a fixture in headlines and on the nightly news in recent months. We suggest there are other types of "stimulus package" concepts that are important to the welfare of Kansas communities.

As one of our members observed: "This cut does not make good business sense. The State is not addressing the sustainability issues. This is a budget trick that only patches a financial shortfall problem."

Specifically, we invite you to take a visit to your local recreation center, youth ball fields or playgrounds, public swimming pool or community park to better understand how these facilities and programs help stimulate healthier minds and bodies, community pride, clean air and water, safe places to play, sensitivity to cultural diversity and stronger family bonds.

These facilities and programs serve to host intergenerational programs that keep our elder population active, and offer interaction between our senior citizens and future generations.

An estimated 9.5 million people enrolled in recreation programs sponsored by local park and recreation agencies in Kansas last year and an estimated 10 million people visited parks, nature centers, botanical centers, historic structures, municipal golf courses or hiked on trails maintained by local agencies.

They offer free or low-cost entertainment and recreational opportunities to our youth, adults, senior citizens and those in the community with disabilities and should be considered essential elements to the vitality of any growing community.

Suffice it to say, they bring forward a meaningful "stimulus package" which deserves and needs the continued funding support offered from the Alcohol Tax Fund.

Viewpoints from local park and recreation directors:

"Alcohol tax funds support 85% of our capital maintenance and equipment budget. Services provided by all divisions of the department will be negatively affected as a direct result of losing this funding source."

"We will no longer be able to fund afterschool programs which provide a safe environment for youth and teens in our community. They have a great impact in our small community."

"This will result in a mill levy increase to the taxpayers."

"Loss of alcohol tax and the machinery and equipment slider revenues will have a dramatic impact on the programs and services our city parks and recreation department can offer to our patrons. Those least able to afford leisure opportunities will be affected the most."

"This is our sole outside revenue source not tied to fees."

"We will have to reduce park maintenance from 21-day mowing rotation to 30 days or longer. It could possibly result in the closure of all city pools and affect summer jobs."

"We anticipate that 2010 will be even more difficult than 2009 and have been told to expect a reduction in tax revenue of nearly $1 million."

Gary Allerheiligen
KSCPA

TALKING POINTS FOR PROPOSED LEGISLATION SB 335

DECOUPLING AS A CONCEPT

- The Internal Revenue Code and Kansas tax statute achieve two results: Providing a revenue source to fund operations and providing tax incentives to influence human behavior and investment of capital
- As a conformity state, Kansas's tax statute is simpler to understand for the taxpaying public
- Decoupling creates a significant hardship on those taxpayers who do not engage a professional tax preparer to complete their income tax returns
- The state's enforcement costs may increase due to the potential increase in errors in returns
- Some tax practitioners may require more sophisticated tax software than they now utilize to prepare Kansas returns
- The cost to prepare the return when conformity is not in place is increased
- The taxpayer's record keeping burden is increased

SECTION 179

- Generally only available to small business given $250,000 ceiling
- Totally phased out upon expending $800,000 for capital equipment
- Expensing deduction is limited to net income from enterprise
- The provision serves as an incentive for small business to acquire capital equipment
- Many Kansas manufactures depend upon small businesses in Kansas to purchase their products, e.g. manufacturers of ag equipment
- A substantial portion of the equipment's cost is recovered in the first two years of the depreciation schedule under normal depreciation methods
- Decoupling will require all business to maintain another set of depreciation schedules to account for the change
- Many buying decisions have already been made in reliance of the deduction being available.
- Significant incremental administrative time and expense will be incurred by Kansas businesses to track the depreciation on the affected assets
- Major manufacturers could re-align their capital expenditures to be made outside of Kansas
- The provision is counter-productive to capital investment in the state of Kansas

SECTION 168(K)

- The principle business activities in Kansas are agriculture, manufacturing, construction and personal services.
- The standard depreciation lives for these industries are:

  Agriculture: 7
  Manufacturing: 7
  Construction: 5
  Vehicles used in business: 5

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- The costs recovered during the first two years using normal depreciation schedules will be approximately equal to the amount claimed if 168(k) is not disregarded
- Repeat administrative issues from 179

SECTION 108(I)

- This is a very narrow provision which will affect few Kansas taxpayers
- We have no way to quantify the benefit to the state except that it totally reverses over the five year period.

NO COMMENTS ON THE SALES TAX ON CARS, TAXATION OF UNEMPLOYMENT BENEFITS OR MODIFICATIONS TO THE EARNED INCOME CREDIT.

SECTION 179 BONUS DEPRECIATION COMPARISON
COMPARATIVE ILLUSTRATION OF $250,000 CAPITAL OUTLAY

YEAR	EXPENSE OPTION	3 YEAR	5 YEAR	7 YEAR
1	250,000	83,325	50,000	35,725
2	-	111,125	80,000	61,225
3	-	37,025	48,000	43,725
4	-	18,525	28,800	31,225
5	-	-	28,800	22,325
6	-	-	14,400	22,325
7	-	-	-	22,300
8	-	-	-	11,150
TOTAL	250,000	250,000	250,000	250,000

SECTION 168(K) DEPRECIATION COMPARISON
COMPARATIVE ILLUSTRATION OF $250,000 CAPITAL OUTLAY

YEAR	3 YEAR WITH 168(K)	3 YEAR WITHOUT 168(K)	5 YEAR WITH 168(K)	5 YEAR WITHOUT 168(K)	7 YEAR WITH 168(K)	7 YEAR WITHOUT 168(K)
1	166,663	83,325	150,000	50,000	142,863	35,725
2	55,563	111,125	40,000	80,000	30,613	61,225
3	18,513	37,025	24,000	48,000	21,863	43,725
4	9,263	18,525	14,400	28,800	15,613	31,225
5	-	-	14,400	28,800	11,163	22,325
6	-	-	7,200	14,400	11,163	22,325
7	-	-	-	-	11,150	22,300
8	-	-	-	-	5,575	11,150
TOTAL	250,000	250,000	250,000	250,000	250,000	250,000