

WALTER A. HUXMAN'S GUBERNATORIAL ADMINISTRATION:  
A PARTIAL INVESTIGATION OF THE  
EXECUTIVE-LEGISLATIVE RELATIONS

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by  
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## CHAPTER I

### INTRODUCTION

Walter A. Huxman was the fifth of seven Democratic governors in the history of Kansas. Because the majority party in Kansas legislatures is usually Republican, the governor's role is particularly challenging when he is a Democrat. This study is a partial investigation of the executive-legislative relations in Kansas during Huxman's administration from 1937-1939.

#### I. THE PROBLEM

The executive and legislative offices of Kansas have been invested with certain authorities by the Constitution and the statutes. While only the legislative branch may enact statutes, the governor may recommend legislation. This investigation proceeded from the hypothesis that although a governor of Kansas and the majority of the State Legislature were members of opposing political parties their political attitudes would be so similar that the legislation proposed and enacted would not be essentially different than if the same political party controlled both branches of government. The major objective of this study then, is to determine whether the respective party affiliations of the governor and of the legislature were the primary factors in the passage of the 1937 Kansas social security and sales tax laws. The study

has two ancillary objectives: (1) to ascertain if partisan advantages resulted from the modifications in the social security and sales tax laws in the 1938 special session of the legislature, and (2) to determine if Governor Huxman employed partisan bias as a basis for making appointments to state offices.

As far as the writer was able to discover, no thorough study of executive-legislative relations in Kansas from 1937 to 1939 existed. Those years were chosen for study because during that time the executive and legislative branches were controlled by opposition parties, and laws which had far-reaching consequences upon the state's population were enacted.

In 1936, a constitutional amendment which provided for state participation in the federal Social Security Act was adopted by the Kansas electorate. As a consequence, the 1937 Kansas legislature developed a social security program to be financed by the sales tax. The laws established a precedent, this being the first time Kansas had actively engaged in social legislation for the needy aged over sixty-five years old, the needy blind, and the dependent children. Also, for the first time in the history of Kansas, a form of revenue was adopted which was largely regressive in its application, the sales tax.

## II. DEFINITIONS OF TERMS USED

In an effort to provide background understanding for specific terms, these words are defined in the limited sense in which they are used in this study:

Partisan influence. Throughout this analysis, "partisan influence" is interpreted as meaning the procedures by which political party affiliations are determining factors in the legislative and appointive processes. Because records of committee hearings were not accessible, the House and Senate Journals and relevant newspapers were used to ascertain "partisan influence."

Partisan advantages. In this study, the term "partisan advantages" is understood to mean any political gain that places a party in an improved position in regard to the next general election.

Social Security Act. The term "Social Security Act" refers to that law, passed by the United States Congress in 1935, which provided for assistance to the states through a system of federal grants in cooperation with the individual states. The law provided appropriations to assist the needy persons over sixty-five; to care for needy dependent children; to promote the health of mothers and children in areas suffering severe economic distress; to provide medical, surgical, and corrective services for crippled children; to rebuild

vocationally the physically disabled; to aid the needy blind; and finally, to promote adequate public health service. The federal law required the participating state to provide a proportion of the funds for the program before the state could receive any federal assistance.

Social security. In this study all other usage of the term "social security" is limited to the provisions made in 1937 and 1938 by Kansas (in cooperation with the federal government) for the needy aged over sixty-five years of age, the blind, and the dependent children. Although the Kansas legislature of 1937 passed unemployment compensation and vocational rehabilitation laws, they are not considered in this project.

Sales tax bill. Because this analysis is confined to social security and its financing, the term "sales tax bill" is limited to only those "sales tax bills" introduced by the 1937 and 1938 Kansas legislatures for the purpose of financing a program for the needy aged, the blind, and the dependent children. Therefore, "sales tax bills" which included no provision for financing social security are omitted.

### III. SOURCES OF MATERIAL

Books which present an overview of state administrations and executive-legislative patterns are Leslie Lipson's The American Governor: From Figurehead to Leader (Chicago:

University of Chicago Press, 1939), Coleman B. Ransome's The Office of Governor in the United States (Alabama: University of Alabama Press, 1956), and Casimir W. Ruskowski's The Constitutional Governor (Boston: B. Humphries, 1943).

Some histories of Kansas which give a general understanding of legislative enactments during Huxman's administration are John D. Bright's Kansas, the First Century, Volume II (New York: Lewis Publishing Company, 1956) and William Frank Zornow's Kansas, A History of the Jayhawker State (Oklahoma: University of Oklahoma Press, 1957).

Theses have been written which examine various programs initiated under Huxman. These include Richard Vogel's History of the Kansas Sales Tax (The University of Kansas, Lawrence, 1939) and James S. Schell's The Administration and Financing of Poor Relief in Kansas (The University of Kansas, Lawrence, 1957). Various government documents which are relevant include the House Journals, 1937 and 1938 (Topeka: State Printing Plant), the Senate Journals, 1937 and 1938 (Topeka: State Printing Plant), the 1937 Supplement to General Statutes of Kansas, 1935, edited by Frank Corrick (Topeka: State Printing Plant, 1938), and specific recommendations of the Kansas Legislative Council to the legislature in December of 1936. Other pertinent research publications of the legislative council are also available. A periodical including helpful information is the Kansas Government Journal, published by the League of Kansas Municipalities.

Pertaining to Governor Huxman and the Kansas legislature of this period are volumes of newspaper clippings on file in the State Library, Topeka, and the Kansas State Historical Society in Topeka.

#### IV. ORGANIZATION

The study of executive-legislative relations in Kansas from 1937-1939 begins with the man who was elected governor. A brief biography of Walter A. Huxman is included in Chapter I.

In Chapter II the proposals of the Governor and the legislators, as well as the final social security and sales tax laws, are considered. This information provides the background and basis of analysis for Chapter III. Chapter III examines the major objective of this study: to determine whether the respective party affiliations of the governor and the legislature were the primary factor in the passage of the 1937 social security and sales tax bills. The partisan advantages resulting from the modifications in the social security and sales tax laws during the special session are also considered in Section III of Chapter III.

Chapter IV analyzes appointments to determine whether Governor Huxman employed partisan bias as a basis for making them. The conclusions comprise Chapter V. The result of these chapters is a study of the partisan influence in policy formation and political appointments from 1937 to 1939.

## V. BRIEF BIOGRAPHY OF WALTER A. HUXMAN

Walter A. Huxman, born on a farm near Pretty Prairie, Kansas, on February 16, 1887, was only once removed from German emigrant parents who came to this country so that they might live in political freedom. His father was a farmer and preacher. Huxman was early taught to participate in church and school affairs. In a day when literary societies furnished the main entertainment of the rural communities, he became a debater and youthful leader of the community.

When Huxman was fifteen years old, his father's church wished to raise funds to send him to a seminary in Ohio to study for the ministry. He did not accept this offer but preferred to earn a teacher's certificate after which he taught three winter terms at the school in Castleton, Kansas. He attended the Normal School at Emporia, Kansas, and then went with a friend, Aaron Coleman, to Kansas University to study law. Working his way through law school, he obtained such jobs as waiting on tables, janitorial duties, mowing lawns, carrying laundry, and picking up tenpins in a bowling alley.

After he was graduated from law school, Walter Huxman moved to Hutchinson, Kansas, in his home county, to begin private law practice with Coleman. That same year he married Miss Eula Biggs who was the daughter of a stockman in Butler County and had also attended the Normal School at Emporia.

Shortly after Huxman and Coleman began their practice there was a chance for either of them to take the small wage of an assistant Reno county attorney. As Huxman was married and Coleman was not, Coleman remained with private practice and Huxman took the assistant's job. This position was followed by an appointment as city attorney of Hutchinson for the years 1919 to 1921. Then in 1922, he formed a law partnership with Charles S. Fulton who had been a Republican probate judge.

Although his partner was a Republican, Huxman became active in the Democratic party; in 1928 he was persuaded to become a candidate for one of the places on the Kansas Supreme Court. He campaigned over most of Kansas, speaking primarily in behalf of Alfred E. Smith, and Huxman was not elected to the Court. It was said he had not expected to win.<sup>1</sup>

Huxman's second stint on the campaign trail came in 1930 when he spoke throughout Kansas for Harry Woodring, Democratic candidate for governor. When Woodring was elected, he insisted that Huxman become a member of the state tax commission, an office that he fulfilled with credit to himself and the Democratic party. During his two years on the commission, he handled the famous Katy Railroad tax suit and won a victory in the courts. This decision determined the methods of allocating the property of a big railroad system

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<sup>1</sup>Kansas City Star, May 18, 1939.



for assessment purposes.

Huxman was one of the first of the Democratic officials to tender his resignation when the Republicans regained control of the state government in the 1932 election. He told the governor:

My term doesn't expire for some time yet. But I am ready to go back to my Hutchinson law practice whenever you have a Republican to take my place. I'll continue the work just as carefully as I know how until you find the man you want to take my place. When you do find him send him up and I will discuss my work with him and give him what help I can.<sup>2</sup>

Returning to his law practice, Huxman remained active in the Democratic Party and was chosen chairman of the Democratic State Convention in April, 1936. This chairmanship established him more firmly in the minds of party leaders as a gubernatorial possibility and he was drafted to make the 1936 gubernatorial race. He did not relish the politics incident to gaining the governor's chair, and he would have preferred a judicial position. It is quite generally believed that when Huxman was persuaded to become a candidate for governor it was with the distinct promise from Guy Helvering, Commissioner of Internal Revenue, and Harry Woodring, Secretary of War, that Huxman would be given the first federal judicial appointment that became available to Kansas. That promise, if it ever were made, was kept by the submission of

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<sup>2</sup>Ibid.

his name by the President in 1939 for a judgeship on the United States Court of Appeals.<sup>3</sup>

Huxman made an aggressive political campaign for the governorship, making a major speech each day and several minor ones. His plea was to re-elect President Franklin D. Roosevelt and his speeches were crammed with New Deal accomplishments. Critics charged that Huxman swung into office on Roosevelt's coat tails, but that was overstating the case. He may have benefited from Roosevelt's popularity; yet he himself had much to offer, as even the Republican press conceded. William Allen White, who did not err in kindness where a Democrat was concerned, said of Huxman, "A man of honesty, courage, and capacity. He won the fairest, cleanest gubernatorial fight that any Democrat has ever made in this state."<sup>4</sup>

Huxman, becoming governor with the advent of the second term of the New Deal in Washington, D.C. was faced with the reorganization of the state government and the putting into effect some important local legislation which provided for state cooperation with the New Deal programs. He was defeated for a second term in 1938 but polled some 40,000 more votes than any other Democratic candidate for an important state

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<sup>3</sup>Ibid.

<sup>4</sup>Walter Johnson (ed.), Selected Letters of William Allen White, 1899-1943 (New York: Henry Holt and Company, 1947), p. 318.

office. Although he wanted to be the first Democrat ever re-elected as chief executive in Kansas, political life did not appeal to him as much as the legal profession.<sup>5</sup>

A few months after completing his gubernatorial term, on May 31, 1939, Walter A. Huxman received an appointment as a judge on the United States Circuit Court of Appeals. Huxman worked faithfully on the federal bench for more than twenty years, ending his active work schedule with the United States Court of Appeals in 1962. He is now living in Topeka, Kansas.

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<sup>5</sup>Kansas City Star, May 18, 1939.

## CHAPTER II

### THE KANSAS SOCIAL SECURITY PROGRAM, ASSISTANCE FEATURES, AND ITS FINANCING

The Social Security Act of 1935, passed by the United States Congress for the purpose of assisting the American people in meeting some of the major economic hazards of life, provided for a program of cooperation between the federal government and the states. To supply basic information about the 1937 and 1938 Kansas social security program and its financing is the objective of this chapter. Governor Huxman's proposals and the legislators' views (as represented by the introduction of bills before the House and Senate in 1937 and 1938) concerning the methods by which Kansans should develop their social security program and its financing are presented in this chapter. The material included herein provides the background and basis of analysis for Chapter III.

#### I. KANSAS SOCIAL SECURITY LEGISLATION OF 1937

When the Kansas legislature convened in January, 1937, the pressing problem was to develop the state social security program and a means of financing it. The federal Social Security Act, passed in 1935, provided that the federal government would match funds with the state up to fifteen dollars a month for assistance to the needy aged, to the blind, and to dependent children.

Need for social security legislation. Prior to 1936 social welfare was a function of local government. In that year Governor Landon called a special session to consider a constitutional amendment providing for participation by the State of Kansas in the federal social welfare program. The legislature agreed to present the amendment to the voters at the 1936 November election. The amendment as presented and the vote was as follows:

Article 7, Section 4: The respective counties of the state shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity or other misfortune, may have claims upon the sympathy and aid of society: Provided, however, The state may participate financially in such aid and supervise and control the administration thereof.

For--490,176; against--172,473.<sup>1</sup>

In Governor Huxman's message to the opening session of the legislature he presented the question of social security as one requiring decisive legislative action. The relevant portion of his message was:

The big question confronting the people today is that of social security. Two amendments were adopted to the Constitution by overwhelming majorities, providing for participation of the state in this program.<sup>2</sup> It is our duty to work out this question on a sound and workable basis. I think it is our duty in this session of the Legislature to develop a program of old-age assistance

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<sup>1</sup>Memorandum, "The Sales Tax and Old-Age Assistance" (Topeka: Research Department, Kansas Legislative Council, February 16, 1945), p. 1. (Mimeographed.)

<sup>2</sup>In 1936 the electorate approved two constitutional amendments. One concerned social security assistance features and the other provided for unemployment compensation.

and unemployment insurance. We must give serious consideration in setting up this agency, to making it efficient and economical in operation, so that the administrative costs do not become excessive. Again, we must devise a law which will keep this agency out of politics. All employment in this agency must be purely on a merit basis, and the law must be so framed and the rules and regulations so drawn, that the employees will not engage in any political activity. It is my opinion that old-age assistance should be financed by the state entirely. By so doing we can bring some relief to the overburdened county poor funds and thereby reduce the burden now resting upon real estate.<sup>3</sup>

Three days after the legislative session began, social security measures had already been introduced, and by January 30 so many had been placed into the hopper that "it would appear as though almost every legislative member has an individual idea as to how the state's welfare problem should be handled."<sup>4</sup>

Social security measures presented to the legislature.

Because social security was the paramount problem before the legislature it was natural for many bills on this subject to be introduced. The information below comprises brief summaries of the various bills presented in the 1937 legislative session pertaining to social security. They were assembled from information given in the House and Senate Journals and the

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<sup>3</sup>House Journal (Topeka: State Printing Plant, 1937), January 13, 1937, p. 12.

<sup>4</sup>Kansas Chamber of Commerce Legislative Service, Issue #3 (Topeka: Kansas Chamber of Commerce, January 30, 1937), p. 24.

bulletins published by the Legislative Service of the Kansas Chamber of Commerce. An asterisk (\*) indicates the bills which became laws. The names of the legislators are given as found in the House and Senate Journals; a (D) indicates the legislator involved was a Democrat, and an (R) indicates he was a Republican.

Social security measures in the House.

House Bill #20:

This bill was introduced by Harry W. Fisher (R) of Bourbon County. It was, with few exceptions, the same as the one proposed by the legislative council. The bill provided for a system of old-age pensions, granting base pensions on need to all over sixty-five and fixing the maximum assistance at \$30 a month. A state welfare board and county welfare boards consisting of the county commission chairman, county attorney, and county health officer would have been created. The bill provided the state should take a lien on the property of one receiving social welfare aid. Counties would have paid \$1 for each \$2 received from the state. House Bill #20 was referred to the Public Welfare Committee and reported back without recommendation.

House Bill #134:

This bill was introduced by Edwin F. Abels (R) of Douglas County and Marion Beatty (D) of Shawnee County. It was a comprehensive old-age assistance, aid to the blind, and aid to dependent children proposal. The bill created a single board of five to serve without pay except per diem and expenses with an executive director to handle the details. It proposed that the state should pay from its funds 25 per cent of the total cost, including state and local administration, and the counties should pay 75 per cent of the total cost. House Bill #134 was referred to the Public Welfare Committee which recommended it be not passed. It was a companion bill to Senate Bill #141.

House Bill #135:

This bill was introduced by Edwin F. Abels (R) of Douglas County. It authorized the Governor to accept real estate located in Topeka for use by a State Department of

Social Welfare. House Bill #135 was referred to the Public Welfare Committee which recommended it be not passed. It was a companion bill to Senate Bill #142.

House Bill #136:

This bill was introduced by Edwin F. Abels (R) of Douglas County. This act transferred all of the property, liabilities, etcetera of the Kansas Emergency Relief Commission to a Department of Social Welfare. The Public Welfare Committee recommended it be not passed. It was a companion bill to Senate Bill #143.

House Bill #137:

This bill was introduced by Edwin F. Abels (R) of Douglas County. It was an act authorizing a Department of Social Welfare to use the Kansas Rehabilitation Homestead Corporation as a part of its organization to act as a custodian and trustee of certain assets received from the federal government and providing for the transfer of such assets to a State Welfare Department after the dissolution of the Rehabilitation Corporation. House Bill #137 was referred to the Public Welfare Committee which recommended it be not passed. It was a companion bill to Senate Bill #144.

