

Approved: Jan 17, 1995
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on January 10, 1995 in Room 519-S of the Capitol.

Members present:

Senator Audrey Langworthy, Senator David Corbin, Senator Phil Martin, Senator Richard Bond, Senator Stan Clark, Senator Paul Feleciano, Jr., Senator Janice Hardenburger, Senator Janice Lee, Senator Marian Reynolds, Senator Don Sallee and Senator Bill Wisdom.

Committee staff present:

Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Secretary to the Committee

Conferees appearing before the committee:

Chris Courtwright, Legislative Research Department
Bob Corkins, KCCI
Bob Totten, Kansas Contractors Association
Don Seifert, City of Olathe
Charles Warren, Kansas, Inc.

Others attending: See attached list

SB 14: Sales tax exemption for original construction labor services

Chris Courtwright, Research Department, reviewed the bill for the committee, stating **SB 14** would repeal the 2.5% tax on original construction labor services on March 1, 1995. (Attachment 1) This fund was originally scheduled to be used for school finance.

In answer to questions from the committee if the loss of the income would be included in the budget, it was stated this was a high priority of the Governor and as such it was anticipated it would be projected in the budget. The effective date of March 1, 1995 was also requested by the Governor.

Chris Courtwright stated the cost of the 2.5% tax on original construction for fiscal year 1996 would be approximately \$18 million. A question was raised if an amount was known what the state has paid to state contractors and the answer \$2.5 to \$3 million dollars was paid by KDOT.

Proponents

Bob Corkins, KCCI, addressed the committee as a proponent for **SB 14**. He also spoke on the behalf of the Kansas Industrial Developers Association and the Construction Tax Repeal Coalition. (Attachment 2) He requested favorable action on the bill. The new Governor has repeatedly voiced his desire to see the tax eliminated. Mr. Corkins briefly discussed his reasons for the repeal of the sales tax on original construction labor services. He also said it has been a difficult tax to administer and enforce.

Mr. Corkins was questioned about a survey of the members of KCCI and if it included urban and rural areas and he stated their members were from all over the state. He also said that a questionnaire mailed to the members did not ask about remodeling. Senator Bond stated 1994 construction in Johnson County was down about 2% and in Wyandotte County, it was down 34% while in Missouri the construction was up from 11% in one area to 15% in another.

Bob Totten, Kansas Contractors Association, said he represents more than 330 firms in the Kansas construction industry. (Attachment 3) He said he was here to reaffirm their support to remove the 2.5% sales tax on labor involved in the construction of roads and highways in Kansas. It has not only caused more paperwork for contractors but also more work for the Department of Revenue to collect the tax. Because of rulings by the Board of Tax Appeals, contractors have to be experts on what is taxed and at what rate it should be taxed. He also stated subcontractors are affected differently than prime contractors. He explained why the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on January 10, 1995.

tax has hurt many subcontractors. He also stated this tax has raised the price of highway projects for the state. He urged the committee to be aware of the impact of the repeal of the tax on the state's highway fund. It will lose about \$2.2 million a year and he asked this money be put back into the highway fund as it was set out in the highway program in 1989.

Karen France, Kansas Association of Realtors, did not appear, but a handout was given to the committee. (Attachment 4) She urged the committee to pass this bill favorably as soon as possible.

Don Seifert, City of Olathe, added his community's support for **SB 14**. (Attachment 5) He reminded the committee that Olathe had adopted a charter ordinance exempting new construction labor services from application of the city's local 1% sales tax. Subsequently, the city was advised that the Department of Revenue would not honor this ordinance. The city of Olathe believes this tax has a negative impact on the state's competitive climate and places a burden on a vital industry in their area.

Charles Warren, President, Kansas Inc., spoke briefly and said the bill has affected Kansas' competitiveness as a location for business and for residential development. (Attachment 6) He made two statements: (1) This tax has affected affordable housing that is important over all the state; (2) and has added to the cost of housing. He spoke of cities in Kansas where businesses did not locate because of the lack of housing. He urged the committee to repeal the sales tax on labor services for original construction.

Questions were raised about the tax on remodeling and if there is any data on the cost in taxes. Senator Langworthy said the issue of taxes on labor services for original construction has been studied for the past three years but no study has been done on remodeling.

Senator Bond made a motion to pass favorably **SB 14**. The motion was seconded by Senator Hardenburger.

Senator Martin made a motion to amend the bill to include the repeal of taxes on remodeling. The motion was seconded by Senator Lee.

