Approved: April 1, 2011

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 3:31 p.m. on March 14, 2011, in Room 783 of the Docking State Office Building.

All members were present except:
Representative Schwab-excused

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
Michael Wales, Kansas Legislative Research Department
Marla Morris, Committee Assistant
Allen Jeffus, Office Assistant

Conferees appearing before the Committee:
Senator Terry Bruce, 34th District
Senator Ty Masterson, 16th District
Kent Eckles, The Kansas Chamber
Daniel Murray, National Federation of Independent Business (NFIB)
Derrick Sontag, Americans for Prosperity
Jason Watkins, Wichita Metro Chamber of Commerce
Bernie Koch, Kansas Economic Progress Council

Conferees providing written-only testimony:
Jennifer Bruning, Overland Park Chamber of Commerce

Others attending:
See attached list.

Bill Introductions:

Representative Hayzlett moved to introduce a bill dealing with wind towers, guy wires and the risk to aeriel spray airplanes. The motion was seconded by Representative Powell and the motion carried.

Chairman Carlson opened the hearing on **HB 2381-Reduction to state income tax rates based on selected actual state general fund receipt computations, and sales tax rates and distribution.**

Chris Courtwright briefed the Committee on the bill, and circulated a written explanatory note on **HB 2381** (Attachment 1). **HB 2381**, the March to Economic Growth Act (MEGA), would provide for reductions in individual and corporation income tax rates beginning in the tax year 2012 based on the extent to which a certain specified group of State General Fund (SGF) tax sources have increased over the base year of FY 2010. The bill also would permanently freeze the sales and compensating use tax rate at 6.3 percent. Mr. Courtwright discussed the income tax rate rollback provisions and sales tax rate increase provisions provided in the bill. He stood for questions.

Senator Terry Bruce, 34th District, spoke in support of **HB 2381** explaining "why" this type of tax policy is needed (Attachment 2). This bill is similar to legislation being considered in the Senate Assessment and Taxation Committee via Senate Substitute for **SB 95**, and Senator Bruce addressed those similarities. His testimony provided a compilation of IRS data showing a trend from high income tax states to those with no income tax. In closing, he stated Kansas has to become more competitive in order to grow business and create jobs.

Senator Ty Masterson, 16th District, spoke in support of **HB 2381** and explained the "how" of this bill, by addressing the fundamental formula that shifts taxpayers away from a personal income tax to a broader and fairer basis. The formula, in a simplistic written form: if the most currently concluded fiscal year actual receipts, in totaled income and excise taxes, are greater than the immediately preceding fiscal year actual receipts in the same categories; then the income tax rates applied to the following calendar year will be reduced by the calculated percentage of receipt growth calculated from the base fiscal year (FY2010) actual receipts to the most currently concluded fiscal year actual receipts (Attachment 3). He

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

stood for questions.

Kent Eckles, The Kansas Chamber, testified in support of **HB 2381**. A poll of 300 businesses shows 49% want lower taxes on business. The Chamber wants Kansas to grow economically and ultimately generate more tax receipts. By lowering the right mix of taxes that presently discourage capital investment and job creation, the state can certainly grow its way out of this economic downturn and further insulate itself from future recessions (Attachment 4). He urged the committee to pass favorably **HB 2381**.

Daniel Murray, National Federation of Independent Business (NFIB), testified in support of the bill. Stating, taxes matter to small business, and Kansas must improve its tax climate (Attachment 5). The proposal in **HB 2381** to "buy down" individual income tax levels as Kansas experiences growth will most certainly help our small businesses grow and compete. He stood for questions.

Derrick Sontag, Americans for Prosperity, testified in support of **HB 2381**, which would allow for reductions in the individual and corporate income tax rates dependent upon growth in tax receipts. His testimony offered a chart indicating some of Kansas' tax rates compared to neighboring states, indicating the current Kansas tax environment is uncompetitive. Another chart presented sales tax revenue comparisons between Kansas and Oklahoma (Attachment 6). He stood for questions.

Jason Watkins, Wichita Metro Chamber of Commerce, testified in support of **HB 2381**. The Chamber sees this legislation as a way to make Kansas a more competitive and productive business environment through a more reliable and efficient tax structure (Attachment 7). The Wichita Metro Chamber believes policy makers should strive to create a system of taxation and economic policy that creates economic vitality while also providing the necessary funding for state government, **HB 2381** accomplishes this goal. He stood for questions.

Bernie Koch, Kansas Economic Progress Council, spoke in opposition to **HB 2381**. The Council is concerned that narrowing the revenue base makes us more vulnerable to fluctuations that can be especially harmful during economic hard times (Attachment 8). He urged committee to take a broader view of what impacts an economy and delay action on **HB 2381**. He stood for questions.

The Chairman directed the Committee to the written-only testimony in opposition to **HB 2381** from Jennifer Bruning, Overland Park Chamber of Commerce (Attachment 9).

Chairman Carlson closed the hearing on **HB 2381**.

Discussion and action on:

SB 61 - Increasing income tax credit for contributions made by program contributors under the individual development account program
HB 2051 - Business and job development carryforward credits under Kansas income tax act

Representative Dillmore moved **SB 61** favorable for passage and given the non-controversial nature of the bill, be placed on the consent calendar. Representative Frownfelter seconded the motion.

Representative Kleeb moved to include the contents of **HB 2051** into **SB 61**. Representative Kleeb moved a conceptual amendment to **HB 2051** (Attachment 10). Representative Powell seconded the motion. The motion to amend **HB 2051** carried by a show of hands vote.

Representative Kleeb moved to place **HB 2051**, as amended, into **SB 61** and pass **SB 61** favorably as amended. The motion was seconded by Representative Goico, and the motion carried.

Discussion and action on:

HB 2317 - Authorizing expensing of investment expenditures as a deduction in calculating Kansas income tax liability and IMPACT program changes
SB 196 - Authorizing expensing of investment expenditures as a deduction in calculating Kansas income tax liability and IMPACT program changes

Representative Kleeb moved to include the contents of **HB 2317** into **SB 196** and delete the current language in **SB 196**. The motion was seconded by Representative Goico. The motion carried.

Representative Kleeb moved to place the contents of **Substitute HB 2220 - PEAK act, qualification for benefits and income tax credit,** into **SB 196.** The motion was seconded by Representative Goico and the motion carried. Representative Goico moved to rename **SB 196** the **House Substitute for SB 196** and pass favorable as amended. The motion was seconded by Representative Kleeb. The motion carried unanimously.

The next meeting is scheduled for 3:30 p.m., March 15, 2011, in Room 783 of the Docking State Office Building for the purpose of hearing **SB 10-An ACT concerning sales taxation**, and **HB 2366 – Sales tax authority for Douglas County.**

The meeting was adjourned at 5:48 p.m.

HOUSE TAXATION COMMITTEE

DATE: March 14, 2011

NAME	REPRESENTING
Colin Curtis	Sandstone Group
Kent Eckles	KS Chamber
Bob Weeks	none
Michela Butler	Cap Strategies
Gene Meyer	Kansas Reporter
Mary Jane Stankiewicz	KARA
WADE HAPGOOD	CAPITOL ADVANTAGE
JUDY GADD	" "
[illegible]	Bright & Carpenter
LARRY R BAER	LKM
DINA FISK	VERIZON
Bernie Koch	KEPC
Derrick Sontag	AFP
Joe Mosimann	Duncan KS
Don Gaches	GBA
Kent Cornish	KAB
Edward Larson	KS Catholic Conference.

SESSION OF 2011

EXPLANATORY NOTE ON HOUSE BILL NO. 2381

As Introduced

Brief*

HB 2381, the March to Economic Growth Act (MEGA), would provide for reductions in individual and corporation income tax rates beginning in tax year 2012 based on the extent to which a certain specified group of State General Fund (SGF) tax sources have increased over the base year of FY 2010. The bill also would permanently freeze the sales and compensating use tax rate at 6.3 percent.

Income Tax Rate Rollback Provisions

The Director of Legislative Research would be required to certify at the conclusion of each fiscal year beginning with FY 2011 the amount by which a specific set of SGF tax receipts – generally most major income, privilege, and excise taxes – has grown over the FY 2010 base year. The Secretary of Revenue would then be required to compute that percentage growth and reduce all individual and corporation income tax brackets for the upcoming tax year by that percentage minus the inflation rate from the previous year.

An exception to this formula would be provided when the selected set of tax sources produces less revenue in a given fiscal year relative to the preceding fiscal year, in which case no income tax rate reductions would be provided for the upcoming tax year. Following any such year when no rate reductions were triggered, the formula would be further adjusted to test the next fiscal year's receipts against the preceding fiscal year's receipts.

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

House Taxation
Date: 3-14-11
Attachment: 1

The Secretary of Revenue would be required to report all income tax rate reductions triggered under the formula to the Governor, the Chairperson of the Senate Assessment and Taxation Committee, and the Chairperson of the House Taxation Committee; and to publish such reductions in the *Kansas Register* prior to September 15.

Sales Tax Rate Increase Provisions

The bill also would amend that portion of current law under which the sales and use tax rate is scheduled to be 5.7 percent beginning in FY 2014 such that the rate instead would remain at 6.3 percent, the same rate in effect since July 1, 2010. Additional provisions relating to the disposition of sales and use tax revenue would be adjusted to reduce the percentage earmarked for distribution to the State Highway Fund (SHF). Such adjustments would provide the SHF with the same estimated amount of dollars expected under current law, effectively assuring that all of the additional receipts (from the 0.6 percent increase) would be deposited in the SGF.

Background

Based on actual FY 2010 receipts and the current Consensus estimate for FY 2011, SGF tax receipts from the selected tax sources are expected to grow by approximately $610 million, or 12.63 percent, as summarized in the following table:

Selected SGF Tax Receipts

($ in thousands)

	FY 2010 Actual	FY 2011 Est.
Individual	$ 2,418,208	$ 2,577,175
Corporation	224,940	260,000
Financial Inst.	16,515	20,770
Retail Sales	1,652,037	2,000,000
Comp. Use	205,540	280,000
Cigarette	99,829	97,000
Tobacco Prod.	6,352	6,600
CM Beverage	1,989	1,900
Liq. Gallonage	17,953	18,800
Liq. Enforce	54,827	58,000
Liq. Drink	8,930	9,300
Corp. Franchise	41,462	18,000
Severance	81,870	92,800
TOTAL THESE SOURCES	**$ 4,830,452**	**$ 5,440,345**
GROWTH		**$ 609,893**
PCT GROWTH		**12.63%**
CY 2010 INFLATION		**1.50%**
PROPOSED ADJUSTMENT		**11.13%**

Applying the 11.13 percent rate reduction to all individual and corporation income tax brackets for tax year 2012 would adjust the rates as follows:

	Current	Proposed
Individual	3.50 %	3.110 %
Individual	6.25	5.554
Individual	6.45	5.732
Corporation	4.00 %	3.555 %
Corporation	7.00	6.221

The Department of Revenue estimates that such reductions in income tax rates would, by virtue of changes in withholding and estimated payments, have the following impact on FY 2012 SGF receipts:

	(in thousands)
Individual	$ (107,200)
Corporation	(12,800)
Total	**$ (120,000)**

Based on the current Consensus estimates for FY 2012, the selected tax sources would be expected to be above the FY 2010 base year receipts, even after the $120.0 million reduction, by $731.2 million, or 15.14 percent.

The current Consensus estimate for the 2011 inflation rate is 1.6 percent.

Selected SGF Tax Receipts

($ in thousands)

	FY 2012 Est.	FY 2012 Proposed
Individual	$ 2,705,000	$ 2,597,800
Corporation	275,000	262,200
Financial Inst.	21,000	21,000
Retail Sales	2,090,000	2,090,000
Comp. Use	295,000	295,000
Cigarette	97,000	97,000
Tobacco Prod.	6,800	6,800
CM Beverage	1,900	1,900
Liq. Gallonage	19,200	19,200
Liq. Enforce	59,000	59,000
Liq. Drink	9,500	9,500
Corp. Franchise	8,000	8,000
Severance	94,300	94,300
TOTAL THESE SOURCES	**$ 5,681,700**	**$ 5,561,700**
REDUCTION BELOW CURRENT LAW		**$ (120,000)**
GROWTH OVER FY 2010		**731,248**
PCT. GROWTH OVER FY 2010		**15.14%**
ESTIMATED CY 2011 INFLATION		**1.60%**
PROPOSED ADJUSTMENT		**13.54%**

Applying the further income tax rate reductions to tax year 2013 would change the rates as follows:

	TY 2012	TY 2013
Individual	3.110 %	2.689 %
Individual	5.554	4.802
Individual	5.732	4.956
Corporation	3.555 %	3.073 %
Corporation	6.221	5.379

The Department of Revenue estimates that such reductions would have the following impact on FY 2013 receipts:

(in thousands)		
Individual	$	(484,100)
Corporation		(55,700)
Total	**$**	**(539,800)**

Additional income tax reductions of growing magnitude would be expected beginning in FY 2014 based on the assumption that SGF receipts would be expected to continue to grow under current law. Computation of future fiscal notes for income taxes under this formula is extremely problematic, given that the Consensus estimates for FY 2013 will not be made until November 2011; and estimates for FY 2014 will not be made until November 2012. However, based on the current out-year assumptions agreed to with the Department of Transportation, the sales tax rate increase in FY 2014 would be expected to increase SGF receipts by about $251.4 million in that year.

