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Tax Reform: The Push for Consumption Taxes in Kansas and Missouri

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Abstract

Missouri and Kansas' development of policies relating to consumption versus production taxes in the last couple years raises certain questions. Where did this debate come from? Why might a state switch to consumption taxes? What coalitions are pushing these taxes, who is fighting them and why? This case study seeks to examine these questions in depth by exploring relevant economic and political ideas, particularly diffusion theory; and I examine the roles of the numerous political actors in Kansas and Missouri in bringing about these policies. The legislation in Missouri is similar in essence to that passed in Kansas but comparatively it is so significantly restrained, that it would be inaccurate to describe it as a major step. My research reveals that it is still too early to say whether Missouri will move further towards greater consumption-based tax reform, and that the movement for consumption taxes' has been married to the anti-tax movement. This marriage might prove to be harmful to the goals of the policies even though it has been politically helpful (and perhaps necessary) in getting initial legislation passed. Missouri has the time and ability to watch Kansas and see what went right and what went wrong, and if it is going to enact tax reform it needs to make use of this ability.

Consumption taxes are being pushed in certain circles, and at least at the state level they could eventually become the norm across the country; Missouri is one state in which this fate is currently being decided. This fight has already occurred in the legislature of Missouri's western neighbor Kansas. Throughout its own process, Kansas has followed up income tax cuts with an unexpectedly large rise in state sales taxes. It is plausible that in such a situation consumption taxes might be raised and production taxes lowered such that the changes may turn out revenue neutral, and if such is the case what might the appeal be and what harms might be revealed? To make a move that violates the status quo, the case for consumption taxes over production taxes must be at least convincing and politically appealing, and at best the tax may be an empirically better option. In this case study I seek to examine this policy change and examine how the politics behind it have played out in Kansas and Missouri.

Before continuing further it is necessary to clarify some basic ideas covered within this text. First because this paper is limited to the taxes within states the analysis of consumption vs production is somewhat limited. The focus of my analysis falls almost entirely upon those taxes which matter most to the states: income taxes (on the production side) and sales taxes (on the consumption side).

Production vs Consumption Taxes

To begin my analyses I offer first a basic explanation of consumption and production taxes and establish the arguments behind them. In the United States taxes on production are considered the primary taxes of the status quo. This is primarily a result of policies at the Federal level which relies heavily on the income tax, as the states differ widely in their approach and use a varied combinations of taxes.[1] The focus on income taxes is furthered because almost every state makes use of these taxes at least to a degree and while some states have no income taxes whatsoever (including Nevada and Texas) others (including New York and Virginia) rely on the tax as their primary revenue source.[2] Consumption taxes, more specifically sales taxes, are also used very heavily by states in spite of the avoidance of such by the federal government.[3]

From an economist's perspective income and consumption taxes should prove relatively identical if they are designed in a comprehensive manner.[4] Thus in theory a revenue-neutral shift from production to consumption should matter only for the issue of savings. The reason for the similar outcomes is that comprehensive income is defined as "the sum of a person's annual consumption expenditures and the increment in that person's net worth in a given year: $I = C + \Delta NW$." Comprehensive income thus assumes that any and all income not used for consumption now is income that will be used for consumption later. Thus over the course of an individual's life all income should be taxed as all income is eventually consumed. The issue of savings is the one important

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[1] United States Census Bureau, "Annual Survey of State Government Tax Collections," 2015.
[2] David Hyman, *Public Finance* (Mason: South-Western, Cengage Learning, 2010, 2011) p. 527; United States Census Bureau, "State Government Tax Collections by Category: 2014."
[3] United States Census Bureau, "Annual Survey;" Hyman, *Public Finance* p. 644.
[4] William Rogers, Ph. D. *University of Missouri – St. Louis*; Hyman, "Public Finance," p. 646-648; 671.

theoretical distinction between the two because even a comprehensive income tax tends to double-tax savings by taxing it before it is put away and then again after it has accrued interest.[5] This interest, which is treated as supplementary income by the income tax, is argued as being a simple off-set for the reduced net-present value (NPV) of the saved money ("a dollar today is always better than a dollar tomorrow") and is taxed only when it is consumed by the comprehensive consumption tax.[6] The higher the income tax, the more interest that is necessary to break even on one's NPV from savings versus immediate consumption. In the real world one form of income savings, IRAs, avoid double taxation by taxing the funds only when they are first put into savings (Roth IRAs) or after they are taken out (traditional IRAs).[7] If all savings plans were to operate in this manner then comprehensive consumption and comprehensive income taxes would indeed prove identical in the long run (in spite of short-run differences as individuals gain/lose income over time).[8]

The main differences between the two forms of taxation sprout from issues in the practical design of the taxes including what they fail to capture, how effectively they are collected, and outside distortions including inflation. When the definition of a comprehensive tax is fully realized it becomes clear why current policy does not reflect this theory in a practical sense. To go with a more extreme example of why this is: Hyman points out that "consumption includes all voluntary expenditures, including donations to charity" meaning that a comprehensive consumption tax would have to include taxing individuals for such donations, and a comprehensive production tax could