Senator Langworthy asked two questions regarding this amendment. (1.) How do you define remodeling; (2) and what is the fiscal note on this amendment?

There was a discussion of the cost being \$25 million per year with \$12 million on residential. Several members did not agree with these figures. Senator Langworthy said she would be happy to hold a hearing on the repeal of the tax on remodeling.

The vote was taken on the amendment of Senator Martins'. The motion failed.

Senator Martin made a motion to amend the bill to include the repeal of taxes on residential remodeling. The motion was seconded by Senator Lee.

A statement was made by a committee member that this was premature to do this. There was also a question if this included tenant remodeling, for example, of 500 garden units. It was stated the committee needs to know a lot more about this subject.

The vote was taken on the second amendment of Senator Martins'. The motion failed.

The vote was taken on the original motion to pass favorably **SB 14**. The motion carried.

Staff was instructed to draft a bill to effect only the repeal of the sales tax on residential remodeling.

The meeting adjourned at 12:20 p.m.

The next meeting is scheduled for January 12, 1995.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: January 9th, 1995

NAME	REPRESENTING
Tom Slattery	AGC of KS
Bob Totten	KCA Totten
Byrd Smood	HBKC
Art Brown	mid-Am Lumbermen Ass'n
Julie Hein	Hein, Ebert & LeJair
George Barber	Barber & Assoc.
Dan Morgan	The Builders' Association
Glenn Coulter	Ks. Good Roads Assn.
Ed De Signie	Heavy Constructors Assoc.
Bob Totten	Ks Contractors Association
Bob Corkins	Ks Chamber of Commerce & Ind.
Gerrey Ray	Johanson Co Equip City of Overland Park
KEVIN T. STAMPER	INTERM - SEN. MORAN
MARIE CORDILLO	KDOR
Steve Stotts	"
Don Holmes	Division of the Budget
m Janel	AP

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: Jan 10, 1995

NAME	REPRESENTING
Anne Spiess	Ks. Assoc. of Counties
Alan STEPPAT	PETE McGill & Assoc.
Trudy Racine	KDOT
Jim Newnam	KS Governmental Affairs
Charles Warren	Kansas INC.
Don Seibert	City of Olathe
Bob Weimister	Kansas Industrial Develop. Assn
Steve Goodhue	Olathe Chamber of Commerce
Janey Green	OP Chamber
Danielle Nee	KCUA
M. Hoover	Hoover's Capital Report
Janet Stubbs	Kansas Bldg. Ind. Assn
Christy Young	Topeka Chamber of Commerce
Tom RIEDORER	LEXATA CHAMBER OF COMMERCE
Bernie Koch	Wichita Area Chamber of Commerce
Bill Jarell	BOEING
Kate Quinlty	Legislative Assistant to Stanton Bond
Roger Frazer	Ks Gov. Consulting
William L. Mitchell	Kansas Land Title ASSN

TO: Sen Audrey Langworthy
 FROM: Chris W. Courtwright, Principal Analyst
 RE: Fiscal Note for Repeal of Tax on Original Construction Labor Services

This memo is in response to your request for the fiscal note on repealing the 2.5 percent tax on original construction labor services effective March 1. The impact on receipts to the SGF and State Highway Fund (SHF) is as follows:

(\$ in thousands)

	<u>SGF</u>	<u>SHF</u>	<u>Total</u>
FY 1995	(\$4,200)	(\$226)	(\$4,426)
FY 1996	(\$17,455)	(\$938)	(\$18,393)
FY 1997	(\$18,153)	(\$976)	(\$19,129)
Cumulative thru FY 97	(\$39,808)	(\$2,140)	(\$41,948)

You also will recall that any reduction in SGF sales tax receipts also will cause a reduction in demand transfers to the Local Ad Valorem Tax Reduction Fund (LAVTRF), County and City Revenue Sharing Fund (CCRSF), and the SHF.

