

To: Senate Assessment and Taxation Committee  
From: Trey Cocking, Deputy Director  
Date: March 11, 2021  
RE: Written Only Testimony on Neutral Testimony on SB 149

Good Morning Chairwoman and Committee Members and thank you for allowing the League of Kansas Municipalities to offer neutral testimony on Senate Bill 149.

The question in front of you today is whether the correct way to compensate businesses hit hardest by the effects of Covid-19 is through a refund of their county property taxes. We would argue that if compensation is due, a more appropriate avenue would be the constitutional protections of the fifth amendment.

The Constitution provides protections for the appropriation of private property under the Takings Clause. The Takings Clause's protections are rooted in basic fairness: the government cannot appropriate private property for its own use without compensating the owner. The idea being that when something is required for the good of all of us, that the burden should also be borne by all of us. Under a Takings argument, while an owner must be made whole, they are also not entitled to more. The damages owed to any particular business or person is fact specific. One would need to take into account things such actual loss in income, other government aid already received to offset the loss, etc. This is a much more specific way to analyze if compensation is due.

Rather than performing fact specific analysis, the bill in front of you attempts a one size fits all solution by simply refunding county property taxes. While the idea might seem good in concept, all other county property taxpayers will absorb the effect in order to still have necessary public services without any verification that the money being paid out is in proportion to the amount due under a constitutional claim without unjust enrichment.

Finally, I have attached the following chart showing consumer spending in Kansas vs. South Dakota. Kansas, in some areas, has had government mandated limitations impacting businesses, while South Dakota government had few mandates. The purpose of these charts is to show that the analysis is not clear cut on whether the government mandates caused the decrease in business revenue in the restaurant industry or whether the drop was due to capitalism and consumer choice. The charts show that consumer spending dropped in both Kansas and South Dakota, but that South Dakota experienced a greater drop in spending than in Kansas in restaurant and hospitality spending even though South Dakota experienced no state mandated closures.

### Percent Change in All Consumer Spending\*

In **South Dakota**, as of **January 24, 2021**, restaurant and hotel spending by all consumers **decreased by 29.9%** compared to January 2020.



\*Change in average consumer credit and debit card spending, indexed to January 4-31, 2020 and seasonally adjusted. The dashed segment of the line is provisional data, which may be subject to non-negligible revisions as newer data is posted. This series is based on data from Affinity Solutions.

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We encourage the committee as it looks at this legislation to look holistically at this issue and review programs that have already been made available to those hit the hardest by Covid-19, and consider if this is the best way to compensate businesses for their role in helping slow the spread or if this bill will disproportionately hurt public safety and it is more appropriate for these claims to be evaluated on a case-by-case basis.