STATE OF KANSAS

TERRY BRUCE
STATE SENATOR
34TH DISTRICT
RENO COUNTY

COMMITTEE ASSIGNMENTS
CHAIR: LEGISLATIVE POST AUDIT
MEMBER: JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE
AGRICULTURE
JUDICIARY
NATURAL RESOURCES
UTILITIES

TOPEKA

SENATE CHAMBER

To: House Tax Committee
From: Senator Terry Bruce
Re: House Bill 2381

March 14, 2011

Chairman and Committee Members:

It is vital to the continued prosperity of Kansas for us to adopt a tax policy that is both regionally and nationally competitive economically. House Bill 2381 is such a vehicle and, as such, I urge you to consider passing this measure.

I realize HB 2381 is very similar to legislation being considered in the Senate Assessment and Taxation Committee via Senate Substitute for Senate Bill 95. Given this similarity, I will focus my comments to the underlying portions of House Bill that correspond to SB 95.

<u>Regional Competitiveness</u>
Currently, Kansas is the high water mark for individual income tax in the region, second only to Nebraska. Missouri, Colorado and Oklahoma, who just reduced its top bracket to 5.25%, are all lower. What's more, the economic powerhouse, Texas, has no income tax.

In this competitive environment, what chance does Kansas have to capitalize on continued investment into our state? Please refer to the handout, A Tale of Two States: The Real Effect of Individual Income Tax Cuts.

<u>Migration from Kansas to Low or No Income Tax States</u>
The handout provided with my testimony is a compellation of IRS data showing a trend from high income tax state to those with no income tax states. A review of the data also illustrates the out flow of Kansans to surrounding states with lower income tax rates. This further suggests we are not regionally competitive.

Once the buy down of the income tax commences, we will be able to attract more businesses and job seekers to Kansas, which will grow our economy.

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STATE CAPITOL, RM. 135-E
TOPEKA, KS 66612
785-296-7300
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E-MAIL: TERRY.BRUCE@SENATE.KS.GOV

House Taxation
Date: 3-14-11
Attachment: 2

Taxes vs. Budget

With any dramatic shift in tax policy, we must insure that our budgetary obligations are not adversely affected. House Bill 2381 balances Kansas' need for lowering its taxes with the obligation to fund the state's budget. HB 2381 does not just slash taxes and leaves a huge budget shortfall. The way the buy down of the income tax works allows for Kansans to adjust their spending habits in such a way as to stimulate the economy. By incrementally lowing the rate, individuals are allowed to spend more money in their local economies. These funds, once collected as income tax, will be collect as Sales Tax or another consumed item. Please see the article entitled A Tale of Two States: The Real Effect of Individual Income Tax Cuts to see how Oklahoma's collection of sales tax grew after income tax cuts were implemented.

In other words, Kansas will cease taxing productivity and begin relying on taxing consumption.

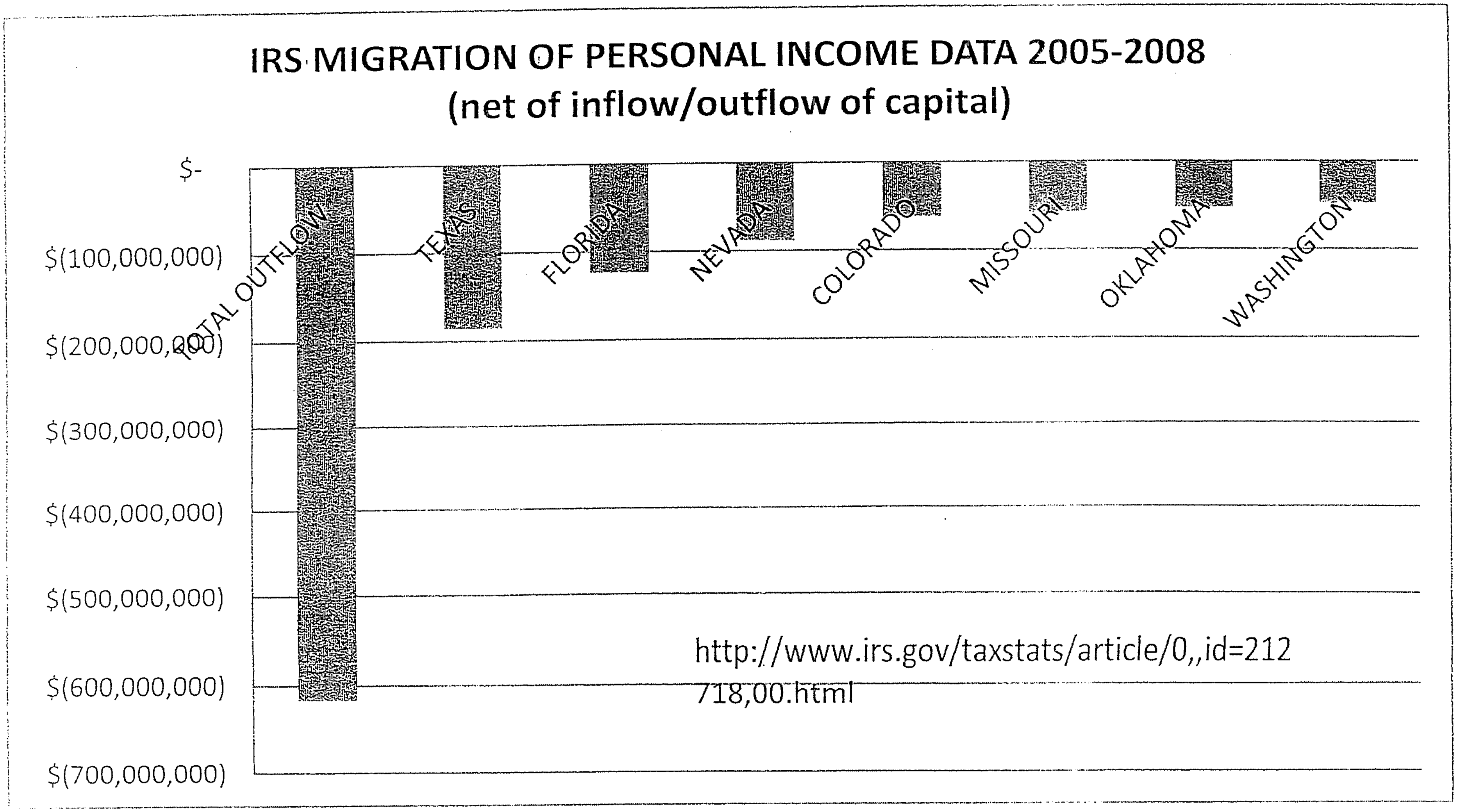
Conclusion

Given the current economic climate, Kansas has to become more competitive. Having a high income tax deters investment, and must be altered. House Bill 2381 allows us to do so reasonably. If we do not adopt it, or another alternative, we will be forced to do so in the near future.

10 Year Economic Performance
No Income Tax Versus High Income Tax 1998-2008

	Individual Income Tax Rate	Population Growth	Total State Receipts Growth
Wyoming	0.00%	8.6%	161.3%
Nevada	0.00%	41.1%	128.7%
Alaska	0.00%	11.0%	105.3%
Florida	0.00%	19.0%	104.8%
Texas	0.00%	20.6%	88.3%
Tennesse	0.00%	12.0%	72.8%
New Hampshire	0.00%	9.6%	72.4%
Washington	0.00%	13.8%	68.2%
South Dakota	0.00%	7.8%	63.4%
Average		15.9%	96.1%
California	10.55%	10.9%	91.1%
New Jersey	10.75%	4.5%	87.7%
Maryland	9.30%	8.7%	82.4%
Vermont	9.40%	3.4%	81.2%
New York	10.50%	3.8%	77.6%
Hawaii	11.00%	5.9%	70.6%
Ohio	8.24%	1.9%	58.2%
Oregon	11.00%	12.8%	58.1%
Maine	8.50%	4.8%	57.9%
		6.3%	73.9%

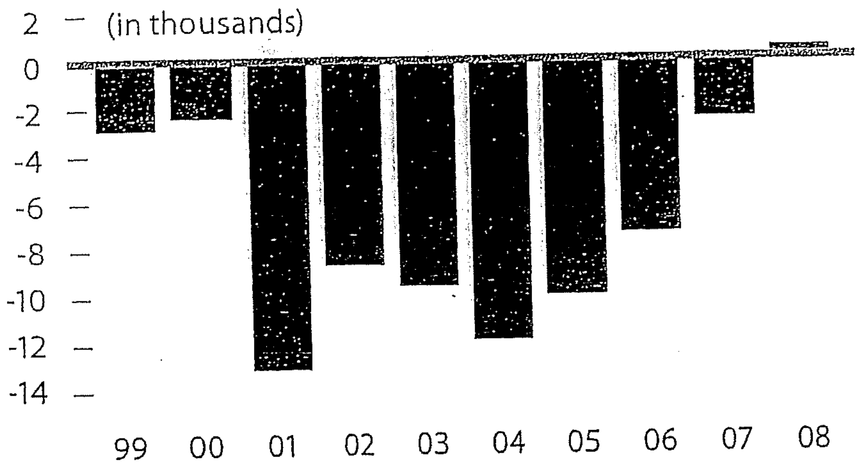
Source: *Rich States, Poor States* 3rd Edition page 26-27


IRS MIGRATION OF PERSONAL INCOME DATA 2005-2008
(net of inflow/outflow of capital)
$-
$(100,000,000)
$(200,000,000)
$(300,000,000)
$(400,000,000)
$(500,000,000)
$(600,000,000)
$(700,000,000)
TOTAL OUTFLOW
TEXAS
FLORIDA
NEVADA
COLORADO
MISSOURI
OKLAHOMA
WASHINGTON
http://www.irs.gov/taxstats/article/0,,id=212718,00.html

2-4

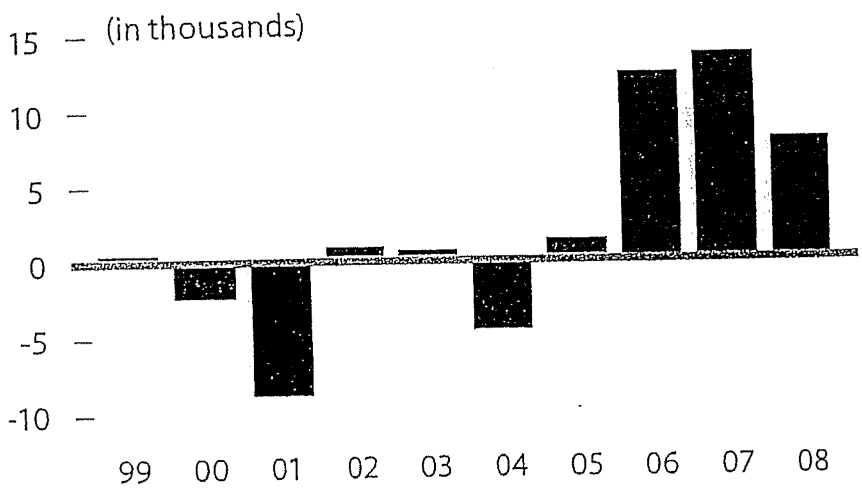
Kansas

Absolute Domestic Migration
Cumulative 1999-2008 -68,171 Rank: 39



Oklahoma

Absolute Domestic Migration
Cumulative 1999-2008 20,415 Rank: 22



	Kansas		Oklahoma		
	Rate	Revenue	Rate	Revenue	OK vs. KS Collections
		Corporate			
FY-06	4.00%	$ 350,200,000	6.00%	$ 304,381,318	$ (45,818,682)
FY-07	4% & 7.35% over $50,000	$ 442,449,000	6.00%	$ 561,375,294	$ 118,926,294
FY-08	4% & 7.35% over $50,000	$ 432,078,000	6.00%	$ 360,064,549	$ (72,013,451)
FY-09	4% & 7.05% over $50,000	$ 240,258,000	6.00%	$ 342,761,553	$ 102,503,553
		Individual			
FY-06	6.45%	$ 2,371,253,000	6.65%	$ 2,755,776,194	$ 384,523,194
FY-07	6.45%	$ 2,709,340,000	6.25%	$ 2,784,301,983	$ 74,961,983
FY-08	6.45%	$ 2,896,653,000	5.65%	$ 2,787,444,853	$ (109,208,147)
FY-09	6.45%	$ 2,682,000,000	5.50%	$ 2,544,576,061	$ (137,423,939)
		Sales			
FY-06	5.30%	$ 1,736,048,000	4.50%	$ 1,677,854,488	$ (58,193,512)
FY-07	5.30%	$ 1,766,768,000	4.50%	$ 1,804,313,384	$ 37,545,384
FY-08	5.30%	$ 1,711,398,000	4.50%	$ 1,930,951,193	$ 219,553,193
FY-09	5.30%	$ 1,689,516,000	4.50%	$ 1,972,769,753	$ 283,253,753
			Net Revenue Difference 06-09		$ 798,609,623

() indicates KS collected more

OCPA Memorandum

A Tale of Two States: The Real Effect of Individual Income Tax Cuts

By Steve Anderson MBA, CPA
September 2010

Kansas and Oklahoma are states with much in common. They share not only a border but also economies and demographics that are in many ways mirror images of each other. They have similar populations made up of a couple of large urban areas but otherwise are largely rural states. The states' economies are both rooted primarily in agriculture and mineral extraction. The business landscape is populated by some large companies, but overall small businesses predominate.

At the turn of the new millennium, the three major tax revenues for the states—individual income tax, corporate income tax, and sales tax—were also near duplicates of each other. In FY-00 Oklahoma was collecting slightly more individual and corporate income tax revenues, and Kansas was roughly offsetting those amounts by collecting more sales tax. However, these made decisively different decisions regarding tax policy over the ten (10) years following.