House Bill #138:

Edwin F. Abels (R) of Douglas County introduced this bill. This act appropriated money for the administration of a State Department of Social Welfare in amounts of: (1) \$37,500 for the period ending June 30, 1937, (2) \$150,000 for the fiscal year ending June 30, 1939. It further provided for an appropriation of \$135,000 for the purpose of aiding counties to the extent of 10 per cent of their social welfare expenses for the period ending June 30, 1937, and \$550,000 for each of two fiscal years ending June 30, 1938 and 1939. An additional \$675,000 had been set aside for aid of those counties having extraordinary social welfare service obligations, the appropriation extending to June 30, 1939. The Committee on Ways and Means recommended it be not passed. It was a companion bill to Senate Bill #145.

House Bill #144:

This bill was introduced by James J. Wilson (D) of Cherokee County. It was an act, proposed by the county commissioners of the state, creating a State Social Welfare Department and county welfare departments and providing for state and local governmental cooperation with the federal government in respect to social security. This bill did not



relegate the phases of relief to special categories but made provision for all kinds of relief. House Bill #144 was referred to the Public Welfare Committee and it was recommended that it be not passed. It was similar to House Bill #134 which was a companion measure to Senate Bill #141.

#### House Bill #159:

This bill was introduced by L. A. Dubbs (D) of Ness County. The bill established a State Public Welfare Board to cooperate with the federal government on social security measures. The state board of five members was to be appointed by the governor. County boards would have received applications and appeals would have been made to the state board. The state board was to file a lien against any property which a client might have. The program would have cost slightly more than \$8,000,000 of which the state and local governments would have paid more than \$4,500,000. House Bill #150 was referred to the Public Welfare Committee. This bill evidently was never reported out of the Committee. It was a companion to Senate Bill #125 and was, with a few changes, the bill proposed by Governor Huxman.

#### House Bill #173:

It was introduced by M. E. Bolan (D) of Sedgwick County. This act established a board to administer a social security program and set up a state fund for aid to the blind. The Public Welfare Committee recommended it be not passed. It was a companion to Senate Bill #127.

#### House Bill #557: \*

This bill was introduced by the Public Welfare Committee. It set up old-age assistance, aid to the blind, and aid to dependent children. The state would provide \$2,500,000 with \$500,000 of this amount to be used for administration. The federal government would contribute \$2,000,000 and the counties would pay \$4,500,000. This bill originally included a provision for financing by the sales tax. The bill was passed in both houses. The vote in the House was Yeas, 99 (61 Republicans and 38 Democrats); Nays, 0; Absent or not voting, 25 (12 Republicans and 13 Democrats). In the Senate the vote was Yeas, 34 (20 Republicans and 14 Democrats); Nays, 0; Absent or not voting, 6 (5 Republicans and 1 Democrat). It was signed by the Governor.

Social security measures in the Senate.

Senate Bill #67:

This bill was introduced by Joseph S. McDonald (D) of Kansas City. It created a State Welfare Commission of three members appointed by the governor with the consent of the Senate over a period of four years to enable Kansas to participate with the federal government in the administration of social security. Senate Bill #67 was referred to the Public Welfare Committee which recommended it be not passed for the reason that provisions of this bill were embodied in another bill.

Senate Bill #106:

It was introduced by Joseph S. McDonald (D) of Kansas City. This act provided for old-age assistance to be financed by a tax levy. It gave specific requirements for welfare applicants: (1) sixty-five years of age, (2) five years of residence in the state in the last nine years, (3) in need, (4) not be an inmate of any institution unless withdrawn from it, and (5) not have made an assignment of property within the last five years in order to become eligible and must receive no other relief. The amount of assistance was to be determined by a county board on the basis of the individual case. It was unfavorably reported by the Public Welfare Committee because the provisions of this bill were embodied in another bill.

Senate Bill #107:

This bill was introduced by Joseph S. McDonald (D) of Kansas City. The act provided for assistance to the blind within terms almost identical to Senate Bill #106. It was unfavorably reported by the Public Welfare Committee.

Senate Bill #127:

This bill was introduced by Donald C. Allen (R) of Valley Falls. It was a companion to House Bill #173; (refer to page 17 for the contents). The Public Welfare Committee recommended that it be not passed for the reason that these provisions were embodied in another bill.

Senate Bill #129:

This bill was introduced by Harry Warren (D) of Fort Scott. It was a companion to House Bill #159 (see page 17 for the contents). Senate Bill #129 was referred to the Public Welfare Committee, reported favorably, and later stricken from the calendar.

## Senate Bill #141:

This act was introduced by Ernst F. Pihlblad (R) of Lindsborg. It was a companion to House Bill #134 (refer to page 15 for the contents). Senate Bill #141 was referred to the Public Welfare Committee and was unfavorably reported.

## Senate Bill #142:

This bill was introduced by Ernst F. Pihlblad (R) of Lindsborg. It was a companion to House Bill #135 (the contents are explained on page 15). This bill was referred to the Public Welfare Committee and was adversely reported.

## Senate Bill #143:

Introduced by Ernst F. Pihlblad (R) of Lindsborg, this bill was a companion to House Bill #136 (refer to page 16 for the contents). It was referred to the Public Welfare Committee and was adversely reported.

## Senate Bill #144:

It was introduced by Ernst F. Pihlblad (R) of Lindsborg. This bill was a companion to House Bill #137 (refer to page 16 for the contents). It was referred to the Public Welfare Committee and was adversely reported.

## Senate Bill #145:

Introduced by Ernst F. Pihlblad (R) of Lindsborg, this bill was a companion to House Bill #138 (refer to page 16 for the contents). The Committee on Ways and Means recommended it be not passed.

House Bill #557 (The Kansas Social Security Law of 1937).

This was the old-age assistance bill which the legislature enacted into law. It created a State Board of Social Welfare consisting of five members to be appointed by the governor; it also provided for county boards of social welfare. A state appeal committee was created, consisting of three members of the state board to be selected by the chairman. Duties of the appeal committee were to hear all controversies arising

between the state director and the county board and consider appeals from the decisions of county boards or private agencies. County social welfare boards were to be composed of the board of county commissioners of each county; they were to provide assistance to the aged, the blind, and dependent children on the basis of need.

The law provided for the appointment of a state director. It was his duty to develop state plans as provided under the federal Social Security Act, so as to enable the state to co-operate with the federal government in its program. He also supervised all social welfare activities of the county boards.

Needy persons to be eligible under this act must have insufficient income or resources to provide reasonable subsistence; must have been a resident of Kansas for one year; and were not to be an inmate of any public institution. An applicant must not have made for two years immediately prior to filing for social security, a request for aid or transfer of property. Those eligible for old-age assistance had to be sixty-five years of age. Needy blind persons had to be sixteen years of age, and dependent children had to have been residents of Kansas for one year and living in a suitable family home before they could receive assistance.

A social welfare fund was established and the various counties were entitled to participate in this fund for the purpose of furnishing assistance under the act. The revenue

from the federal government was divided among the counties, and each county received a sum based on the amount it had previously expended for old-age assistance, aid to the blind, and aid to dependent children.<sup>5</sup>

## II. KANSAS SALES TAX LEGISLATION OF 1937

The financial advantages of the national Social Security Act accrue to the people of a state only in the event state laws are passed which comply with the federal program. The Kansas legislature of 1937 faced the problem of obtaining sufficient state funds to administer the program effectively.

Need for sales tax legislation. To be answered was the question of the amount of revenue needed. Then came consideration of which tax or group of taxes would provide sufficient funds. The Legislative Council Research Report, Number 50, issued in November, 1936, presented an estimate of the total cost of social security in Kansas. The estimate of expense per person was based on the experience of other states in 1936.

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<sup>5</sup>Kansas Chamber of Commerce Legislative Service, Issue #12, April 24, 1937, p. 131.

TABLE I  
RANGE OF TOTAL ANNUAL SOCIAL SECURITY PAYMENTS

	Average per month	Minimum	Reasonable	Maximum
Aged	\$14.53	\$2,353,860.	\$3,033,864.	\$3,757,458.
Blind	20.00	120,000.	198,000.	240,000.
Dependent Children	10.00	780,000.	1,440,000.	1,920,000.
Total		\$3,253,860.	\$4,671,864.	\$5,917,458.

In Table I, the figures indicate that a reasonable estimate of the total cost of old-age assistance, aid to the blind, and aid to dependent children amounted to over four and one-half million dollars, not including the cost of administration. An additional 5 per cent was added to federal payments for administration costs.

On the assumption that the State of Kansas paid one-half and the counties one-half of the total state share, the distribution of cost between these two agencies and the federal government would have been as shown in Table II.<sup>6</sup>

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<sup>6</sup>Research Department, Kansas Legislative Council, The Social Security Program, Report Number 50 (Topeka: Kansas Legislative Council, November, 1936), p. 20. (Mimeographed.)

TABLE II  
APPORTIONMENT OF THE COST OF SOCIAL SECURITY ASSISTANCE

	Minimum	Reasonable	Maximum
Total	\$3,253,860.	\$4,671,864.	\$5,917,458.
Federal share	1,495,000.	2,079,000.	2,635,000.
Kansas share	1,758,860.	2,592,864.	3,282,458.
Counties	879,430.	1,296,432.	1,641,229.
State	879,430.	1,296,432.	1,641,229.

It was estimated, on the basis of six months expenditures to July 1, 1936, that the counties would spend \$1,300,000 for the aged, blind, and dependent children during the calendar year 1936.<sup>7</sup> The counties had also provided relief to the needy who were not aged, blind, or dependent children. The estimated deficit of the counties for this relief during the calendar year 1936 was estimated to reach \$2,500,000. The Legislative Council recommended the state might in the future assist the counties with this relief by providing funds equal to the deficit. By adding the amount the counties estimated they would spend for the aged, blind, and dependent children in 1936 (\$1,300,000) and the relief deficit for 1936 (\$2,500,000), the Legislative Council arrived at the total of \$3,800,000.

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<sup>7</sup>In 1936 the counties received no state or federal assistance. Yet because of the increased dollar amount and added coverage of the federal program, the predicted amount the counties would expend (under the reasonable and maximum estimates of Table II) in 1937 would be almost as much or more than was spent in 1936 when no federal or state assistance was available.

The 1936 Legislative Council suggested this was a realistic amount for the state to finance. To provide \$3,800,000 for social security and relief, new revenue in one form or another had to be raised by the state government and its subdivisions.<sup>8</sup>

The Research Department of the Kansas Legislative Council had estimated the amounts of money various new taxes would produce if enacted. This information is provided in Table III on page 25. If only one tax was desired, a gross receipts tax or retail sales tax offered the greatest revenue possibilities according to the estimates in Table III.

Because the people of Kansas had voted to cooperate with the federal Social Security Act, the legislators promptly introduced bills which finally resulted in the passage of House Bill #557. The consideration of taxation measures to finance the social security program, however, was delayed until the middle of February. Governor Huxman, recognizing that social security must be properly financed, delivered a special message to the legislature on February 17, 1937, noting the needed revenue and recommending different forms of taxation. The relevant portions of Governor Huxman's message to the legislature follow:

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<sup>8</sup>Research Department, Kansas Legislative Council, The Social Security Program, p. 20.



TABLE III

## ESTIMATE OF REVENUE VARIOUS TAXES MIGHT PRODUCE\*

Type of Tax	Estimate of Annual Revenue, 1936	
	Minimum	Maximum
Gross Receipts Tax		\$10,339,000
Retail Sales Tax	\$6,700,000	10,000,000
Inheritance Tax (Reduce exemptions, raise rates)	68,000	136,000
Income tax (Depending on rates)	400,000	1,300,000
Gross Production Tax on Oil, Gas		1,685,000
Fee Increase	100,000	200,000
Beer Tax		
Inspection fees at 3¢ a gallon	228,000	512,000
License fees	100,000	200,000
Amusement Tax		450,000
Soft Drink Tax	600,000	1,000,000
Tobacco		
Cigars	200,000	300,000
Manufactured Tobacco	400,000	600,000
Cosmetics (10% of retail price)	150,000	225,000
Candy (10% of retail price)	300,000	350,000
Lubricating Oil (1¢ a quart)		100,000
Public Utility Services		
Electric Energy Total Sales (½ mill per KWH)		290,000
Electric Energy (less municipal sales, governmental, and industrial sales at ½¢ a KWH)	75,000	110,000
Telephone Charges (2% on intrastate gross revenue)		200,000
Commercial Gas Sales (1% gross receipts)		132,000
2¢ Tax on Checks	650,000	750,000
Selective sales taxes, total minimum unduplicated estimate	2,699,000	
Selective sales taxes, total maximum unduplicated estimate		4,359,000

\*Research Department, Kansas Legislative Council, Survey of Public Opinion on Issues Now Facing Kansas, Issue #1 (Topeka: State Printing Plant, 1936), p. 22.

My discussion of additional sources of revenue is based upon the assumption that social security legislation will be adopted, a state equalization fund for schools will be created, free school books will be provided for, and that there will be some additional building program beyond what has already been provided for by the legislature. I think we should also consider that there are some existing deficits in some of the governmental units which will have to be met.

For the purpose of this discussion I have adopted the following items to be provided for:

Social security	\$5,000,000.
School equalization fund	1,500,000.
Free schoolbooks	400,000.
Building and renovation of state buildings	500,000.
Miscellaneous items	500,000.
Total	<u>\$7,900,000.</u>

I know that it has been stated that social security will cost us approximately from three to three and one-half million dollars, but it is my idea that if we adequately finance old-age assistance, dependent and neglected children, blind persons and dependent widows, we will find that the cost will be considerably in excess of the low estimate. I do feel that we should finance these requirements substantially.

.....

I am suggesting to you the following sources of revenue:

2½% gross production tax on oil and gas	\$1,500,000.
Increased personal income tax rate, 2% on first thousand to 6% on eight thousand	1,300,000.
Increase in corporation tax rate, 5%	950,000.
1% sales tax	5,000,000.
Total	<u>\$8,750,000.</u>

.....

I know that a sales tax is unpopular, but under our present system and method of raising revenue, if we are going to finance old-age assistance and these charitable activities, it is absolutely necessary that we have a sales tax and we might just as well courageously face the situation. I, for one, prefer to pass a sales tax and adequately finance old-age assistance rather than give the needy people a law and then have them wake up and find that it means nothing. It is my opinion that a sales tax should be adopted only if we exhaust these

other sources of revenue and that the sales tax should be earmarked for social security alone and should not be used for any other purpose. If we do not do this we will find that it is being dissipated in one form or another and the relief burden will bear as heavily as it does now upon the local municipalities and upon fixed property. . . .

It is my idea and opinion that the state must assume from time to time a greater portion of the burden of relief than we are even contemplating in this legislature, and that perhaps in future legislation we will not only finance these activities which we are considering in this legislature, but should contribute a substantial sum to general relief in the counties. The counties must have relief from their present oppressive burdens.

It is also my further idea that by adopting these sources of revenue, if there is any surplus available we can give real estate additional relief from its overburdening tax load.<sup>9</sup>

After the Governor made the initial step in the area of taxation, a number of tax proposals was introduced. Kansas could have met the state's portion of the social security expense by a combination of other taxes, such as a gross production tax on oil and gas, an increase on income tax rates, a check tax, and selective sales taxes. However, if only one source of revenue was desired, some form of general sales tax appeared ideal from the revenue producing viewpoint.

#### Sales tax measures presented to the legislature.

Because the sales tax measures presented to the 1937 legislature were also numerous, only a brief summary description will be given of each. The information was assembled from

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<sup>9</sup>House Journal, February 17, 1937, pp. 296-297.

the House and Senate Journals and the bulletins published by the Legislative Service of the Kansas Chamber of Commerce. An asterisk (\*) indicates the bills which became laws. The names of the legislators are given as found in the House and Senate Journals; a (D) indicates the legislator involved was a Democrat and an (R) indicates he was a Republican.

Sales tax measures in the House.

House Bill #345:

This bill was introduced by W. H. Reed (D) of Wyandotte County. It was a 2 per cent retail sales tax upon tangible personal property, amusement, entertainment and recreation, electricity, water and gas and telegraph services, advertising, laundry, transportation, rooms, meals and drinks. The Public Welfare Committee recommended that the bill be not passed.

House Bill #479:

This bill was introduced by Grant Waggoner (R) of Cherokee County. It levied a 2 per cent tax upon the privilege of selling tangible personal property at retail, on entertainments and amusements, and for engaging in the furnishing of certain services. It required a license for retailers and wholesalers. House Bill #479 was evidently lost in the Committee on Assessment and Taxation to which it was referred.

House Bill #617:

This bill was introduced by the Committee on Assessment and Taxation. It levied a 2 per cent tax upon the sales of tangible personal property at retail. The Committee on Assessment and Taxation recommended that it be passed as amended. The Committee of the Whole recommended additional amendments and no more action was taken upon the bill.

Sales tax measures in the Senate.

Senate Bill #340:

This bill was introduced by Senator Ed T. Hackney (D) of Wellington. It levied a 2 per cent tax on persons engaged

in the business of selling tangible personal property at retail. The Committees on Public Utilities and Assessment and Taxation recommended that the bill be not passed.

Senate Bill #506:

This bill, introduced by the Committee on Assessment and Taxation, levied a 2 per cent gross receipts sales tax. The Committee on Assessment and Taxation recommended that it be passed but it was later stricken from the Senate Calendar.

