

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:00 a.m. on February 11, 2010, in Room 783 of the Docking State Office Building.

All members were present.

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  
Brandon Riffel, Kansas Legislative Research Department  
Marla Morris, Committee Assistant

Conferees appearing before the Committee:

Joan Wagnon, Secretary, Kansas Department of Revenue (KDOR), and Chairperson, Kansas Advisory Council on Intergovernmental Relation, (KACIR)  
Lori McMillan, Washburn University School of Law  
Judy Lair, Member, Kansas Association of School and KACIR  
Shannon Jones, Statewide Independent Living Council of Kansas (SILCK)  
Mark Desetti, Kansas National Education Association (KNEA)  
John Arnold, President, John E. Arnold Company and KACIR Member  
Randall Allen, Kansas Association of Counties  
George McCrary, President, Kansas Health and Fitness Association  
Greg Ferris, Genesis Health Clubs  
Kathy Cook, Kansas Families for Education  
Emily Compton, Goodwill Industries of Kansas, Inc.

Others attending:

See attached list.

Introduction of bills:

Representative Rardin moved to introduce a bill relating to the suspension of driving privileges with respect to hit and run accidents. The motion was seconded by Representative Menghini. The motion carried

Representative Barbara Craft requested Committee introduction of a bill addressing the time period for payment of special assessment property taxes on vacant lots and reducing the time period allowed for payment from two years down to one year. Representative King moved to introduce the bill to reduce the time period to one year for payment of special assessment property taxes on vacant lots. The motion was seconded by Representative Hawk. The motion carried.

Chairman Carlson opened the hearing on:

**HB 2549 - Imposition of sales tax on certain goods and services, elimination of certain sales tax exemptions and fund-raising sales.**

Testimony will be presented by proponents and opponents of **HB 2549** relating to the following categories:

1. Exemptions eliminated for all statutory named nonprofit and charitable organizations, K.S.A. 79-3606 (vv), (ww), (ggg), (lll), (mmm), (nnn), (qqq), (sss), (uuu), (vvv), (www), (xxx), (yyy), (zzz), (aaaa), (bbbb), (cccc), (dddd), (eeee), and (ffff)
2. Exemptions eliminated for admissions to recreational activities or events whether operated by nonprofit organization, city, county or private organization, K.S.A. 79-3606 (m) and (n)
3. Exemptions eliminated for religious organizations, K.S.A. 79-3606 (aaa) and other charitable and benevolent organizations, K.S.A. 79-3603(e), 79-3606(e), (v), (ii), (oo), (qq), (rr), (tt), (xx), (yy), (bbb), (hhh), (iii), (ppp) and (ttt)
4. Provides exemption for certain fund-raising events of nonprofit organizations

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on February 11, 2010, in Room 783 of the Docking State Office Building.

The Chair instructed the Committee that the hearing on **HB 2549** will cover four days with the last day covering exemptions on utilities. The Committee was directed to a numbered list of conferees testifying and a handout identifying exemptions by statute with the names of organizations addressed in each statute (Attachment #1). Due to the large number of conferees, speaking time will be limited to three minutes. Written copies of all testimony are in their packets and can be read at a later time. Questions will be held until after all conferees have been heard.

Staff Gordon Self, Office of the Revisor of Statutes, summarized **HB 2549**. Introduction of this bill was requested by the Kansas Advisory Council on Intergovernmental Relations (KACIR) and addresses certain sales tax exemptions. This portion of the bill examines a repeal of sales tax exemptions for named non-profit and charitable organizations, admissions to recreational activities or events whether operated by non-profit organization, city, county or private organization, and religious organizations and other charitable and benevolent organizations. The bill provides exemption for certain fund-raising events of non-profit organizations. Revisor Self brought to the attention of these Committee corrections to the agenda: K.S.A. 3606 (m) and (n) should read K.S.A. 79-3603 (m) and (n). K.S.A. 79-3606 (e), (v), (ii), should not have (e) listed. He stood for questions.

Joan Wagnon, Secretary, Kansas Department of Revenue (KDOR), and Chairperson of the Kansas Advisory Council on Intergovernmental Relation, (KACIR) gave a brief overview of entire bill. Testifying on behalf of the KACIR, she supports **HB 2549**, stating the number of sales tax exemptions has more than tripled since 1985, growing from 30 to 96 exemptions. The proposed repeal of certain sales tax exemptions would increase the state revenues by \$194.46 million in fiscal year 2011 and \$200.55 million in fiscal year 2012 (Attachment 2).

Proponents:

Lori McMillan, Washburn University School of Law, testified in favor of **HB 2549** and recommends an annual review of organizations enjoying tax exemptions (Attachment 3). Judy Lair, spoke on behalf of Kansas Association of School Boards and as a KACIR member. **HB 2549** would help the state avoid deeper cuts through the proposed repeal of certain exemptions (Attachment 4). Shannon Jones, Statewide Independent Living Council of Kansas (SILCK) (Attachment 5), suggested comprehensive reviews of exemptions, credits and exclusions to ensure fairness in the tax system. She spoke in support of New Section 5 of **HB 2549**. Mark Desetti, Kansas National Education Association (KNEA) supports the elimination of sales tax exemptions granted to specific organizations by name. Mr. Desetti proposed setting guidelines and following those guidelines consistently (Attachment 6). John Arnold, President, John E. Arnold Company and public member of the KACIR, spoke as a retired city manager and supports the adoption of **HB 2549** (Attachment 7). Randall Allen, Kansas Association of Counties (Attachment 8), supports **HB2549**. His testimony reflected the struggle county governments endure as the tax base shrinks due to the increasing number of tax exemptions. Mr. Allen urged the Committee to support passage of **HB 2549**. George McCrary, President, Kansas Health and Fitness Association (Attachment 9), testified in favor of Section 3 of **HB 2549**. Greg Ferris, Genesis Health Clubs operating in Wichita, Hutchinson and Salina, also supports Section 3 of **HB 2549** (Attachment 10), stating this is the time to capture sales tax revenues from non-profit organizations operating as a business in direct competition with for-profit businesses. Kathy Cook, Kansas Families for Education (Attachment 11), favors passage of **HB 2549**, supporting the repeal of many exemptions and reevaluating those that remain.

Chairman Carlson directed the Committee to written only testimony from a proponent of **HB 2549**: Representative Julie Menghini (Attachment 12).

Opponents:

Emily Compton, Goodwill Industries of Kansas, Inc., spoke against **HB 2549** and the repeal of tax exemptions for non-profit organizations (Attachment 13). She asked the Committee to consider forming a committee to study the impact to the budget if the state has to pick up the full costs of providing services Goodwill and other non-profits will no longer be able to supplement.

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on February 11, 2010, in Room 783 of the Docking State Office Building.

Chairman Carlson opened the floor for questions.

Representative Siegfried requested a list of exemptions that would re-qualify under Section 5. Secretary Wagnon (KDOR), will research and provide requested information.

Secretary Wagnon, Judy Lair, Emily Compton, John Arnold stood for questions.

The next meeting is scheduled for February 12, 2010.

The meeting was adjourned at 10:30 a.m.

# HOUSE TAXATION COMMITTEE

DATE: February 11, 2010

NAME	REPRESENTING
Dennis Wilson	Kansas Churches for Fair Tax
Ernie Campbell	Headline Industries of Kansas
Paul Eckles	KS Chamber of Commerce
John Paterberg	Shelton Living
Paul Goff	Grange Council of Kansas
Mystelle Gubler	Capital Strategies
Karl Johnson	Ks. Catholic Conf.
Xuni Rao	KCSL
Jennie Clack	Dodge City Public Schools
MARK DEBETTI	KNET
Jackson Lindsey	Hein Law
Whitney Jann	YMCA / Civil Servants
Tom Kuh	KASB
Judith Linn	KACIR / KASB
Cathy Harding	KAMU
Larry R BARN	LKW
Shawn Muter	American Legion, VFW
Robin Clements	Joe Kowalec / DCCC
Matt Hickam	KCPHL

# HOUSE TAXATION COMMITTEE

DATE: February 11, 2010

NAME	REPRESENTING
Robin Tennison	Swedish Motel
Guy Ferris	Genesis Health Clubs
Bradley Jordan II	Genesis Health Clubs
George McGary	KHFA
Guthrie Smith	SCU Health
John Dowdy	KS Lusk Ass'n
BRAD HARRISON	KFB
Bob Vandrum	GKCCC
Nora Lockton	GKCCC
Ginda DeCoursey	American Heart Assn.
Pave Heinemann	Amn Cancer Society
Eric Stafford	AGC of K
LOREY STANTON	Northern Natural Gas Co.
DINA FISK	VERIZON WIRELESS
Dos Johnson	Federico Company
GENIE MEYER	KANSAS REPORTER
Randan Allen	KS. Association of Counties

