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TO: Senator Les Donovan, Chairman
and Members of the Senate Assessment and Taxation
Committee

FROM: Martha Neu Smith, Executive Director
Kansas Manufactured Housing Association

DATE: March 7, 2012

RE: SB 376 – Concerning taxation; relating to income tax, rates; sales
taxation, exemptions, rates and distribution of revenue and imposition of
tax on certain services; elimination food sales tax refund; local
compensating use tax; duties of secretary of revenue; local property tax
reductions

Chairman Donovan and Members of the Senate Assessment and Taxation Committee, my name is Martha Neu Smith and I am the executive director of the Kansas Manufactured Housing Association (KMHA). KMHA is a statewide trade association representing all facets of the manufactured and modular housing industries (manufacturers, retail centers, manufactured home community owners and operators, service and supplier companies, finance and insurance companies and transport companies) and I appreciate the opportunity to provide comments opposing three provisions in Senate Bill 376.

KMHA opposes the provision of Senate Bill 376 that repeals the sales tax exemption that applies to the purchase of pre-owned or used manufactured housing. In 1985, the Kansas Legislature passed Senate Bill 152, which granted a sales tax exemption for families who purchase a pre-owned manufactured home (K.S.A. 79-3606 (bb)). The rationale for exempting pre-owned homes was based on the fact that when a family buys a pre-owned site built home sales tax is not paid on that purchase. For many years manufactured home buyers were treated unfairly when compared to other homebuyers and Senate Bill 152 corrected that problem.

Sn. Assmnt & Tax

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Attachment # 9

Under the provisions of SB 376, Kansas would once again charge families sales tax on the purchase a pre-owned manufactured home, however, families that purchase a pre-owned site built home would not be charged sales tax.

Then in 1987, Senate Bill 309 was passed by the Kansas Legislature granting a partial sales tax exemption for new manufactured homes. Specifically, 40% of the retail cost of a new manufactured home was exempted from sales tax (K.S.A. 79-3606 (ff)). This partial exemption was passed because site built housing paid sales tax only on the materials used to construct the home and not on labor. Therefore, the 40% exemption for a manufactured home represents the labor in the home.

Finally, K.S.A 79-3606(u) exempts sales tax on leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days. Again, K.S.A. 79-3606(u) was passed to provide equity in the rental housing market by exempting lease agreements of manufactured housing. If you rent an apartment, condominium, duplex, town home or a single family resident you do not pay sales tax on the lease agreement. However, if SB 376 passes, manufactured home lease agreements would be taxable, but the lease agreements of apartments, condominiums, duplexes, townhomes or single family homes would not be taxable.

The current tax policies of the surrounding states are all very similar to Kansas' current sales tax policy on manufactured and mobile home. If Senate Bill 376 passes, Kansas manufactured home buyers would pay significantly more for the same home if purchased in any one of our surrounding states.

While the major thrust behind the passage of Senate Bill 152, Senate Bill 309 and K.S.A. 79-3606 (u) was based on equality between all housing products, the Legislature also recognized that manufactured housing provides quality affordable housing. Our homebuyers are often first time homebuyers, empty nesters and single parent families; either at the beginning of their earning career; or at the end and are now retired and on a fixed income or trying to support a family on a very limited income. Clearly this group of homebuyers cannot afford to bare a larger tax burden.

In closing, I would ask that you consider that with the elimination of these sales tax exemptions, Kansas would be the only one of the surrounding states that would require 100% sales tax on the purchase of a new or pre-owned manufactured home. With regards to the rental of a manufactured or mobile home, these families are probably some of the most vulnerable Kansans and they would be required to pay sales tax on their lease when all other forms of rental housing (apartments, condominiums, duplexes, town homes and single family homes) would not be required to pay sales tax on their rental agreements.

Thank you for your consideration of the Kansas Manufactured Housing Association's opposition to the provisions of SB 376 that eliminate the manufactured housing sales tax exemptions that if eliminated would take Kansas back to tax policy that is discriminatory and inequitable.