Senate Bill #520:

This bill was introduced by the Committee on Assessment and Taxation. It provided for a 2 per cent tax upon the sales of tangible personal property at retail. It was referred to the Committee of the Whole, but no further action was taken on the bill.

Senate Bill #522: \*

This bill levied a 2 per cent retail sales tax upon the privilege of selling tangible personal property at retail, for providing entertainment and amusement, and for engaging in furnishing certain services. The Committee of the Whole recommended that the bill be amended by striking out all except the enacting clause and inserting a bill prepared by a special committee. The Senate passed the bill by a vote of: Yeas, 30 (17 Republicans and 13 Democrats); Nays, 2 (1 Republican and 1 Democrat); Absent or not voting, 8 (7 Republicans and 1 Democrat). The House passed the bill after amending it further by a vote of: Yeas, 80 (53 Republicans and 27 Democrats); Nays, 40 (17 Republicans and 23 Democrats); Absent, 4 (3 Republicans and 1 Democrat). The Senate adopted the House amendments and it was sent to the Governor who signed the bill. It was estimated to yield ten million dollars annually.

Senate Bill #523:

The Committee on Assessment and Taxation introduced this bill which provided for a 1 per cent gross receipts tax upon the selling of tangible personal property either for resale, consumption, or use. It also levied the 1 per cent gross receipts tax upon the selling of gas, electrical energy, water and communication services, and amusement and athletic events. It was referred to the Committee of the Whole which was at that time considering Senate Bill #522 and no further action was taken on this bill.

Senate Bill #522 (The Kansas Retail Sales Tax Law).

The Senate Bill #522, the Kansas Retail Sales Tax Law, which went into effect June 1, 1937, was levied on the following: a 2 per cent tax was levied on gross receipts received from the retail sale of tangible personal property; gross receipts from telephone and telegraph service; gross receipts from the sale of gas, water, electricity and heat; gross receipts from the sale of meals and drinks in any restaurant, eating place, et cetera; gross receipts from all amusements, entertainment or recreation enterprises except state or local fairs and educational, religious, or charitable activities.<sup>10</sup>

The tax was to be paid by the consumer to the retailer, who might not advertise that he would absorb any part of the tax. All retailers were to make a monthly return to the State Tax Commission, stating the total amount of gross sales during the preceding calendar month, including charge and time sales, deductions allowed by law, the taxable balance remaining and any other information the Commission required. These reports were to be accompanied by the amount of the tax to be paid. After June 1, 1937, it was unlawful for any person to engage in retailing or furnish taxable services without a registration certificate from the Commission. Utilities were not

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<sup>10</sup>Franklin Corrick (ed.), 1937 Supplement to General Statutes of Kansas, 1935 (Topeka: State Printing Plant, 1938), p. 247.

required to obtain these certificates.<sup>11</sup>

Records and books of all sales, together with invoices, bills of lading, copies of bills of sales, et cetera, had to be maintained and were subject to inspection by the Commission or its agents at all times. The Commission could hold investigations and hearings concerning any matter covered by the Act and to ascertain the correctness of any return. All information sent to the Commission by retailers was to be confidential except for official purposes. Metal tokens of zinc were issued in fractional parts of a cent (two mill tokens and later also a one mill token) to enable the consumer to pay the tax. Various penalties were established by the Act for failure to make monthly reports or pay the tax.<sup>12</sup>

Revenue collected under the Act was to be distributed as follows: 3 per cent to administration; \$2,400,000 in 1937 for social welfare purposes; \$200,000 annually for the use of the Crippled Children's Commission; \$50,000 on July 1, 1937 and \$60,000 on July 1, 1938 and the same amount each year thereafter to maintain the Employment Service; \$2,500,000 to the School Aid Fund; 80 per cent of the balance to the county treasurers to be used to reduce the general property tax in the respective counties (to be divided 50 per cent on the basis of population and 50 per cent on the basis

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<sup>11</sup>Kansas State Tax Commission, Regulations and Rules, Kansas Retailers' Sales Tax Act of 1937 (Topeka: State Printing Plant, June, 1937), p. 8.

<sup>12</sup>Ibid.

of assessed valuation). The remaining 20 per cent of the balance was to be placed in the state general fund.<sup>13</sup>

### III. SPECIAL LEGISLATIVE SESSION OF 1938-- SOCIAL SECURITY AND SALES TAX

The Kansas law-makers were called by Governor Huxman for a special session early in 1938, for the purpose of revamping the social security and sales tax laws. In the social security law enacted during the regular session was a section which gave the state a lien upon the property of persons receiving old-age assistance. The constitutionality of this lien provision was questioned by Governor Huxman. He also wished to alter the distribution of the sales tax residue; this residue was the amount of sales tax revenue remaining after specific appropriations had been made to state funds.

Need for changes in the social security and sales tax laws of 1937. Under the law as it existed, it was estimated sixty of the one-hundred-five counties in Kansas would be unable to meet their social security expenses in 1938, unless they issued bonds and went further into debt.<sup>14</sup> The counties in the poorest financial condition were those having the large

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<sup>13</sup>Ibid.

<sup>14</sup>John D. Bright (ed.), Kansas, the First Century, Volume II (New York: Lewis Publishing Company, 1956), p. 106.



cities, while many agricultural counties in the western part required no additional funds for relief.

Governor Huxman, in his message to the special session of the legislature on February 7, 1938, presented the issues.

. . . I have also come to the conclusion that a lien provision on the homestead is neither constitutional nor sound. The constitution exempts a homestead from all claims except those enumerated in the constitution itself, and I do not believe that we can abridge that exemption by legislative enactment. . . . The satisfaction that comes to the citizens as a result of the ownership of a home, however small, free from the claims of the state, ties them to our government and far off-sets what little remuneration will come from such a lien. That this is the view generally taken is evidenced by the fact that twenty-seven states now do not invoke a lien provision, and that eight states that formerly invoked such a provision have abolished it.

It is my belief that we might clarify the lien provision by providing that it shall not apply to any property exempted by the constitution. . . .

Notwithstanding all that has been said, there seems to be a feeling in the minds of some that this session is called for the purpose of repealing or amending the social-welfare law. Let me say again that the basic principles of this law should, in my opinion, be retained until the regular session of 1939.

I do not feel, however, that providing additional funds for the welfare program is changing the program itself. That is only carrying out the intent and purpose of the law. When the regular session of the Legislature met it was thought by some that the sum of \$2,400,000 would be sufficient for the state's share in the welfare program. It has been clearly demonstrated since then that this was wrong and that the program is not adequately financed, nor is the state bearing its proper share of the financial burden.

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No matter what we say, if we ask the people why the sales tax law was passed, three out of four would say that it was necessary to provide assistance for the needy people, and yet we have taken only approximately 25 percent of this money for the welfare program.

Section 21 of the sales-tax law provides for the distribution of the proceeds of the sales tax . . . . After these specific appropriations this section provides that 80 percent of the balance of the proceeds shall be distributed back to all of the different municipalities. . . .

Section 22 of the sales-tax law then provides that the levies on general property are hereby reduced. Then the section proceeds to provide how and to what extent they are reduced. There can be no question but that this section is unconstitutional. The attorney general has given me his opinion to this effect.

. . . . .

Gentlemen, it is my opinion that it is better to put this 80 percent into the social-welfare program, to be distributed to the counties, as the other welfare funds are, rather than to fritter it away and dissipate it in the grasshopper fund, the noxious-weed fund, and all these other funds. By so doing we can raise the share of the burden which the state carries to approximately 65 or 70 percent and lower the share of the burden which the counties bear some 30 or 35 percent. This would enable the counties to get along without the issuance of bonds and in many instances might provide sufficient funds so that they might be able to reduce their poor-fund levies. In any event, we would then be adequately financing our welfare program, or at least to the full extent of the sales tax law.<sup>15</sup>

The major issue pertained to the residue distribution of the 2 per cent sales tax. The question discussed was should it be used to benefit the taxpayers or the needy. The legislature, following public hearings, determined that the unallocated residue of the sales tax should be used for the reduction of general property tax, with the counties having the option of using such for welfare purposes if they desired to do so.<sup>16</sup>

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<sup>15</sup>House Journal, February 7, 1938, pp. 5-8.

<sup>16</sup>Kansas Chamber of Commerce Legislative Service, Issue #2 (Topeka: Kansas Chamber of Commerce, February 19, 1938), p. 10.

Social security and sales tax measures presented to the legislature in 1938. The following information pertaining to a brief analysis of the various bills presented during the special session relating specifically to the social security and sales tax issues was assembled from detailed information given in the House and Senate Journals and the bulletins published by the Legislative Service of the Kansas Chamber of Commerce. An asterisk (\*) indicates the bills which became laws. The names of the legislators are given as found in the House and Senate Journals; a (D) indicates the legislator involved was a Democrat and an (R) indicates he was a Republican.

House social security measures.

House Bill #36:

House Bill #36 was introduced by Julius M. Bahl (D) of Ellis County. This act, related to the old-age assistance procedure for obtaining a lien, amended section 17 of Chapter 37 of the Session Laws of 1937 by repealing said original section. The Public Welfare Committee recommended that it be not passed.

House Bill #52:

This bill, introduced by J. A. Schowalter (D) of Harvey County and I. T. Richardson (R) of Lyon County provided for the repeal of the original section of Section 17, Chapter 327 of the Laws of 1937. This section related to the lien upon any real property which was owned or possessed by a recipient of old-age assistance. The Public Welfare Committee recommended that it be not passed.

House Bill #80: \*

House Bill #80, introduced by Allen Meyers (R) of Shawnee County, required a residence of two years in the county before an individual was eligible for relief. It was

amended by the Public Welfare Committee to require residence of one year and passed as amended by both houses and signed by the Governor. The House vote was: Yeas, 89 (53 Republicans and 36 Democrats); Nays, 1 (a Republican); Absent or not voting, 31 (18 Republicans and 13 Democrats). The Senate vote was: Yeas, 33 (21 Republicans and 12 Democrats); Nays, 1 (a Democrat); Absent or not voting, 6 (4 Republicans and 2 Democrats).

### Senate social security measures.

#### Senate Bill #1:

This bill, introduced by Senator Claude C. Bradney (R) of Columbus, repealed the lien provision under the social security act. The Public Welfare Committee recommended that the bill be passed. The Senate then passed the bill: Yeas, 22; Nays, 16; Absent or not voting, 2. In the House, an emergency was declared, rules were suspended, and the bill was advanced to the third reading, subject to amendment and debate. The motion did not prevail and the bill was thereby killed.

#### Senate Bill #96:

This bill, introduced by Senator Harry Warren (D) of Fort Scott provided for the repeal of section 17 of Chapter 327 of the Laws of 1937. This section related to the lien upon any real property which was owned or possessed by a recipient of old-age assistance. The Judiciary Committee recommended that the bill be passed. The Senate then passed the bill: Yeas, 35; Nays, 1; Absent or not voting, 4. In the House, Senate Bill #96 was referred to the Committee on the Judiciary which recommended that it be not passed.

### House sales tax measures.

#### House Bill #3:

This bill, introduced by L. A. Dubbs (D) of Ness County, increased the state's portion of the social security expense from 30 per cent to 65 per cent. The unexpended balance was to be placed in the state social welfare fund. The bill was referred to the Public Welfare Committee which reported it without recommendation. Before Committee of the Whole it was moved that the enacting clause be stricken. This motion passed along party lines by a vote of Yeas, 65; Nays, 46; Absent or not voting, 10. The bill was thus killed. It was a companion bill to Senate Bill #5, an administration bill.

## House Bill #4:

This bill, introduced by L. A. Dubbs (D) of Ness County, transferred 80 per cent of the unexpended balance in the sales tax fund then going to counties to the state social welfare fund. It was referred to the Committee on Assessment and Taxation which reported it without recommendation. Upon the request of the sponsor of the bill, the Committee of the Whole granted unanimous consent to pass over House Bill #4 and allow it to retain its place on the calendar. No further action was taken. House Bill #4 was a companion bill to Senate Bill #6, an administration bill.

## House Bill #15:

This bill, introduced by I. T. Richardson (R) of Lyon County distributed the residue of the sales tax by transferring 45 per cent of it to a special school fund and 45 per cent to a county welfare fund. It was stricken from the House Calendar.

## House Bill #16:

This bill, introduced by I. T. Richardson (R) of Lyon County apportioned 90 per cent of the sales tax receipts not then allocated to the counties. The Committee on Assessment and Taxation recommended it be not passed.

## House Bill #20:

It was introduced by Paul R. Wunsch (R) of Kingman. This bill distributed all of the sales tax residue to the counties except for a \$100,000 fund. It was never reported out of the Committee on Assessment and Taxation.

## House Bill #44:

It was introduced by Don Fossey (R) of Reno County and would have increased the amounts for social security, crippled children, employment service, and school aid funds. The bill further provided that the county share of the rebate should be credited solely to the county's general fund. It was referred to the Committee on Assessment and Taxation which returned it without recommendations.

## House Bill #103:

Introduced by Harold Medill (R) of Montgomery County, this bill set up an emergency social welfare fund of not less than \$750,000 for the counties. It also provided more for

school aid. House Bill #103 was never reported out of the Committee on Assessment and Taxation.

House Bill #105: \*

This bill, introduced by the Committee on Assessment and Taxation, stated that all of the unallocated balance of the sales tax receipts except \$100,000 should go to the counties. It took 20 per cent of the balance originally going to the state general fund and diverted it to the counties. It became a law. The votes were along party lines as follows: House--Yeas, 73 (64 Republicans and 9 Democrats); Nays, 40 (2 Republicans and 38 Democrats); Not voting, 8 (6 Republicans and 2 Democrats). Senate--Yeas, 31 (24 Republicans and 7 Democrats); Nays, 8 (8 Democrats); Not voting, 1 (a Republican).

House Bill #130: \*

Introduced by the Public Welfare Committee, this act set up an emergency social welfare fund and provided for the procedure whereby counties with an especially heavy welfare load might make application to the State Welfare Board for aid. The original bill called for such a fund to be \$250,000, which was later revised to \$600,000, but ultimately became a law as \$350,000. The votes were: House--Yeas, 70 (60 Republicans and 10 Democrats); Nays, 34 (3 Republicans and 31 Democrats); Not voting, 17 (9 Republicans and 8 Democrats). Senate--Yeas, 35 (23 Republicans and 12 Democrats); Nays, 1 (a Democrat); Not voting, 4 (2 Republicans and 2 Democrats). It was signed by the Governor.

#### Senate sales tax measures.

Senate Bill #5:

Introduced by Senator Harry Warren (D) of Fort Scott, this was an administration bill. It was a companion to House Bill #3 (refer to p. 36 for the contents). Senate Bill #5 was never reported out of the Public Welfare Committee.

Senate Bill #6:

Introduced by Senator Harry Warren (D) of Fort Scott, this was an administration bill. It was a companion to House Bill #4 (refer to p. 37 for the contents). It was reported without recommendation by the Committee on Assessment and Taxation.

## Senate Bill #27:

Introduced by Senator Ed T. Hackney (D) of Wellington, this bill would have repealed the use of tokens in paying the tax. It was never reported by the Committee on Assessment and Taxation.

## Senate Bill #33:

Introduced by Senator Thale P. Skovgard (R) of Greenleaf, this bill would have allowed the merchants to retain 3 per cent of the sales tax collected as commission for collection. The Senate passed the bill by a vote of Yeas, 38; Nays, 10; Absent or not voting, 2. The House Committee on Assessment and Taxation reported back to the House with the recommendation that it be not passed and no further action was taken.

## Senate Bill #46:

Introduced by Senator Balie P. Waggener (D) of Atchison, it exempted manufacturers from the payment of the sales tax to common carriers of commodities for delivery and use outside of the state. The Senate passed the bill by a vote of: Yeas, 23; Nays, 7; Absent or not voting, 10. The House referred it to the Committee on Assessment and Taxation which reported back with the recommendation that it be not passed.

## Senate Bill #90: \*

This bill was introduced by Senator Ernst F. Pihlblad (R) of Lindsborg. It broadened the exemptions of the law by exempting sales used exclusively for state, county, municipal, educational, religious, benevolent and charitable purposes. After minor amendments, it was passed by the Senate by a vote of Yeas, 31 (22 Republicans and 9 Democrats); Nays, 1 (a Democrat); Not voting, 8 (3 Republicans and 5 Democrats). House--Yeas, 94 (62 Republicans and 32 Democrats); Nays, 2 (1 Republican and 1 Democrat); Not voting, 25 (9 Republicans and 16 Democrats). The Governor signed the bill, making it a law.

Social security and sales tax measures passed. Only a minor change was made in the social security law. A residence of one year in the county was required before an individual was eligible for relief.

The laws passed regarding the financing of social security were:

1. The residue distribution was amended so that all of the unallocated balance, except \$100,000, went to the counties on June 2 of each year. The effect of this measure was to take from the state the 20 per cent of the balance which was formerly going to the state's general fund and divert it to the counties. Any part of this residue could be used by the counties for social welfare purposes.
2. An emergency social welfare fund was set up, whereby counties with extra heavy welfare loads might make an application to the state welfare board for aid. For the first year \$350,000 was set aside for this purpose.
3. The exemptions of the sales tax law were broadened. All sales of property used exclusively for state, county, municipal, educational, religious, benevolent, and charitable purposes (except when engaged in business specifically taxable) were exempted. The result of this law was to slightly reduce the sales tax residue.