Exemptions eliminated for all statutory named nonprof and charitable orgzs:

KSA 79-3606(vv)	Property purchased by the following organizations who are organized under the federal income taxation code as a 501 (c)(3): American Heart Association, Kansas Affiliate; Kansas Alliance for the Mentally Ill, Inc.; Kansas Mental Illness Awareness Council; in 2004 added: Heartstrings Community Foundation, Cystic Fibrosis , Spina Bifida Assn, CHWC, Inc., Cross-lines Cooperative Council, Dreams Work, Inc., KSDS, Inc., Lyme Association of Grater Kansas City, Inc Dream Factory, Ottawa Suzuki Strings, International Assn of Lions Clubs, Johnson County young Matrons, American Cancer Society, Community Services of Shawnee, Angel Babies Assn, Kansas Fairground Foundation.
KSA 79-3606(ww)	Property purchased by the Habitat for Humanity for use within a housing project
KSA 79-3606(ggg)	Property and services purchased by or on behalf of the Kansas Academy of Science.
KSA 79-3606(III)	Property and services purchased by Special Olympics Kansas, Inc., and sales made by or on behalf of Special Olympics.
KSA 79-3606(mmm)	Property and services purchased by Marillac Center, Inc. and sales made by or on behalf of the Marillac Center.
KSA 79-3606(nnn)	Property and services purchased by West Sedgwick County - Sunrise Rotary Club for constructing boundless playground.
KSA 79-3606(qqq)	Property and services purchased by TLC for Children and Families, Inc. and sales made by or on behalf of TLC
KSA 79-3606(sss)	Property and services purchased by catholic charities or youthville and sales made by or on behalf of catholic charities or youthville
KSA 79-3606(uuu)	Property and services purchased by Kansas Children's Service League and sales made by or on behalf of the KCSL
KSA 79-3606(vvv)	Property and services purchased by Jazz in the Woods and sales made by or on behalf of such organization
KSA 79-3606(www)	Property purchased by or behalf of Frontenac Education Foundation and sales made by or on behalf of such organization
KSA 79-3606(xxx)	Property and services purchased by the Booth Theatre Foundation, Inc. Provides for refund of sales taxes paid from January to July '07.
KSA 79-3606(yyy)	Property and services purchased by the TLC Charities Foundation, Inc. and sales made by or on behalf of these organizations.
KSA 79-3606(zzz)	Property purchased by Rotary Club of Shawnee Foundation
KSA 79-3606(aaaa)	Property and services purchased by or on behalf of Victory in the Valley and sales made by or on behalf of such organization

KSA 79-3606(bbbb)	Guadalupe Health Foundation, sales of entry or participation fees, charges or tickets for annual fundraising event
KSA 79-3606(cccc)	Property and services purchased by or on behalf of Wayside Waifs for the purpose of providing such organizations annual fundraising event and sales made by or on behalf of such organization
KSA 79-3606(dddd)	Property or services purchased by or on behalf of Goodwill Industries or Easter Seals o Kansas, Inc for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment
KSA 79-3606(eeee)	Property or services purchased by or on behalf of All Beef Battalion, Inc. for the purpose of educating, promoting and participating as a contract group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services.
KSA 79-3606(ffff)	Property and services purchased by Sheltered Living, Inc for the purpose of providing residential and services for people with developmental disabilities or mental retardation, or both; and sales made on behalf of such organization

**Exemptions eliminated for admissions to rec activities or events whether operated by nonprofit orgz, city, county or private orgz:**

KSA 79-3603(m)	Fees and charges by any political subdivision, youth recreation organization exclusively providing services to persons 18 or younger organized as a 501(c)(3) for sports, games and other recreational activities and entry fees and charges for participation.
KSA 79-3603(n)	Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitarian organizations) and sales of memberships to nonprofit zoos

**Exemptions eliminated for religious orgzs**

KSA 79-3606(aaa)	Property and services purchased by religious organizations and used exclusively for religious purposes
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**and other benevolent orgzs**

KSA 79-3603(e)	Admission to any cultural and historical event which occurs triennially
KSA 79-3606(v)	Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons. In 2004, expanded exemption to all personal property purchased by contractor and sales of food products by or on behalf of contractor or organization
KSA 79-3606(ii)	Property purchased by nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities and sales of property by or on behalf of such organization
KSA 79-3606(oo)	Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals.
KSA 79-3606(qq)	Property and services purchased by a nonprofit museum or historical society which is organized under the federal income taxation code as a 501 (c)(3)
KSA 79-3606(rr)	Property which will admit purchases to an annual event sponsored by a nonprofit organization organized under the federal income taxation code as a 501 (c)(3)
KSA 79-3606(tt)	Property and services purchased by not-for-profit corporation for the sole purpose of constructing a Kansas Korean War memorial and is organized under the federal income taxation code as a 501 (c)(3)

KSA 79-3606(xx)	Property and services purchases by nonprofit zoo or on behalf of a zoo by an entity that is a 501(c)(3)
KSA 79-3606(yy)	Property and services purchased by a parent-teach association or organizations and all sales of tangible personal property by or on behalf of such association
KSA 79-3606(bbb)	Sales of food for human consumption by organizations exempt by 501(c) (3) pursuant to food distribution programs which offer such food at a price below cost in exchange for the performance of community service by the purchaser.
KSA 79-3606(hhh)	Property and services purchased by or on behalf of Domestic Violence Shelters as members of the Kansas coalition against Sexual and Domestic Violence
KSA 79-3606(iii)	Property and services purchased by organizations distributing food without charge to other nonprofit food distribution programs. Includes taxes paid on and after July 1, 2005 and prior to July 1, 2006.
KSA 79-3606(ppp)	Property and services purchased by non-profit Homeless Shelters, and sales made by or on behalf of these organizations.
KSA 79-3606(ttt)	Property and services purchased a contractor for a purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which is a qualified under the governor hometown heritage act (KSA 75-5071)

**Provides exemption for certain fund-raising events of nonprofit orgzs.**





Kansas Advisory Council on Intergovernmental Relations

Joan Wagnon, Chairperson

Mark Parkinson, Governor

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House Taxation Committee

February 11, 2010

Joan Wagnon

Testimony in Support of House Bill 2549

Representative Carlson, Chair, and Members of the Committee:

There has literally been an explosion of new sales tax exemptions in recent decades--some of them very significant in size, such as the expansion of the manufacturing machinery & equipment exemption, the addition of exemptions for churches and a host of other non-profits, custom software, aircraft repair, to name a few. Between 1985 and 2009, the number of sales tax exemptions has more than tripled, growing from 30 to 96. Sales tax exemptions shrink the tax base. Since 2003, the estimated value of foregone sales and use tax revenue from exemptions has grown from \$3 billion to \$4.2 billion in 2009. This is more than double the consensus revenue estimate for FY 10 state sales and use tax receipts, \$1.88 billion.

At present, we are facing a revenue deficit of over \$400 million to fund the FY 2011 budget. House Bill 2549 provides a strategy for reducing that deficit without raising any tax rates, and for partially restoring the sales tax base.

House Bill 2549 provides for the elimination of certain sales tax exemptions and defines taxable "maintenance" services to include janitorial cleaning services for commercial property. The total fiscal note for FY2011 is \$194.5 million, including the consumer utility exemption. The Department of Revenue's fiscal note is attached. This list was compiled by using the following policy choices:

- Repeal all exemptions granted "by name" to a specific organization, listed below:

