



## House Committee on Taxation

Presented by Eric Stafford, VP of Government Affairs, Kansas Chamber

Testimony in Support of House Bill 2336- Single Factor Apportionment

Wednesday, February 26, 2025

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large-sized businesses across the state, advocating for policies which improve the economic climate in Kansas. We appreciate the opportunity to provide testimony in support of House Bill 2336, which would move Kansas to a single-factor apportionment state for corporate income tax purposes.

This committee has held hearings for the past three years on variations of bill language related to single-factor apportionment. For historical context, our membership has been split on this issue and that remains the case today. Heading into the 2021 session, our members asked for a bill that would allow taxpayers from certain industries elect single-factor apportionment. At that time, our priority was passing legislation to decouple from the tax cuts and jobs act, so we were not successful in getting single-factor apportionment through. We reintroduced House Bill 2110 in 2023 which was a pure election model between three-factor (current law) and single-factor for those select NAICS codes.

On the afternoon when this committee was scheduled to work HB 2110, we were called into a meeting with the chairman, ranking minority member Rep. Tom Sawyer, and representatives from the department of revenue. We were asked if we could support moving Kansas to a single-factor state. Knowing the history of this issue with our membership, our response was that we needed some time to work through this with members, so the bill did not move forward.

That led to a working group specific to this issue that met several times during the summer and fall of 2023. First, ***our board adopted a position to support the change to single-factor apportionment for 2024.*** However, it took time to get to that position, as some taxpayers will experience a reduction in tax liability, while others will see an increase. What changed to switch our position from an election to full single-factor for everyone?

The best arguments made during our discussions were from a business located within five miles of the Missouri border. His argument was he could move their facility to Missouri, which is now a single-factor state and reduce their tax burden significantly. We had advocated for a taxpayer election because single-factor *DOES* reward those with significant capital investment in the state. The economic argument to move from three-factor to single-factor is to encourage more economic development and investment in a state. If you look at page 3 of our testimony, you will see a list of states that have moved to the sales factor, which now numbers over 40. Only six states, including Kansas, use the old three-factor formula of

property, payroll and sales. Oklahoma, also a three-factor state, is also considering the change to single sales factor.

Several other provisions are included in HB 2336 that were also included in the 2024 legislation. Our members who will be negatively impacted by this change asked for provisions to help offset an increased tax liability. HB 2336 includes two such provisions. Those are: 1) a buy-down of the corporate rate with any increase in corporate income tax receipts caused by such change in apportionment formula; and 2) a provision known as a deferred tax liability credit.

We also have a three-year election period (two years in the last version) where taxpayers can choose between single-factor and three-factor, before moving fully to single-factor apportionment in the fourth year for all taxpayers. Again, these requests were made to help those businesses negatively impacted prepare for the change.

And the last item specific to HB 2336, the bill now also includes a provision known as “Market-based sourcing.” The Kansas Department of Revenue was seeking this change in their single-factor apportionment bill last year, HB 2796. We are supportive of this change, with the slight exception that we ask to exclude cable and telecommunications from the provision, similar to a dozen other states.

One last item worth mentioning is the exclusion from the sales factor is language exempting the sale of natural gas between a service corporation and their utility. Along that same line, **we would also like to propose the following highlighted language due to the three-tier system in the sale of alcohol.** This exemption prevents manufacturers from being taxed for selling products to the distributor, who then sells the product to retailers. This exemption is similar to the natural gas exemption for the sales transaction of gas between different corporate divisions of a company.

*Any manufacturer of alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, who sells to a distributor as defined in K.S.A. 41-102, and amendments thereto, shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.*

In conclusion, the discussions within our organization have been extensive surrounding moving to single-factor apportionment. We have been able to thoroughly vet this issue among our members and believe HB 2336 accommodates interests of all parties. Thank you for the opportunity to testify today and I’m happy to answer any questions you may have.

### State Primary Apportionment Factors for tax year 2020

Three-Factor (6)	50% Sales (8)	>50% Sales Factor (3)	Single Sales (29)
Alaska Hawaii Kansas Montana North Dakota* Oklahoma	Alabama Arkansas Florida Idaho New Hampshire Vermont Virginia* West Virginia	Delaware Maryland Tennessee	Arizona* California Colorado Connecticut Georgia Illinois Indiana Iowa Kentucky Louisiana Maine Massachusetts* Michigan Minnesota Mississippi Missouri Nebraska New Jersey New Mexico New York North Carolina Oregon Pennsylvania Rhode Island South Carolina Texas** Wisconsin District of Columbia