	* * * Demand Transfers * * *			SGF	SGF
	<u>LAVTRF</u>	<u>CCRSF</u>	<u>SHF</u>	<u>Initial F Note</u>	<u>After all Transfers</u>
FY 1995	(\$235)	\$0	\$0	(\$4,200)	(\$3,965)
FY 1996	(\$558)	(\$365)	(\$1,319)	(\$17,455)	(\$15,213)
FY 1997	(\$659)	(\$503)	(\$1,372)	(\$18,153)	(\$15,619)
thru fy 97	(\$1,452)	(\$868)	(\$2,691)	(\$39,808)	(\$34,797)

The net fiscal note to the SHF, which would be comprised of the 5/98 of all sales tax receipts directly deposited thereto plus the reduction in the demand transfer, would be as follows:

	<u>SHF</u>	<u>SHF</u>	<u>SHF</u>
	<u>Initial F Note</u>	<u>Demand Transfer</u>	<u>Net</u>
FY 1995	(\$226)	\$0	(\$226)
FY 1996	(\$938)	(\$1,319)	(\$2,257)
FY 1997	(\$976)	(\$1,372)	(\$2,348)
thru fy 97	(\$2,140)	(\$2,691)	(\$4,831)

I have attached copies of some memoranda with additional detail regarding the history of the fiscal note on original construction labor services. If you have any further questions, please let me know.

Senate Assess + Tax
Jan 10, 1995
 1-1

ATTACHMENT 1

MEMORANDUM

Kansas Legislative Research Department

300 S.W. 10th Avenue
Room 545-N - Statehouse
Topeka, Kansas 66612-1504
Telephone (913) 296-3181 FAX (913) 296-3824

August 5, 1994

To: House Committee on Taxation and Senate Committee on Assessment and Taxation

From: Chris W. Courtwright, Principal Analyst

Re: Sales Tax on Original Construction Labor Services

The purpose of this memo is to update Committee members as to the latest information on the amount of receipts from the 2.5 percent sales tax on original construction labor services. The committees have, of course, spent considerable time since 1992 discussing the labor services sales tax receipts and the potential fiscal note for repealing the tax.

According to the Kansas Department of Revenue, FY 1994 labor services receipts ended up at \$10.7 million. The State General Fund (SGF) received about \$10.2 million of the total. (Sales and use taxes are deposited based on a split of 93/98 to the SGF and 5/98 to the State Highway Fund.) The Consensus Estimating Group in April had estimated the FY 1994 SGF figure to be \$12 million.

The Consensus Group also forecast in April that FY 1995 SGF receipts would grow to \$20 million, due in part to increased compliance.

Total receipts in FY 1993, the first year of the tax, were only \$4.4 million. Of this amount, the SGF received about \$4.2 million.

The growth in receipts from FY 1993 to FY 1994 is believed to be due to several factors:

1. the underestimation of the impact on FY 1993 receipts of a grandfather clause in the implementing legislation that exempted labor services rendered in connection with contracts entered into prior to May 15, 1992;
2. low interest rates throughout much of FY 1994; and
3. increased compliance.



RICHARD YAN,
DIRECTOR
BEN F. BARRETT,
ASSOCIATE DIRECTOR
ALAN D. CONROY,
CHIEF FISCAL ANALYST

STAFF—
LEGISLATIVE COORDINATING COUNCIL
INTERIM COMMITTEES
STANDING COMMITTEES
LEGISLATIVE INQUIRIES

THE LEGISLATIVE RESEARCH DEPARTMENT

300 W. TENTH—ROOM 545-N
PHONE: (913) 296-3181/FAX: (913) 296-3824
TOPEKA, KANSAS 66612-1504

November 22, 1994

Dear

This letter is in response to your request for information on the fiscal notes associated with the repeal of the 2.5 percent sales tax on original construction labor services and on utilities consumed in the production or manufacture of tangible personal property.

Original Construction

As you will recall from my memo dated August 5, the Consensus Estimating Group in April, 1994 had estimated SGF receipts from this source to be \$12 million for FY 1994 and \$20 million for FY 1995. According to the Department of Revenue, actual FY 1994 receipts were \$10.7 million — \$10.2 million deposited in the SGF and \$0.5 million in the State Highway Fund (SHF).

Receipts in FY 1993, the first year of the tax, were \$4.4 million — \$4.2 million deposited in the SGF and \$0.2 million in the SHF. (For additional details on the Consensus Group's estimate and on the growth in receipts, see Attachment 1.)

The Consensus Group in November did not explicitly mention any change in the estimate for FY 1995 or make any estimate for FY 1996 receipts attributable to original construction labor services.