This diverging of the states' policy decisions provides the closest thing possible in the real world to a controlled experiment in liberal-versus-conservative tax policy: Does cutting individual income tax rates generate economic activity that will provide revenues to offset the rate reductions, or will those rate reductions simply result in the state having that much less revenue?

Kansas began the decade with a lower individual and corporate tax rate, but with a slightly higher sales tax rate. Through the decade Kansas chose to raise sales and corporate tax rates while standing pat with a relatively high individual income tax rate.

Meanwhile, Oklahoma decided to begin a program of reducing the individual income tax rate significantly, interrupted only by a two-year period during which the rate went back to prior levels due to statutory triggers. Oklahoma's sales tax and corporate income tax rates were kept constant throughout the decade.

The following chart shows the rates of taxation over the last decade for each state in the three major tax categories.

Three Major Tax Categories by Rate (top rate used for comparison)						
	Individual Income Tax Rate		Corporate Income Tax Rate		Sales Tax Rate	
	Kansas	Oklahoma	Kansas	Oklahoma	Kansas	Oklahoma
FY-00	6.45%	6.75%	4.00%	6%	4.90%	4.50%
FY-01	6.45%	6.75%	4.00%	6%	4.90%	4.50%
FY-02	6.45%	6.75%	4.00%	6%	5.30%	4.50%
FY-03	6.45%	7%	4.00%	6%	5.30%	4.50%
FY-04	6.45%	7%	4.00%	6%	5.30%	4.50%
FY-05	6.45%	6.65%	4.00%	6%	5.30%	4.50%
FY-06	6.45%	6.65%	4.00%	6%	5.30%	4.50%
FY-07	6.45%	6.25%	4% & 7.35% over $50,000	6%	5.30%	4.50%
FY-08	6.45%	5.65%	4% & 7.35% over $50,000	6%	5.30%	4.50%
FY-09	6.45%	5.50%	4% & 7.05% over $50,000	6%	5.30%	4.50%

Source: http://www.taxfoundation.org/taxdata/show/228.html

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Liberals have long argued that a reduction in the individual income tax rate would simply mean that the state would generate that much less in revenue. This static analysis assumes that funds left in the hands of the taxpayer will not stimulate the economy or build wealth. In this view, the net effect of an individual income tax cut will be to leave a hole to fill in the state budget.

By contrast, fiscal conservatives have maintained that a cut in individual income taxes would stimulate the economy. Those in the private sector would take the funds left in their hands and build real wealth, with the result being an uptick in economic activity. This economic activity would then generate new tax revenues, mitigating the decrease in revenue. Those who endorse this concept of a dynamic model of the economy maintain that the government cannot build wealth, and that leaving too much money in government hands slows the economic cycle. Economists refer to this speed as the "velocity of money," which—using the dynamic model of individual income tax cuts—should manifest itself in increases in corporate sales and profits, thereby generating increased sales tax and corporate tax revenues for the state.

Because the few exogenous variables between Kansas and Oklahoma are so small, these two states' differing tax policies provide a perfect opportunity to test these competing models of conservative and liberal tax policy.

In this study, I use the top individual income tax rates for comparison. In both states the top rate is the rate paid by the majority of taxpayers. Homestead and sales tax exemptions move many people in the lower brackets into credit or no-tax-owed positions. I also excluded from this examination the wellhead taxes that oil and gas producers pay; even though these revenues doubtless have some impact, I believe an examination of the actual structure and composition of the wellhead taxes reduces their influence to acceptably low levels. (An explanation of the wellhead taxes in Oklahoma and Kansas and the rationale for their exclusion is included at the end of this study.)

Oklahoma reduced its top individual income tax rate from 7 percent in 1999 to 5.5 percent over the course of ten years, with the largest cuts in 2000 and 2007 through 2009. This is a 21 percent reduction in the top rate. Meanwhile, Kansas left its top individual income tax rate unchanged over this time period.

Individual Income Tax Collections

	Kansas		Oklahoma		
	Rate	Revenue	Rate	Revenue	KS vs. OK Collections
FY-00	6.45%	$ 1,854,726,000	6.75%	$ 2,134,506,071	$ 279,780,071
FY-01	6.45%	$ 2,214,065,000	6.75%	$ 2,279,364,387	$ 65,299,387
FY-02	6.45%	$ 1,829,609,000	6.75%	$ 2,286,110,394	$ 456,501,394
FY-03	6.45%	$ 1,750,054,000	7%	$ 2,113,947,132	$ 363,893,132
FY-04	6.45%	$ 1,888,434,000	7%	$ 2,319,213,479	$ 430,779,479
FY-05	6.45%	$ 2,050,562,000	6.65%	$ 2,468,608,717	$ 418,046,717
FY-06	6.45%	$ 2,371,253,000	6.65%	$ 2,755,776,194	$ 384,523,194
FY-07	6.45%	$ 2,709,340,000	6.25%	$ 2,784,301,983	$ 74,961,983
FY-08	6.45%	$ 2,896,653,000	5.65%	$ 2,787,444,853	$ (109,208,147)
FY-09	6.45%	$ 2,682,000,000	5.50%	$ 2,544,576,061	$ (137,423,939)

All revenue numbers are from Consensus Revenue Estimate table in 2000–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

Oklahoma's individual income tax collections grew by 19 percent while Kansas' revenues grew by 44 percent. So at first glance, it appears that the static-model crowd could declare victory. But there are other factors to consider.

First (and quite obvious to me because our accounting firm has a tax office in Kansas), part of the growth in Kansas' individual income tax revenues in FY-07, FY-08, and FY-09 is driven by the change in operating structure by many Kansas businesses to avoid the increase of the top corporate rate from 4 percent to more

2-8

than 7 percent. In the three years prior to Kansas' huge corporate tax increase, Kansas collected $110 million more than Oklahoma from corporations. However, after increasing the tax rate from FY-07 through FY-09, Kansas collected $149 million less from corporations for that three-year period than Oklahoma. That is nearly a quarter-billion-dollar increase in Oklahoma's favor. It would appear that raising taxes can have exactly the opposite effect of increasing revenues, just as the dynamic model would predict.

However, the really important tax-revenue component in dynamic scoring is the sales tax. Sales tax revenues are an undeniable measure of economic activity. When the decade began, Kansas had a 4.9 percent sales tax for the first two years but then increased it to 5.3 percent for the last eight years. Meanwhile, Oklahoma kept its rate constant at 4.5 percent.

In FY-00 Kansas' sales tax collections exceeded Oklahoma's by $88 million, but by FY-09 Oklahoma's sales tax revenues exceeded Kansas' collections by $283 million.[1] While Kansas' sales tax revenues grew by 17 percent over the last ten years, Oklahoma's increased by 46 percent. The majority of the individual income tax rate reduction in Oklahoma occurred in the last three years of the decade while in the middle of a recession, but surprisingly (at least to the static-model crowd) Oklahoma's sales tax revenues grew by 18 percent while Kansas' fell by 3 percent for the same period.

Sales Tax Revenues

	Kansas		Oklahoma		
	Rate	Revenue	Rate	Revenue	KS vs. OK
FY-00	4.90%	$ 1,440,295,000	4.50%	$ 1,351,803,097	$ (88,491,903)
FY-01	4.90%	$ 1,423,059,000	4.50%	$ 1,441,929,046	$ 18,870,046
FY-02	5.30%	$ 1,470,599,000	4.50%	$ 1,443,427,590	$ (27,171,410)
FY-03	5.30%	$ 1,567,722,000	4.50%	$ 1,404,275,611	$ (163,446,389)
FY-04	5.30%	$ 1,612,067,000	4.50%	$ 1,496,238,185	$ (115,828,815)
FY-05	5.30%	$ 1,647,663,000	4.50%	$ 1,546,621,382	$ (101,041,618)
FY-06	5.30%	$ 1,736,048,000	4.50%	$ 1,677,854,488	$ (58,193,512)
FY-07	5.30%	$ 1,766,768,000	4.50%	$ 1,804,313,384	$ 37,545,384
FY-08	5.30%	$ 1,711,398,000	4.50%	$ 1,930,951,193	$ 219,553,193
FY-09	5.30%	$ 1,689,516,000	4.50%	$ 1,972,769,753	$ 283,253,753

All revenue numbers are from Consensus Revenue Estimate table in 2002–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

Kansas' sales tax rate is nearly 18 percent higher than Oklahoma's, which in the theory of liberals and their static model means that Oklahoma would have had to generate 18 percent more activity just to stay even with Kansas' collections. Yet in the last three years of the decade Oklahoma generated more than $540 million more in sales tax revenue than Kansas. Can there be any question which state's economy is healthier?

Did the income tax cut in Oklahoma really drive this economic activity? Rather than listen to competing economists argue tax theory it is far more instructive to see what happened in a real-world situation. The following chart shows the year-to-year relationship of the top individual tax rates to the sales tax revenues in each state. Note that in FY-03 and FY-04, when the statutory trigger increased Oklahoma's individual income tax rate back to 7 percent, Oklahoma's sales tax revenues compared to Kansas' fell. However, in FY-05, when the Oklahoma's individual tax rate started to fall, sales tax revenues began to increase in relation to Kansas'. FY-07 was the first time that Oklahoma's top individual income tax rate was less than Kansas' top rate, and it began a string of increasing Oklahoma sales tax revenues that amounts to a reversal of nearly a half-billion-dollar difference in Oklahoma versus Kansas sales tax collections between FY-03 and FY-09.

2-9

	Kansas Individual Income Tax Rate	Oklahoma Individual Income Rate	KS vs. OK Collections ( ) indicates KS collected more
FY-00	6.45%	6.75%	$ (88,491,903)
FY-01	6.45%	6.75%	$ 18,870,046
FY-02	6.45%	6.75%	$ (27,171,410)
FY-03	6.45%	7%	$ (163,446,389)
FY-04	6.45%	7%	$ (115,828,815)
FY-05	6.45%	6.65%	$ (101,041,618)
FY-06	6.45%	6.65%	$ (58,193,512)
FY-07	6.45%	6.25%	$ 37,545,384
FY-08	6.45%	5.65%	$ 219,553,193
FY-09	6.45%	5.50%	$ 283,253,753

All revenue numbers are from Consensus Revenue Estimate table in 2002–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

Now we have an "apples to apples" comparison on which to draw, it seems that individual income tax cuts do not impair revenues for state services. In fact, it appears to be quite the contrary: Tax cuts that spur economic activity and build wealth can increase revenues to the state, as evidenced by the increases in sales and corporate income tax collections. In FY-00 Oklahoma collected $135 million more than Kansas in combined individual, corporate, and sales tax revenues. After a decade in which it reduced its individual income tax rate by 21 percent, Oklahoma collected $248 million more in FY-09 than Kansas in those same three tax revenue categories. It is time that more states (and our federal government) took note by putting funds back in the hands of the private sector so it can generate the sort of economic activity that will allow us to end this recession.

Now some might argue that differences in the two states' Gross Production Taxes (GPT) are an additional major driver of the change. Oklahoma does collect more than Kansas by a substantial margin, but in FY-08, for example, GPT represented only 14 percent of total tax revenues for Oklahoma.[2] In Oklahoma oil and gas producers pay a top rate of 7 percent and in Kansas 10.37 percent at the wellhead based on market price to fund this source. These revenues are largely tied to the price of oil and gas (since they are taxed on the gross value of the oil and gas) and hence fluctuate wildly. The market price of oil and gas is arguably wholly independent of the movement of the tax rates in either state.

When we examine the relationship between sales tax revenues and GPT in Oklahoma over the last ten years, we find very little consistent correlation.[3] For example, a large GPT revenue increase occurred in 2006 with a subsequent large GPT decrease in FY-07 and then an even further reduction in FY-08,[4] but there was the opposite movement in Oklahoma sales tax receipts. In fact, GPT revenues grew rapidly from 2002 to 2006, but sales tax revenues did not mirror their increases and only began their rapid increase when the tax cuts at the individual income tax level occurred.

There are factors that I believe explain this lack of a positive correlation. The relationship of GPT revenues to business activity and/or sales tax revenues is not as those outside the industry might think. Much of the money from production after the wellhead taxes is paid to out-of-state recipients and, as such, does not generate sales taxes for Kansas or Oklahoma. Market price spikes will not add jobs or stimulate supporting industry in general, simply because regardless of the price the industry has the personnel and facilities in place to handle what is essentially only a slightly higher volume without any additional need for growth. The oil and gas drilling industry typically lags price increases, and if the price of oil and/or gas falls rather quickly the new drilling activity may actually never occur.

Oklahoma's production has grown at a much faster rate than Kansas', which is not a surprise to conservative tax policy analysts who would note that a taxing differential of nearly 48 percent—which Kansas' higher rate of 10.37 percent provides—influences choices. Oklahoma has greater oil and gas reserves than

Kansas thanks largely to nature, but it is unknown to what extent the production difference is created by the tax disparity disincentive to drill in Kansas for deeper reserves or to employ costly secondary recovery techniques to enhance field production.

It would also be naïve to believe that from 2007 to 2009, when Oklahoma's top individual income rate fell 17 percent and the Oklahoma corporate rate became less than Kansas' top rate, that there was not some movement by oil and gas companies to produce more in Oklahoma than in Kansas. While it is true that "shutting in" wells to wait for higher prices is not practical, there are some wells that limit their production to less than maximum output during price depressions. It is common sense that net profit will be the determining factor in what wells are produced and where new drilling will occur in general. In other words, income tax rates influence GPT not vice versa, and the reduction in Oklahoma's rates in comparison to Kansas' drove more drilling and production to Oklahoma.