#### IV. CHAPTER CONCLUSIONS

When the 1937 legislature convened both the Governor and the legislators recognized the need to pass social security legislation and a means of financing it. Approximately ten social security bills were introduced in each house of the legislature. A bill, introduced by the House Public Welfare Committee that provided for old-age assistance, aid to the blind, and aid to dependent children, became a law. Although this bill had originally included a provision for financing by the sales tax, this section was deleted and the final bill was a spending measure only.<sup>17</sup>

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<sup>17</sup>Kansas City Times, March 13, 1937.



In a special revenue message Governor Huxman proposed a 1 per cent sales tax to be specifically allocated for social security. The legislature, however, passed a 2 per cent retail sales tax which was to provide revenue not only for social security but for the Crippled Children's Commission, the Employment Service, the School Aid Fund, and the administration of the sales tax. The remainder of the sales tax revenue was to be divided; 20 per cent was allocated to the state general fund and 80 per cent was to be used by counties throughout the state to reduce the general property tax.<sup>18</sup>

Although the counties received \$2,400,000 in state funds for social security as a result of the 1937 legislative action, many counties were unable to meet their social security expenses. Governor Huxman believed the state should assume a greater portion of the social security burden. Consequently, he called the special session. The Governor proposed that the 80 per cent of the sales tax residue originally allocated to the counties be transferred to the state social welfare fund and that the state's portion of the social security expense be increased from 30 per cent to 65 per cent. The legislature did not enact the Governor's proposal but instead amended the residue distribution so that all of the unallocated balance except \$100,000 should go to the counties on June 2

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<sup>18</sup>Kansas State Tax Commission, Regulations and Rules, Kansas Retailers' Sales Tax Act of 1937, p. 8.

of each year. The effect of this measure was to take from the state the 20 per cent of the balance which was formerly going to the state's general fund and divert it to the counties. The legislature also set up an emergency social welfare fund whereby counties with extra heavy welfare loads might make an application to the state welfare board for aid.<sup>19</sup>

Of the six bills passed regarding social security and its financing in the legislative sessions of 1937 and 1938, four were measures introduced by standing committees. Both House Bill #557 (which became the social security law) and Senate Bill #522 (which became the retail sales tax law) were committee measures. This indicates the influence of the standing committees upon policy determination in the legislature.

A comparison may be made between the number of social security bills introduced and the number of sales tax measures introduced for the purpose of financing social security. Approximately ten social security measures were introduced in each house; in the Senate one private member's<sup>20</sup> sales tax bill for the purpose of financing social security

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<sup>19</sup>Kansas Chamber of Commerce Legislative Service, Issue #2, February 19, 1938, p. 10.

<sup>20</sup>A private member's bill is a bill sponsored by an individual legislator. Within the summarization of each bill in this chapter, it was noted who sponsored the bill, an individual legislator or a committee.

was introduced and in the House two such private members' measures were proposed. Evidently the individual legislators desired to be identified with social security legislation which the electorate had approved in the 1936 constitutional amendment but did not want to be held responsible for the sales tax.

The social security legislation passed during 1937 and 1938 was a departure from methods previously used to administer and finance social welfare. The state government assumed a share of the burden of relief for the needy aged that formerly had rested entirely upon the counties.<sup>21</sup> This action taken during Huxman's administration set a precedent for further state participation in local government programs.

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<sup>21</sup>Topeka Daily Capital, April 1, 1937.

### CHAPTER III

#### PARTISAN INFLUENCE IN THE ORGANIZATION AND FINANCING OF THE SOCIAL SECURITY PROGRAM

The major objective of this study, as stated in Chapter I, is to determine whether the respective party affiliations of the Governor and the legislature were the primary factor in the passage of the 1937 social security and sales tax bills. In this chapter Section I examines the partisan influence used by Governor Huxman in an attempt to secure passage of the administration's social security and sales tax bills. The amount of party cohesion within the 1937 legislature in regard to the social security and sales tax bills is the topic of Section II. The analysis within Sections I and II indicates that the primary factor in the passage of the 1937 social security and sales tax bills was not party affiliation; it was instead, the necessity to provide an assistance program for the needy aged, the blind, and dependent children.

An ancillary objective of this study is to ascertain if partisan advantages resulted from modifications in the social security and sales tax laws during the 1938 special session. Section III of this chapter analyzes the party politics of the special session and concludes that neither party gained much political advantage.

## I. THE GOVERNOR'S INFLUENCE

The governor's constitutional part in legislation is principally at the beginning and end of the legislative process, through his power of suggesting legislation by message and his power to veto. However, because of the relatively high esteem of the office, the governor may use his power to encourage the development of constructive action within the legislature. The methods by which a governor may influence policy formation and the use of these means by Governor Huxman, especially in relation to the social security program, are evaluated in this section. In spite of the fact that the Governor was a Democrat and the legislature was controlled by Republicans, the Governor's influence played a vital part in the legislature.

When Governor Huxman was elected in 1936, the swing in popular sentiment was not sufficient to elect a Democratic legislature. The Republicans had working majorities in both houses, but Governor Huxman did not seem dismayed with the opposition. Reminded that he would deal with a legislature dominantly Republican in membership, he replied: "I'm not afraid of that. I give the Republicans credit for being as fair as I am on necessary state reforms. I'll work with them, and they can take the glory."<sup>1</sup> In Governor Huxman's

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<sup>1</sup>Wichita Eagle, August 9, 1936.

situation it was realistic to assume that he would need to work with individual legislators and factions within the opposition party as well as with members of his own party.

While the work of writing legislation falls upon the members of the legislature in theory and largely in fact, the blame if legislation is not enacted, or if what is enacted does not work satisfactorily, falls upon the governor. In practice the people of the state hold the chief executive largely responsible for legislation. It is customary for a gubernatorial candidate to run for office on the strength of the legislation he expects to persuade a legislature to write.<sup>2</sup>

When the governor takes office, he is encouraged by the state Constitution to present his views concerning needed legislation before the House and Senate.

He may . . . , at the commencement of every session, communicate in writing such information as he may possess in reference to the condition of the state, and recommend such measures as he may deem expedient.<sup>3</sup>

The opening message to the legislature is only one method by which a governor seeks to secure the passage of his legislative program. The methods used vary according to the situation; in general, however, there are several means

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<sup>2</sup>Topeka Daily Capital, December 20, 1936.

<sup>3</sup>Constitution of the State of Kansas in Frank J. Ryan (comp.), Directory of State Officers, Boards and Commissions (Topeka: State Printing Plant, 1938), p. 45.

of influence which may be used. These methods include:

(1) the selection of legislative leadership, (2) the presentation of proposed legislation in governor's messages, (3) the use of persuasion; conferences with legislators; (4) the use of partisan appointments, (5) the threat of the veto, (6) appeals to the people of the state, and (7) the threat of a special session.<sup>4</sup>

As nearly as it can be evaluated from the information available, the extent and effectiveness of Governor Huxman's use of each of these methods will be analyzed. These combine to form an analysis of the Governor's influence within the legislature.

Selection of legislative leadership. The governor's influence will be felt indirectly if committee chairmen, appointed by the speaker of the House or by the lieutenant governor, are individuals friendly to the administration. Such chairmen ensure prompt and friendly consideration of important administration measures.<sup>5</sup>

It appeared that although Governor Huxman was a Democrat with a Republican-controlled legislature, there was a unique opportunity to make his influence felt through the

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<sup>4</sup>Coleman B. Ransome, Jr., The Office of the Governor in the United States (Alabama: University of Alabama Press, 1956), pp. 202-215.

<sup>5</sup>Ibid., p. 203.

lieutenant governor, because in 1936 the first Democratic lieutenant governor in the history of the state, W. M. Lindsay,<sup>6</sup> was elected. However, the Republican-dominated Senate, not wishing the Democrats to have this advantage, adopted a resolution that the Republican president pro-tempore, Claude Bradney, would name members to the Senate standing committees. This resolution, adopted on a straight party vote, was bitterly attacked by the Democrats.

The governor's role in the selection of legislative leaders is a delicate matter in any case, since the legislature is inclined to regard this as interference in legislative affairs. With both houses of the legislature dominated by the Republican party, Governor Huxman had little chance to use his influence. According to the Topeka State Journal, there was no executive interference to attempt to dominate committees.<sup>7</sup>

Presentation of proposed legislation. A type of influence the Governor did use was the presentation of proposed legislation as a portion of his messages. Governor Huxman, in the 1937 regular session of the legislature, presented two messages proposing legislation.

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<sup>6</sup>All names in this chapter are cited as they are presented in the House and Senate Journals, 1937.

<sup>7</sup>Editorial in the Topeka State Journal, March 25, 1937.



In the opening message on January 13, 1937, the Governor said, ". . . it shall not, at any time be my intent or purpose to dictate to or drive the legislative body of Kansas."<sup>8</sup> His message inferred that he, as the Governor, was pointing out the matters which demanded legislative attention; the task of finding a legislative solution was the duty of the House and the Senate.

A newspaper analysis, by A. L. Shultz, senior editor of the Topeka State Journal, stated that the Republican legislature could not complain that the Democratic Governor had tried to tell it what it ought to do.

Governor Huxman's message is adroit. It seems to keep in mind the pattern established by the constitution that the state should have three separate but coordinate branches of government and that the responsibility for legislation is upon the legislature and not upon the governor.<sup>9</sup>

However, the legislature would not take that responsibility for initiating legislation in the area of taxation; because of their hesitancy, the Governor presented a special taxation message on February 17, 1937. Reaction to his proposals was varied. Some newsmen speculated that the farm and labor organizations, as well as many legislators, would object to the proposal of a 1 per cent sales tax. Senator Claude Bradney, Republican president pro tempore of the Senate, said

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<sup>8</sup>House Journal, January 13, 1937, p. 10.

<sup>9</sup>Topeka State Journal, January 13, 1937.

that he admired the frankness of the Governor's suggestions although they came late. Representative Wilford Riegler, Republican floor leader in the House, also said he thought the suggestions should have come earlier in the session. Representative L. A. Dubbs, minority floor leader in the House, stated, "I believe the message is a good one . . . It will adequately take care of the needs of the state and the taxes are not excessive."<sup>10</sup>

Although the hesitancy of the legislators to introduce revenue bills was no doubt a matter of political expediency, Governor Huxman's message did result in action. After the Governor's taxation message, revenue bills were introduced. This was a case in which the governor led the legislature (it did not lead itself).<sup>11</sup>

In his message to the special session on February 7, 1938, Governor Huxman's attitude toward the legislature was again revealed. Although he spoke frankly concerning the matters he wished considered, he stated:

It should never be the intent of the executive to usurp legislative powers. The two departments of the government must be maintained separate and independent. Yet we can have efficient government only when we have intelligent cooperation between the two branches of the government. I full well realize that I can make no

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<sup>10</sup>Editorial in the Topeka Daily Capital, February 18, 1937.

<sup>11</sup>Leslie Lipson, The American Governor from Figurehead to Leader (Chicago: University of Chicago Press, 1939), p. 205.

demands upon the Legislature. Especially is that so when the Legislature is controlled by the opposite political party. I do, however, want to ask the cooperation of one and all in these matters, not for my personal benefit nor for your personal benefit, but for the benefit of our state.<sup>12</sup>

Governor Huxman could not be described as a governor who desired the leading role in the legislature, but he made the legislators aware of his proposals by speaking frankly; he then wished the legislative and executive branches to work cooperatively in the best interest of the state.

The area of the presentation of proposed legislation also includes the drafting of administration bills. In the social security program, Governor Huxman presented an administration bill. He proposed no administration sales tax bill, but an Illinois tax commission expert came as the guest of the Governor to help draft Senate Bill #506. During the special session in 1938, Governor Huxman proposed two administration bills concerning the sales tax. (The fate of these bills will be further discussed in Sections II and III of this chapter.) These administration bills were part of the Governor's over-all program to influence legislation.

Conferences with legislators. When one of the governor's proposals is viewed by a legislator or group of legislators as being unpopular with the constituents or otherwise unacceptable, another type of influence, based primarily on persuasion,

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<sup>12</sup>House Journal, February 7, 1938, p. 8.

is used. In these situations, one of the most effective methods which the governor can use is a conference.

The extent and content of a governor's conference with his legislators is difficult to determine. The fact that Governor Huxman called conferences in an effort to speed up legislation is evidenced by the references which follow.

Kansas City Times, January 27, 1937: The Governor has had several conferences with party leaders regarding social security.

Topeka State Journal, February 3, 1937: Governor Huxman made a move to settle the matter of initiating revenue plans. He sent for Speaker Buzick and Senator Bradney, president pro tem of the senate and also asked for minority leaders, Senator Warren and Representative Dubbs, to sit in the conference. Huxman said revenue matters ought to be approached in a non-partisan manner. That was fine. Governor Huxman then said he would send a message to the legislature saying he had been asked by house and senate leaders to submit a plan. That wasn't so fine. Some of the solons saw the governor dumping the tax program right in their laps.

Kansas City Times, February 4, 1937: Governor Huxman called to his office today Senator Carter and Representative Ray Smith, chairman of senate and house committees on public welfare, and discussed in detail with them the various proposals for legislation. The result was that the two committees arranged a joint night session when sponsors of the various social security bills could appear.

Kansas City Times, March 26, 1937: It was only after the conferees had held two long sessions with Governor Huxman today that the agreement was reached (on compromise social security bill).

The conferences on the social security bill led to a joint night session on February 4, when sponsors could present their social security proposals. After conferences on March 26, the compromise social security bill was passed. The

conference concerning taxation was not so successful; the Governor ultimately had to accept the responsibility for initiating taxation proposals by delivering a special message to the legislature.

Use of partisan appointments. If the above three methods fail, the governor may resort to other steps. One of the more common is the use of executive appointments to influence a legislator; a protege of the representative or senator may be promised a government position or a future appointment may be promised the legislator himself.

Upon taking office, Governor Huxman delegated the task of making a considerable number of the appointments to C. M. Fitzwilliam, the Democratic State Chairman.<sup>13</sup> In the 1938 political campaign partisan appointments made by the Democratic administration were a primary issue; but on March 25, 1937, the Topeka State Journal stated in reference to the 1937 legislature, "There was no patronage grab which influenced a swapping of votes."<sup>14</sup> The issue of partisan appointments will be further discussed in Chapter IV.

Threat of the veto. Another device the governor has at his disposal is the veto. The effects of the veto power

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<sup>13</sup>Editorial in the Emporia Gazette, August 17, 1938.

<sup>14</sup>Editorial in the Topeka State Journal, March 25, 1937.

are more far-reaching than the mere number of vetoes indicates. Josiah Quincy<sup>15</sup> expressed the belief that "the potential veto shaped legislative action so constantly that the actual veto does not have to be used very frequently in practice."<sup>16</sup>

This threat of a potential veto may have been the very reason for the two long sessions the joint public welfare committee held with Governor Huxman prior to agreement on the compromise social welfare bill, as without cooperation from some Democrats, the Republicans did not have enough votes to pass a bill over a veto. Governor Huxman signed a majority of the bills of state-wide importance, although in the final days of the 1937 session he used his veto power rather extensively. Most of the legislation he disapproved concerned appropriations for state institutions and departments. According to the Governor, his veto of these bills saved the taxpayers \$500,000.<sup>17</sup>

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<sup>15</sup>Josiah Quincy, American patriot, was born in Boston on February 23, 1744. He and John Adams defended Captain Preston and the accused soldiers at the time of the Boston Tea Party and secured their acquittal. From that time on he wrote repeated letters to the Boston Gazette and published several books in which he urged the Whig opposition in England to aid the colonies. "Josiah Quincy," Encyclopaedia Britannica (1965 ed.), XVIII, 853.

<sup>16</sup>Lipson, The American Governor, p. 210.

<sup>17</sup>Kansas City Star, September 6, 1937.

Appeals to the people of the state. Appeals to the people through the press and radio may gain public support for a governor's program. The possible influence of a governor's use of news media was explained by the Council of State Governments in a study which included the following observation:

The words public relations and public confidence are almost without distinction. A part of this public confidence, of course, involves whether the Governor is honest, frank, and available to newsmen.<sup>18</sup>

The newsmen were impressed by Governor Huxman's attitude toward them. The Topeka State Journal, December 16, 1937, revealed that the Governor had been extremely candid and honest in his dealings with the press. As far as the state-house news reporters had been able to detect, the Governor had never misled them and his discussion of official matters had been extremely frank.<sup>19</sup> In an effort to maintain a more direct contact with the electorate than was provided by newspapers, the Governor presented monthly fifteen-minute radio chats over Radio Station WIBW. These radio broadcasts and the newspaper reports were used to develop consensus for the Governor's program.

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<sup>18</sup>Council of State Governments, The Governor and Public Information (Chicago: Council of State Governments, 1961), p. 3.

<sup>19</sup>Editorial in the Topeka State Journal, December 16, 1937.