According to the Department of Revenue, receipts through the first three months of FY 1995 — \$3.618 million total and \$3.433 million to the SGF — were 65.28 percent above receipts from the first three months of FY 1994. (Receipts from this tax through October are not yet available, but they should be shortly.) Applying a 65 percent growth rate to the \$10.2 million in FY 1994 SGF receipts would suggest an FY 1995 SGF estimate of about \$16.8 million. (Since FY 1994 receipts came in at 85 percent of what the estimate was in April, another way of looking at FY 1995 would be to assume that receipts would again come in at 85 percent of what was assumed in April. This methodology would reduce the Consensus Group's \$20 million FY 1995 SGF estimate to \$17 million.)

If the 1995 Legislature were to repeal this tax effective July 1, the fiscal note, of course, would have to be based on what receipts would be in FY 1996. One way to project FY 1996 receipts would be to take the 3.9 percent overall growth in sales tax receipts from FY 1995 to FY 1996 forecast by the Consensus Group and apply that growth rate to the \$16.8 million FY 1995 SGF number to derive an annualized SGF estimate for FY 1996 of approximately \$17.5 million. If the tax were to be repealed July 1, this number would need to be

reduced slightly to account for the lag in sales tax collections. The annualized FY 1996 fiscal note for the SHF would be about \$0.8 million, making the total impact \$18.3 million.

Utilities Consumed

The Consensus Group has never specifically made an estimate of receipts from this source. The latest estimate supplied by the Department of Revenue was that repeal of this 2.5 percent tax would reduce receipts by about \$16.5 million annually. This fiscal note also was split 93/98 to the SGF and 5/98 to the SHF, leaving estimates of \$15.7 million and \$0.8 million, respectively.

Actual FY 1994 receipts from this source were \$13.9 million -- \$13.2 million deposited in the SGF and \$0.7 million in the SHF.

Receipts in FY 1995 from this source were expected to be reduced by about \$2.0 million because of the enactment of 1994 S.B. 447, which exempted utilities consumed in the severing of oil. Making this adjustment to the FY 1994 tax base would leave total receipts of \$11.9 million. Growing the FY 1995 receipts by 5.5 percent (overall sales tax receipts growth forecast by Consensus Group) and the FY 1996 receipts by 3.9 percent would yield estimates of \$12.6 million for FY 1995 and \$13.0 million for FY 1996.

These aggregate amounts again would need to be split 93/98 and 5/98 to the SGF and the SHF. So the \$13.0 million FY 1996 estimate would mean a fiscal note of \$12.4 million to the SGF and about \$0.7 million to the SHF.

Receipts from this source for the first three months of FY 1995 were down 9.3 percent from the same three months of FY 1994, but remember that receipts are expected to decline because of the impact of S.B. 447.

Impact on Demand Transfers

The SGF and SHF fiscal notes discussed in this memo apply only to the daily sales tax receipts deposited in those funds. As you know, various percentages of sales tax receipts that reach the SGF are earmarked for subsequent transfer to the LAVTRF, CCRSF, and the SHF. All three of these demand transfers ultimately would experience a reduction in receipts attributable to the drop in SGF sales tax receipts.

I hope this information is useful to you. If you have any further questions, please let me know.

Sincerely,

Chris W. Courtwright
Principal Analyst

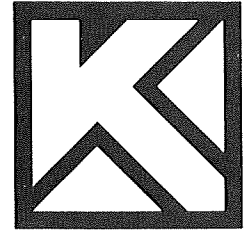
CWC/jl

Enclosure

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LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 14

January 10, 1995

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Assessment and Taxation

by
Bob Corkins
Director of Taxation

Madam Chair and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry, and I appreciate the opportunity to again express our members persistent support for the full repeal of Kansas' sales tax on original construction labor services. I also speak today on behalf of the Kansas Industrial Developers Association and the Construction Tax Repeal Coalition whose members -- including KCCI -- are listed on the attached sheet.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

*Senate Assess + Tax
Jan 10, 1995
2-1*

KCCI opposed the creation of this tax in 1992 and has successfully assisted in persuading the Legislature to repeal it on two occasions since that time. In fact, you will probably recall that this chamber of the Legislature approved the repeal of the construction tax again last year. We again ask for your favorable action on this issue. Governor Graves has repeatedly voiced his desire to see the tax eliminated and, consequently, we see no remaining insurmountable obstacle to that goal.

I will briefly discuss the rationale for repealing the sales tax on original construction labor services.

*It harms Kansas job growth. If Kansas construction job growth over the last three years had followed the pattern of our neighboring states which do not impose this tax, Kansas today would have thousands more people employed in this industry.