Endnotes

[1] All numbers for tax collections numbers and used in calculations are from Consensus Revenue Estimate table in 2000–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

[2] Oklahoma Policy Institute, "Fact Sheet: Oklahoma's Gross Production Taxes and Exemptions" (April 27, 2009), 1–3.

[3] Oklahoma Policy Institute, figure 2, "Oklahoma Gross Production Tax Revenues, FY '82–FY '08 (in Millions)," in "Fact Sheet," 1.

[4] Oklahoma Policy Institute, table 2, "Summary of Oklahoma Gross Production Tax Exemptions, as of FY '09," in "Fact Sheet," 3.

2-11

State of Kansas
Senate Chamber

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Good Afternoon Mr. Chairman and members of the committee,

Thank you for the opportunity to come testify today on HB2381. I have not had a chance to review the actual language in front of you, but I know it uses the same base formula, so I am going to address the rationale of the underlying base language that originated from my office.

Simply put, it embeds an apolitical formula in to statute that methodically shifts us structurally away from a tax on personal income to a broader and fairer basis. It moves us away from reliance on revenue estimates and projected profiles to an actual look back and reaction to real numbers. All we know for certain about revenue estimates, fiscal notes, and profile projections is that they are always wrong; we just don't know how wrong they are when we act on them.

So here is the base formula:

Logic Test: IF (MCFYR) > (IPFYR)

Then (if true): $$\text{CITR} * \left[1 - \frac{(\text{MCFYR} - \text{BFYAR})}{\text{BFYAR}} \right] = \text{NCYITR}$$

MCFYR = Most Current Fiscal Year Actual Receipts (income +excise)

IPFYR = Immediately Previous Fiscal Year Actual Receipts (income + excise)

BFYAR = Base Fiscal Year Actual Receipts (FY 2010 receipts (income + excise))

CITR = Current Income Tax Rate

NCYITR = Next Calendar Year Income Tax Rate

In simplistic written form: if the most currently concluded fiscal year actual receipts, in totaled income and excise taxes, are greater than the immediately preceding fiscal year actual receipts in the same categories; then the income tax rates applied to the following calendar year will be reduced by the calculated percentage of receipt growth calculated from the base fiscal year (FY2010) actual receipts to the most currently concluded fiscal year actual receipts.

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This predominately removes the political spin from the process. It looks back to actual receipts (in the combined tax line items), gives time to review, and applies any adjustments forward. I have already heard political "buzz words" applied to this bill, from those who fear government may be reduced in its spending capacity, like Tabor-lite or Tax cap. Either one couldn't be farther from the truth. There is nothing here that requires any kind of super majority or caps any tax at any level. Nothing would prevent us (the legislature) from raising any tax, or for that matter, from stopping any formula adjustment before it takes effect. If there is no receipt growth, in this formula there is no change, no "cost", and no fiscal note. Total receipts have to grow for the formula to trigger. The growth has to be sufficient enough to, not only replace any reduced receipts from one line item, but from all income and excise taxes lines.

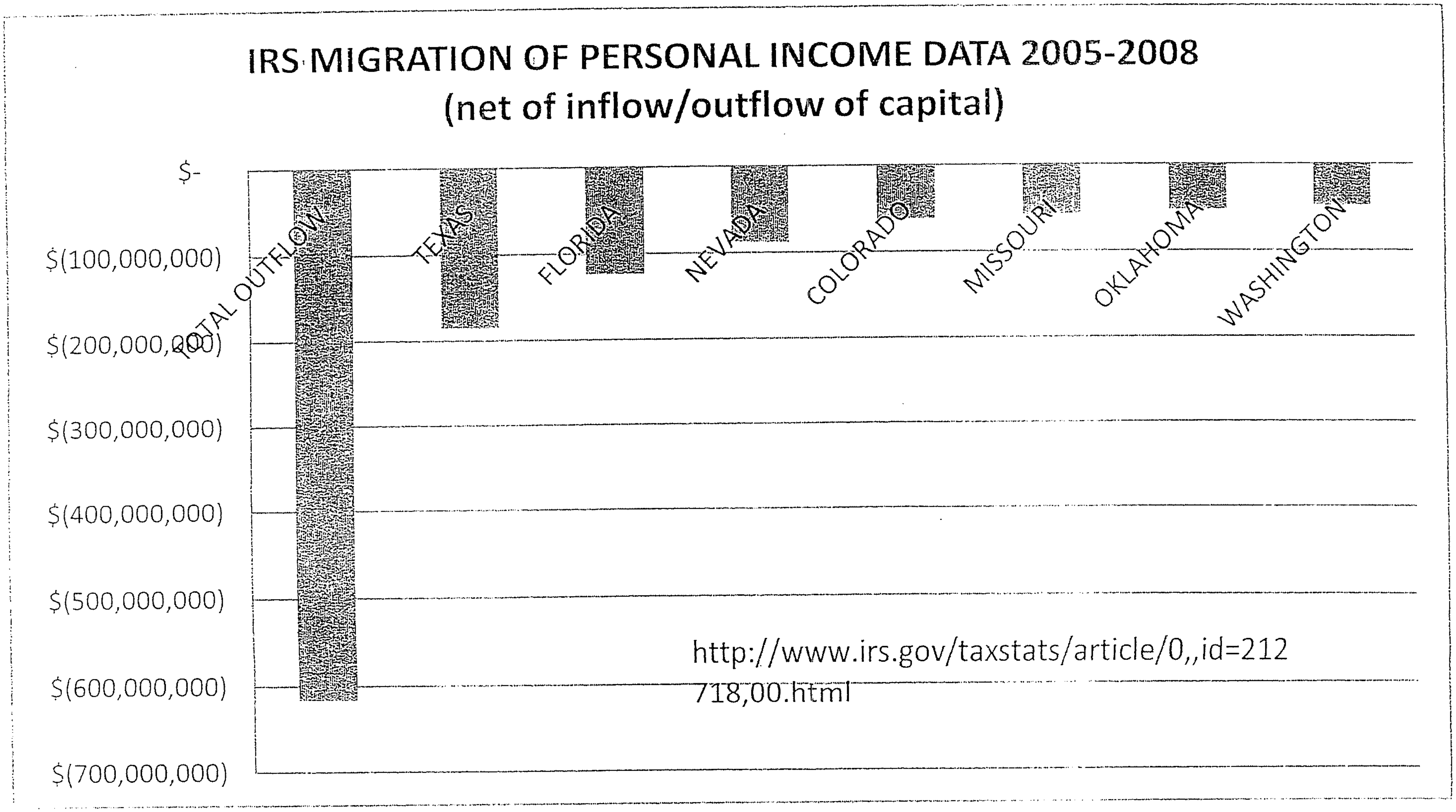
Not understanding this, they may ask can we afford it? With an estimated $600M in income having migrated out of the state, to no and low income tax states, (see attachment) I ask how can we afford not to? I believe this type of legislation will become model for other states, some with much more aggressive postures toward economic growth. We need to be in front of the curve, not behind it.

I have had some conversation around what I believe is this bills attachment of the CPI index to the denominator in the base formula, but I would highly discourage embedding an unpredictable index. Not only would it significantly prolong the process, but could reduce it to a point of relative ineffectiveness. If the intent is to slow the process, or take smaller bites, I would suggest simply changing the base year to FY2011. Then the "March toward Economic Growth Act" would provide true predictability in the march, stops incenting migration out of the state, and encourages corporations/jobs to remain.

Thank you for the opportunity to address you, and I would stand for questions when you deem it appropriate.

Sen. Ty Masterson

3-3


IRS MIGRATION OF PERSONAL INCOME DATA 2005-2008
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COLORADO
MISSOURI
OKLAHOMA
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achieve more

Testimony before the House Tax Committee
HB 2381 – The March to Economic Growth Act
Presented by J. Kent Eckles, Vice President of Government Affairs

Monday, March 14th, 2011

The Kansas Chamber of Commerce appreciates the opportunity to present testimony in favor of HB 2381, The March to Economic Growth Act.

Like you, we want Kansas to grow economically and ultimately generate more tax receipts. By lowering the right mix of taxes that presently discourage capital investment and job creation, the state can certainly grow its way to out of this economic downturn and further insulate itself from future recessions. There is ample evidence in other states of like-size to Kansas that shows just how to achieve economic growth.

We appreciate legislative efforts over the past several years to reduce the business tax burden by phasing out or reducing the following taxes: estate ('05), business machinery & equipment property tax ('06), franchise ('07) and corporate income ('08). Unfortunately, Kansas' competitor states have not sat idly by – they have outpaced us in tax burden reduction efforts. (See Attachment 1)

Each year the Kansas Chamber commissions an Annual Competitive Index, which compares nearly 80 metrics against our peer states (surrounding geographic states plus Iowa). State Business Tax Structure and Business Tax Burden are but two of them and we rank 37th and 39th respectively for each metric.

Also on an annual basis, the Kansas Chamber commissions Cole Hargrave Snodgrass & Associates to poll 300 member and non-member businesses that reflect Kansas geographically and by number of employees. When asked what was most important to their profitability, the overwhelming response was "Lower Taxes on Businesses" with 49%. (See attachment 2)

Also, from the same poll, we asked "Which tax, if any, would most like to see lowered?" The results are:

	Dec. 10th
Reduction in personal income tax	52%
Eliminate corporate income tax	19%
Repeal of the recently enacted 1% sales tax increase	18%
None	5%
Undecided (vol.)	6%

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We would like to point your attention to an article that appeared in the February 25th, 2011 edition of *The Wall Street Journal* entitled "The State Business Tax Revolt." (See Attachment 3). The article mentions how other competing states clearly recognize the value of bringing down their income tax rates especially given that five states have no income taxes. Further, the article points out a 2009 Federal Reserve Bank of Kansas City's study documenting via 30 years of data on business taxes and workers' paychecks, that high income tax rates reduce average wages of workers.

In the book Rich States, Poor States by economists Laffer, Moore & Williams, it is noted that between '98-'07, 400,000 people moved from the nine highest tax states to those without income taxes. Those recipient states grew 89% more jobs than the nine highest tax states combined and personal income increased 32%. The Kansas Chamber believes our state should capitalize on this economic climate!

What is the magic formula those states follow? They tax consumption (sales) rather than savings, investments & business profits (property, income). Unfortunately, Kansas' biggest source of tax receipts is via income taxes. Sales tax receipts have shown to be a more stable source of tax receipts than income or property, so states that derive a larger portion of their receipts from consumption taxes are more insulated from economic downturns.

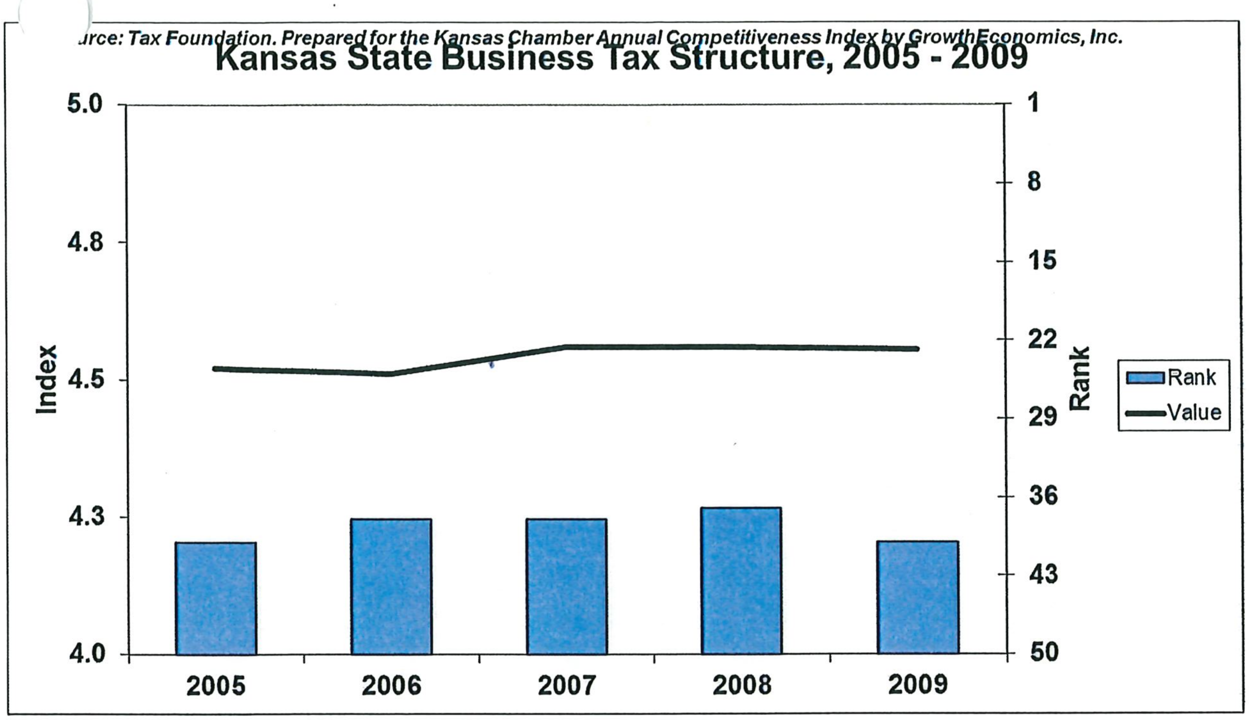
As we all know, Kansas increased their consumption (sales) taxes by nearly 19% last legislative session and the Kansas Chamber opposed that because there was no trade-off on reducing income taxes. The beauty of HB 2381 is that if there is no growth in state tax receipts, nothing happens. As a result, there is no validity to the argument that "we cannot afford" tax reductions in this economic climate.