Public Policy: Exemptions to Charitable Organizations by Name		FY 2010 (\$ in millions)	FY 2011 (\$ in millions)
3606 (vv)	Property purchased by the following organizations who are organized under the federal income taxation code as a 501 (c)(3): American Heart Association, Kansas Affiliate; Kansas Alliance for the Mentally Ill, Inc.; Kansas Mental Illness Awareness Council; in 2004 added: Heartstrings Community Foundation, Cystic Fibrosis, Spina Bifida Assn, CHWC, Inc., Cross-lines Cooperative Council, Dreams Work, Inc., KSDS, Inc., Lyme Association of Grater Kansas City, Inc Dream Factory, Ottawa Suzuki Strings, International Assn of Lions Clubs, Johnson County young Matrons, American Cancer Society, Community Services of Shawnee, Angel Babies Assn, Kansas Fairground Foundation.	\$ 0.82	\$ 0.85
3606 (ww)	Property purchased by the Habitat for Humanity for use within a housing project	\$ 0.12	\$ 0.12
3606 (ggg)	Property and services purchased by or on behalf of the Kansas Academy of Science.	Minimal	Minimal
3606 (kkk)	Not Used	\$ -	\$ -
3606 (lll)	Property and services purchased by Special Olympics Kansas, Inc., and sales made by or on behalf of Special Olympics.	\$ 0.03	\$ 0.03
3606 (mmm)	Property and services purchased by Marillac Center, Inc. and sales made by or on behalf of the Marillac Center.	\$ 0.06	\$ 0.06
3606 (nnn)	Property and services purchased by West Sedgwick County - Sunrise Rotary Club for constructing boundless playground.	\$ 0.02	\$ 0.02
3606 (qqq)	Property and services purchased by TLC for Children and Families, Inc. and sales made by or on behalf of TLC	\$ 0.18	\$ 0.18
3606 (sss)	Property and services purchased by catholic charities or youthville and sales made by or on behalf of catholic charities or youthville	\$ 0.67	\$ 0.69
3606 (uuu)	Property and services purchased by Kansas Children's Service League and sales made by or on behalf of the KCSL	\$ 0.16	\$ 0.16
3606 (vvv)	Property and services purchased by Jazz in the Woods and sales made by or on behalf of such organization	\$ 0.01	\$ 0.01
3606 (www)	Property purchased by or behalf of Frontenac Education Foundation and sales made by or on behalf of such organization	Minimal	Minimal
3606 (xxx)	Property and services purchased by the Booth Theatre Foundation, Inc. Provides for refund of sales taxes paid from January to July '07.	\$ 0.03	\$ 0.03
3606 (yyy)	Property and services purchased by the TLC Charities Foundation, Inc. and sales made by or on behalf of these organizations.	Minimal	Minimal
3606 (zzz)	Property purchased by Rotary Club of Shawnee Foundation	Minimal	Minimal
3606 (aaaa)	Property and services purchased by or on behalf of Victory in the Valley and sales made by or on behalf of such organization	\$ 0.02	\$ 0.02
3606 (bbbb)	Guadalupe Health Foundation, sales of entry or participation fees, charges or tickets for annual fundraising event	\$ 0.11	\$ 0.12
3606 (cccc)	Property and services purchased by or on behalf of Wayside Waifs for the purpose of providing such organizations annual fundraising event and sales made by or on behalf of such organization	\$ 0.01	\$ 0.01
3606 (dddd)	Property or services purchased by or on behalf of Goodwill Industries or Easter Seals o Kansas, Inc for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment	\$ 0.04	\$ 0.04
3606 (eeee)	Property or services purchased by or on behalf of All Beef Battalion, Inc. for the purpose of educating, promoting and participating as a contract group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services.	\$ 0.00	\$ 0.00
3606 (ffff)	Property and services purchased by Sheltered Living, Inc for the purpose of providing residential and services for people with developmental disabilities or mental retardation, or both; and sales made on behalf of such organization	\$ 0.03	\$ 0.03
Subtotal		\$ 2.30	\$ 2.38

- Tax all admissions to recreation activities or events, whether operated by a non-profit organization, city, county or private organization:

Public Policy: Exemption of Services		FY 2010 (\$ in millions)	FY 2011 (\$ in millions)

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3603 (m)	Fees and charges by any political subdivision, youth recreation organization exclusively providing services to persons 18 or younger organized as a 501(c)(3) for sports, games and other recreational activities and entry fees and charges for participation.	\$ 0.94	\$ 0.97
3603 (n)	Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitarian organizations) and sales of memberships to nonprofit 2008	\$ 0.34	\$ 0.36
<b>Subtotal</b>		<b>\$ 1.28</b>	<b>\$ 1.33</b>

- **Reestablish the policy that was set by the Hodge Commission<sup>1</sup> that all non-profit and religious organizations pay sales tax on their purchases, so revoke the following exemptions:**

	Public Policy: Religious Exemption	FY 2010 (\$ in millions)	FY 2011 (\$ in millions)
3606 (aaa)	Property and services purchased by religious organizations and used exclusively for religious purposes	\$ 17.96	\$ 18.59
<b>Public Policy: Charitable, Religious, Benevolent Exemptions</b>			
3603 (e)	Admission to any cultural and historical event which occurs triennially	Minimal	Minimal
3606 (v)	Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons. In 2004, expanded exemption to all personal property purchased by contractor and sales of food products by or on behalf of contractor or organization	\$ 0.86	\$ 0.89
3606 (ii)	Property purchased by nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities and sales of property by or on behalf of such organization	\$ 2.72	\$ 2.81
3606 (oo)	Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals.	Minimal	Minimal
3606 (qq)	Property and services purchased by a nonprofit museum or historical society which is organized under the federal income taxation code as a 501 (c)(3)	\$ 0.41	\$ 0.42
3606 (rr)	Property which will admit purchases to an annual event sponsored by a nonprofit organization organized under the federal income taxation code as a 501 (c)(3)	\$ 0.03	\$ 0.04
3606 (tt)	Property and services purchased by not-for-profit corporation for the sole purpose of constructing a Kansas Korean War memorial and is organized under the federal income taxation code as a 501 (c)(3)	\$ -	\$ -
3606 (xx)	Property and services purchases by nonprofit zoo or on behalf of a zoo by an entity that is a 501(c)(3)	\$ 0.62	\$ 0.65
3606 (yy)	Property and services purchased by a parent-teach association or organizations and all sales of tangible personal property by or on behalf of such association	\$ 0.59	\$ 0.61
3606 (bbb)	Sales of food for human consumption by organizations exempt by 501(c) (3) pursuant to food distribution programs which offer such food at a price below cost in exchange for the performance of community service by the purchaser.	Minimal	Minimal
3606 (hhh)	Property and services purchased by or on behalf of Domestic Violence Shelters as members of the Kansas coalition against Sexual and Domestic Violence	\$ 0.06	\$ 0.06
3606 (iii)	Property and services purchased by organizations distributing food without charge to other nonprofit food distribution programs. Includes taxes paid on and after July 1, 2005 and prior to July 1, 2006.	\$ 0.25	\$ 0.25
3606 (ppp)	Property and services purchased by non-profit Homeless Shelters, and sales made by or on behalf of these organizations.	\$ 0.11	\$ 0.11
3606 (ttt)	Property and services purchased a contractor for a purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which is a qualified under the governor hometown heritage act (KSA 75-5071)	\$ 0.11	\$ 0.11
<b>Subtotal</b>		<b>\$ 23.72</b>	<b>\$25.54</b>

- **Repeal miscellaneous consumer exemptions, such as lottery tickets, bingo, and coin-operated laundries:**

	<b>Public Policy: Miscellaneous Exemptions</b>	<b>FY 2010 (\$ in millions)</b>	<b>FY 2011 (\$ in millions)</b>
3602 (ii)	Modified definition of sales or selling price to not include cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale. The exemption is granted from July 1, 2006 and ending June 30, 2009.	\$ -	\$ -
3603 (b)	Taxes telephone and telegraph services except certain interstate and international services and value-added nonvoice data services	\$ 1.50	\$ 1.55
3606 (f)	Coin operated Laundry Services	\$ .38	\$ .39
3603 (o)	Motor vehicles exchanged for corporate stock, corporate transfer to itself and immediate family member sales.	\$ 0.22	\$ 0.22
3603 (v)	Sales of bingo cards, bingo faces and instant bingo tickets. Tax rate 2.5 on July 1, 2001 to June 30, 2002; exempt on July 1, 2002	\$ 2.83	\$ 2.93
3606 (x)	Sales of propane, gas, LP-gas, coal, wood, and other fuel sources for the production of heat or lighting for noncommercial use in a residential premise. Effective Jan 1 2006, exemption for residential and agricultural moved hereto 3603(c).	\$ -	\$ -
3606 (ee)	Lottery tickets and shares made as part of a lottery operated by the State of Kansas	\$ 14.61	\$ 15.12
3606 (ooo)	Sales made by or on behalf of a public library	\$ 0.01	\$ 0.01
3606 (rrr)	Sales made by or on behalf of a county law library	\$ .11	\$ .12
	<b>Subtotal</b>	<b>\$19.66</b>	<b>\$20.34</b>

- **Clarify the original construction labor “exemption” statute to remove “repair” and tax separately certain listed “repairs” to personal property in residences. (Currently these services are taxed if they include the alteration or repair of tangible personal property.) There are problems distinguishing taxable from non-taxable labor services in the repair area from original construction for residences. The bill revises 79-3603(o) to ensure that all the labor services for repair of certain household appliances and other property in residences are taxed, with or without the application of tangible personal property to real property.**

	<b>Public Policy: Consumer Exemption</b>	<b>FY 2010 (\$ in millions)</b>	<b>FY 2011 (\$ in millions)</b>
3603 (p)	Amend to remove the exemption on labor services for residential repair work.	\$ 3.0	\$ 3.1

- **Revise 79-3603(q) so that taxable “maintenance” services include janitorial cleaning services for commercial property. Under current law, washing a floor is not taxed, but waxing a floor (applying tangible personal property) is taxed. The proposal would make clear that washing a commercial property floor is also taxable.**
- **Repeal the state tax exemption on residential utilities and the local exemption on water for residential use (K.S.A. 12-189a(a)):**