*Lost job growth means lost tax revenue. If Kansas had met the regional average for construction job growth over the last two years, those extra jobs would have generated at least \$4 million in additional state income and sales taxes.

*Residential construction growth has slowed. As measured by the value of building permits issued, Missouri, Nebraska, Oklahoma and Colorado (which do not impose the tax) have experienced growth at least five times the rate of Kansas since 1992.

Furthermore, it has been a difficult tax to administer and enforce, its state tax revenue projections have always been substantially overstated, it has added millions to the cost of the State Comprehensive Highway Program, and the extent of property tax relief experienced since 1992 (a primary motivation for the creation of this sales tax) has not offset the cost of this tax to a great many businesses.

Many contend that this rationale applies equally to the Kansas sales tax on remodeling construction services. There is merit to the repeal of the remodeling tax and KCCI, for one, would support that cause. However, several policy considerations distinguish the market effects of these two taxes and clearly point toward repealing the tax on original construction services as a higher priority.

For example, the tax on remodeling projects: 1) does not present the administrative difficulties associated with the original construction tax; 2) has not caused the loss of jobs such as

those attributable to the original construction tax; 3) is typically financed (if, in fact, any portion of the project is to be financed) with the equity in the building to be remodeled; 4) is typically imposed on projects of a much lower cost than original construction; and 5) is much less likely to affect the multi-state location decisions of prospective businesses.

For these reasons, we respectfully ask your support for the bill before you today. Thank you for your time and consideration.

Testimony Presented to the
House Taxation Committee
January 10, 1995
by
Rod Weinmeister, President
Kansas Industrial Developers Association

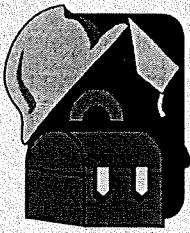
The Kansas Industrial Developers Association's responsibility is to help the professional skills of full- and part-time economic developers across Kansas, while also providing input on legislative issues that have an impact on jobs and business creation in Kansas.

We support the repeal of the sales tax on new construction. This action by the committee will enhance our ability to be competitive in the attraction of companies to locate and expand in Kansas and, thereby, add new capital investment and create jobs.

In addition, repeal of the sales tax on new construction will help ease a serious housing shortage in our state. Companies who are considering Kansas as a location for a new facility or an existing Kansas company, who is interested in expanding, are forced to look at other states or leave Kansas to fulfill their expansion requirements due to a lack of adequate and affordable housing for the new families to live.

Again, repeal of the sales tax on construction will enhance the state's capability to attract new jobs and increase capital investment, thereby, spreading the tax base and strengthening the Kansas economy.

*Senate Assess + Tax
Jan 10, 1995
2-4*



Construction Tax Repeal Coalition

800 S.W. JACKSON, SUITE 808, TOPEKA, KANSAS 66612 • (913) 233-0016 • FAX (913) 234-3687

American Institute of Architects in Kansas
Associated General Contractors of Kansas
Associated General Contractors, Kansas City Chapter
Atchison Area Chamber of Commerce
Blue Valley U.S.D. 229
City of Lenexa
City of Olathe
City of Overland Park
Coalition of Kansas Appraisers
Commercial Property Association of Kansas
Dodge City Area Chamber of Commerce
Electric Association of Missouri and Kansas
Finney County Economic Development Corporation
Garden City Area Chamber of Commerce
Greater Kansas City Building and Construction Trades Council
Greater Kansas City Chamber of Commerce
Greater Topeka Chamber of Commerce
Heartland Apartment Association
Heavy Constructors Association of Greater Kansas City Area
Home Builders Association of Greater Kansas City
Johnson County Board of Realtors
Johnson County Partnership for Economic Development
Johnson County Water District No. 1
Kansas AFL-CIO
Kansas Aggregate Producers Association
Kansas Asphalt Pavement Association
Kansas Association of Realtors
Kansas Building Industry Association
Kansas Cement Council
Kansas Chamber of Commerce and Industry
Kansas City, KS Chamber of Commerce
Kansas Consulting Engineers
Kansas Contractors Association
Kansas Good Roads Association
Kansas Industrial Developers Association
Kansas Land Improvement Contractors Association
Kansas Land Title Association
Kansas Plumbing, Heating, Cooling Contractors Association, Inc.
Kansas Ready-Mixed Concrete Association
Kansas Society of Land Surveying
Kansas State Building and Construction Trades Council
Kansas/Nebraska League of Savings Institutions
Labor-Management Council of Greater Kansas City
Lenexa Chamber of Commerce
Mechanical Contractors Association (Kansas City)
Mechanical Contractors Association of Kansas
Merriam Chamber of Commerce
Mid-America Lumbermens Association
National Electrical Contractors Association of Greater Kansas City
National Electrical Contractors Association, Kansas Chapter
Olathe Area Chamber of Commerce
Overland Park Chamber of Commerce
Painting and Decorating Contractors Association, Kansas City Chapter
Shawnee Area Chamber of Commerce
Sheet Metal and Air Conditioning Contractors/National Association, KC Chapter
The Builders' Association
Topeka Board of Realtors
Topeka Home Builders Association
Wichita Area Builders Association
Wichita Area Chamber of Commerce
Wichita Independent Business Association