We urge the Committee to pass favorably House Bill 2381.

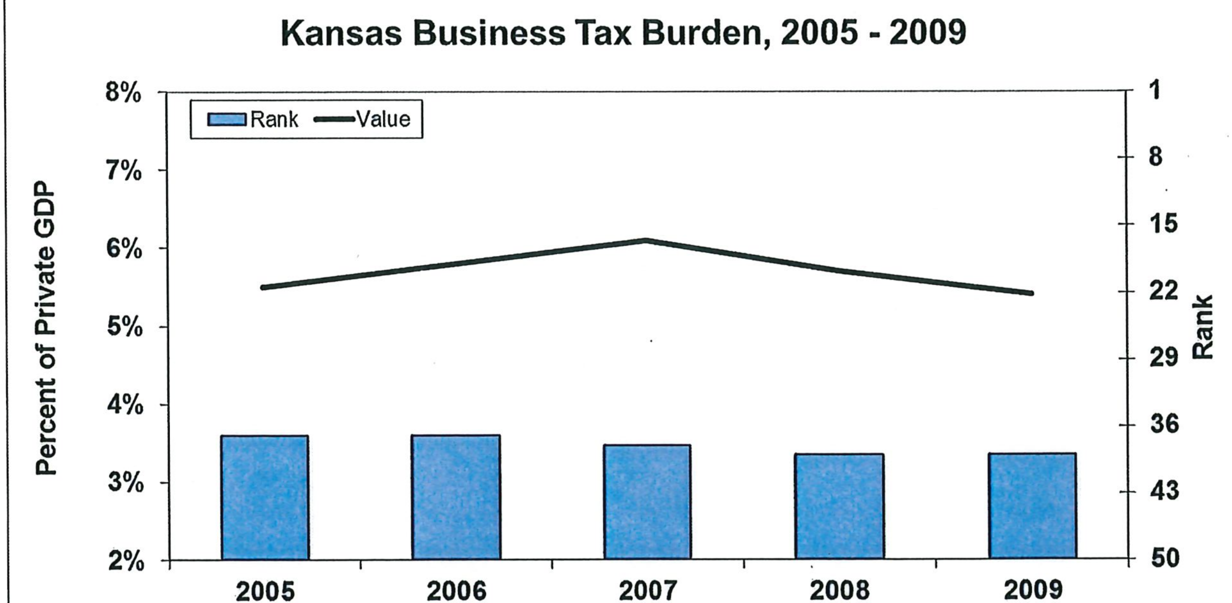
The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have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

THE KANSAS CHAMBER 835 SW Topeka Blvd. Topeka, KS 66612 785.357.6321

Attachment 1



What's it mean? This measure is the Corporate Tax Index taken from the Tax Foundation. It strives to measure fairness and balance across all businesses by favoring tax systems that are simple and have low tax rates across a broad base. The Kansas score has held steady over the past five years, indicating little change to tax structure. Overall, the State does not rank well at 37th.



Source: Ernst & Young, prepared for The Council On State Taxation. Prepared for the Kansas Chamber Annual Competitiveness Index by GrowthEconomics, Inc.

What's it mean? Business Tax Burden accounts for all business tax costs as percent of private state GDP. Kansas has experienced a decline in the business tax burden since 2007. However, as other states have followed suit, this trend was not enough to improve its competitive position, currently ranking it 39th.

Attachment

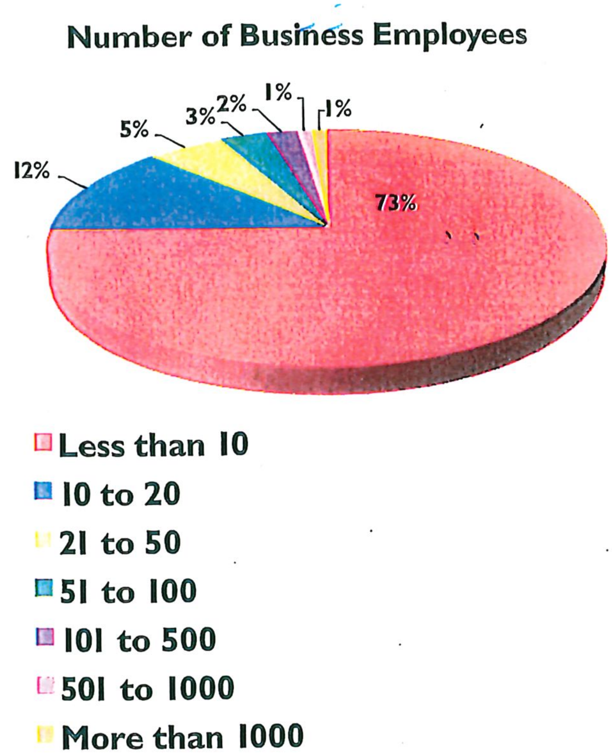
Kansas Business at a Glance

The Kansas Chamber commissions Cole Hargrave Snodgrass & Associates to poll 300 member and non-member businesses that are reflective of Kansas businesses geographically and with regard to number of employees. The issues identified by the business community in the CEO poll lay the foundation for the 2011 Legislative Agenda.

Most Important to Profitability:

MENTIONED:	2010	2009
Workers' compensation	13%	19%
Unemployment compensation	7%	3%
Managing health care costs	38%	32%
Lower taxes on business	49%	43%
Decrease regulation/mandates	22%	18%
Stop frivolous lawsuits/tort reform	16%	13%
Limit growth of state government	14%	17%
Economic incentives for business	20%	18%
Reduce fuel and energy costs	21%	20%

(Each survey participant was allowed up to two responses)



Attachment 3

WSJ 02/25/11

REVIEW & OUTLOOK

The State Business Tax Revolt

Governors get a jump on corporate tax reform.

President Obama says he wants corporate tax reform but hasn't proposed how to do it. Maybe he should take a look at the states, where as many as 10 new Governors are moving ahead to reform and reduce business taxes. The motive is to attract more businesses and create more jobs, while avoiding the fate of California and New York.

Take Iowa, which has the highest state corporate rate at 12%. Add that to the federal rate of 35%, and the Tax Foundation says the Hawkeye State may have the highest levy in the developed world. Governor Terry Branstad, back for a second stint in Des Moines after 12 years, wants to cut the top corporate rate in half to 6% because "we just can't compete with this high tax rate anymore." Mr. Branstad has been sending letters trying to recruit Illinois businesses, where the small business tax rose by 67% and the corporate rate by 30% to 9.5% in January.

Iowa's corporate tax suffers from the same defects that hobble the federal system. It imposes an onerous rate on those companies that get stuck paying it, but the legislature has carved out so many credits and loopholes for politically favored firms that the tax doesn't raise much revenue. So even though Iowa has the highest statutory rate, it ranks 36th in per capita collections. It's all pain for little gain.

Michigan has led the nation in job losses during this past decade, while former Governor Jennifer Granholm sought to attract businesses with special tax favors. New Republican Governor Rick Snyder and the GOP legislature are trying a different strategy and moving forward on a business tax makeover.

Their plan would replace an unpopular gross receipts tax that forces many small firms to pay inflated tax bills even when they don't record a profit. It would also eliminate big industry exemptions, such as the Hollywood movie maker's credit, and instead install a flat 6% corporate profits tax. That's still too high for our liking and for competitive purposes, but at least it would level the playing field across businesses and save them about $1.5 billion each year.

Florida's Rick Scott is pursuing arguably the most ambitious plan. He promised voters he'd abolish the state's $2 billion a year corporate tax over seven years, and his first budget gets that started. "Once we eliminate the corporate tax, and, remember, we don't have a state income tax, there will be no reason for businesses not to come to Florida," he says. South Carolina's Nikki Haley also campaigned on eliminating her state's $200 million a year corporate tax.

The message from these states is similar: In a global economy you can't attract businesses by extracting an undue share of their profits. Bringing rates down is especially important for competitiveness given that five states—Nevada, South Dakota, Texas, Washington and Wyoming—have no corporate income tax.

More Business Friendly

Proposed state corporate tax changes

Arizona	Cut rate to 4.9 from 7%
Arkansas	Eliminate capital gains tax on new investment
Florida	Phase out corporate income tax
Georgia	Cut rate to 4 from 6% and broaden base
Iowa	Cut rate to 6 from 12%
Michigan	Replace gross receipts tax with 6% flat corporate tax
North Dakota	Cut rate to 4.9 from 6.4%
Ohio	Capital gains tax cut
Pennsylvania	Replace corporate tax with new sales tax
South Carolina	Eliminate corporate tax

Our preference, which is supported by most of the economic evidence, is that cutting personal and small business income tax rates should be the highest tax priority for states. But corporate tax systems are complicated and onerous, while only generating between 5% and 8% of state revenues.

Workers also bear the cost of excessive corporate taxes. A 2009 study by the Federal Reserve Bank of Kansas City examined three decades of data on business taxes and worker pay checks. The study found that "corporate taxes reduce wages and that the magnitude of the negative relationship between the taxes and the wages has increased over the past 30 years." Businesses in high tax states invest less, the study found, and this leads to lower productivity and eventually lower average pay for workers.

These Governors can only do so much because the biggest hurdle to new investment is the federal tax of 35% that is the second highest in the world and far above the international average. The President's own tax commission concluded that this tax sends jobs abroad. What is Mr. Obama's Treasury Department waiting for?

NFIB

The Voice of Small Business®

Testimony in Support of HB2381 by Mr. Daniel Murray
Kansas State Director, National Federation of Independent Business

House Taxation Committee
Monday, March 14, 2011

Good afternoon, Chairman Carlson and members of the Committee. The NFIB is the state's leading small business advocacy organization representing over 4,100 small business owners across Kansas. I am pleased to be here in support of HB2381.

First, taxes matter to small business. As part of representing small business owners the NFIB pays close attention to the concerns of our members and taxes consistently rates high on the list. The NFIB Research Foundation's Small Business Problems and Priorities consistently ranks tax issues, whether tax rates or complexity, at the top of the list.[1] In addition, the monthly Small Business Economic Trends (SBET) survey regularly ranks taxes as amongst the most important problems.[2]

Second, Kansas must improve its tax climate. The Small Business & Entrepreneurship Council's "Business Tax Index 2010" ranks the states from best to worst in terms of the costs of their tax systems on entrepreneurship and small business. The Index pulls together 16 different tax measures, and combines those into one tax score that allows the 50 states and District of Columbia to be compared and ranked. **Kansas ranks 32nd—that is unacceptable.** Here's how we compare to our neighboring states: SD-1st, CO-10th, OK-14th, MO-16th, NE-36th.[3]

With that, NFIB/Kansas supports HB2381 because we hope this is the next step in making Kansas the best state in America for our members to own, operate and grow their business. The proposal in HB2381 to "buy down" individual income tax levels as Kansas experiences growth will most certainly help our small businesses grow and compete.

The majority of small businesses are organized as pass through entities, with nearly 75-percent choosing a pass through business structure.[4] This means that most small businesses will pay their taxes at the individual level rather than the corporate level. The owner of a pass through business may report a higher amount of income on their individual return than they actually take home. That income is the money invested back into the business: it's the capital they use to purchase new equipment, pay the salary and benefits of workers and meet day-to-day expenses. HB2381 will ensure small businesses get to keep more of their money to reinvest and grow jobs.

In closing, small businesses truly are the engine of economic growth. This isn't just a slogan as small businesses created 60 to 80 percent of the net new jobs over the last decade. Additionally, taxes matter to small business because they divert resources from and reduce incentives for productive, private-sector risk taking that generates innovation, growth and jobs. The passage of HB2381 will pay dividends when business owners can keep more of their money to invest in jobs. This legislature has a chance to move Kansas from 32nd to 1st. We urge you to make the leap and support HB2381.

---

[1] William J. Dennis, *Small Business Problems and Priorities*, NFIB Research Foundation, Washington, DC series.

[2] In the latest Small Business Economic Trends Survey, taxes ranked first among important problems. *Small Business Economic Trends*, NFIB Research Foundation, Washington, DC, February 2011.

[3] *Small Business & Entrepreneurship Council's Business Tax Index 2010: Best to Worst State Tax Systems for Entrepreneurship & Small Business: http://www.sbecouncil.org/uploads/BTI2010_2.pdf*

[4] Firms of all size responded that 20.9-percent organized as sole proprietors, 5.8-percent as partnerships, 25.6-percent as C-Corps, 30.9-percent as S-Corps, 12.4-percent as LLCs, and 4.2-percent as other/DNK. *Business Structure – NFIB Small Business Poll*, NFIB Research Foundation, Washington, DC, Volume 4; Issue 7; 2004.

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AFP AMERICANS FOR PROSPERITY KANSAS

March 14, 2011

House Bill 2381
House Taxation Committee

Mr. Chairman and members of the committee,

I am proudly before you today, representing the more than 41,000 members of Americans for Prosperity-Kansas.

AFP supports HB 2381, which would allow for reductions in the individual and corporate income tax rates dependent upon growth in tax receipts.

Kansas' tax environment is already uncompetitive, and AFP supports efforts to address our tax structure. In a time when the national economy is still sluggish and Kansas is slowly recovering from the massive loss of private sector jobs, we now have fewer private sector jobs than we did ten years ago, not addressing the way we tax families and businesses will only prolong our lack of economic growth. Kansas' state and local tax burden continues to be amongst the highest in the region.