	Public Policy: Consumer Exemption	FY 2010 (\$ in millions)	FY 2011 (\$ in millions)
3603 (c)	Electricity, gas and heat utilities exemption for residential use. Exemption is limited to state sales tax only.	\$ 128.28	\$ 137.77
3606 (w)	Water exemption for residential use.	\$12.0	\$12.42
	Subtotal	\$140.28	\$146.19

The bill exempts certain fund-raising events of non-profit organizations and require all existing exemptions to come into compliance with this policy by 2012. It is estimated a fund-raising exemption, limited to certain types of activities, would reduce state sales tax revenues by \$10 million in fiscal year 2012. To be exempt, the fund-raising sales must meet the following requirements:

- 1) the organization is not in the business of retail sales,
- 2) the sales must conducted by members of the organization and not by a retailer, or other for-profit business,
- 3) the sales cannot occur at a retail place of business,
- 4) the sales must not be in direct competition with a for-profit business at the same event,
- 5) the organization shall be limited to not more than 3 fund-raising events of not more than a day's duration during any 12-month period, and including not more than 2 fund-raising events occurring over a period of time in which members of the organization take orders for items, except as noted below,
- 6) all proceeds derived from the sales are used by the organization to further its exempt purpose,
- 7) the organization shall maintain an accounting of all sales and provide that information upon request by the department of revenue,
- 8) tangible personal property, including meals, and services purchased for the fund-raising event shall be subject to sales tax when purchased.

The following would not be considered exempt as fund-raising sales:

1. sales resulting from agreements or contracts entered into with companies and organizations to participate in fund-raising campaigns for a percentage of the gross receipts where members of the organization act as agents or salesmen by selling or taking orders for the sale of tangible personal property;
2. admissions; or
3. concession sales.

<sup>1</sup>The Joint Committee on the State Tax Structure, otherwise know as the Hodge Commission, was created in 1968 "to make studies, and provide reports with recommendations thereon to the legislature, concerning the various taxes of the state and their relationship to each other and to the economy and public interest."

# 2010 House Bill 2549b Fiscal Note

Introduced as a House Bill

## Brief of Bill

House Bill 2549, As Introduced, concerns sales tax exemptions and taxation of certain services. The bill proposes the following changes to the sales tax statutes.

- amends K.S.A 12-189 to remove the exemption for water from local sales tax
- amends K.S.A. 79-3602 (q) to remove the religious organization nonrecurring sale exception for isolated or occasional sale
- amends K.S.A. 79-3606 (c) to subject residential utilities to state sales tax; (f) removes the exemption for coin operated laundry services; (m) to removed the exemption for fee and charges for participation in sports, games and other recreational activities when charged by a political subdivision, organizations exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201 or any youth recreation organization; (n) to remove the exemption for dues charged by organization exempt under to paragraph *Eighth and Ninth* of K.S.A. 79-201; (o) removed exemption from tax on the isolated or occasional sale of motor vehicles for corporation and between family members; (p) changes the original construction exemption by detailing the type of repair services that are exempt or taxable; and (v) removes the exemption for bingo.
- amends K.S.A. 79-3606 to delete the following exemptions: (v) meals for delivery to the elderly; (w) and (x) residential utilities; (cc) sales of lottery tickets; (ii) nonsectarian comprehensive multidiscipline youth development programs and activities; (ll) public health educational materials distributed at no charge, (oo) weatherizing low income housing; (qq) nonprofit museums and historical societies; (rr) admittance to annual event held by a nonprofit organization; (tt) Korean War memorial; (vv) specifically named nonprofit organizations; (ww) Habitat for Humanity; (xx) nonprofit zoos; (yy) parent teacher associations and organizations; (aaa) religious organizations; (bbb) nonprofit food distribution sells at reduced price (ggg) Kansas Academy of Science (hhh) nonprofit domestic violence shelters (iii) nonprofit food distribution warehouse; (lll) special Olympics Kansas; (mmm) Marillac Center, Inc; (nnn) West Sedgwick County Sunrise Rotary Club and Sunrise Charitable Fund, (ooo) sales by public libraries; (ppp) nonprofit homeless shelters; (qqq) TLC for Children and Families, Inc.; (rrr) sales by organizations if such sales would of been exempt if sold by a county law library; (sss) catholic charities or youthville; (ttt) governor's hometown heritage museum; (uuu) Kansas children's service league; (vvv) Jazz in the Wood, Inc; (www) Frontenac Education Foundation; (xxx) Booth Theatre Foundation, Inc.; (yyy) TLC Charities Foundation, Inc.; (zzz) Rotary Club of Shawnee Foundation; (aaaa) Victory in the Valley, Inc; (bbbb) sales of fees, charges or tickets by Guadalupe Health Foundation; (cccc) Wayside Waifs, Inc.; (dddd) Goodwill Industries or Easter Seals of Kansas, Inc; (eeee) All American Beef Battalion, Inc; and (ffff) Sheltered Living, Inc. .
- in new section 5 adds an exemption for nonprofit organizations for fund-raising sales. Fund-raising sales would be exempt if the following criteria is met:
  1. organization is not in the business of retail sales;
  2. sales are conducted by members of the organization and not by a retailer, or other for-profit business;
  3. sales do not occur at a retail place of business;
  4. sales are not in direct competition with a for-profit business at the same event;
  5. except as provided in subsection (b), the organization shall be limited to not more than three fund-raising events of not more than a day's duration during any 12-month period, and including not more than two fund-raising events occurring over a period of time in which members of the organization take orders for items;
  6. all proceeds derived from the sales are used by the organization to further its exempt purpose;
  7. the organization maintains an accounting of all sales and provide that information upon request by the department of revenue; and
  8. tangible personal property, including meals, and services purchased for the fund-raising event shall be subject to sales tax when purchased.

Fiscal Note - 2010 House Bill 2549b

The criteria continues to state in subsection (b) that the following are not considered exempt as fund-raising sales:

1. Sales resulting from agreements or contracts entered into with companies and organizations to participate in fund-raising campaigns for a percentage of the gross receipts where members of the organization act as agents or salesmen by selling or taking orders for the sale of tangible personal property;
2. admissions; or
3. concession sales.

The Act would be effective July 1, 2010.

**Fiscal Impact**

The proposal would increase state revenues by \$194.46 million in fiscal year 2011 and \$200.55 million in fiscal year 2012. The impact on funds is listed below. Local sales tax is currently levied on residential utilities, except for water sales, therefore the increase in local sales tax revenue is not as significant.

		(\$'s in millions)		
	Total	SGF	Hwy	Local
FY 2011	\$194.46	\$170.54	\$23.92	\$16.05
FY 2012	\$200.55	\$175.88	\$24.67	\$16.53
FY 2013	\$206.81	\$181.37	\$25.44	\$17.02
FY 2014	\$213.28	\$187.05	\$26.23	\$17.54
FY 2015	\$219.68	\$192.66	\$27.02	\$18.06

The table below lists by statute cite the estimated revenue to be generated by removing the exemption..