"AN ALLIANCE OF TRADE, ECONOMIC DEVELOPMENT AND OTHER ORGANIZATIONS DEDICATED TO INCREASING KANSAS JOBS BY REPEALING THE STATE GROSS RECEIPTS TAX (SALES TAX) ON ORIGINAL CONSTRUCTION LABOR SERVICES."

THE KANSAS CONTRACTORS ASSOCIATION, INC.



316 SW 33RD ST PO BOX 5061
TOPEKA KS 66605-0061
PHONE (913) 266-4152
FAX (913) 266-6191

TESTIMONY

BY THE KANSAS CONTRACTORS ASSOCIATION
BEFORE THE SENATE ASSESSMENT AND TAXATION COMMITTEE
REGARDING
SALES TAX ON ORIGINAL CONSTRUCTION

Madam Chair and members of the Senate Assessment and Taxation Committee, I want to thank you for allowing me the opportunity to appear before you this morning to discuss the sales tax on labor involving original construction.

My name is Bob Totten and I am the Public Affairs Director for the Kansas Contractors Association. Our Association represents more than 330 heavy, highway and municipal utility contractor and associate member firms in the Kansas construction industry.

I am here again today to reaffirm our support to remove the 2 and a half percent sales tax on the labor involved in the construction of roads and highways in Kansas. This tax was imposed several years ago as part of the School Finance Bill. I believe it was inadvertently added to the school finance measure when it was passed.

*Senate Assess + Tax
Jan 11, 1995
3-1*

This tax has caused additional paperwork for our contractors and more work for the Revenue Department to collect it. There has been confusion through the course of this tax on what is taxed and what is not. For example, in the department's interpretation, materials are charged at 4.9 percent and labor is taxed at 2.5 percent. In addition, the Board of Tax Appeals has ruled, the excavation of dirt is non-taxable. As you can tell, contractors have to become experts on exactly which work was done when and by whom and what rate it is should be taxed.

Secondly, sub-contractors are affected differently than prime contractors. Prime contractors who contract with the state are not affected by this tax since the state can not impose a tax on itself...however for sub contractors it is a different story. When they submit a bid or bill to a prime contractor, they must include the sales tax on labor. For a 4 million dollar job that amounts to \$100,000 in tax. If you are a prime contractor and can do the work yourself, it means you will decide to do the job with your own company instead of subbing the work to another contractor. Because of this tax, several of our contractors have been severely hurt.

This tax has also raised the price a highway project costs the state...since in most instances there are about 16 sub contractors on a job. That means each sub contractor has added the 2.5 percent sales tax on labor on its prices. That is added to the prime contractor's bid he submits to the state.

What this means is it actually lowers the amount of work the Kansas Department of Transportation may let because the prices are artificially inflated due to this tax. What it has done is move money designated for the construction of roads and highways and through this tax put it in the state's general fund. I don't believe that is what was in mind when the highway program was passed in 1989.

Speaking of the highway program, we must be aware of the impact the repeal of this tax will mean to the state's highway fund. If this tax is abolished, the state highway fund will lose about 2.2 million dollars a year through the demand transfer formula.

When the tax was passed, the highway fund received no additional benefit due to the increase in the size of the general fund. So when this tax is abolished, I urge you to make the highway fund again hold harmless so that the highway funds stay intact as they set out in the passage of highway program in 1989.

Again, I appreciate the opportunity to talk to you about this matter today and urge you to abolish the tax and make the appropriate changes so the highway program is held harmless. I will be glad to answer any questions you might have.



Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611-2098
Telephone 913/267-3610
Fax 913/267-1867

TO: THE SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS

DATE: JANUARY 10, 1995

SUBJECT: REPEAL OF THE SALES TAX ON LABOR USED
IN NEW CONSTRUCTION

Thank you for the opportunity to submit written testimony. I apologize for not being present to testify in person. However, our Association is having meetings at the same time that you are meeting. The Kansas Association of REALTORS strongly supports the repeal of the sales tax on new construction labor.

As we have testified many times, we believe that placing a sales tax on new construction is a self-defeating effort on the part of the state of Kansas.

During the last recessionary cycle which the country experienced, one of the "signs of recovery" which the economists were all looking for was whether the number of new building permits was increasing. New home construction is considered to be one of the leading economic indicators which economists use to predict upturns and downturns in our economy.

If new home construction is an industry which historically leads the economy out of a recession, why would the state of Kansas want to do anything which will hamper that industry? How could it be justified that increasing up-front costs of a new home would somehow be good for our economy? How could the state justify running jobs out of the state at a time when we are losing a critical number of jobs in other industries?

While the true impact of the sales tax might have been blurred by the history-making low interest rates of 1994, those days have now passed, and interest rates are on the rise. The market has already started to tighten up and we do not need any factor to deter builders from building in Kansas or new home buyers from buying.

We thank you for taking this issue up as a first priority of the committee. We urge you to pass this bill out favorably as soon as possible to put Kansas on an equal footing with other states when it comes to competing for business which makes the economy move.

Thank you again for the opportunity to present written testimony.

Senate Assess + Tax
Jan 10, 1995
4-1



MEMORANDUM

TO: Members of the Senate Assessment and Taxation Committee
FROM: Don Seifert, Management Services Director *MS*
SUBJECT: SB ____ - Sales Tax; Labor Services in New Construction
DATE: January 10, 1995

On behalf of the Olathe City Council, I wish to add our community's support for this bill that would repeal the 2.5% sales tax on labor services in new construction imposed by the 1992 Legislature. The city believes this tax has a negative impact on the state's competitive climate, places an onerous burden on a vital industry in our area, creates disincentives to using Kansas labor, and has proven to be an administrative nightmare. In addition, the tax has fallen far short of revenue projections, further emphasizing the difficulties with compliance and collection.

As the Committee knows, with addition of local sales taxes, the 2.5% rate imposed by this tax is actually 4.1% in our community. The total rate is even higher in some places in Kansas. In an effort to send a positive message to the construction industry, in October, 1992 the Olathe City Council adopted a charter ordinance exempting new construction labor services from application of the city's local 1% sales tax. We were subsequently advised that the Department of Revenue would not honor the ordinance. Since the tax has so many negative implications, and is not raising its intended revenue, the city strongly supports its repeal.

Thank you very much for the opportunity to comment on this bill. We urge the Committee to recommend it favorably for passage.

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**Senate Committee on Assessments and Taxation
January 10, 1995**

**Testimony of
Charles R. Warren, Ph.D., President, Kansas, Inc.**

Repeal of the Sales Tax on Construction

The Kansas, Inc. Board of Directors has taken a formal position in support of the repeal of the tax on labor services for original construction. This tax was enacted at the midnight hour in 1992 as part of the school finance reform package. It is a disincentive to economic development. It was and remains today an unwise tax that has produced little revenue to the state, especially compared to the economic harm it has caused.

The tax affects our competitiveness as a location for business and for residential development. It affects those areas of the state that operate in a bi-state economic region, but it also affects all communities in Kansas. There are two major challenges for almost all Kansas communities seeking economic stability and growth. One is the availability of skilled labor, and the second is the availability of affordable housing. These issues override almost all other concerns in community economic development.

A sales tax on new construction adds further costs to the price of housing. Housing construction costs are already excessive given the increases in interest rates we have seen in 1994 and are likely to continue to see in 1995. Lumber prices are rising, as are the cost of other building materials. The state should not add its own cost barriers to the development of new housing.

In February 1993, Kansas, Inc. convened a group of experts to estimate the fiscal implications of the tax on construction. We predicted then that the revenues would approximate \$9 million in FY 1994. The actual revenues were \$10.7 million. A portion of that was paid by state and local government. The revenue gain from this sales tax is not sufficient to merit its retention, in light of the damage it does to our competitiveness and to the construction industry of Kansas -- a major source of employment and economic stimulus.

On behalf of the Board of Directors of Kansas, Inc., I urge the committee to repeal the sales tax on labor services for original construction.

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