The following chart indicates some of Kansas' tax rates compared to our neighboring states:

	Top tax rate for individual with $50,000 taxable income	State & Local Property Tax Collections Per Capita (2007)	Top Corporate Income Tax Rate	Sales Tax Rate	Gas Tax	State Cigarette Tax
Colorado	4.63%	$1,180	4.63%	2.90%	$0.22	$0.84
Kansas	**6.45%**	**$1,251**	**7.05%**	**6.30%**	**$0.25**	**$0.79**
Missouri	6.00%	$893	6.25%	4.23%	$0.18	$0.17
Nebraska	6.84%	$1,353	7.81%	5.50%	$0.27	$0.64
Oklahoma	5.50%	$537	6.00%	4.50%	$0.17	$1.03

In the fall of last year, the Oklahoma Council of Public Affairs issued a paper entitled, *A Tale of Two States: The Real Effect of Individual Income Tax Cuts.* The study compared tax policy in Oklahoma and Kansas over the last ten years with an emphasis on income and sales taxes.

When the decade began, Kansas had a 4.9 percent sales tax for the first two years but then increased it to 5.3 percent until last year's increase. Meanwhile, Oklahoma kept its rate constant at 4.5 percent. In FY-00 Kansas' sales tax collections exceeded Oklahoma's by $88 million, but by FY-09 Oklahoma's

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sales tax revenues exceeded Kansas' collections by $283 million. While Kansas' sales tax revenues grew by 17 percent over the last ten years, Oklahoma's increased by 46 percent.

Sales Tax Revenues

	Kansas		Oklahoma	
	Rate	Revenue	Rate	Revenue
FY-00	4.90%	$ 1,440,295,000	4.50%	$ 1,351,803,097
FY-01	4.90%	$ 1,423,059,000	4.50%	$ 1,441,929,046
FY-02	5.30%	$ 1,470,599,000	4.50%	$ 1,443,427,590
FY-03	5.30%	$ 1,567,722,000	4.50%	$ 1,404,275,611
FY-04	5.30%	$ 1,612,067,000	4.50%	$ 1,496,238,185
FY-05	5.30%	$ 1,647,663,000	4.50%	$ 1,546,621,382
FY-06	5.30%	$ 1,736,048,000	4.50%	$ 1,677,854,488
FY-07	5.30%	$ 1,766,768,000	4.50%	$ 1,804,313,384
FY-08	5.30%	$ 1,711,398,000	4.50%	$ 1,930,951,193
FY-09	5.30%	$ 1,689,516,000	4.50%	$ 1,972,769,753

It should be noted that beginning in FY 2005, Oklahoma began lowering its' individual income tax rate from 7% in FY 2004 to 5.5% in FY 2009 while Kansas remained at 6.45% during that same time period. The majority of the individual income tax rate reduction in Oklahoma occurred in the last three years of the decade while in the middle of a recession, but surprisingly (at least to the static-model crowd) Oklahoma's sales tax revenues grew by 18 percent while Kansas' fell by 3 percent for the same period.

Thus while keeping their sales tax low compared to Kansas and reducing the individual income tax, Oklahoma realized a tremendous growth in economic activity as measured by sales tax revenue.

The Oklahoma comparison provides an example that implementing income tax cuts does not result in a drop in tax revenue for the state. From the OCPA study, *In FY 2000 Oklahoma collected $135 million more than Kansas in combined individual, corporate, and sales tax revenues. After a decade in which it reduced its individual income tax rate by 21 percent, Oklahoma collected $248 million more in FY 2009 than Kansas in those same three tax revenue categories.*

We believe enactment of this legislation would preserve funding for essential government services while providing a tax environment that would help stimulate economic growth.

Thank you for your consideration of this important issue.

Derrick Sontag
State Director
Americans For Prosperity Kansas

WICHITA METRO
CHAMBER OF COMMERCE

March 14, 2011

Mr. Chairman and Members of the Committee,

On behalf of the Wichita Metro Chamber of Commerce and our nearly 1,600 member businesses, thank you for the opportunity to testify in support of HB 2381. We are supportive of HB 2381 as we believe it moves the state of Kansas towards a more competitive and productive business environment through a more reliable and efficient tax structure.

The Wichita Metro Chamber of Commerce's number one objective is to enhance economic prosperity for our members. As you are well aware, achieving prosperity has been a rather difficult endeavor in recent years. The South-central region of Kansas, in which the majority of our members operate their businesses, has been especially hard hit by the recent economic recession. The downturn has resulted in high unemployment, business closures, and reduced wages for workers. In addition, we are extremely troubled by the fact that many of our manufactures have either moved or expanded their operations in states other than Kansas. As we pursue our objective of enhancing economic prosperity for our members and our region, we have undoubtedly come to the conclusion that while the "Great Recession" has had a devastating impact on our regional and state economies, so too have issues of competiveness with other states.

One has to look no further than to our neighbor, Oklahoma, to see how an aggressive and innovative approach to tax policy and economic growth impacts jobs, state GDP and overall prosperity. Wealth and jobs are being created in Oklahoma as its economy expands. People, as well as firms, are moving to Oklahoma. Boeing, which has long been a major employer and significant driver of the Kansas economy, is not expanding in Kansas. In fact, Boeing now has the smallest footprint in Kansas it has ever had during its years of operation here. Make no mistake, Boeing, as an international firm, is not decreasing its overall business operations; they are growing and expanding, but in states like Oklahoma, rather than Kansas. Spirit AeroSystems, which at one time was the largest employer in Wichita, has also expanded in Oklahoma.

Certainly, incentives have played a role in Oklahoma's success, but so has tax policy. Oklahoma led the nation in state GDP growth in 2009 with a 6.6% increase (Kansas declined -1.1%). Over the last decade Oklahoma has increased its population while Kansas has seen a decrease. This is a pattern we actually see nationwide. People are voting with their feet; leaving high tax states and moving to low tax states. Low tax states are outpacing high tax states in income, population growth and growth in state receipts. However, people for the most part, are not moving in an effort to avoid taxes; they are seeking jobs and personal prosperity. Simply put, people are going where the work is and the work is in states with low taxes that are thereby attracting employers.

While firms have an obligation to their employees and the communities in which they operate, they also have an obligation to their shareholders. The market demands that firms produce goods and services at the lowest cost in order to maximize profits and returns to shareholders. Taxes are a cost driver and in this ultra competitive era where capital is difficult to acquire and an annual profit and loss statement

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may be the difference between survival and demise, everything must be on the table. Companies are being forced by market pressures to relocate and expand operations in states that extract the least amount of taxes from their operations and provide the best opportunity for the maximization of profits. This is a winning situation for the company, the employees and the state that provides this type of environment.

Kansas has long recognized that taxes are a key factor in efforts to attract capital investment, jobs and industry. Were that not the case, we would not have the various tax credits, rebates, and abatements that we offer certain industries. If issues of taxation are important to the bottom-line of the film industry or a plastics firm or some other type of manufacturer, then would they not be important in the decision making process of most all other firms that could employ Kansans?

HB 2381 could reduce personal and corporate income taxes over a period of time, and we believe those reductions would lead to job creation and a more vibrant economy in Kansas. We also believe that this legislation could eventually lead to a more efficient and productive system of taxation that incentivizes production from both firms and individual citizens. Taxing the efforts of the individual worker for his own production leads to a less productive workforce and creates issues of tax avoidance; neither of which are beneficial to our business environment or our state's general fund. Peter Ferrara, writing for *Forbes,* summed it well recently saying "Income taxes are the most economically destructive of all taxes. That is because income levies tax directly the reward for work, savings, investment, and entrepreneurship. With the reward reduced, the incentive for pursuing these economically productive activities is reduced. The result is less work, less saving, less investment, fewer new businesses, less business growth, less job creation, lower wages and income, and lower overall economic growth. Higher marginal tax rates reduce these incentives more. Lower marginal tax rates reduce these incentives less. A marginal tax rate of zero, as with no income tax, maximizes these incentives, at least as far as the burden of income taxes is concerned."

To a great degree, the same holds true for direct taxes on corporations. The corporate income tax encourages firms to use debt finance, rather than equity. Debt finance makes companies riskier. But because payments on debt are tax deductible, and dividends are not, companies have a strong incentive to use debt rather than equity finance. The deductibility of debt payments also lowers the required rate of return for new projects, possibly encouraging companies to invest in marginal ideas that aren't really worth it. Without the corporate income tax giving them a 35% reduction on their interest payments, they might think twice. Do you think any CEO or board chairman has a significant desire to pursue risky behavior? Absolutely not. We incentive companies to be risky by leveling a corporate income tax.

One would have to search far and wide to find a Kansan that does not desire an economically vibrant state. In addition, Kansans also want a state government that meets the needs of citizens in the areas of infrastructure, public safety, education and safety nets for the less fortunate. These two desires cannot be mutually exclusive, as a vibrant economy needs certain protections and assurances from government, and government needs a vibrant economy with profitable firms and citizens in order to provide those essential services. The two should never be pitted against the other. Rather, policymakers should strive to create a system of taxation and economic policy that creates economic vitality while also providing the necessary funding for state government. HB 2381 accomplishes this goal and we urge your support for this legislation.

Jason Watkins

Jason P. Watkins

Kansas Economic Progress Council
Suite 200
212 West 8th
Topeka, Kansas 66603

Testimony on HB 2381
House Taxation Committee
March 14, 2011

Mr. Chairman and members of the committee, thank you for the opportunity to appear on House Bill 2381. I'm Bernie Koch with the Kansas Economic Progress Council, a statewide not for profit organization of businesses, trade associations, and chambers of commerce. We support pro-growth policies for communities and the state.

I'm reluctantly appearing in opposition to HB 2381. We believe there can be a positive impact on the economy by strategically lowering taxes that affect business. However, we also know that economic growth is also affected by encouraging investment in equipment and infrastructure, supporting quality education and the attraction of skilled workers, and supporting innovation.

We are concerned that narrowing our revenue base makes us more vulnerable to fluctuations that can be especially harmful during economic hard times. That's what's happening in a many states that do not have an individual income tax or a corporate income tax.

These states often have other kinds of revenue, usually from rich natural resources. The studies on this topic that you've heard and seen don't include these factors.

Alaska - Alaska does not have an individual income tax, but it does have a 9.4% corporate income tax. According to the Tax Foundation, Alaska draws a nation-high 52.6 percent of its state and local revenue from a group of taxes that includes severance taxes on natural resources, stock transfer taxes, estate taxes, and fees for hunting, fishing, and driver's licenses. Alaska is the second-highest oil producing state. Our budget gap is 8.8 percent this year. Alaska doesn't have a budget gap.

Wyoming - Wyoming does not have individual or corporate income taxes, but like Alaska, Wyoming has rich natural resources. It's now the largest coal mining state. About 9 percent of the work force is employed in mining. 25 percent of the workforce is employed by government. That's the largest employment sector in the state. That's an important part of their economy, and they have no budget gap.

Florida - Florida has no individual income tax, but has a corporate income tax of 5 percent. Florida's economy is based on tourism and international trade. Florida is the top travel destination in the world.

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Over 60 percent of Florida's budget is based on sales tax. They have to cut 14.9 percent from their budget to make it balance.

Nevada - Nevada has no individual or corporate income tax and it is in the most trouble of any state right now. It has the highest unemployment rate and the biggest budget gap, about 45 percent. Its budget relies heavily on sales tax paid by tourists and the tourists are not coming to the casinos. There's no backup revenue. Sales tax is over 48 percent of their revenue.

Here's how bad it is. The state budget director says if Nevada keeps education spending level, it will have to eliminate all other state programs and agencies to have a balanced budget.

South Dakota - South Dakota has no individual income tax, but it does have a state corporate tax on financial institutions
Their budget gap is 10.9 percent. Over 56 percent of their revenue comes from sales tax. The most valuable industry sector is finance, insurance, and real estate. Several large financial companies have operations located in the state, especially in Sioux Falls.

The financial service industry began to grow after South Dakota became the first state to eliminate caps on interest rates. That attracted Citibank in 1981, which moved its credit card operations from New York. That was the real spark that helped South Dakota, along with a good work force and low real estate prices.

The population is growing, but like Kansas, rural areas have declining populations.

Washington - The State of Washington does not have an individual income tax or a corporate income tax. The largest sector of the economy is aircraft manufacturing. That's Boeing, so like Kansas, they have been struggling. They are also home to Microsoft.

However, there are a few things you should know about Washington that you probably have not heard.

- They have something called a Business and Occupation Tax that applies to almost all businesses located or doing business in the state. It varies depending on the type of industry. It's a tax on gross income.
- Washington relies on sales tax more than any other state. It's over 60 percent of their revenue.
- Washington raised several taxes last year, including the cigarette tax by a dollar, to over $3 a pack.

The State of Washington is dealing with an 18 percent budget gap.

Texas - Texas has no individual income tax or corporate income tax and you've heard studies that indicate that's why they are growing employment so fast. They led the country in employment growth last year. However, a closer look indicates over 40 percent of that growth came in three areas: natural resource production, education and health services, and government. 10%

Texas says it has no corporate income tax, but it really does. In May of 2007, the legislature replaced the franchise tax with a gross margins tax on businesses. This year, Texas collected $4.3 billion from this tax. That's estimated to be about ten percent of the taxes collected by the state this year.

It really is an income tax.