Fiscal Note - 2010 House Bill 2549b

Statute	Description of Exemption or Exclusion	FY2011 (\$ in Millions)	FY2012 (\$ in Millions)
3603 (b)	Taxes telephone and telegraph services except certain interstate and international services and value-added nonvoice data services	\$ 1.55	\$ 1.60
3603 (c)	Residential utilities.	\$ 130.27	\$ 134.18
3603 (f)	Coin operated Laundry Services	\$ 0.39	\$ 0.41
3603 (j)	Coin operated Dry Cleaning Services	Minimal	Minimal
3603 (m)	Fees and charges by any political subdivision, youth recreation organization exclusively providing services to persons 18 or younger organized as a 501(c)(3) for sports, games and other recreational activities and entry fees and charges for participation.	\$ 0.97	\$ 1.00
3603 (n)	Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitarian organizations) and zoos	\$ 0.36	\$ 0.37
3603 (o)	Motor vehicles exchanged for corporate stock, corporate transfer to itself and immediate family member sales.	\$ 0.22	\$ 0.23
3603 (o)	In 2004, changed the way sales tax computed on isolated and occasional sales of vehicles. Estimated to generate \$2 million annually		
3603 (p)	Labor services for the repair of a residence	\$ 3.10	\$ 3.19
3603 (v)	Sales of bingo cards, bingo faces and instant bingo tickets. Tax rate 2.5 on July 1, 2001 to June 30, 2002; exempt on July 1, 2002	\$ 2.93	\$ 3.03
3606 (v)	Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons. In 2004, expanded exemption to all personal property purchased by contractor and sales of food products by or on behalf of contractor or organization	\$ 0.89	\$ 0.92
3606 (w)	Residential water	\$ 12.42	\$ 12.79
3606 (ee)	Lottery tickets and shares made as part of a lottery operated by the State of Kansas	\$ 15.12	\$ 15.65
3606 (ii)	Property purchased by nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities and sales of property by or on behalf of such organization	\$ 2.81	\$ 2.91
3606 (ll)	Educational materials purchased for distribution to the public at no charge by a nonprofit public health corporation	\$ 0.09	\$ 0.09
3606 (oo)	Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals.	Minimal	Minimal
3606 (qq)	Property and services purchased by a nonprofit museum or historical society which is organized under the federal income taxation code as a 501 (c)(3)	\$ 0.42	\$ 0.44
3606 (rr)	Property which will admit purchases to an annual event sponsored by a nonprofit organization organized under the federal income taxation code as a 501 (c)(3)	\$ 0.04	\$ 0.04
3606 (tt)	Property and services purchased by not-for-profit corporation for the sole purpose of constructing a Kansas Korean War memorial and is organized under the federal income taxation code as a 501 (c)(3)	\$ -	\$ -
3606 (vv)	Property purchased by the following organizations who are organized under the federal income taxation code as a 501 (c)(3): American Heart Association, Kansas Affiliate; Kansas Alliance for the Mentally Ill, Inc.; Kansas Mental Illness Awareness Council; in 2004 added: Heartstrings Community Foundation, Cystic Fibrosis , Spina Bifida Assn, CHWC, Inc., Cross-lines Cooperative Council, Dreams Work, Inc., KSDS, Inc., Lyme Association of Grater Kansas City, Inc Dream Factory, Ottawa Suzuki Strings, International Assn of Lions Clubs, Johnson County young Matrons, American Cancer Society, Community Services of	\$ 0.85	\$ 0.88
3606 (ww)	Property purchased by the Habitat for Humanity for use within a housing project	\$ 0.12	\$ 0.13
3606 (xx)	Property and services purchases by nonprofit zoo or on behalf of a zoo by an entity that is a 501(c)(3)	\$ 0.65	\$ 0.67
3606 (yy)	Property and services purchased by a parent-teach association or organizations and all sales of tangible personal property by or on behalf of such association	\$ 0.61	\$ 0.63



	Suzuki Strings, International Assn of Lions Clubs, Johnson County young Matrons, American Cancer Society, Community Services of	\$ 0.85	\$ 0.88
3606 (ww)	Property purchased by the Habitat for Humanity for use within a housing project Fiscal Note - 2010 House Bill 2549b	\$ 0.12	\$ 0.13
3606 (xx)	Property and services purchases by nonprofit zoo or on behalf of a zoo by an entity that is a 501(c)(3)	\$ 0.65	\$ 0.67
3606 (yy)	Property and services purchased by a parent-teach association or organizations and all sales of tangible personal property by or on behalf of such association	\$ 0.61	\$ 0.63
3606 (aaa)	Property and services purchased by religious organizations and used exclusively for religious purposes	\$ 18.59	\$ 19.24
3606 (bbb)	Sales of food for human consumption by organizations exempt by 501(c)(3) pursuant to food distribution programs which offers such food at a price below cost in exchange for the performance of community service by the purchaser.	Minimal	Minimal
3606 (ggg)	Property and services purchased by or on behalf of the Kansas Academy of Science.		
3606 (hhh)	Property and services purchased by or on behalf of Domestic Violence Shelters as members of the Kansas coalition against Sexual and Domestic Violence	\$ 0.06	\$ 0.06

Fiscal Note - 2010 House Bill 2549b

3606 (iii)	Property and services purchased by organizations distributing food without charge to other nonprofit food distribution programs. Includes taxes paid on and after July 1, 2005 and prior to July 1, 2006.	\$ 0.25	\$ 0.26
3606 (lll)	Property and services purchased by Special Olympics Kansas, Inc., and sales made by or on behalf of Special Olympics.	\$ 0.03	\$ 0.03
3606 (mmm)	Property and services purchased by Marillac Center, Inc. and sales made by or on behalf of the Marillac Center.	\$ 0.06	\$ 0.06
3606 (nnn)	Property and services purchased by West Sedgwick County - Sunrise Rotary Club for constructing boundless playground.	\$ 0.02	\$ 0.02
3606 (ooo)	Sales made by or on behalf of a public library	\$ 0.01	\$ 0.01
3606 (ppp)	Property and services purchased by non-profit Homeless Shelters, and sales made by or on behalf of these organizations.	\$ 0.11	\$ 0.12
3606 (qqq)	Property and services purchased by TLC for Children and Families, Inc. and sales made by or on behalf of TLC	\$ 0.18	\$ 0.19
3606 (rrr)	Property and services purchased by county law library,	\$ 0.11	\$ 0.12
3606 (sss)	Property and services purchased by catholic charities or youthville and sales made by or on behalf of catholic charities or youthville	\$ 0.69	\$ 0.71
3606 (ttt)	Property and services purchased a contractor for a purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which is a qualified under the governor	\$ 0.11	\$ 0.12
3606 (uuu)	Property and services purchased by Kansas Children's Service League and sales made by or on behalf of the KCSL	\$ 0.16	\$ 0.17
3606 (vvv)	Property and services purchased by Jazz in the Woods and sales made by or on behalf of such organization	\$ 0.01	\$ 0.01
3606 (www)	Property purchased by or behalf of Frontenac Education Foundation and sales made by or on behalf of such organization	\$ 0.00	\$ 0.00
3606 (xxx)	Property and services purchased by the Booth Theatre Foundation, Inc. Provides for refund of sales taxes paid from January to July 2007.	\$ 0.03	\$ 0.03
3606 (yyy)	Property and services purchased by the TLC Charities Foundation, Inc. and sales made by or on behalf of these organizations.	\$ 0.00	\$ 0.00
3606 (zzz)	Property purchased by Rotary Club of Shawnee Foundation		
3606 (aaaa)	Property and services purchased by or on behalf of Victory in the Valley and sales made by or on behalf of such organization	\$ 0.02	\$ 0.02
3606 (bbbb)	Guadalupe Health Foundation, sales of entry or participation fees, charges or tickets for annual fundraising event	\$ 0.12	\$ 0.12
3606 (cccc)	Property and services purchased by or on behalf of Wayside Waifs for the purpose of providing such organizations annual fundraising event and sales made by or on behalf of such organization	\$ 0.01	\$ 0.01
3606 (dddd)	Property or services purchased by or on behalf of Goodwill Industries or Easter Seals o Kansas, Inc for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment	\$ 0.04	\$ 0.04
3606 (eeee)	Property or services purchased by or on behalf of All Beef Battalion, Inc. for the purpose of educating, promoting and participating as a contract group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services.	\$ 0.00	\$ 0.00
3606 (ffff)	Property and services purchased by Sheltered Living, Inc for the purpose of providing residential and services for people with developmental disabilities or mental retardation, or both; and sales made on behalf of such organization	\$ 0.03	\$ 0.03
	Total	\$ 194.46	\$ 200.55

**Administrative Impact**

Costs to revise sales tax publications is estimated at \$1,050.

**Administrative Problems and Comments**

The department requests the bill be amended to strike the "exception" language referring to coin-operated dry cleaning services in K.S.A 3606 (i), so that there is no confusion the proposal intends to make all coin-operated laundry and dry cleaning services taxable. The removal of the exemption for coin-operated laundry services, found in 79-3606 (f), is currently in the bill.

**Taxpayer/Customer Impact**

Removes exempt status from most nonprofit organizations, taxes certain services and provides a clear policy for fund-raising sales by nonprofit organizations.

**Legal Impact**

Testimony for Prof. Lori McMillan

My name is Lori McMillan and I am an associate Professor of Law at Washburn University School of Law, specializing in the taxation area. When reading through House Bill No. 2549 I am heartened to see the elimination of many of the exemptions from sales taxation enjoyed by many of the specific 501(c)(3) organizations which are found in the current legislation. This is not meant to be an attack on these types of organizations, most of which have laudable goals and provide benefit to society. However, this does reflect a sound policy decision on behalf of the legislature. As such, I wish to address tax expenditure in a general fashion, so that the wisdom of this action might be better understood.

Tax expenditures is the name given to tax breaks granted to various taxpayers in a taxing statute, and can take many forms including special deductions, credits, exclusions, and exemptions. Tax expenditures are the functional equivalent of direct spending by government – in both situations the government foregoes the use of money because it has been directed to a taxpayer. In the case of direct expenditures, the taxpayer is the recipient of the money, and in the case of tax expenditures the taxpayer is the recipient of, for example, a sales tax exemption, which relieves them of the obligation to pay money. The value of the tax expenditure is the amount of tax that they would have had to pay BUT FOR the exemption. As such, tax expenditures should be held to the same budgetary constraints to which direct expenditures are subjected. Because of their very nature, tax expenditures are less scrutinized, partly because they are often buried in legislation, and partly because the people involved don't equate the revenue foregone from an exemption with an actual dollar amount. However, there is a dollar amount, one that is felt both by the taxing authority, as well as the taxpayers who remain in the tax base.