Threat of a special session. Another device by which the governor may center public attention on particular aspects of his legislative program is the special session. The act of calling the special session centers the attention of the state's population on the problem for which the session is called and this makes it harder for the legislators to evade the issues. They are placed in the position of either acting on proposals in the manner the governor suggests or taking the political consequences if the electorate is really concerned with the problem before the session.<sup>20</sup>

In the 1937 session the problem of the social welfare legislation and its financing were considered of paramount importance by Governor Huxman. The legislators were hesitant to assume responsibility in the area of financing the social welfare program, but had they taken no action a special session would have been almost a certainty.<sup>21</sup> The House and Senate stayed in session three weeks beyond the usual adjournment date to complete action on these and other measures.

At the close of the regular session, there appeared to be no need for a special session. However, because the sales tax allocation to social welfare did not provide adequate funds, by the fall of 1937 the counties were again issuing large amounts of bonds to finance their "poor funds."

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<sup>20</sup>Ransome, The Office of Governor, p. 212.

<sup>21</sup>Editorial in the Topeka State Journal, March 25, 1937.



Governor Huxman called a special session in February, 1938, asking the legislators to improve the financing of social security by redistributing the sales tax residue. An analysis of the success of the special session is presented in part III of this chapter.

Evaluation. The analysis of Huxman's administration by newspapers of the state portrayed the Governor as intelligent and honest, a man in politics practicing an excellent quality of statecraft.

Persons engaged in all occupations say Mr. Huxman is a first rate governor. Even Republicans who stick with their party regardless say he is honest, capable, and above all else conscientious in all he says and does. (Hays Daily News)

Huxman has made a reputation of being candid, straightforward and honest. He has not been an intense partisan. He has given Kansas a real business administration. (Newton Journal)

Kansas is obligated to Governor Huxman for the quality of his administration. (Kansas City Journal Post)<sup>22</sup>

The Governor, after making his proposals, meddled little in the legislative proceedings. Some critics said the Governor had proposed a social security program and tax program and then did not take the leadership to develop either into a completed project.<sup>23</sup> It certainly could not be

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<sup>22</sup>These editorial comments were taken from newspaper clippings found in Walter Huxman's Personal Scrapbooks in the Kansas State Historical Society. No date was given on these clippings.

<sup>23</sup>Kansas City Times, March 31, 1937.

said that the Governor "cracked the whip", or usurped the powers of the legislature. The success of Governor Huxman's legislative program in the regular session may be summarized by the statement that the 1937 legislature worked with the Governor on most of the items which he proposed and which fit into the Republican program but paid little attention to other suggestions.<sup>24</sup>

## II. PARTY INFLUENCE IN THE ENACTMENT OF THE SOCIAL SECURITY AND SALES TAX LEGISLATION IN 1937

The need for social security and sales tax legislation was considered in Chapter II. The bills presented to the 1937 legislative session were summarized; the number of proposals indicated a divergence of views among the legislators on these subjects.

In this section the objective is to examine if party politics was the major force in shaping the social security and sales tax legislation. The development of Senate Bill #129 and House Bill #557, which eventually became a law, will be considered. The development of the sales tax law, Senate Bill #522, is also analyzed herein.

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<sup>24</sup>Kansas City Star, March 7, 1937.

Social security legislation. When the 1937 legislative session began, both the Governor and the legislators recognized the necessity of passing social security legislation. With the mandate of the voters as expressed in balloting on the constitutional amendment in the 1936 election, it was inexpedient for the legislators to return to their constituents without having done something about social security.

Passage of the social security bill. Governor Huxman presented his general views of social security in his opening message to the legislature. (See Chapter II, Pages 13 and 14.) Later in January he proposed an administration bill which was introduced in the Senate by Senator Harry Warren (D) and in the House by Representative L. A. Dubbs (D). Although believing that old-age assistance should be financed wholly by the state, rather than being an additional tax burden on the counties, the Governor left that feature out of his bill. In the House, the administration bill was evidently never reported out of committee. The brief history of Senate Bill #129, compiled from the Senate Journal, was:

1/27/37--Introduced by Senator Harry Warren.

1/28/37--Second reading and referral to the Public Welfare Committee.

2/28/37--Committee recommended Senate Bill #129 back to the Senate with certain amendments including:

1. State board could take over the management of crippled children's activities, if desired.
2. Struck out all qualifying phrases relative to the personnel of state board employees, leaving that to the board.
3. Required the state board must file a lien against any property which a client may have.

4. Raised the penalty for violations of the law to a felony.  
 3/15/37--Under general orders on the Senate Calendar; Senator Ewing Herbert recommended that Senate Bill #129 be further amended.

3/15/37--In evening session, an amendment was made by Senator Arnold C. Todd (D) but the Public Welfare Committee said that item was already provided. The committee amendments had not been printed in the bill. All action on the bill was postponed until amendments could be printed.

3/16/37--Committee of the Whole recommended further amendments.

3/18/37--Senate Bill #129 had been correctly engrossed. The Senate then amended the House social security bill by striking out the entire bill except the enacting clause which designated it as House Bill #557 and substituted all the provisions of the Senate social security measure (Senate Bill #129). House Bill #557 was passed by the Senate: Ayes, 39 (24 Republicans and 15 Democrats); Nays, 0, Absent or not voting, 1 (a Republican).

It should be noted that the plan proposed by the Governor was accepted in principle by the Senate. In the House, however, numerous plans for social security legislation had been developed by House members throughout the first weeks of the session. All bills were referred to the Public Welfare Committee. Incorporating the features of other bills, the Committee developed House Bill #557. Its history, compiled from the House Journal, 1937, was:

3/3/37--House Bill #557 was introduced by the Public Welfare Committee. It set up old-age assistance, aid to the blind, and aid to dependent children. The state would provide \$2,500,000 with \$500,000 of this amount to be used for administration. The federal government would contribute \$2,000,000 and the counties would pay \$4,500,000. This bill originally included a provision for financing by the sales tax, but this provision was later deleted. Discussion was delayed pending reports from Washington regarding various phases of the proposal.

3/11/37--Consideration before the Committee of the Whole.

3/12/37--Consideration before the Committee of the Whole. Among other amendments, the section stating that social security funds be obtained from a sales tax was deleted.

3/13/37--House Bill #557 was passed and sent to the Senate. The Senate deleted all the bill except the enacting clause. Because the Senate and House could not concur, a conference committee was appointed.

3/30/37--The Senate passed amended House Bill #557: Ayes, 34 (20 Republicans and 14 Democrats); Nays, 0; Absent or not voting, 6 (5 Republicans and 1 Democrat). The House passed amended House Bill #557: Ayes, 99 (61 Republicans and 38 Democrats); Nays, 0; Absent or not voting, 25 (12 Republicans and 13 Democrats).

4/2/37--House Bill #557 was signed by Governor Huxman.

As previously stated, when the Senate received House Bill #557, the Senate amended it by striking out all except the enacting clause and inserted the contents of Senate Bill #129. The House, of course, would not accept this wholesale amendment. (This amendment may have been made as a matter of expediency, the Senate realizing a conference committee could work more efficiently to settle differences than the Committee of the Whole in the Senate.) On March 19, the House asked for a conference committee and the Senate agreed to this request. Finally on March 30, the conference committee agreed to accept the main provisions of the House bill, acceding to a few minor provisions of the Senate measure. It was only after two long sessions with Governor Huxman that agreement was reached. The Governor signed House Bill #557 on April 2, 1937, thus providing a social security program for Kansas.

Analysis of partisan influence. In the development of this legislation, major differences in viewpoint were finally compromised by a conference committee. One may ask if the

differences in viewpoint were a result of party affiliation. In the Republican-dominated House the Democratic administration's social security bill was not reported out of the Public Welfare Committee. Instead the Public Welfare Committee developed its own bill, House Bill #557, which the House passed by a vote of 38 ayes (56 Republicans and 32 Democrats), 2 nays (1 Republican and 1 Democrat), and 34 absent or not voting (16 Republicans and 18 Democrats). Even though House Bill #557 was not favored by Governor Huxman, 63 per cent (thirty-two out of fifty-one) of the House Democrats voted for it.

In the Senate where the Republicans also had the majority, the Public Welfare Committee amended the administration bill and recommended its passage. Then the Committee of the Whole passed it as House Bill #557<sup>25</sup> by a vote of: Ayes, 39 (24 Republicans and 15 Democrats); Nays, 0; Absent or not voting, 1 (a Republican). The House and Senate Republicans obviously were not agreed as to the treatment of the administration bill.

The primary compromise necessary was between the House and Senate, not between the Republicans and Democrats. Both Democrats and Republicans in the Senate agreed to accept the amended administration bill which included state management

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<sup>25</sup>They deleted all of House Bill #557 except the enacting clause and inserted the amended administration bill.

of social security. In the House the majority of Democrats and Republicans favored a bill which proposed that the counties accept a larger responsibility for administration and financing. One may conclude that the major difference was one of state or of dual control (control shared by county and state governments). The Senate bill provided for complete state control. The House bill provided for dual administration, the county commissioners acting as a board under state supervision. The Senate bill provided for the state to pay all the cost of aid and administration, while the House bill split the cost, 30 per cent to the state and 70 per cent to the counties. (However, the House bill provided supervision for all relief, whereas the Senate bill provided only for the aged, for the blind, and for dependent children.)<sup>26</sup> After the conference committee agreed on House Bill #557 (which was basically the House-sponsored bill), the Senate approved it by a vote of 34 (20 Republicans and 14 Democrats) to 0 with 6 (5 Republicans, 1 Democrat) absent or not voting. The Senators, who had previously approved an amended administration bill, now voted for the House-sponsored bill.

Newspaper accounts at this time were warning against centralized control. An example of such is the following excerpt from an editorial by William Allen White.

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<sup>26</sup>Kansas City Times, March 11, 1937.

The Kansas legislature should, above everything, beware of centralized power. We are introducing a lot of new and absolutely necessary features into our political life, along with the idea of social security. By social security we mean old age pensions, the care of the weak and afflicted, and some kind of job insurance in our Kansas rural civilization. The tendency of the times would make us locate all the power of administration of these entirely proper social forces in Topeka. But wisdom counsels the other course. These agencies, so far as it is humanly possible, should be administered in the counties, under local supervision, where local public sentiment can control extravagances and check abuses.<sup>27</sup>

The representatives in the House evidently did not feel they would please their constituents by agreeing to anything that resembled state control. Although the records were not made public, the joint committee no doubt kept this in mind during the preparation of the final bill.

While it is true that a Republican-sponsored bill in the House was ultimately accepted, specific party relationships were not evident in records of floor discussion or voting. Partisan advantages gained in relation to the social security legislation were negligible.<sup>28</sup> Social security had been accepted by the electorate of the state and both parties knew they must take action.

The sales tax measure. It was evident that some form of taxation was necessary to provide revenue for the social security program. While it is the legislative function to

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<sup>27</sup>Topeka State Journal, March 1, 1937.

<sup>28</sup>Topeka State Journal, April 8, 1937.



raise revenue, the Republican majority in both houses of the legislature hinted they would prefer to have the Governor submit tax plans. Theoretically, the first to suggest taxation plans would have to answer to the voters in the next election.

The Governor's action. Because the legislators introduced no tax bills, Governor Huxman presented a special message to the legislature on February 17, 1937, concerning methods of obtaining revenue. (See Chapter 2, pp. 26-27.) In this message the Governor proposed a 1 per cent sales tax to be used for social security alone and for no other purpose.

Although the Governor proposed the sales tax, members of the House tried to avoid it. They insisted the cost of social security could be met by other tax sources such as an increase in the income and corporation tax, a beer tax, and possibly a poll tax. The fact that Kansas farm organizations and labor unions opposed a general sales tax and wanted additional revenues needed to pay state expenses to come from increases in the income taxes and gross production tax on oil and gas may have been one reason for the representatives' hesitancy to recommend a sales tax. Spokesmen from the farm and labor groups said they were opposed to letting these two sources of revenue escape their share and putting the heavy end of the tax burden on the purchase of the necessities of

life in the form of a general sales tax.<sup>29</sup>

The farm groups expressed their views on March 3, 1937, at a public hearing before the Assessment and Taxation Committees of the House and Senate. After Senator Ed T. Hackney and Representative Grant Waggoner presented their sales tax bills, ex-Senator Clyde Coffman, representing the farm organizations of the state, stated that eleven of twelve farm groups opposed the sales tax. The former president of the Farm Bureau, the president of the Farmers' Union, the chairman of the executive committee of the Kansas State Grange, and the president of the Kansas Co-Operative Creamery Association all spoke briefly opposing the sales tax.<sup>30</sup>

On March 12, the Kansas Livestock Association adopted a resolution favoring a 2 per cent retail sales tax with 1 per cent of the revenue going to elementary schools.<sup>31</sup> At this meeting, ex-Senator Coffman said the chief fear of farmers was that the tax would be pyramided through assessment of livestock feed and the finished meat product. He said the farm organizations would not continue their opposition if exemption was arranged on feed. It appeared that an important element in the opposition was being eliminated.<sup>32</sup>

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<sup>29</sup>Kansas City Times, March 4, 1937.

<sup>30</sup>Topeka Daily Capital, March 4, 1937.

<sup>31</sup>Kansas City Times, March 13, 1937.

<sup>32</sup>Kansas City Times, March 13, 1937.

Passage of the sales tax bill. In the week of March 21, the sales tax bills were placed first on the calendar in both houses. In the House of Representatives, seventy-one days after the session began, the House Committee on Assessment and Taxation began consideration of a bill for a 2 per cent retail sales tax which undertook to exempt the sales of feed, seed to be used in planting crops, casual sales and other items used in processing. A great deal of time was spent discussing which items should be taxed and which should be exempt. Discussion of the House bill ceased after one day when the Senate sales tax bill #522 was received and placed on the calendar to be debated immediately by the House.<sup>33</sup>

In the Senate individual proposals had been presented to the Committee on Assessment and Taxation. The Committee then developed four sales tax measures. According to the Senate Journal, 1937, these were: (1) Senate Bill #506 based on the Illinois plan for an occupation tax levied a 2 per cent gross receipts sales tax; (2) Senate Bill #520 fashioned after the Ohio sales tax act provided for a 2 per cent tax upon the sales of tangible personal property at retail; (3) Senate Bill #522 was a 2 per cent license or privilege tax; and (4) Senate Bill #523 levied a transaction tax of 1 per cent on gross receipts. It was an impressive display of sales tax efforts, but the supply exceeded the demand. The Senators,

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<sup>33</sup>Kansas City Times, March 25, 1937.

including the members of the committee, were far from clear as to which proposal was best.

When Senator Raimon G. Walters, Chairman of the Committee on Assessment and Taxation, was asked for his personal opinion, he stated:

Senate Bill #506 comes the nearest to being technically perfect. The Illinois tax commission expert came here as a guest of Governor Huxman to help draft this bill. This has the Governor's blessing, although it is not to be considered an administration bill. But Senate Bill #522 is my personal favorite.<sup>34</sup>

A Senate bill with the number 522 was eventually passed. The Senate disregarded the contents of the Assessment and Taxation Committee's bills, one of which was numbered 522, and substituted after the enacting clause of #522, a bill drawn by a special committee which sought to incorporate the various ideas on the sales tax proposition in a single measure.

The history of Senate Bill #522, in the Senate Journal, 1937, evolved in the following way:

3/22/37--Introduced by Committee on Assessment and Taxation.

3/23/37--Placed at the beginning of the calendar as far as taxation bills were concerned.

3/24/37--Senate Bill #522 was amended by striking out all of the bill after the enacting clause; Committee of the Whole agreed that as the Committee on Assessment and Taxation had not worked out one bill, but four, as a result of its research, a substitute bill be used.

3/24/37--Third reading; bill passed in Senate.

3/29/37--House passed amended bill, #522: Yeas, 80 (53 Republicans and 27 Democrats); Nays, 40 (17 Republicans and 23 Democrats); Absent, 4 (3 Republicans and 1 Democrat). Senate

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<sup>34</sup>Topeka State Journal, March 24, 1937.

nonconcurred in House amendments; conference committee was appointed.

3/30/37--Conference committee report; Senate passed amended bill: Yeas, 30 (17 Republicans and 13 Democrats); Nays, 2 (1 Republican, 1 Democrat); Absent or not voting, 8 (7 Republicans, 1 Democrat).

4/2/37--Governor approved Senate Bill #522.

The Senate passed the sales tax bill by a vote of 30 (17 Republicans and 13 Democrats) to 2 (1 Republican and 1 Democrat) with 8 (7 Republicans and 1 Democrat) not voting. At the last minute before the House voted on the sales tax, the measure encountered some 'stiff' opposition. Many members refused to vote and it was necessary to have a call of the House compelling every member to vote before a constitutional majority was assured. The final House vote was 80 (53 Republicans and 27 Democrats) to 40 (17 Republicans and 23 Democrats) with 4 (3 Republicans and 1 Democrat) absent. Numerous members explained their votes, some objecting to the fact that other taxing bills had not been given due consideration. Others called the sales tax a poor man's tax and argued against it. However, most agreed that a sales tax was the only feasible method of obtaining funds so late in the session.<sup>35</sup>

Analysis of partisan influence. Although the passage of a sales tax encountered considerable opposition, party lines were not defined in the passage of the measure. It was passed

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<sup>35</sup>Kansas City Times, March 30, 1937.

because of the necessity to finance the social security program. The fact that a sales tax was the only single tax which could provide enough revenue was a major factor in the decision. An increase in the property taxes was out of the question. Only a wide variety of nuisance taxes and drastic increase in the income tax could have produced the necessary revenue and even those might not have been sufficient because of the cost of administration and collection.