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Mining and oil and gas are a big part of the Texas economy. It's number one in the country. Texas collected $2.76 billion dollars in severance taxes in 2007. They also have a lot of fees and other taxes. Over 22 percent of Texas revenues come from these other taxes:

- A fee on oysters taken from Texas waters
- A petroleum products delivery fee
- An automotive oil sales fee
- A fireworks tax
- A battery sales fee that's two to three dollars per battery
- A 14 percent mixed beverage tax
- For every customer who enters a sexually oriented business, there's fee of $5

What really surprised me were the comments of the Texas Taxpayers and Research Association, a well respected non-partisan organization that has been active for over 50 years. I'm going to quote from some of their material.

"61 percent of Texas' state and local taxes are paid by businesses – only five states are higher."
"If you are a business, Texas is a high tax state."
"Texas reliance on sales and property taxes heavily ties our tax system to the production and sale of 'goods,' placing a high tax burden on capital-intensive businesses."

Texas budget gap this year is 31.5 percent.

Oklahoma - Oklahoma does have an individual and corporate income tax, but they are often cited in studies as a state we ought to emulate, and this legislation is very similar to Oklahoma legislation.

Oklahoma is the 6th largest U.S. oil producer. Oklahoma collected $1.168 billion from gross production taxes in Fiscal Year 2008. That's part of the 26 percent of Oklahoma's major tax sources that are listed as "other." Like most of the other state's I've discussed, these very rich natural resources make it easier to have lower taxes in other areas. The Oklahoma Tax Commission web site put it this way:

"It should be noted that gross production tax revenues on oil and gas constitute a substantial portion of Oklahoma's tax revenues, relieving manufacturers and other lines of business and industry from a corresponding portion of the cost of government in Oklahoma."

That's the point. These states have resources we don't have. They have different economies. I urge you to take a broader view of what impacts an economy and delay action on House Bill 2381 at this time.

Thank you for your attention.

Poverty rate in 2008 (Nationally 13.2%)
U.S. Census Bureau

		Rank
Texas	16.3 %	8
Oklahoma	16.3	9
South Dakota	13.1	21
Florida	12.6	24
Kansas	**11.6**	**31**
Washington	11.5	33
Nevada	10.8	36
Wyoming	9.2	45
Alaska	9.4	44

ACT Average Composite Score in 2009

		Rank
Washington	22.8	8
South Dakota	22.0	19
Kansas	**21.9**	**21**
Nevada	21.5	29
Alaska	21.0	33
Texas	20.8	34
Oklahoma	20.7	37
Wyoming	20.0	44
Florida	19.5	48

NAEP tests – US Department of Education – National Assessment of Educational Progress
Percent of public school 4th graders proficient or better in reading in 2007
National percent = 32 %

		Rank
Kansas	**36%**	**10**
Washington	36	10
Wyoming	36	10
Florida	34	23
South Dakota	34	23
Texas	30	33
Alaska	29	34
Oklahoma	27	41
Nevada	24	45

Percent of public school 8th graders proficient or better in reading in 2007
National percent = 29 %

		Rank
South Dakota	37%	5
Kansas	**35**	**13**
Washington	34	16
Wyoming	33	19
Florida	28	30
Texas	28	30
Alaska	27	35
Oklahoma	26	37
Nevada	22	44

Percent of public school 4th graders proficient or better in math in 2009
National percent = 38%

		Rank
Kansas	**46%**	**6**
Washington	43	16
South Dakota	42	19
Wyoming	40	25
Florida	40	25
Alaska	38	29
Texas	38	29
Oklahoma	33	41
Nevada	32	42

Percent of public school 8th graders proficient or better in Math 2009
National percent = 33%

		Rank
South Dakota	42	8
Kansas	**39%**	**13**
Washington	39	13
Texas	36	18
Wyoming	35	23
Alaska	33	30
Florida	29	35
Nevada	25	41
Oklahoma	24	44

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TABLE 1: STATES WITH PROJECTED FY2012 GAPS		
	FY12 Projected Shortfall	Shortfall as Percent of FY11 Budget
Arizona	$974 million	11.5%
California*	$25.4 billion	29.3%
Colorado	$988 million	13.8%
Connecticut	$3.7 billion	20.8%
District of Columbia	DK	na
Florida	$3.6 billion	14.9%
Georgia	$1.7 billion	10.3%
Hawaii	$410 million	8.2%
Idaho	$300 million	12.6%
Illinois	$15.0 billion	44.9%
Indiana	$270 million	2.0%
Iowa	$294 million	5.6%
Kansas	$492 million	8.8%
Kentucky*	$780 million	9.1%
Louisiana	$1.7 billion	22.0%
Maine	$436 million	16.1%
Maryland	$1.6 billion	12.2%
Massachusetts	$1.8 billion	5.7%
Michigan	$1.8 billion	8.6%
Minnesota	$3.9 billion	24.5%
Mississippi	$634 million	14.1%
Missouri	$1.1 billion	14.4%
Montana	$80 million	4.3%
Nebraska	$314 million	9.2%
Nevada	$1.5 billion	45.2%
New Hampshire	DK	na
New Jersey	$10.5 billion	37.4%
New Mexico	$410 million	7.6%
New York	$9.0 billion	16.9%
North Carolina	$3.8 billion	20.0%
Ohio	$3.0 billion	11.0%

Oklahoma	$600 million	11.3%
Oregon*	$1.8 billion	25.0%
Pennsylvania	$4.5 billion	17.8%
Rhode Island	$290 million	9.9%
South Carolina	$877 million	17.4%
South Dakota	$127 million	10.9%
Tennessee	DK	Na
Texas	$13.4 billion	31.5%
Utah	$437 million	9.2%
Vermont	$150 million	13.9%
Virginia*	$2.3 billion	14.8%
Washington	$2.9 billion	18.5%
West Virginia	$155 million	4.1%
Wisconsin	$1.8 billion	12.8%
States Total	$124.7 billion	20.0%

Note: Kentucky and Virginia have two-year budgets. They closed their FY2012 shortfalls when they enacted their budgets for the FY2011-FY2012 biennium. California's shortfall includes an $8.2 billion shortfall carried forward from FY2011. Oregon's shortfall is one half of the state's total projected shortfall for the 2011-2013 biennium.

Source: Center on Budget and Policy Priorities

State Reliance on Major Tax Sources (2009)

States vary in their tax mix, but all depend on various major and numerous minor taxes to fund government operations. Personal income and general sales taxes serve as the principal revenue sources for many states, although some may levy only one of these taxes or, in a few instances, neither of them. A few states rely heavily on business taxes, either through a corporate income tax or some other business levy. States with extensive natural resources tend to rely on severance taxes for a sizeable proportion of total revenues. Miscellaneous taxes also play a role in overall tax performance. The following table provides information on states tax mix and its relative reliance on each.

State Reliance on Major Tax Sources, 2009

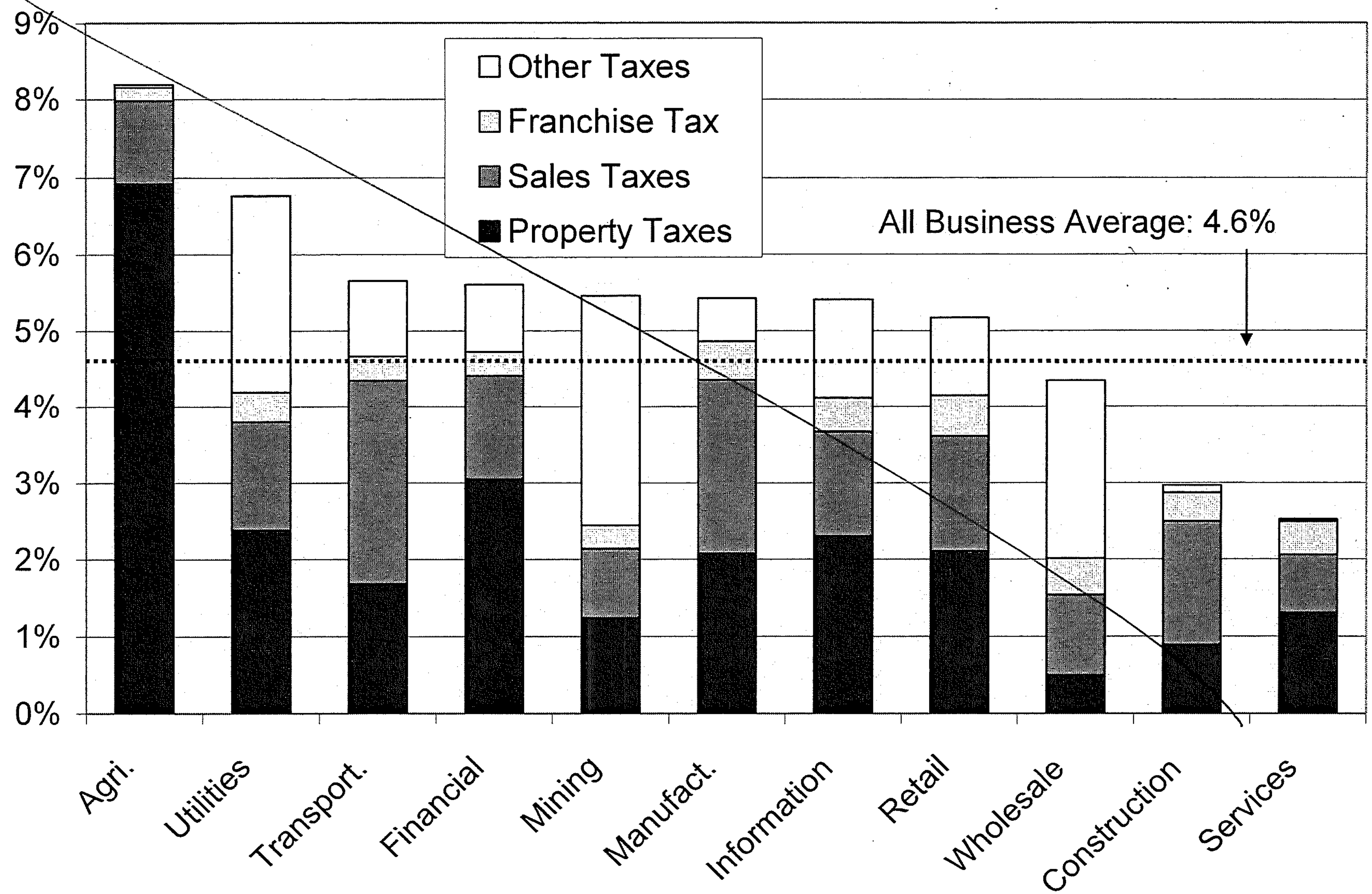
State	General sales and gross receipts	Individual income	Selective sales taxes	Corporation net income	Property taxes	Other taxes
United States	**31.9%**	**34.4%**	**16.0%**	**5.6%**	**1.8%**	**10.3%**
Alabama	24.9%	32.1%	25.7%	5.9%	3.8%	7.6%
Alaska	X	X	4.9%	12.8%	2.2%	80.1%
Arizona	50.4%	17.4%	15.2%	5.3%	7.4%	4.2%
Arkansas	37.0%	30.0%	13.2%	4.6%	9.8%	5.3%
California	28.7%	43.9%	7.3%	9.4%	2.3%	8.3%
Colorado	24.5%	50.7%	13.5%	3.8%	X	7.5%
Connecticut	25.4%	49.3%	16.5%	3.4%	X	5.3%
Delaware	X	32.5%	16.9%	7.4%	X	43.2%
Florida	60.2%	X	23.9%	5.7%	0.0%	10.2%
Georgia	33.0%	48.5%	10.5%	4.3%	0.5%	3.1%
Hawaii	52.2%	28.4%	14.1%	1.7%	X	3.6%
Idaho	38.0%	37.1%	11.6%	4.5%	X	8.8%
Illinois	25.5%	31.4%	24.0%	9.4%	0.2%	9.5%
Indiana	41.6%	29.0%	17.8%	5.6%	0.1%	5.9%
Iowa	31.5%	38.7%	15.3%	3.8%	X	10.7%
Kansas	33.3%	40.8%	12.2%	5.5%	1.2%	7.0%
Kentucky	29.3%	34.0%	18.5%	4.0%	5.3%	9.0%
Louisiana	29.6%	29.4%	20.5%	6.1%	0.6%	13.8%
Maine	29.0%	39.3%	18.0%	4.1%	1.2%	8.4%
Maryland	25.5%	42.8%	15.1%	5.0%	4.6%	7.1%
Massachusetts	19.9%	54.4%	10.4%	9.2%	0.0%	6.1%
Michigan	40.2%	25.6%	15.0%	2.8%	9.9%	6.5%
Minnesota	25.5%	40.5%	17.4%	4.5%	4.2%	7.9%
Mississippi	46.5%	22.8%	17.1%	5.0%	0.8%	7.9%
Missouri	29.3%	46.1%	15.2%	2.7%	0.3%	6.4%
Montana	X	34.4%	22.0%	6.8%	9.8%	27.1%
Nebraska	37.6%	40.0%	12.8%	5.0%	0.0%	4.6%
Nevada	48.2%	X	29.8%	X	3.7%	18.3%
New Hampshire	X	4.6%	39.0%	23.2%	18.5%	14.7%
New Jersey	30.1%	39.2%	13.0%	8.8%	0.0%	8.8%
New Mexico	38.9%	19.2%	12.5%	4.2%	1.3%	23.9%
New York	17.0%	56.7%	14.1%	6.8%	X	5.4%
North Carolina	24.2%	46.6%	16.9%	4.4%	X	7.8%
North Dakota	25.2%	15.3%	13.9%	5.4%	0.1%	40.1%
Ohio	30.6%	34.7%	20.1%	2.2%	X	12.4%
Oklahoma	26.5%	31.2%	12.2%	4.2%	X	25.9%
Oregon	X	73.2%	10.0%	3.5%	0.3%	12.9%