The state has certain revenue needs, and employs the revenue raising device of taxation in order to raise the money needed to meet these needs. Most of the expenditures of government are subject to budgets, and therefore strict oversight, on an annual basis. Since the revenue needs of government are set, if we all contribute our share, we can meet the needs of government with the minimum cost to individual taxpayers. However, if we start exempting taxpayers from having to contribute their fair share, two things happen. The exempted taxpayers enjoy a benefit, while the taxpayers who are not exempted not only have to contribute their fair share, but now they have to cover the amount that should have been paid by the now-exempt taxpayer, which means they have to chip in more than what should be their fair share. The tax base is narrowed, which increases the burden on those of us without exemption. This is why tax expenditures should be subjected to annual review, as budgetary items, and should not be given out lightly. You should ask yourself - for each organization that enjoys exemption – if budgetary constraints would prevent you from making direct expenditures to a particular organization because of reordered spending priorities, the same constraints should operate to prevent them from enjoying a tax expenditure.

There also should be parity between taxpayers – the concepts of equity demand that similarly situated taxpayers should bear similar tax burdens. The average Kansan is feeling the pain of this recession, and

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the budgetary cuts that have been made across the board to everything from education to hospitals. Although many of the organizations whose exemptions are being eliminated do good works, so does the average Kansan taxpayer who gives a homeless man a cup of coffee, or helps an elderly neighbour shovel their driveway. The fact that good is done should not be the standard for tax exemption from sales tax – otherwise every kind and noble act would need to be evaluated to see what tax benefit it brings.

Special care should be taken when applying this type of tax, to make sure that it is applied as fairly as possible. It is not fair when organizations have an ability to pay, but are exempted for no good, distinctive reason. As I said earlier, many taxpayers do good things, but do not get tax exemption for them. Every taxpayer must pay their fair share, especially in the current economic climate, to make sure the burden doesn't fall even harder on the average Kansan who is the economic bread and butter of the State. If we all contribute our fair share, eventually budgetary deficits can be eliminated, and with a broadened tax base, rates can eventually decrease for everyone.

The choices that must be made when overhauling taxing legislation are difficult ones, and it would be easy and politically expedient to hand out tax expenditures to every group with an admirable goal. However, I believe that you are taking a sound approach from a tax policy perspective, which will be better for the state in the long run. If you have any questions, I would be pleased to answer them, otherwise I must request to be excused as I have teaching obligations that I must attend to, not to mention my 11 month old daughter is waiting for me in the hallway. Thank you.

Testimony before the  
**House Taxation Committee**  
on  
**HB 2549**

by  
**Judy Lair**

On behalf of the  
Kansas Association of School Boards  
and  
Kansas Advisory Council on Intergovernmental Relations

**February 11, 2010**

Mr. Chairman, Members of the Committee:

My name is Judy Lair. I am a resident of Piqua, Kansas, and a member of the Woodson County Board of Education. I am a past president of the Kansas Association of School Boards and currently a member of the National School Boards Association Board of Directors. I have served on the Kansas Advisory Council on Intergovernmental Relations for three years. I would like to speak as both a member of the Council and on behalf of KASB.

KACIR requested this bill for two important reasons.

First, we are concerned about the erosion of the Kansas sales tax base. We believe as a general principle of taxation the tax base should be as broad as possible and tax rates as low as possible. Kansas has been moving in the opposite direction. You have seen the data from Secretary Wagon on the increasing number and cost of sales tax exemptions. Every time a new exemption is granted, that slice of economic activity is removed from contributing its share in support of government services – services that help make such economic activity possible.

As your staff has shown in the publication “Tax Facts,” the overall burden of state and local taxes as a percent of income has not been rising over time – in fact, it has declined slightly over the past several years. But the share of tax revenue coming from sales and use taxes has fallen noticeably in the past decade, mostly at the cost of higher property taxes.

That leads to our second concern. The state has cut hundreds of millions of dollars in spending over the past two years, and is still facing at least a \$400 million deficit next year. KACIR is concerned that another round of deep budget cuts will damage important programs in the areas of education, health, public safety and transportation.

\* This bill would help the state avoid deeper cuts by extending the sales tax to certain transactions currently exempt. We believe the revenue currently lost under these exemptions could help maintain vital public services.

Thank you for your consideration.

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Testimony to House Taxation Committee  
Shannon Jones (SILCK)  
In Support of HB 2549

February 11, 2010

Mr. Chairman and Members of the Committee:

My name is Shannon Jones. I am the director of the Statewide Independent Living Council of Kansas, (SILCK). The SILCK envisions a world in which people with disabilities are valued equally and participate fully. To realize that vision, the SILCK works closely with the 12 Centers for Independent Living to promote productivity and economic self sufficiency for people with all types of disabilities.

The SILCK supports HB 2549 and repealing certain tax exemptions.

State agencies, K-12 and higher education funding get an annual review and when revenue is scarce; they all receive cuts. Their budgets are reduced by 5%, 10%, or 15%. The foundation or organization outside of state government comes to the legislature and the governor and says we are doing good and because of that we should have an exemption and the exemption lives on in perpetuity with the value of the exemption continuing at 100%. The state agencies and public education, also worthwhile and important functions within our state are called upon to do the same work as always but by the way your budget is reduced by 5%, 10% or 15%.

The state has provided \$10 Billion plus over the last 10 years in the way of tax exemptions, credits and exclusions. These exclusions have been provided with little transparency and accountability. These multiplying exemptions add to the revenue burden by shrinking the tax base. We view the task of the legislature as the body responsible for ensuring fairness and accountability for all of the citizens and not just the favored few.

In this time of revenue shortfall, you as legislators have a unique opportunity to re-instate fairness and accountability into our tax system. As you think of the exemptions before you and the exemptions already on the books, consider them as a budget item that needs to undergo the annual budget review in the same way as state agencies and public

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education and justify their existence as an expenditure and then include them as a line item in the final state budget so they can be reviewed by not only you but by all Kansans.

The SILCK will support you in any comprehensive review of exemptions, credits and exclusions to ensure fairness in the tax system. And after all of that, if it is determined that there is still the need for taxes; SILCK will support any move to increase taxes.

I want to make special mention of New Sec 5 of HB 2549.

I assume most of us would recognize that any discussion related to removing a current exemption is going to create concern and in some instances dismay.

New Section 5 provides a safety valve for the removal of exemptions. It codifies the mechanism for non-profits and organizations to continue in their fund raising efforts. The criteria a non profit organization must meet to be a true non profit organizations raising money.

The guidelines are reasonable and remove any possibility of competition with free enterprise. Additionally, it provides needed accountability.





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**Mark Desetti, Testimony  
House Taxation Committee  
February 11, 2010**

**House Bill 2549**

Mister Chairman, members of the committee, thank you for the opportunity to provide testimony to you today sharing our thoughts on HB 2549.

We rise in support of this measure because we believe very strongly that tax exemptions need to be brought under control. While this bill does not completely address that issue, it is a step in the right direction and we applaud KACIR for their efforts.

We support the elimination of sales tax exemptions granted to specific organizations by name. Sometimes it seems that the criterion for an exemption is one's ability to find a parking place and the committee room. Organizations that come before the tax committees are generally persuasive enough to win their own. A reading of the exemptions demonstrates this. I have often used the example of Ottawa Suzuki Strings. Without passing judgment on the work of this organization or how worthy that work is of a tax exemption, I wonder if there is, for example, a St. Mary's Suzuki Strings or a Garden City Suzuki Strings and, if so, why they don't also have an exemption.

It seems to us that a better approach to the granting of sales tax exemptions is to set guidelines and follow those guidelines consistently. Such guidelines might include the organization's IRS tax status, who the organization serves, and whether or not the organization is doing work that would fall to the state if they were to disappear. The guiding questions in the KACIR Tax-Base Policy Evaluation Guide are an excellent place to begin.

It is likely that many of the organizations listed would retain an exemption under a rational set of guidelines.

We also believe that HB 2549 is proposing that the legislature widen the base. By imposing the sales tax on some currently non-taxed goods and services, the base clearly is widened. The continuing expansion of exemptions has narrowed the sales tax base considerably. As you look at widening the base, you are also able to consider other changes to the code that would address the issue of regressivity. If you widen the base enough, it is conceivable that you could remove the tax on groceries or simply reduce the rate. And widening the base can also introduce a greater measure of stability into the sales tax.

We understand that you will have concerns about individual items included in this legislation. It is entirely appropriate that you debate and consider each provision as you seek to restore stability, elasticity, and progressivity to the Kansas revenue system.