Harold C. Place in his article, "Legislative Dilemma" contended that:

The facts and figures, as prepared by the Research Department of the Legislative Council, clearly indicate that even if the income tax rates were raised to practically confiscatory levels and the exemptions almost wiped out, this form of taxation would not provide the necessary revenues to meet the state's needs. There is one tax, however, that will do the job. That is the retail sales tax. The fact remains that Kansas is faced with the necessity, politics or no politics, of raising between \$5,000,000 and \$8,000,000 and the surest and easiest way of producing it is through a retail sales tax.<sup>36</sup>

Representative Grant Waggoner (R) discussing his sales tax bill before the Merchants' Division of the Topeka Chamber of Commerce expressed the opinion:

. . . that 90% of the members of this legislature are against a sales tax. But if they are forced to put through a social security program and I don't see how they can avoid it, they will have to turn to the sales tax.<sup>37</sup>

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<sup>36</sup>Topeka Daily Capital, March 4, 1937.

<sup>37</sup>Ibid.

Pressure groups played an important role in the decision as to whether a sales tax should be passed. The oil industry naturally preferred a sales tax to a gross production tax on oil and an increase in income tax rates, and the corporations preferred a sales tax rather than an income tax. The merchants, represented by the Chamber of Commerce, failed to see much harm in a sales tax when they were guaranteed that such a tax could be passed on to the consumer. Other groups, such as large real estate owners, preferred the sales tax because they wished to keep the income and property taxes low. The farm groups were especially vocal in their opposition, but they ceased their protestations after being assured of certain exemptions.

A week after the farm groups officially adopted a resolution favoring a sales tax, legislators developed an inclination toward the 2 per cent sales tax bill. Consideration had been delayed until in the final days of the session when action had to be taken. This delay may have been partly due to the need for committee research. However, it is likely that the problem of reconciling the constituency to this controversial tax was uppermost in the legislators' minds.

Both parties used the tax issue in an attempt to gain partisan advantages. Neither party used constructive leadership in proposing taxation measures, as they did not wish to

be held responsible. Hours were spent considering matters of less importance.<sup>38</sup>

When it was all over, neither party had much to show.<sup>39</sup> The Democratic Governor had proposed the sales tax and the Republican-dominated legislature had passed the bill.

### III. PARTY INFLUENCE IN THE 1938 SPECIAL SESSION-- SOCIAL SECURITY AND SALES TAX LEGISLATION

A special session was called by the Governor in February, 1938, to remedy specific inadequacies in the financing of the social security program. The objective of this section of Chapter III is to ascertain if partisan advantages resulted from modifications in the social security and sales tax laws during the special session. The reasons for the formation of a party alliance to prevent the legislation desired by the Governor are likewise examined.

Calling the special session. Prior to calling the special session in February, 1938, the Governor conducted a poll by sending a letter to each legislator. This letter

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<sup>38</sup>The Republican Senate spent hours of the state's time considering a civil service bill to be politically administered and trying to prevent the Democrats from getting control of a few relatively low-salaried jobs. The House Republicans could not stand so much political piffle, killed one of the measures and slept on the civil service bill." (Kansas City Star, March 7, 1937)

<sup>39</sup>Topeka State Journal, April 8, 1937.



explained why the Governor desired a special session and asked each legislator to indicate whether he felt a special session should be called.

Huxman's interpretation of the results of this poll was expressed in his message at the opening of the special session. The relevant portion of his message was as follows:

. . . I frankly wrote each member of the Legislature telling you my ideas in the matter. I stated in my communication that unless a majority of you felt that a special session should not be called it was my intention to call the Legislature in special session. I stated that I did not want to incur this expense if a majority of you felt that we should not have this session.

A majority of those who have expressed themselves, both in the House and in the Senate, declared in favor of a special session. Some were noncommittal and a few did not reply at all. In neither the House nor the Senate did a majority express themselves against a special session.<sup>40</sup>

Members of the Democratic party advised Huxman against calling the special session, saying he had a lot to lose and little to gain, both politically and in the matter of obtaining legislation. However, the Governor called a special session because he felt there was a need.<sup>41</sup>

Legislation enacted. On February 7, 1938, the special session convened. Governor Huxman made his wishes known in his opening address. (See Chapter II, pp. 33-34.) The

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<sup>40</sup>House Journal, February 7, 1938, p. 5.

<sup>41</sup>Topeka Daily Capital, September 2, 1938.

Governor's ideas on social security and the sales tax were introduced in companion bills (House Bills #3 and #4; Senate Bills #5 and #6).

The Republican legislature, following public hearings, was determined that the unallocated residue of the sales tax would be used for the reduction of the general property tax. Officials of cities and counties, as well as the farmers, businessmen, and small homeowners lined up in opposition to the Huxman proposal.<sup>42</sup> Some Democrats did not approve of the Governor's suggestions. The State Superintendent of Public Instruction, Democrat W. T. Markham, opposed the change which the Governor proposed for the excess sales tax collections because the schools would lose funds. Under the 1937 allocation of sales tax revenue, 80 per cent of the funds remaining after specific amounts<sup>43</sup> were distributed was to go to the county treasurers to be used to reduce the general property tax in the respective counties. The estimated amount the counties would receive to reduce the property tax was four to five million dollars. School officials believed they would receive one and three-fourths million dollars (of the four to

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<sup>42</sup>Kansas Chamber of Commerce Legislative Service, Issue #2 (Topeka: Kansas Chamber of Commerce, February 19, 1938), p. 10.

<sup>43</sup>These specific amounts included: 3 per cent to administration; \$2,400,000 in 1937 for social welfare purposes; \$200,000 annually for the use of the Crippled Childrens' Commission; \$50,000 on July 1, 1937 and \$60,000 on July 1, 1938 and the same amount each year thereafter to maintain the Employment Service; \$2,500,000 to the

five million dollars) for educational purposes. If Governor Huxman's plan to transfer the 80 per cent of the unexpended balance in the sales tax fund (then going to the counties) to the state social welfare fund was accepted, the schools would receive no money from the sales tax residue.<sup>44</sup>

The Governor, in an attempt to use persuasion to advance his proposals, called a conference with legislative leaders but he met failure. He invited the presiding officers of the Senate and House and majority and minority floor leaders of both houses to meet with him to work out a legislative program. All the Democrats showed up but Wilford Riegle of Emporia was the only Republican who appeared; and he stayed only a few minutes because Speaker H. S. Buzick and Senator Claude Bradney, president pro tempore of the Senate, were not present.<sup>45</sup>

Because of the lack of Republican cooperation, the Governor's bills were killed. House Bill #3 was reported by the Public Welfare Committee without recommendation and the Committee of the Whole deleted the enacting clause. The vote was 65 to 46 and 10 were absent or not voting (7 Republicans and 3 Democrats). All those voting "nay" were Democrats, and

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School Aid Fund. Kansas State Tax Commission, Regulations and Rules, Kansas Retailers' Sales Tax Act of 1937.

<sup>44</sup>Kansas City Star, February 6, 1938.

<sup>45</sup>Ibid.

all 65 voting to delete the enacting clause were Republicans. After this unfortunate turn of affairs, Representative L. A. Dubbs (D), sponsor of the bill, requested the House pass over House Bill #4 and that it be allowed to retain its place on the calendar. Unanimous consent was granted. No further action was taken on House Bill #4 at any time during the session.

The Governor's bills were also killed in the Senate. Senate Bill #5 was never reported out on the floor by the Public Welfare Committee, and Senate Bill #6 was reported by the Committee on Assessment and Taxation without recommendation.<sup>46</sup>

A Republican counter-proposal to the Governor's social security bills was introduced in House Bills #20 and #21 by Representative Paul R. Wunsch. Although the Wunsch bills were killed, certain proposals therein were amended by the Committee on Assessment and Taxation and written in House Bills #105 and #130.

House Bill #105 stated that all of the unallocated balance of the sales tax receipts except \$100,000 should go to the counties. It took 20 per cent of the balance originally going to the state general fund and diverted it to the counties. The bill was passed in the House by a vote of 73

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<sup>46</sup>Information concerning bills mentioned in the chapter was taken from the House and Senate Journals, February, 1938.

(64 Republicans and 9 Democrats) to 40 (2 Republicans and 38 Democrats) with 8 absent or not voting (6 Republicans and 2 Democrats). This was a party vote; only 9 of 49 Democratic House members voted for House Bill #105; 38 Democrats voted against it. In the Senate, House Bill #105 was passed by a vote of 31 (24 Republicans and 7 Democrats) to 8 (all Democrats) with 1, a Republican, absent or not voting. Of the 15 Senate Democrats, 7 voted aye and 8 voted nay. The Senate Democrats were more divided on this issue than the House Democrats.

House Bill #130 set up an emergency social welfare fund of \$350,000 and provided for the procedure whereby counties with an especially heavy welfare load might make application to the State Welfare Board for aid. The votes were: House--Yeas, 70 (60 Republicans and 10 Democrats); Nays, 34 (3 Republicans and 31 Democrats); Absent or not voting, 17 (9 Republicans and 8 Democrats). This was again a party vote in the House with only 10 Democrats, voting aye. The Senate supported this bill with 35 ayes (23 Republicans and 12 Democrats), only one nay (a Democrat), and 4 absent or not voting (2 Republicans and 2 Democrats). Evidently the Senate Democrats were not influenced by the party vote in the House. Both House Bills #105 and #130 were reluctantly signed by the Governor.

Four bills, two in each house, were introduced concerning the lien provision incorporated in the social security

law. These bills would have repealed the lien upon any real property which was owned or possessed by a recipient of old-age assistance. Introduced by both Republicans and Democrats, these measures could not obtain support from a majority of legislators and were not passed.

The legislation for which the Governor called the session was defeated and it appeared that party affiliation played a part. The legislature took the 20 per cent unallocated residue from the sales tax which originally went into the state treasury and distributed that among the various counties in addition to the 80 per cent originally allocated. A crumb was thrown to the Governor through a change in the law which provided that those counties desiring to do so might divert any part of their sales tax allotment to social security purposes.

Two other minor changes, approved by both the Republicans and Democrats, were made in the social security and sales tax laws during the special session.<sup>47</sup> House Bill #80 which required a residence of one year in the county before an individual was eligible for relief was passed in the House by a vote of 89 (53 Republicans and 36 Democrats) to 1 (a Republican) with 31 absent or not voting (18 Republicans and 13 Democrats). In the Senate, House Bill #80 was passed by

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<sup>47</sup>Kansas Chamber of Commerce Legislative Service, Issue #2 (Topeka: Kansas Chamber of Commerce, February 19, 1938), p. 10.

a vote of 33 (21 Republicans and 12 Democrats) to 1 (a Democrat) with 6 absent or not voting (4 Republicans and 2 Democrats). Senate Bill #90 broadened the exemptions of the sales tax bill by exempting sales used exclusively for state, county, municipal, educational, religious, benevolent and charitable purposes. The House passed it by a vote of 94 (62 Republicans and 32 Democrats) to 2 (1 Democrat and 1 Republican voted nay) and 25 absent or not voting (9 Republicans and 16 Democrats). In the Senate, it was passed by a vote of 31 (22 Republicans and 9 Democrats) to 1 (a Democrat) with 8 (3 Republicans and 5 Democrats) absent or not voting. A party vote was not evident on these less important bills.

Analysis of partisan influence. Both parties wished to obtain partisan advantages in the special session. It was used as an opportunity by both political parties to obtain campaign material for the coming election.<sup>48</sup>

The Governor called the special session for the purpose of providing more state funds for social security financing. Even though the program had been in effect for less than a year, it was the general opinion throughout the state that relief was sadly bungled.<sup>49</sup> Although the Governor proposed legislation to alter the distribution of the sales

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<sup>48</sup>Wichita Eagle, February 5, 1938.

<sup>49</sup>John D. Bright (ed.), Kansas, the First Century, Volume II (New York: Lewis Publishing Company, 1956), p. 106.

tax residue one writer observed that nobody, probably including the Governor himself, had so much as a slight notion he would obtain the legislation he desired.<sup>50</sup> However, because he called the special session, the Governor could say in the 1938 campaign that he had at least tried to provide more money for the needy aged, the blind, and the dependent children. In a campaign speech in August, 1938, the Governor referred to the special session in the following manner:

. . . I called the legislature into special session and urged and asked them to amend the sales tax law to place this  $4\frac{1}{2}$  million dollars in the welfare funds of the counties to make it available to the needy people of Kansas. I felt that was right and that they were entitled to have this done, but this legislation I could not get through the legislature. They did pass a law which made it possible for the counties to use approximately  $1\frac{1}{2}$  million dollars of this additional money, if they saw fit to use it in that way, for the needy people; and upon the theory that you must take what you can get, notwithstanding what you want, I signed this law, stating at the time that it was not the law that I wanted or the law that I felt that the people wanted, but I took it because it would make available this additional money.<sup>51</sup>

The special session lasted from February 7, 1938, until March 4, 1938. The legislature spent twenty-six days in Topeka of which exactly two were given over to the item for which it had been called. The cost of the special session was approximately \$70,000, which according to the Governor's

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<sup>50</sup>Editorial in the Topeka State Journal, March 3, 1938.

<sup>51</sup>Topeka Daily Capital, September 2, 1938.



estimate, was \$30,000 more than it should have cost.<sup>52</sup> As the Republicans had a majority in both houses, they were assailed by the Democrats because of the length and expense of the session.

There had been speculation in the fall of 1937 that the Republicans hoped the Governor would call a special session. An article in the Wichita Eagle explained the Republicans' desire:

. . . The Republican workers have been busy over the state fanning the fires of indignation among the older people who were led to believe that Social Security meant a thirty dollar a month pension and no pauper oath required.

. . . . .

It may have been in the minds of the Republican workers who are proceeding in their campaign to make the protest so peppery that the adherents of a thirty dollar a month pension would persuade Governor Huxman to call a special session.

There seems to be no question that if the Republican workers could bring about a special session of the legislature they would have just what they want--a chance to attack the Kansas Democratic Organization close up, doing this by passing through the legislature a series of measures designed to embarrass the Democratic regime.<sup>53</sup>

When the special session was called the Republicans proceeded in the manner previously predicted by the Wichita Eagle. They introduced a number of measures designed to embarrass the Democratic administration.

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<sup>52</sup>Walter Huxman's Personal Scrapbooks, cited by John D. Bright, Kansas, the First Century, Volume II, p. 106.

<sup>53</sup>Wichita Eagle, October 10, 1937.

One of these proposals was the Frittering Bill which was introduced because the Governor, in his opening message to the special session, had made the following observation:

. . . Gentlemen, it is my opinion that it is better to put this 80 percent into the social-welfare program, to be distributed to the counties, as the other welfare funds are, rather than to fritter it away and dissipate it in the grasshopper fund, the noxious-weed fund, and all these other funds.<sup>54</sup>

As a result of the Governor's statement, the legislature initiated a bill, printed at state expense, to establish a Frittering Commission to regulate frittering.

Another frivolous bill would have regulated party activities and outlawed the Jackson Club which was the official money-raising agency of the Democrats. However, the Republicans recognized that they did not desire such a law to be applied to their own party activities if they won the next election, and the bill was killed in the House.<sup>55</sup>

In addition to harrassment by frivolous bills, Governor Huxman's administration was also the target of legislative investigations as soon as the special session assembled. The Senate initiated an inquiry of Governor Huxman's parole policy. However, Harry Warren, resourceful minority Senate leader, took any party glory out of the parole query by suggesting an amendment that would cover both the Landon and

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<sup>54</sup>House Journal, February 7, 1938, p. 5.

<sup>55</sup>Topeka State Journal, March 3, 1938.

Huxman administrations. Claude Bradney, Republican president pro tempore of the Senate, accepted the proposal before anyone could make a speech on the subject.<sup>56</sup>

In the House, a member demanded an investigation of alleged Communist activities at the University of Kansas and for this purpose asked for an appropriation of \$7500. The newspapers of the state almost unanimously derided the proposal. The Senate also scoffed at the idea and killed the bill.<sup>57</sup>

These legislative investigations, the Frittering Bill, and the Jackson Club bill increased the length and expense of the special session. Also accused of protracting the session were the House and Senate Committees on Assessment and Taxation. Due to indecision, dilatory practice, or a play for political position, they were responsible for prolonging the passage of legislation. Criticism came from legislative members of both houses because of the failure of these committees to produce a program which might at least have provided a basis for action.<sup>58</sup>

During the special session, both parties were striving to influence the electorate. The Democrats hoped to influence the voters of seventeen counties, the more populous of the

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<sup>56</sup>Topeka State Journal, February 24, 1938.

<sup>57</sup>Garden City Daily Telegram, March 1, 1938.