State Reliance on Major Tax Sources, 2009

State	General sales and gross receipts	Individual income	Selective sales taxes	Corporation net income	Property taxes	Other taxes
United States	**31.9%**	**34.4%**	**16.0%**	**5.6%**	**1.8%**	**10.3%**
Pennsylvania	28.3%	31.8%	21.9%	5.8%	0.2%	12.1%
Rhode Island	31.5%	37.2%	22.0%	4.2%	0.1%	5.1%
South Carolina	40.7%	32.9%	16.3%	3.1%	0.1%	6.8%
South Dakota	56.7%	X	24.5%	3.7%	X	15.1%
Tennessee	60.9%	2.1%	15.7%	7.8%	X	13.4%
Texas	51.6%	X	25.8%	X	X	22.7%
Utah	32.2%	42.8%	12.1%	4.5%	X	8.5%
Vermont	12.8%	21.3%	20.0%	3.5%	36.4%	6.1%
Virginia	20.8%	55.1%	13.2%	3.9%	0.2%	6.9%
Washington	61.2%	X	18.7%	X	10.9%	9.2%
West Virginia	23.2%	32.5%	23.3%	8.8%	0.1%	12.1%
Wisconsin	28.2%	42.9%	17.4%	4.3%	0.9%	6.2%
Wyoming	35.8%	X	4.7%	X	10.4%	49.1%

Source: NCSL calculations based on data from the Bureau of the Census, 2010

Tax Burden Relative to Output



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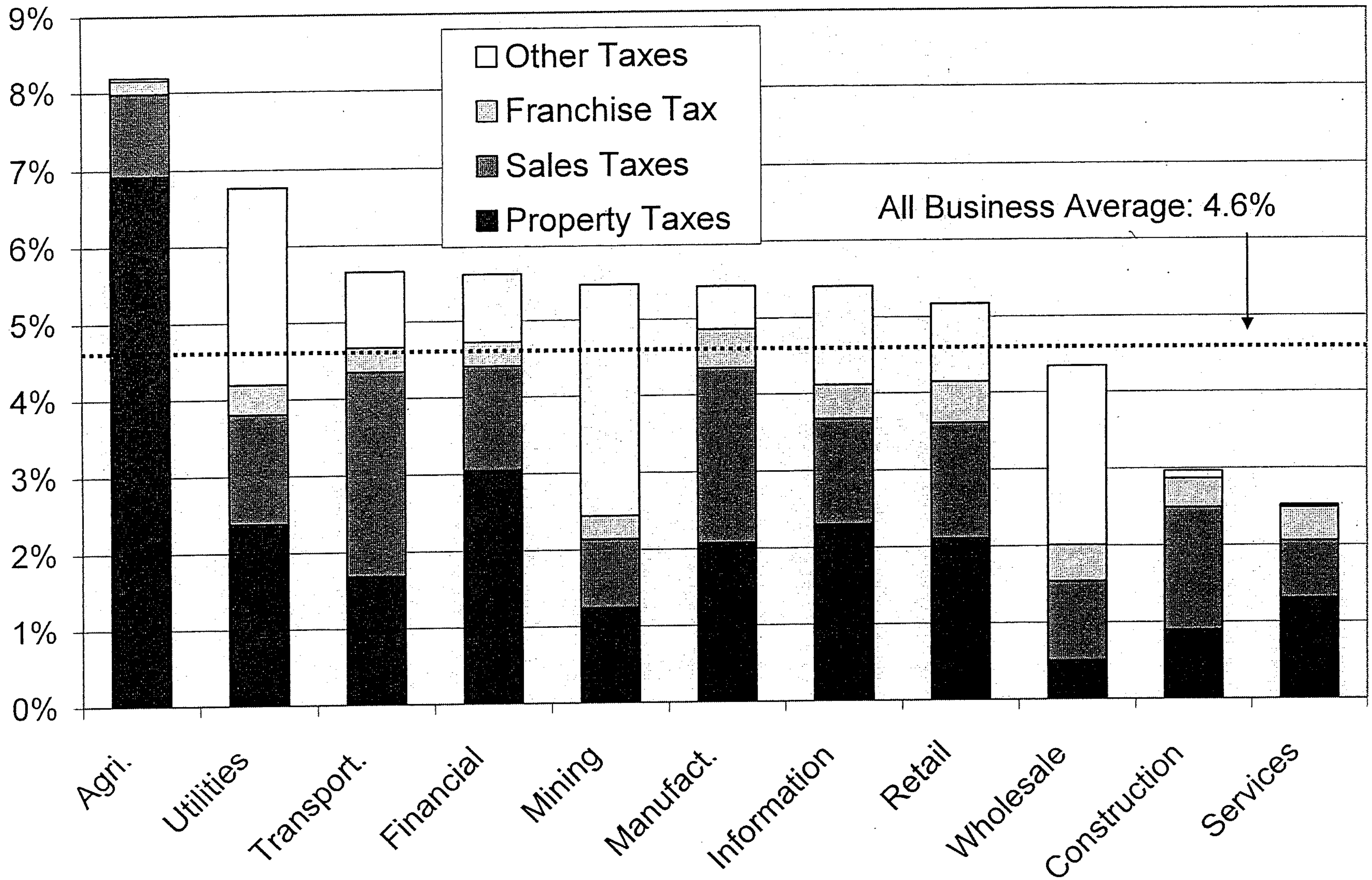
Tax Burden Relative to Output



Overland Park
Chamber of Commerce

Written testimony in opposition to House Bill 2381
House Taxation Committee
Monday, March 14, 2011

Chairman Carlson and House Taxation Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am submitting written testimony today in reluctant opposition to House Bill 2381 on behalf of our Board of Directors and our nearly 1,000 member companies.

While the reduction of state income tax and possible elimination of such sounds like a pro-business move that could possibly lead to new business growth in our state, it is still uncertain how such a large shift in our tax structure will affect the revenue streams and quality of our state's largest budgetary items including K-12 education, social services and KPERS funding.

The desire to cut taxes is usually precipitated by a particularly rosy fiscal outlook, yet this proposal comes while Kansas is still weathering the effects of our country's worst recession since the Great Depression, and the Legislature is still trying to determine how to deal with a $500+ million deficit in Fiscal Year 2012. During hard times such as these, businesses crave stability in tax policy. Several of the tax proposals that have come forward in the last few days from legislators may have merit and business' best interests at heart; however, companies need more time to adequately research and determine how such radical shifts in our state's taxing infrastructure will impact them. Time is necessary to contemplate unintended consequences and extenuating circumstances that may affect business productivity.

One of our largest concerns with this proposal is not knowing if the gradual reduction of both personal and corporate income taxes could eventually lead to increases in other taxes. Proponents paint a glowing atmosphere of business friendliness that our state will exude should this bill pass, causing an influx of new businesses to the state and thus a flow of more sales tax into state revenue coffers. However, if in fact this does not occur, how does the state pay for needed state services? Given our current "no new taxes" atmosphere, replacing the revenue could require elimination of sales tax exemptions to broaden the tax base, which could also lead to a sales tax on professional services that would be detrimental to Johnson County, our state's economic engine, as well as to businesses state-wide.

A broad and varied tax base is essential to stability in our tax system. The more narrow a state's tax base, the more susceptible it is to wide swings when specific segments of the economy have problems. While reduced taxes can modestly spur economic growth, researchers also find that state expenditures on education, infrastructure, highways and public health matter as much or more than taxes in determining economic growth rates. Reduced taxes that are accompanied by reductions in spending on services that benefit the economy and businesses can have a negative effect on economic growth*.

Before embarking on a measure as large as what is proposed in HB 2381, we respectfully urge you as policymakers to take the time to fully understand the bill's future ramifications. Please oppose HB 2381.

*Robert Lynch, *Rethinking Growth Strategies: How State and Local Taxes and Services Affect Economic Development*, Economic Policy Institute, 2004.

House Taxation
Date: 3-14-11
Attachment: 9

Session of 2011

HOUSE BILL No. 2051

By Committee on Taxation

1-20

Proposed Amendments to HB 2051

Committee on Taxation

AN ACT concerning income taxation; relating to credits; amending K.S.A. 79-32,141 and K.S.A. 2010 Supp. 79-32,160a and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 79-32,141 is hereby amended to read as follows: 79-32,141. *(a)* The director may allocate gross income, deductions, credits, or allowances between two or more organizations, trades or businesses, ~~(~~whether or not incorporated, or organized in the United States or affiliated~~)~~, *which are* owned or controlled directly or indirectly by the same interests, if the director determines such allocation is necessary to prevent evasion of taxes or to clearly reflect income of the organizations, trades or businesses.

(b) Commencing with the taxable year which commences after December 31, ~~*2010*~~*, and all taxable years thereafter, credits claimed by a corporation that is a member of a unitary group filing a combined report pursuant to the provisions of subsection (e) of K.S.A. 79-32,160a, and amendments thereto, including any carryforward credits, may be applied against the tax liability of any member or members of such group in such combined report.*

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subject to the limitations provided in this subsection,

For the following tax years, limits on the credits then available to a company that is a member of a unitary group under this subsection are as follows: (1) For the taxable year which commences after December 31, 2012, not more than 20% of such credits subject to unitary treatment; (2) for the taxable year which commences after December 31, 2013, not more than 25% of such credits subject to unitary treatment; (3) for the taxable year which commences after December 31, 2014, not more than 33% of such credits subject to unitary treatment; and (4) for the taxable year which commences after December 31, 2015, not more than 50% of such credits subject to unitary treatment.

Sec. 2. K.S.A. 2010 Supp. 79-32,160a is hereby amended to read as follows: 79-32,160a. (a) For taxable years commencing after December 31, 1999, any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, and effective for tax years commencing after December 31, 2010, located in an area other than a metropolitan county as defined in either K.S.A. 2010 Supp. 74-50,114 or 74-50,211, and amendments thereto, and also meets the definition of a business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall be allowed a credit for such investment, in an amount determined under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act or where the qualified business facility is the principal place from which the trade or business of the taxpayer is directed or managed and the facility has facilitated the creation of at least 20 new full-time positions, against the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial

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institutions imposed pursuant to *article 11 of* chapter 79~~, article 11~~ of the Kansas Statutes Annotated, for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility. In the case of a taxpayer who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. In the case of a taxpayer who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds five. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if*:* (1) The employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility~~,~~*;* or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility which is located in a designated nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to *article 11 of* chapter 79~~, article 11~~ of the Kansas Statutes Annotated, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) Two thousand five hundred dollars for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus

(2) one thousand dollars for each $100,000, or major fraction

thereof, which shall be deemed to be 51% or more, in qualified business facility investment, as determined under K.S.A. 79-32,154, and amendments thereto.

(c) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility, which is not located in a nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, and effective for tax years commencing after December 31, 2010, located in an area other than a metropolitan county as defined in either K.S.A. 2010 Supp. 74-50,114 or 74-50,211, and amendments thereto, and which also meets the definition of business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to *article 11 of* chapter 79~~, article 11~~ of the Kansas Statutes Annotated, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) One thousand five hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto; and

(2) one thousand dollars for each $100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(d) The credit allowed by subsection (a) for each qualified business facility employee and for qualified business facility investment shall be a one-time credit. If the amount of the credit allowed under subsection (a) exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to *article 11 of* chapter 79~~, article 11~~ of the Kansas Statutes Annotated for the taxable year, or in the case where the qualified business facility investment was made prior to January 1, 1996, 50% of such tax imposed upon the amount which exceeds such tax liability or such portion thereof may be carried over for credit in the same manner in the succeeding taxable years until the total amount of such credit is used. Except that, before the credit is allowed, a taxpayer, who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and

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amendments thereto, shall recertify annually that the net increase of a minimum of two qualified business facility employees has continued to be maintained and a taxpayer, who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, shall recertify annually that the net increase of a minimum of five qualified business employees has continued to be maintained.

(e) Notwithstanding the foregoing provisions of this section, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto; which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds $50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to *article 11 of* chapter 79~~, article 11~~ of the Kansas Statutes Annotated for the taxable year, the amount thereof which exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the ~~10th~~~~*20th*~~ taxable year succeeding the taxable year in which such credit initially was claimed ~~and no carry forward shall be allowed for deduction in any succeeding taxable year unless the taxpayer continued to be qualified and was recertified for such succeeding taxable year pursuant to K.S.A. 74-50,131, and amendments thereto~~. *In no event shall any credit allowed under this section that expired during any taxable year prior to the taxable year commencing January 1, 2011, be revived under the provisions of this act.*

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<u>, and no carry forward shall be allowed for deduction in any succeeding taxable year unless the taxpayer certifies under oath that the taxpayer continues to meet the requirements of K.S.A. 74-50,131, and amendments thereto, and this act</u>

(f) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information

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pursuant to K.S.A. 2010 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2010 Supp. 79-32,243, and amendments thereto.

(g) This section and K.S.A. 79-32,160b, and amendments thereto, shall be part of and supplemental to the job expansion and investment credit act of 1976 ~~and acts amendatory thereof and supplemental thereto~~, *and amendments thereto*.

Sec. 3. K.S.A. 79-32,141 and K.S.A. 2010 Supp. 79-32,160a are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.