You may determine that HB 2549 is not perfect the way it is now. But what we urge you to do is to bring the exemptions under control and find ways to both broaden the base and provide adequate resources to serve our education system, our neighbors with disabilities, our seniors, to build and maintain our infrastructure, and to provide for public safety.

To: Chairman Carlson and Members of the House Taxation Committee

From: John E. Arnold, Public Member of KACIR

Date: February 11, 2010

Re: Testimony in Support of HB 2549

I'm a public member of the KACIR, but I'm not speaking so much for the KACIR, Chairperson Wagnon has done that. I'm speaking as a retired city manager, having served eight states and ten public organizations. In each I was involved in intergovernmental relations activities and through annual evaluations given support for those activities. I believe we in government organizations get much more done by working cooperatively together than by seeking a competitive self-interest. That belief is why I'm pleased to be part of KACIR. And I'm pleased to be allowed to testify in support of HB 2549, much of which is the culmination of the efforts of the KACIR.

The past couple of years KACIR has studied a number of tax equity issues. We are supporting a number of bills and a Concurrent Resolution dealing with the tax equality subject, while continuing to protect and encourage economic development. KACIR has prepared a **Policy Evaluation Guide** to help legislators assess tax exemptions and tax credits as you deal with closing the budget hole. As with any hole in which you find yourself, the first rule of getting out is to stop digging. Tax exemptions and tax credits are the shovels put on automatic that continue digging without your involvement. Unlike appropriations that have to be made annually, tax credits and exemptions just keep on giving. Not giving to taxpayers, but giving to those organizations favored.

Exemptions, exclusions, and credits differ from appropriations only in that they are administered through the tax system and not through the budgeting and appropriation process. The advantages to the recipient are that (1) they avoid the appropriations process, which avoids pitting them against other appropriations for priority in funding, (2) they avoid the public scrutiny that an appropriation would have, since tax transactions are usually confidential and done outside the legislature, and (3) they avoid the transparency that we value in our public expenditures.

Another principle we value in our tax structure is that a tax be neutral in its impact on various groups of taxpayers. Any exemption, exclusion, or credit given to one taxpayer and not all makes the disfavored taxpayers pick up the load lifted from the first taxpayer's shoulders. This

John E. Arnold, President

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is a disparity of impact and is inequitable unless there are exceptionally valuable reasons for making the exemption, exclusion, or credit that ultimately will benefit all taxpayers and thereby finally equalize that load.

Secretary Wagon's testimony demonstrated the explosion of the use of these techniques the past twenty years, tripling the number with an impact on the state's revenue running to \$4.2 billion in just sales tax exemptions. And it appears to be accelerating, up \$1.2 billion in five years.

Secretary Wagon's testimony details the study the KACIR performed to reach the conclusion to support rolling back the exemptions, exclusions, and credits:

- (1) Repeal all exemptions **granted by name to a specific organization**. \$2.3 billion is exempted.
- (2) Tax all **admissions to recreation activities or events**. \$1.28 billion is exempted.
- (3) Re-establish the 1968 Hodge Commission that **non-profit and religious organizations pay sales tax**: \$23.7 billion exempted.
- (4) Repeal miscellaneous consumer exemptions, such as **lottery, bingo, and coin operated laundries**. \$19.66 billion exempted.
- (5) Revise and clarify that **certain services called maintenance** should be taxed. \$3.0 billion exempted.
- (6) Repeal the exemption on **residential utilities and residential water**. \$140.2 billion exempted.

These exemptions should be treated like appropriations in my view. If you love them enough to exempt them, then the legislature should love them enough to fund them directly. If you don't love them enough to fund them, then we as the public should not exempt them from taxation and make the rest of the taxpayers pay for them indirectly. In effect, an appropriation is an expression of love coming in the front door of the Capitol while an exemption is allowing the love money to go out through the back door.

As a principle I would suggest it's not good policy to fund indirectly what we wouldn't fund directly.

I support the adoption of HB 2549.

**Testimony on House Bill 2549**  
**Re: Sales Tax Exemptions**  
**House Taxation Committee**  
**Presented by Randall Allen, Executive Director**  
**February 11, 2010**

Chairman Carlson and members of the committee, thank you for the opportunity to present testimony on behalf of our Association *in support of* HB 2549, a bill eliminating certain sales tax exemptions. The bill is proposed by the Kansas Advisory Council on Intergovernmental Relations (KACIR), a study group which was re-established almost ten years ago. Two county commissioners (Madison "Matt" Traster, Grant County; Gwen Martin, Woodson County) currently serve on the KACIR.

We have experienced a three-fold increase in the number of sales tax exemptions since 1985. Some of these, such as the machinery and equipment exemption, have caused significant hemorrhaging to local coffers. County governments, saddled with growing demands for service, elimination of state sales tax-funded "demand transfers" and a throttling back of state support for essential services to the chronically mentally ill and developmental disabled persons, for example, have had no alternative but to rely increasingly on the property tax to recover lost revenue.

HB 2549 helps to partially rectify this situation by eliminating certain sales tax exemptions. While restoring these sales to the tax base has an obvious benefit to the State's budget situation, it likewise will aid many county governments that rely on local-option sales taxes for a portion of their overall revenue generation. Currently, 85 counties have imposed voter-approved, countywide sales taxes. Except for the provisions of the bill relating to utility services for residential use, (which are now subject to local-option sales taxes), elimination of the other exemptions in HB 2549 will broaden the local sales tax base.

Tax exemptions unfairly shift tax burden on the backs of fewer and fewer individuals. HB 2549 helps correct some of this imbalance. We urge the committee to support this legislation, both as a means of generating additional revenue and in making our tax system more equitable. Thank you for allowing me to address HB 2549.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, education and technical services, and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Melissa Wangemann by calling (785) 272-2585.

**Testimony to the Taxation Committee of the House of Representatives**  
**George McCrary, President**  
**Kansas Health and Fitness Association**  
**February 11, 2010**

Mr. Chairman, members of the House Committee on Assessment and Taxation: My name is George McCrary and I am the President of the Kansas Health and Fitness Association. KHFA represents tax paying health clubs throughout the State of Kansas. I am here today in support of Section 3 of House Bill 2549, which provisions are also contained in HB 2352, which is also in this Committee. That is the section that would remove sales tax exemptions for the sale of memberships by certain not-for-profit organizations. There are a variety of other issues included in HB 2549. We will leave to your good discretion and determination those issues such as whether listed not-for-profits should be granted sales tax exemptions for purchases which they make.

When not-for-profits go into the business of selling goods or services on a systematic and regular basis, not only is the State being harmed by this kind of exemption, but private enterprise is being harmed as well. Health and fitness clubs in the state of Kansas not only collect sales tax on dues for memberships they sell, in addition they pay property taxes, they pay income taxes, they pay sales taxes on purchases that they make. These clubs and their members collect and/or pay nearly \$10 million dollars per year in sales and property taxes, and hundreds of thousands more in income taxes. The state of Kansas is losing over \$2 million a year which would be collected to the State General Fund if we merely ask the YMCAs to collect and remit sales taxes to the state of Kansas. This will have no impact on the operations of the YMCAs; as they will not be paying the tax, only collecting it.

I am also the owner of the Baldwin City Athletic Club in Baldwin City, Kansas. Every member of my club pays sales tax on their membership dues. My question is this: why are my members being treated differently than other Kansas citizens that belong to a health clubs just because those clubs are classified as non-profit? My members should be treated exactly the same as those who live a few cities that have a YMCA. Kansas citizens who belong to health clubs in Dodge City, Ulysses, Liberal, Wamego, Independence, Coffeyville, and the multitude of other cities and towns in Kansas should be treated the same as those in Wichita, Kansas City, and Topeka.

Please create fairness and equity among the people of Kansas. Please treat the people of Baldwin City and the majority of other cities in Kansas the same as the few that can belong to a YMCA. Thank you.

**TESTIMONY**

**Greg Ferris**

**GENESIS HEALTH CLUBS**

**BEFORE THE HOUSE COMMITTEE ON ASSESSMENT & TAXATION**

**HB 2549**

**February 11, 2010**

Chairman Carlson, members of the Committee. My name is Greg Ferris and I am here today representing the Genesis Health Clubs in Wichita, Hutchinson and Salina.

I am also here today to speak in favor of Section 3 of HB 2549. I agree with everything stated by Mr. McCrary but there are issues that were not mentioned. First I should say that Genesis Health Clubs welcome competition in the cities in which it has facilities. We believe on an even playing field our service, quality and facilities will allow us to thrive. However, this even playing field does not exist when we compete against non-profit clubs who neither pay nor collect taxes. Genesis collects and pays millions of dollars each year in taxes. Our major competitor, the YMCA, neither pays nor collects any taxes.