<sup>58</sup>Topeka State Journal, February 24, 1938.

state, by distributing the sales tax residue to the social security fund. The Republicans stood by the proposal to return the bulk of the sales tax money to the counties, knowing that the relief rolls in the less populous counties were small and the money would be used to reduce the burden of the taxpayer. By their position, the Republicans hoped to influence the voters of the remaining eighty-eight counties.<sup>59</sup>

There was doubt that either political party gained much political advantage as a result of the special session.<sup>60</sup>

Most of the sharp shooting was for the purpose of causing Governor Huxman and his administration new worries during the campaign. These efforts were not generally regarded as highly successful. The House killed the Richardson bill which was aimed at the Jackson Club, official money raising agency of the Democrats. Republicans didn't want to be disturbed by an embarrassing enactment in case they should some day win an election. The parole probe resolution . . . and similar activities provided some immediate first page copy but are likely to be forgotten within a week by the average voter.<sup>61</sup>

In the 1938 election campaign Governor Huxman did point to the lack of cooperation by the Republicans in the special session but Governor Huxman was not re-elected. The Republicans evidently did not believe the "sharp shooting" during the special session had been to their advantage. During the 1938 campaign they preferred to place most of the emphasis

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<sup>59</sup>Wichita Eagle, February 27, 1938.

<sup>60</sup>Topeka State Journal, March 3, 1938.

<sup>61</sup>Editorial in the Topeka State Journal, March 3, 1938.

on the Democratic appointments made during Governor Huxman's administration rather than refer the voters to the results of the 1938 special legislative session.

#### IV. CHAPTER CONCLUSIONS

The social security program and its financing was a primary concern of the Governor and legislature during the 1937 legislative session. Because the Republicans had working majorities in both houses, Democratic Governor Huxman worked for the cooperation of the Republicans as well as the Democrats. However, after presenting administration proposals, he left legislative proceedings to the senators and representatives. The 1937 legislature worked with the Governor on most of the items which he proposed and which fit into the Republican program but paid little attention to other suggestions.<sup>62</sup>

In the 1937 session the Republicans and Democrats compromised to pass the social security and sales tax bills. The votes on these bills are shown in Table IV.<sup>63</sup>

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<sup>62</sup>Kansas City Star, March 7, 1937.

<sup>63</sup>There were 124 House members; 73 were Republicans and 51 were Democrats. The Senate had 40 members; 25 were Republicans and 15 were Democrats.

TABLE IV

## LEGISLATIVE VOTING ANALYSIS--1937 SESSION

Bill	Ayes	House of Representatives					Senate			Absent or not voting	(R)	(D)
		(R)	(D)	Nays	(R)	(D)						
House Bill #557 (social security)	99	61	38	0	0	0				25	12	13
Senate Bill #522 (sales tax)	80	53	27	40	17	23				4	3	1
Bill	Ayes	(R)	(D)	Nays	(R)	(D)	Absent or not voting	(R)	(D)			
House Bill #557 (social security)	34	20	14	0	0	0	6	5	1			
Senate Bill #522 (sales tax)	30	17	13	2	1	1	8	7	1			

The social security bill was passed in both houses without any dissenting votes, although 6 were absent or not voting in the Senate and 25 were absent or not voting in the House. Of these 25, 13 were Democrats and 12 were Republicans. That is, 34 per cent of the House Democrats and 16 per cent of the House Republicans were absent or not voting. This was a means of objecting to the social security bill without voting against it.

However, most legislators voted for the social security bill. This was due to the fact that the Kansas electorate had adopted a constitutional amendment providing for participation in the federal social security program and not because of party affiliation. The legislators represented their constituents' views and voted for the bill developed by the joint committee.<sup>64</sup>

The passage of the sales tax bill also included the element of compromise. The sales tax bill was proposed by a Democratic Governor and it was enacted by a Republican-dominated legislature. When the final vote was taken some members of both political parties dissented because of the regressive nature of the tax.<sup>65</sup> However, in the Senate 75 per cent of the members voted for the sales tax and in the House

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<sup>64</sup>Kansas City Star, November 11, 1936.

<sup>65</sup>Memorandum. "The Sales Tax and Old-Age Assistance" (Topeka: Research Department, Kansas Legislative Council, February 16, 1945), p. 1. (Mimeographed.)

approximately 66 per cent of the members voted aye. This 66 per cent in the House included 73 per cent of the Republicans and 53 per cent of the Democrats. The House Democrats were not overwhelmingly in favor of a sales tax even though a Democratic governor had proposed it. The primary factor in the passage of the sales tax bill was not party affiliation. The sales tax bill passed because of the necessity to finance the state social security program.

In the 1937 legislative session, social security was not a partisan issue because it had been accepted by the electorate of the state in the form of a constitutional amendment. However, both parties used the sales tax issue in an attempt to gain partisan advantages.<sup>66</sup> Neither the Republican nor the Democratic legislators wished to accept responsibility for initiating tax plans. However, after the passage of the sales tax, both parties had to accept responsibility for the legislation. Therefore, partisan gains were negligible.<sup>67</sup>

When the Democratic Governor called the special session in 1938, the Republican-dominated legislature did not pass the bills he desired in regard to redistribution of the sales tax revenue. The administration bills were killed in both the House and the Senate. Table V provides a record of the vote

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<sup>66</sup>Topeka State Journal, March 25, 1937.

<sup>67</sup>Topeka State Journal, April 8, 1937.



on social security and sales tax bills passed during the special session.<sup>68</sup>

House Bill #3 was an administration bill. When reported by the Public Welfare Committee without recommendation, the Committee of the Whole deleted the enacting clause. According to Table V, the vote to kill the bill was strictly a party vote.

House Bill #105, developed by the Committee on Assessment and Taxation, and House Bill #130, developed by the Public Welfare Committee, were Republican-sponsored bills. The House Democrats, although they could not prevent passage of these bills, voted against them. In the Senate, the party vote was less defined. Almost half of the Senate Democrats voted for House Bill #105 and 80 per cent of the Senate Democrats supported House Bill #130. Knowing the administration bills had been killed, many Senate Democrats voted for the Republican-sponsored bills. Perhaps their response was similar to that expressed by Governor Huxman. Because the Republican-sponsored bills did supply some extra revenue for the needy, Governor Huxman signed them "upon the theory that you must take what you can get, notwithstanding what you want."<sup>69</sup>

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<sup>68</sup>During the 1938 special session the House had 121 members; 72 were Republicans and 49 were Democrats. The Senate had a total of 40 members; 25 were Republicans and 15 were Democrats.

<sup>69</sup>Topeka Daily Capital, September 2, 1938.

TABLE V

## LEGISLATIVE VOTING ANALYSIS--1938 SPECIAL SESSION

Bill	Ayes	(R)	House of Representatives (D)	Nays	(R)	(D)	Absent or not voting	(R)	(D)
House Bill #3	65	65	0	46	0	46	10	7	3
House Bill #80	39	53	36	1	1	0	31	18	13
House Bill #105	73	64	9	40	2	38	8	6	2
House Bill #130	70	60	10	34	3	31	17	9	8
Senate Bill #90	94	62	32	2	1	1	25	9	16
Bill	Ayes	(R)	(D)	Senate Nays	(R)	(D)	Absent or not voting	(R)	(D)
House Bill #80	33	21	12	1	0	1	6	4	2
House Bill #105	31	24	7	8	0	8	1	1	0
House Bill #130	35	23	12	1	0	1	4	2	2
Senate Bill #90	31	22	9	1	0	1	8	3	5

Votes on the two minor social security and sales tax bills, House Bill #80 and Senate Bill #90, reflected less party sentiment. There were only 1 or 2 nay votes on each of these bills in each House. However, on House Bill #80, 25 per cent of the House members were absent or not voting and 15 per cent of the Senate members were absent or not voting. At the time of the vote on Senate Bill #90 the percentage absent or not voting was 21 per cent in the House and 20 per cent in the Senate. These legislators evidently did not wish to be held responsible for either an aye or nay.

Table V shows that the House Republicans and Democrats were divided along party lines on the major bills (House Bills #3, #105, and #130). Most Democratic House members would not vote for major bills sponsored by the Republicans. Similarly, the House Republicans did not want the Democratic Governor to receive credit for any major improvement in social security financing in an election year.<sup>70</sup> In other words, because of the forthcoming election the Republicans believed it was politically unwise for a Republican-controlled legislature to enact a major piece of legislation which a Democratic Governor had proposed.

Republican party leaders believed it was particularly unwise for their party legislators to cooperate with a Democratic Governor in the special session of 1938 because the

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<sup>70</sup>Newton Journal, February 17, 1938.

1938 election was viewed as strategically important. An article from the Wichita Eagle indicated its importance not only to the state Republican Party but also to the national Republican Party:

. . . Eyes of the nation are upon Kansas Republicans next year to see what the Republicans here can do after the debacle in '36.

With a Kansan at the head of the Republican party nationally, with a Kansan the most recent of Republican presidential candidates, Republicans all over the nation are interested in watching with what spirit the Kansas Republican leaders will lead out when the bill rings for the next round.<sup>71</sup>

This same article indicated that the Republicans looked upon the special session as "a chance to attack the Kansas Democratic Organization close up, doing it by passing through the legislature a series of measures designed to embarrass the Democratic regime."<sup>72</sup> Such measures were passed, but there was doubt that they were politically valuable. As A. L. Shultz observed, they "provided some immediate first page copy but were likely to be forgotten within a week by the average voter."<sup>73</sup> The Republicans did not point to the special session during the 1938 campaign but preferred to criticize the appointments made during the Huxman administration. In the 1938 campaigning for Huxman the Democrats reminded the

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<sup>71</sup>Editorial in the Wichita Eagle, October 10, 1937.

<sup>72</sup>Ibid.

<sup>73</sup>Topeka State Journal, March 3, 1938.

voters of his efforts for the needy during the special session, but Huxman was defeated in the 1938 election. .  
Neither party gained much political advantage.

## CHAPTER IV

### APPOINTMENTS

In Chapter III the methods used by Governor Huxman to influence the passage of legislation were analyzed. This chapter will further examine one of the methods of influence, the power to make appointments.

Appointments may be used, if a governor desires, to influence a legislator. A constituent of the representative or senator may be promised a governmental position or a future appointment may be promised to the legislator himself. Some of the governor's appointments involve a major position such as that of a departmental head or a member of an important commission. It is easy to see how these major appointments could be used to influence a legislator or a group of legislators.<sup>1</sup> However, minor appointments may also be used to influence the legislative process, because the average legislator is more concerned with securing one of the more numerous minor positions for one of his constituents than he is with influencing the governor's selection of a departmental head.<sup>2</sup>

The major objective of Chapter IV is to determine if Governor Huxman employed partisan bias as a basis for making appointments to state offices. Two auxillary purposes are

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<sup>1</sup>Ransome, The Office of Governor, p. 158.

<sup>2</sup>Ibid.

(1) to determine whether partisan gains resulted from Governor Huxman's appointive power, and (2) to analyze whether the Governor's appointive power was used to influence the passage of legislation.

## I. THE GOVERNOR'S POSITION

In the area of appointments Governor Huxman appeared to have favored minimizing politics; it was said even before he was elected that he did not care for the politics inherent in the position of governor.<sup>3</sup> Nevertheless, the task of making appointments is part of the governorship; here the governor, even though he may have to deal with a legislature controlled by the opposition party, can make decisions which are an advantage to his own party. This is particularly relevant in Kansas, where a considerable contingent of citizens insist that the only real question that divides the parties is the simple one: who is to hold the offices?<sup>4</sup>

The procedure of making appointments is no small task. According to Governor Huxman, if he had interviewed personally all the 30,000 applicants for state jobs in his administration, allowing fifteen minutes for each interview, that task alone would have required 207 days more than the term for

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<sup>3</sup>Kansas City Star, May 18, 1939.

<sup>4</sup>Wichita Eagle, April 10, 1938.

which he was elected.<sup>5</sup> Obviously, county and state organizations assisted in such work. The Governor, wishing to have more time to devote to other governmental duties, delegated to C. M. Fitzwilliam, State Democratic Chairman, the responsibility of determining many appointments.<sup>6</sup>

Partisanship in the social security program. In 1937 when the social security legislation was passed, politics were laid aside in the establishment of the ReEmployment Service and the Unemployment Compensation Commission. The Governor stated the other social security employees as well were to be hired without regard to partisan politics.<sup>7</sup> He laid an example by his selection of members to the State Welfare Board. The members named were: Ben Paulen, former Republican governor; Charles Scott, Iola editor, who resigned when he became ill and was replaced by John Redmond, formerly an advisor to Republican Governor Alfred Landon; Doug Graham, former state official who indicated he was a Republican although he had voted for Franklin D. Roosevelt in 1936; Jesse

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<sup>5</sup>Topeka Daily Capital, October 26, 1938.

<sup>6</sup>Emporia Gazette, August 18, 1938.

<sup>7</sup>A 1939 amendment to the Federal Social Security Act provided that after January 1, 1940, all state agencies in these fields should as a condition of receiving federal grants, make provision for "the establishment and maintenance of personnel standards on a merit basis." (Key, Parties, Politics, and Pressure Groups, p. 393.)



Turner of Parsons, a Democrat; and Al Wright, a Democrat from Arkansas City who died and was replaced by W. W. Gordon, former Democratic member of the legislature from Wyandotte County.<sup>8</sup>

Although the Governor made this selection of a bi-partisan board in 1937, by 1938 charges were hurled that he had exerted political influence in regard to the social security administration. The members of the State Welfare Board, because of their belief that the social security program was being administered on a non-partisan basis and in response to a request from the Associated Press, joined in a formal statement to the effect that Governor Huxman had never exerted influence nor sought to control patronage of the department. The letter, which follows in part, was originally directed to the chairmen of several political organizations in Kansas.

Politics has never been a part of the operation of this program as conducted by the State Board of Social Welfare, neither in the past nor at the present, and will not be as long as we are members of the State Board.

We have worked always toward an honest, efficient, and economical welfare program and are concerned with two groups of people, those who need help and those who pay the bills.

.....

Governor Huxman has never exerted any influence on the members of this board to appoint any person to a position in the Social Welfare Department, or interfered

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<sup>8</sup>Kansas City Star, October 12, 1938.

in any way with the selection of personnel. On the contrary, he has repeatedly emphasized that it is necessary and important that the social welfare work be conducted wholly on a non-partisan basis and that it is his earnest desire that the social welfare department be kept out of politics.<sup>9</sup>

Partisanship in charitable institutions. Another area in which the Governor declared a desire for non-partisanship was that of the charitable institutions. He wrote a letter to the head of each institution telling him that politics was barred, campaign funds were not to be solicited, and no man had a right in or about institutions to engage in any political activity. The heads of the institutions were to replace vacancies in their respective establishments.

Although the Governor expressed a desire for non-partisanship in the charitable institutions, he discharged Judge Foulks, pardon and parole attorney, who had served under four previous governors; H. J. Menzemer, Superintendent of the State School for the Deaf; and Colonel Paul Connady, Superintendent of the Boys' Industrial School at Topeka. The reasons for these discharges were not made public so the partisanship involved could not be accurately determined.<sup>10</sup>

Other gubernatorial appointments. In departments other than those mentioned, most of the positions went to

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<sup>9</sup>Topeka State Journal, October 12, 1938.

<sup>10</sup>Kansas City Times, June 17, 1938.

Democrats, but the Governor also appointed a few outstanding Republicans to office. One appointment which was particularly newsworthy was that of Will G. West to the post of state livestock commissioner. West had been the Republican gubernatorial candidate in 1936.<sup>11</sup> Another Republican who had the Governor's consideration was Ellis Beever who was asked to remain as income tax director with an increase in salary as an inducement. He resigned, however, recommending John K. Speck whom the Governor then appointed.<sup>12</sup>

Governor Huxman's sincerity could not be questioned. However, in spite of this, William Allen White commented, "There seems to be rather complete agreement among Kansans that too much politics is being mixed in the Kansas government."<sup>13</sup> This criticism was caused by State Democratic Chairman, C. M. Fitzwilliam, to whom Huxman had delegated the responsibility of filling numerous positions.

## II. FITZWILLIAM'S ACTIONS

Fitzwilliam had made a meteoric rise to the post of Democratic State Chairman. He had first entered the Democratic ranks as precinct committeeman in 1932, and in 1934 he was elected chairman of the Sedgwick County Democratic Central

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<sup>11</sup>Topeka State Journal, May 20, 1937.

<sup>12</sup>Kansas City Star, June 17, 1938.

<sup>13</sup>Emporia Gazette, August 17, 1938.

Committee. As chairman he was able to have Democrats elected to all but one of the county offices. The credit was given to his method which was to make friends, keep them, and encourage them to work for the party, not just for a piece of the political pie. In 1937 he was made State Chairman where he again used the same technique to weld precinct, county, district, and state groups into one solid party.<sup>14</sup>

There was no charge of dishonesty against Fitzwilliam. He was a forthright politician who believed in party responsibility and a fair distribution of the political appointments available. According to Lynn Broderick, Democratic National Committeeman, the total number of appointive positions available in Kansas was pro-rated among the counties in direct proportion to their population and the total Democratic vote in the last election. All applicants for positions were to obtain endorsement of their county central committee which in turn referred their names to the state committee. When a department made a request for employees, the state committee supplied the names of several applicants and the department head made his own selections, hiring those he believed were best qualified.

"The state committee does not do the hiring," Broderick asserted.<sup>15</sup> The state committee acted as a clearinghouse,

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<sup>14</sup>Wichita Eagle, March 20, 1938.

<sup>15</sup>Walter A. Huxman's Personal Scrapbook, June, 1938, p. 29.

supplying information and checking the number of persons hired from each county to insure all counties obtained their quota of available positions.