The Wichita Business Journal on Friday, February 5, 2010, referred to the Wichita YMCA as a "non-profit fitness chain." The Business Journal is correct as the Wichita YMCA is the largest fitness chain in the State. They have revenues of over \$30 million and profits of nearly \$10 million. While they may qualify for non-profit status, they truly are a business. The Wichita YMCA spends tens of thousands of dollars advertising to get members to join their clubs, just like a business. They locate their facilities in upper middle class areas where they can maximize their memberships, just like a business. According to their own 2008 IRS forms they give about ten percent of their revenues and only about twenty-two percent of their expenditures to charitable assistance. Sixty percent of those served are adults and forty percent of their memberships are corporate memberships. They have hundreds of police, fire and EMS calls to their facilities each year. All of this is just like a business, without collecting or paying any taxes.

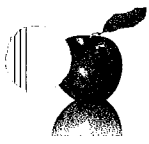
I raise these facts because you will hear the YMCA claim they will not be able to provide charitable assistance if they have to collect sales tax. There are two important facts related to this argument; first they are not paying a sales tax, only collecting it, second they clearly have the resources to provide far more charitable assistance than they currently provide.

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As you struggle with finding adequate resources to fund services, HB 2549, Section 3 is a long overdue way to begin. Requiring non-profits to collect the same tax as their competition is fair and will not affect the non-profits ability to provide benevolent services. The great majority of the YMCA members pay full price for membership services. These services are equivalent to the services provided by a for-profit health club. This demonstrates that those YMCA members can afford to pay sales tax just like all non-YMCA health club members. Those financially assisted members paying a discounted membership fee will see a minimal increase. The neediest will see an increase of less than four dollars per year.

Now is the time to pass either HB 2549 Section 3 or HB 2352 which accomplishes the same thing. The State has missed out on over \$20 million in sales tax since this exemption was put into place. While the original mission of the Ys primarily provided benevolent services and may have merited a tax exemption, today's YMCA functions as a competitive business. We are not here asking for a sales tax exemption. We understand the difficult challenges our State faces at this time. We are just asking for equality in taxation. With the financial challenges facing the State and all local governments, now is the time to end this inequitable treatment of citizens and business.

Thank you for allowing me to speak to you today. I will be glad to answer any questions.



# Kansas Families for Education

*Demanding Excellent Public Schools*

**Kathy Cook  
Kansas Families for Education**

**House Taxation Committee  
February 11, 2010  
HB2549**

**Mr. Chairman, members of the committee, thank you for the opportunity to come before you today.** My name is Kathy Cook, and I appear before the committee today on behalf of Kansas Families for Education. We stand in support of HB2549. Sales tax exemptions have grown at an unprecedented rate in recent years. While many of these were granted during a robust Kansas economy, times have changed, and it is time for Kansas to change the way it grants exemptions.

Some of the not-for-profit organizations that have benefitted in the past from these tax breaks may very well be deserving of them. However, we look at this fiscal crisis as a golden opportunity for the Kansas legislature to reexamine these tax breaks. After all, they are expenditures. While individually these tax exemptions may seem a small amount, cumulatively they are eroding our revenue stream, resulting in the state's inability to protect services to our children, our grandparents, and our disabled citizens. Kansas cannot sustain the tax giveaway system currently in place and fulfill its obligations to all of its citizens.

The state has a statutory obligation, and in some cases a Constitutional obligation, to provide vital services such as public education and home based community services for the elderly and disabled. These programs have been devastated by the cuts already made and they cannot sustain or endure any additional cuts and still meet those obligations. We ask that the Kansas Legislature start today by repealing the majority of exemptions and reevaluating those that remain. All tax exemptions should meet a set of criteria, one that the general public can see and understand. There should be transparency to the process so that citizens can see how their taxes compare to those receiving the breaks.

We must have a revenue stream that provides our state with the strong foundation needed to meet its current and future responsibilities to the people of Kansas. We believe that HB2549 is a step in the right direction to insure a tax policy that is fair to ALL of our citizens.

Thank you.

Kathy Cook  
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**House Committee on Taxation**  
**Written Testimony in Support of HB 2549**  
**Thursday, February 11, 2010**

As revenues fall in Kansas, elected officials must make some tough decisions to balance the state budget. Last year the Kansas Legislature made significant cuts to all areas of the state budget, and the governor made further cuts in the form of allotments to attempt to bring this year's budget into balance. If you have to cut spending, you should also cut tax expenditures, such as tax exemptions and credits. They are spending items, just like an appropriation, but without the transparency required of other appropriations.

As a member of House Taxation for 6 years, I have watched the continued abuse of sales tax exemptions from year to year. Think of them as an "earmark" of sorts for state legislators. We all want to help out organizations in our districts. Unfortunately, we have given away so many, that we have reduced our sales tax base considerably over the past 15 years.

So, the KACIR (Kansas Advisory Council on Intergovernmental Relations), recommends the repeal of a group of sales tax exemptions totaling \$207.84 million in FY 2011. They are not business exemptions. Here is some of the reasoning behind repealing some of these exemptions.

Where the budget is concerned, the government has obligations that are constitutional, statutory and societal/moral. With that in mind, we are obligated to fund education at all levels. We are obligated to provide necessary infrastructure, services for the elderly, disabled and desperately poor and we are obligated to keep our communities safe.

We are not obligated to subsidize civic, charitable and/or religious organizations. They may all do great service in their communities, but it is not (and should not be) the government's role to subsidize them. We simply cannot afford to be so generous any longer. In addition, these organizations and their members use state funded services and infrastructure. They should help carry some of the burden by paying sales taxes on their purchases only.

Over the past 12 years, the cumulative total of tax exemptions, tax credits and tax cuts has reduced state revenues by over 10 Billion dollars. Those dollars would adequately fund k-12, higher education, social services, corrections AND a new CTP (comprehensive transportation plan).

The repeal of these 200 million dollars also sends an **additional \$50 million to local governments**. Sales tax exemptions should be the exception not the rule. However, currently sales tax exemptions are the rule. As I stated earlier, we have continued to narrow our tax base so that fewer and fewer people are paying more and more.

It's time to put a stop to this irresponsible spending in the form of sales tax exemptions. It's time to restore our sales tax base. It's time to appropriately fund our priorities. It's time ~~House Taxation~~ <sup>House Budget</sup> page.

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# Goodwill Industries of Kansas, Inc.

3636 N. Oliver • P.O. Box 8169 • Wichita, KS 67208 • Phone: 316-744-9291 • Fax: 316-744-1428

[www.goodwillks.org](http://www.goodwillks.org)

February 11, 2010

Chairman Richard Carlson and Committee Members  
House Committee on Taxation  
300 WS 10<sup>th</sup> Avenue, Docking Bldg. Room 783  
Topeka, KS 66612

**Subject: Comments against HB 2549: Removing the Sales Tax Exemption for Non-profits**

Dear Chairman Carlson and Committee Members,

Goodwill Industries' mission is to provide education, training, employment and personal growth opportunities for people with disabilities and other barriers to employment. Goodwill employs about 380 people. Of those 380, about 60 percent, or 230, are people with serious employment barriers.

As you are aware, last December, the Department of Labor substantially increased the unemployment insurance rates for employers. This year Goodwill will contribute \$155,000 to the unemployment insurance fund, an increase of \$125,000 while the average charges to our account for the last four years have been \$25,000. With the Governor's 10 percent cut in Medicaid funding, we will be forced to absorb another \$45,000 in unexpected expenses. ***Essentially, it will cost Goodwill an additional \$170,000 in unexpected costs to provide vocational services and job opportunities for people with severe employment barriers this year.***

At the same time, in 2010, ***our agency budgeted to lose \$220,000 to supplement the state's social service budget*** because the reimbursement rates for state sponsored programs, such as targeted case management and organizational employment are too low.

***In summary, between the unemployment insurance, Medicaid cuts and planned losses, we are giving the state of Kansas nearly \$400,000*** and Goodwill will receive nothing in return. On the other hand, with the help of Goodwill, the state of Kansas will have more people on employer's payroll and fewer on the unemployment rolls. Kansas will also have more young people earning their GED's and others learning to become self supporting.

Now, the Department of Revenue proposes to take another \$50,000 to \$60,000 from us by removing our sales tax exemption.

Two weeks ago I testified before the Senate and House Committees on the Unemployment Insurance increase and one of the questions I was asked was, "How are you going to pay for the increase?" I was able to say we would make up the difference between our increases in Goodwill store sales and losing jobs through attrition.



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***But if you take away our sales tax exemption, on top of all the other increases, you will be forcing us to either substantially reduce services to people who need them the most or cut jobs...adding more people to the unemployment rolls.***

Before making any decisions regarding sales tax exemptions, please consider forming a committee to study the impact to the budget if the state has to pick up the full costs of providing services Goodwill and other non-profits will no longer be able to supplement.

Please, do not cut our sales tax exemption at a time when our services are needed the most.

Thank you.

In Goodwill service,



Emily Compton  
President/CEO