No matter how effectively this procedure was for obtaining harmony within the party, it evidently left some question about efficiency within the departments. On August 2, 1937, the Kansas City Star stated:

In spite of the Governor's attitude, however, the Democratic Party has turned the government over to patronage without much regard for the immediate efficiency of the departments. Neutral observers say it is the most political administration since that of Jonathan Davis.

The article continued to explain that all Republicans had been removed from important departments in the Corporation Commission and in some cases, men who lacked technical experience were being appointed to do technical work. Under the Board of Administration, only the state hospitals and one or two other institutions had escaped. In most cases, Democrats had been appointed to fill positions at the state charitable schools and at the correctional institutions. This article contended that except for the Office of the Banking Department, practically every appointive position in the Capitol had been filled by a Democrat. The power of appointment, available because of Huxman's position as Governor, was indeed utilized by the Democratic party.<sup>16</sup>

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<sup>16</sup>Kansas City Star, August 2, 1937.

Although Huxman had requested that the state institutions be kept free from political involvement, there is some question as to whether or not this was done. A report had been prepared by the Osborne Association, a non-partisan disinterested group, on Kansas paroles. It stated that as of the time the survey was made virtually every employee had been discharged who had worked for the parole board under a Republican administration.<sup>17</sup>

It may also be noted that records in the state auditor's office showed that in December, 1936, there were 1082 employees at seven state institutions. In September, 1937, there were 1122 employees and 463 of the employees who had previously been at these institutions had been discharged and replaced by Democrats.<sup>18</sup>

One opinion of the situation in the state institutions was expressed by William Allen White in an editorial which said: "Our penitentiaries, schools for defective youth at Beloit, at Topeka, at Olathe, at Hutchinson are handled purely to make places for two by four politicians--and probably have been for many years."<sup>19</sup>

Despite the request of the Governor the Democratic party, under the auspices of Fitzwilliam, made political

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<sup>17</sup>Kansas City Times, June 17, 1938.

<sup>18</sup>Ibid.

<sup>19</sup>Emporia Gazette, August 17, 1938.

appointments in the state institutions. Most political appointments in the statehouse were also filled by Democrats. Governor Huxman, even though he had expressed a desire for non-partisanship in certain areas, stood by Fitzwilliam and thereby shared responsibility for the appointments.<sup>20</sup>

#### IV. CHAPTER CONCLUSIONS

During Huxman's administration, the Democrats had the opportunity to fill a large number of appointive positions because Republicans had held these offices during the previous administration of Governor Alfred Landon. Then too, because of the extension of government caused by the social security program, new appointive positions had to be filled. Governor Huxman desired to eliminate partisanship in the social security program and was quite successful in keeping the state social welfare department out of politics.<sup>21</sup> In other areas, including the state charitable institutions, most appointive positions were filled by Democratic party members. This enabled the Democratic party to form a more closely-knit organization which resulted in greater party loyalty and more adequate campaign financing.<sup>22</sup>

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<sup>20</sup>Emporia Gazette, August 18, 1938.

<sup>21</sup>Topeka State Journal, October 12, 1938.

<sup>22</sup>Topeka State Journal, October 6, 1938.

However, there is no evidence that this same appointive power was used to influence the passage of legislation which the Governor desired. In the Topeka State Journal, March 25, 1937, the observation was made that in the 1937 regular session of the legislature, "there was no patronage grab which influenced a swapping of votes."<sup>23</sup> In the research regarding the social security and sales tax bills, not once did the investigator uncover any evidence of appointments made in exchange for a vote favorable to the Governor. The four volumes of Politics Clippings in the Kansas State Historical Society revealed no patronage promises by the Governor in exchange for a favorable vote.

Nevertheless, members of the Republican party opposed the Democratic appointments and accused Governor Huxman of "ruthless partisanship."<sup>24</sup> They raised so much protest that the Kansas City Star stated that "one gets the inference that the Republicans, if elected, would discharge all the partisan Democrats and replace them with non-partisan Republicans."<sup>25</sup> This statement highlights the fact that one of the major differences between Democratic Governor Huxman and the Republican-controlled legislature was in the appointments they desired.

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<sup>23</sup> Editorial in the Topeka State Journal, March 25, 1937.

<sup>24</sup> Kansas City Times, June 17, 1938.

<sup>25</sup> "Topeka News Letter" for release July 7, 1938, in Walter Huxman's Personal Scrapbook, June, 1938, p. 6. No exact date was given in regard to the newspaper quotation.



## CHAPTER V

### ANALYSIS AND CONCLUSIONS

During Governor Huxman's administration of 1937 to 1939 the pressing legislative problem was to develop and finance the state social security program. The major objective of this study was to determine whether the respective party affiliations of the governor and legislature were the primary factor in the passage of the 1937 Kansas social security and sales tax laws. The study had two ancillary objectives: (1) to ascertain if partisan advantages resulted from the modifications in the social security and sales tax laws in the 1938 special legislative session; and (2) to determine if Governor Huxman employed partisan bias as a basis for making appointments to state offices.

Before Huxman's administration social welfare had been a local governmental function, but in 1936 the electorate had approved a constitutional amendment which allowed the state government to participate in the national social security program. As a consequence, when the state legislature convened in January, 1937, approximately ten private members' social security bills were introduced in each house. Considerable difference of opinion developed between the House and Senate on the matter of dual or state control. However, a compromise was reached and at the time for the final vote no legislator

voted against the social security bill;<sup>1</sup> Republicans and Democrats alike voted for the measure. Because the electorate had already approved the passage of social security legislation, no attempt was made by either party to gain political advantages.<sup>2</sup>

The passage of a measure to finance the social security program was recognized as a necessity by both the Republicans and Democrats. However, neither party wished to initiate such bills because they did not want to assume responsibility for tax legislation.<sup>3</sup> Even after the Governor proposed the sales tax, few legislators introduced sales tax bills designed to finance social security and its consideration was delayed until the final days of the session. Legislators from both parties objected to the sales tax bill and explained their votes, but there was no strict party vote on the measure.<sup>4</sup> The sales tax issue was used in an attempt to procure partisan advantages, but neither party had gained at the close of the session. The Democratic Governor had proposed the bill and the Republican-controlled legislature had passed it.<sup>5</sup>

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<sup>1</sup>However, 25 (12 Republicans and 13 Democrats) were absent or not voting in the House and 6 (5 Republicans and 1 Democrat) were absent or not voting in the Senate.

<sup>2</sup>Kansas City Star, November 11, 1936.

<sup>3</sup>Kansas City Star, February 7, 1937.

<sup>4</sup>House Journal, March 30, 1937, p. 790.

<sup>5</sup>Topeka State Journal, March 25, 1937.

The respective party affiliations of the Governor and the legislators were not the primary factor in the passage of the social security and sales tax bills. The social security bill was passed because the Kansas electorate had already voted for such a program. The sales tax bill passed because it seemed to be the only single tax which would provide enough revenue to finance the social security program.

The 1937 legislature allocated \$2,400,000 of the sales tax revenue to the state social welfare fund; additional specified amounts of the sales tax revenue were also allocated to other state agencies. The remainder of the sales tax revenue (referred to as sales tax residue) was divided; 80 per cent of the balance was allocated to the county treasurers throughout the state to be used to reduce the general property tax in the counties, and the remaining 20 per cent of the balance was to be placed in the state general fund.<sup>6</sup> The allocation made for social security by the 1937 legislature was not sufficient; and by the fall of that year, many counties throughout the state were not able to meet their social security expenses. Therefore, the Governor called a special session in 1938 for the purpose of redistributing the sales tax residue.

The Governor proposed a bill which would have placed 80 per cent of the sales tax residue, originally allocated to

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<sup>6</sup>Kansas State Tax Commission, Regulations and Rules, Kansas Retailers' Sales Tax Act of 1937, p. 8.

the counties, in the state social welfare fund. A second administration bill would have increased the state's portion of the social security expense from 30 per cent to 65 per cent. The Republican-dominated legislature did not pass the administration bills. Instead, the legislature passed a bill which took the 20 per cent unallocated residue from the sales tax (which originally went into the state treasury) and distributed that among the various counties in addition to the 30 per cent previously allocated. Those counties desiring to do so could divert any part of their sales tax allotment to social security purposes.<sup>7</sup> The legislature also passed a bill which set up an emergency social welfare fund of \$350,000 and provided for the procedure whereby counties with an especially heavy welfare load might make application to the State Welfare Board for aid. These were the primary changes made in the financing of social security during the 1938 special session.

From the information about the social security and sales tax legislation in 1937 and 1938, four major factors which influenced the passage of legislation were noted. These included (1) the opinion of the constituents, (2) the influence of pressure groups, (3) committee action in the legislature, and (4) the influence of the Governor.

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<sup>7</sup>Kansas Chamber of Commerce Legislative Service, Issue #2, February 19, 1938, p. 10.

The opinion of the constituents influenced the passage of both the social security and sales tax bills in 1937 and provided a basis for comparison. Approximately ten private members' social security bills were introduced in each house and no legislator voted against the final bill. However, only two private members' sales tax bills for the purpose of financing social security were introduced in the House; one such bill was proposed in the Senate. No legislator voted against the social security bill.<sup>8</sup> On the sales tax bill in the House it was necessary to require a compulsory roll call vote which resulted in the passage of the bill by a vote of 80 to 40.<sup>9</sup> The Senate passed the bill by a vote of 30 to 2.<sup>10</sup> The contrast between the number of social security bills and the number of sales tax bills introduced to finance social security and the contrast between the final vote on the social security bill and the final vote on the sales tax bill demonstrated the legislators' desire to please their constituents.

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<sup>8</sup>The House vote was: Ayes, 99 (61 Republicans and 38 Democrats); Nays, 0; Absent or not voting, 25 (12 Republicans and 13 Democrats). The Senate vote was: Ayes, 34 (20 Republicans and 14 Democrats); Nays, 0; Absent or not voting, 6 (5 Republicans and 1 Democrat).

<sup>9</sup>The House vote was: Ayes, 80 (53 Republicans and 27 Democrats); Nays, 40 (17 Republicans and 23 Democrats); 4 Absent (3 Republicans and 1 Democrat).

<sup>10</sup>The Senate vote was: Ayes, 30 (17 Republicans and 13 Democrats); Nays, 2 (1 Republican and 1 Democrat); Absent or not voting, 8 (7 Republicans and 1 Democrat).

Social security had been approved by the electorate so several legislators wished to introduce social security bills and most of them wished to vote for the bill. In contrast, the legislators did not wish to assume responsibility for sales tax legislation which was unpopular with many people.<sup>11</sup>

The influence of the constituency was again evident during the 1938 special session. Both parties wished to pass legislation which would please the electorate, but the Republicans and Democrats did not agree on the type of redistribution legislation the voters desired. The Governor hoped to provide more funds for the aged, the blind, and the dependent children.<sup>12</sup> The Democrats expected, as a consequence of these funds, to gain support in the more populous counties where relief rolls were larger.<sup>13</sup> The Republicans, who wished to gain support from the small homeowners and rural segments of the population, stood by the proposal to return the bulk of the sales tax money to the counties.<sup>14</sup> Legislators from both parties (especially in the House) were especially conscious of constituency opinion because they hoped to use the results of the 1938 special session to their advantage in the forthcoming election.

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<sup>11</sup>Topeka Daily Capital, February 18, 1937.

<sup>12</sup>Newton Journal, February 17, 1938.

<sup>13</sup>Wichita Eagle, February 27, 1938.

<sup>14</sup>Ibid.

The 1938 election was strategically important to the Republicans because their gubernatorial and presidential candidates had been defeated in 1936.<sup>15</sup> As a consequence, much of the special session was devoted to various investigations and the introduction of bills designed to embarrass the Democratic administration.<sup>16</sup>

During the 1937 legislative session the influence of pressure groups was a major factor in the passage of the sales tax. The farm groups were initially opposed to the sales tax. However, after being assured that certain exemptions would be included in the bill, the farm groups ceased their opposition. Shortly afterward, the legislative committee proceeded to recommend the sales tax.<sup>17</sup> (This example not only indicated the influence of pressure groups upon the legislators but also demonstrated the influence of the legislators upon the pressure group. That is, the legislators promised certain exemptions beneficial to the farm groups if these groups would cease opposition to the sales tax.)

A third factor which influenced the passage of legislation was the committee action in the legislature. In both the regular and the special sessions, committees played an important role. Each private member's bill was referred to

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<sup>15</sup>Wichita Eagle, October 10, 1937.

<sup>16</sup>Topeka State Journal, February 24, 1938.

<sup>17</sup>Topeka State Journal, March 22, 1937.

a standing committee and the committee recommendation was almost always adopted by the Committee of the Whole. Therefore, the fate of a bill was basically determined by the standing committee to which it had been referred. Committees were also influential because of their prerogative to originate bills. Both the social security bill (House Bill #557) and the sales tax bill (Senate Bill #522) which were passed during the 1937 session were written by a committee.

During the special session the Committees on Assessment and Taxation in both houses were criticized by legislative members for the length of time (approximately three weeks) used to produce taxation measures upon which the legislature might act. The reason for the delay was not discernible but it did hinder progress. Committees, with their power to initiate, recommend, or delay the passage of bills, were an important determining factor in the legislative process.<sup>18</sup>

The fourth factor which influenced the passage of legislation was Governor Huxman's influence. His constitutional legislative powers were limited to suggesting legislation by message and using the veto. However, his actual influence was much broader. During the 1937 legislative session Governor Huxman employed various methods of influence including the presentation of proposed legislation, conferences with members

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<sup>18</sup>Duane Lockard, The Politics of State and Local Government (New York: MacMillan Company, 1963), p. 297.



of the House and Senate, and the threat of the veto. He used legislative initiative when it was necessary, as in the case of proposing the sales tax to finance the social security program.<sup>19</sup>

The legislature demonstrated its respect for the Governor's veto power by having conferences with the Governor to get his approval prior to the passage of the social security bill. The Governor demonstrated his respect for the legislators' prerogatives by refraining from the use of patronage power to influence their votes.<sup>20</sup> The Republican majority realized the need for cooperation because they could not pass bills over the Governor's veto. (The House Republicans had 73 members out of 124; they needed 83 votes to pass a measure over the Governor's veto.) Governor Huxman also recognized the need for cooperation for he did not have a legislative majority from his own party; therefore, he needed Republican support in the legislature to pass any measure.

In spite of the fact that the Governor and the legislative majority were of different political parties, during the 1937 regular session both recognized the importance of respecting the other's power and the necessity of cooperating to accomplish a legislative program. The social security and sales tax bills were passed not because of party affiliation

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<sup>19</sup>Kansas City Star, March 7, 1937.

<sup>20</sup>Editorial in the Topeka State Journal, March 25, 1937.

but because the Kansas electorate had approved participation in the federal social security program, and the sales tax appeared to be the only single tax which would provide enough revenue. The sales tax issue was used by both parties in an attempt to gain partisan advantages. However, the results were negligible.<sup>21</sup>

Actions by both House Republicans and House Democrats during the 1938 special session were aimed primarily at gaining advantages for the forthcoming election, and neither party was willing to compromise its views. These legislators were more concerned with partisan gains than legislation. A contrast was noted between the willingness to compromise in the 1937 regular session and the unwillingness during the 1938 special session.

For example, during the 1937 session the House and Senate did not originally agree upon the contents of the social security bill. However, after several sessions of the conference committees, a bill was agreed upon and passed with no dissenting votes in either house. Legislators again showed their willingness to compromise on the sales tax issue. Many representatives and senators disapproved of a sales tax but finally agreed it was the only realistic means of obtaining revenue to finance social security. It passed in the

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<sup>21</sup>Topeka State Journal, April 8, 1937.

House after a compulsory roll call vote by a vote of 80 to 40 and passed in the Senate by a vote of 30 to 2.<sup>22</sup>

During the 1938 session both Republicans and Democratic House members refused to cooperate in the passage of legislation to redistribute the sales tax residue. The administration bills were killed and the Republican-sponsored bills (House Bill #105 and #130) were passed by a party vote. In the Senate, the administration bills were also killed.<sup>23</sup> This lack of cooperation during the special session was the result of the strategic importance of the forthcoming 1938 elections but neither party gained many partisan advantages. The Republicans preferred not to discuss the 1938 special session in the campaign but concentrated on Huxman's gubernatorial appointments. Governor Huxman, who did refer to the 1938 special session while campaigning evidently did not gain from it very much because he was defeated.

Despite the attempts to acquire partisan gains through legislative processes, the primary partisan gain during

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<sup>22</sup>The House vote was: Ayes, 80 (53 Republicans and 27 Democrats); Nays, 40 (17 Republicans and 23 Democrats); Absent or not voting, 4 (3 Republicans and 1 Democrat). The Senate vote was: Ayes, 30 (17 Republicans and 13 Democrats); Nays, 2 (1 Republican and 1 Democrat); Absent or not voting, 8 (7 Republicans and 1 Democrat).

<sup>23</sup>However, the Democratic senators were evidently less concerned about their party affiliation than the Democratic House members were. House Bill #105 passed in the Senate with only 8 Democrats dissenting and #130 passed with 1 Democrat dissenting and 2 absent or not voting.

Governor Huxman's administration was the gubernatorial appointments. During 1937 and 1938, most appointive positions, other than those in the social welfare department, were filled by Democrats. Consequently, a major difference between the parties was: who shall hold the offices?<sup>24</sup>

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<sup>24</sup>Wichita Eagle, April 10, 1938.

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