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[5] Ibid; p.
[6] Ibid.
[7] William Rogers; CNN Money, "Ultimate Guide to Retirement," *Cable News Network*, 2016.
[8] Ibid.

not include any form of deduction for such activity.[9] In the United States, even at the state level, the concept of such a comprehensive tax is extremely unlikely because attempting to enact it would be politically impractical. The contentious trend to make services taxable (which happened as early as 1987 in Florida and as recent as March 1st 2016 in South Carolina) is a step towards increasing the comprehensive nature of sales taxes but is far from completing such; and given the level of controversy just for this one step, the backlash for a fully comprehensive system would likely be exceptionally large.[10]

In the realm of politics production taxes are touted by their supporters as providing the best means of taxing in a progressive manner due to their directly controllable tax rates. This control would also extend favorably to those seeking to purposefully make a flat-rate tax or regressive tax as well, meaning that this tax's greatest strength politically extends from its ability to be easily manipulated with scientific precision. This precision helps progressives wanting to avoid harming low income citizens via taxation while still keeping revenues high, and is especially crucial for governments pursuing redistributive goals. The political arguments against such taxes are that all taxes discourage a specific set of activities, with "sin taxes" being an intentional and well understood application of this discouragement. By taxing productive activity, such as by taxing one's income, the taxing body discourages furthering said production. As one's production increases so too does the decreasing marginal utility of such, and in the case of a progressive income tax this trend is dramatically furthered as the value of one's production decreases in not only personal value (due to decreasing

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[9] Hyman, *Public Finance*, p. 529.
[10] Ibid, p. 659; Colin Campbell, "Politicians spar over new NC sales tax on services," *The News and Observer*, March 1, 2016.

marginal utility) but also in real value (due to the higher tax rate). Example: Even without a progressive tax the value of a $10,000 per year raise for 'A' whose income is in six digits is significantly less valuable than it is for 'B' who until now was making minimum wage. With a progressive tax in place the real amount of that $10,000 that 'A' receives is now going to be less than the amount that 'B' receives, as more taxes are taken out. Depending on the progressivity of the rates the value of this raise for 'A' can become quite low indeed; and without different rates being applied over the course of one's gains, versus having a single progressive rate for all of one's income, the value could actually be negative (a pitfall that the U.S. Federal income tax manages to avoid).[11]

The political rationale for consumption taxes is based in large part on opposing the problems associated with production taxes. From the standpoint of seeking progressive taxation consumption taxes are argued by some as being able to better capture true wealth because "income can vary considerably over time, and may not reflect all available economic resources – such as credit availability, government assistance or accumulated family wealth" and that accordingly individuals of the same income can have very different levels of actual wealth with their lifestyles reflecting such.[12] By taxing consumption this difference is taxed more appropriately. The problem of production-discouragement is also mitigated by consumption taxes as it is now consumption that is being discouraged; and since the alternative to consuming is saving (i.e. future consumption) the net effect ought to be minor with some transactions simply being pushed into the future.[13] This idea of economic discouragement is expanded on in

[11] Amy Fontinelle, "How Getting A Raise Effects Your Taxes," *Investopedia*, Feb. 3 2012.
[12] Drew DeSilver, "The many ways to measure economic inequality," *Pew Research Center*, Sep. 22, 2015.
[13] Michael Hlinka, *Stalled: Jump-Starting the Canadian Economy*, (Toronto: Dundurn Press 2015) p. 105.

the work of Tax Foundation writer William McBride who states that "empirical studies typically find that corporate and personal income tax are the most damaging to economic growth, followed by consumption taxes and property taxes."[14] The biggest arguments that go against consumption taxes are based on their typically regressive nature, the complications inherent in making the tax less regressive and their unreliable nature as a source of revenue. First consumption taxes tend to be regressive because, out of necessity, the poor and middle class use far more of their income on immediate consumption than the rich.[15] When lawmakers seek to rectify the problem of regressivity the result is a tax code that becomes more complicated due to exemptions, differing tax rates among items, a "prebate" or other such solutions.[16] The unreliability stems from the ability of individuals to avoid the tax by diverting their consumption to sources which do not make use of such taxes: namely the internet and other states.[17] Due to differences among states it is possible for someone of an anti-tax inclination to consume in state X while producing in state Y, and if state X is one that relies heavily upon production taxes and Y relies heavily upon consumption taxes such an individual can avoid the brunt of taxation in both states. Depending on the degree to which these theoretical states depend on each tax this problem allows for border citizens to free-ride off of other tax payers and make use of public goods to which they are contributing mitigated or even nonexistent amounts.

[14] William McBride, "What is the Evidence on Taxes and Growth," *The Tax Foundation*, Dec. 18 2012, p. 4.
[15] Len Burman, "A Progressive Consumption Tax," *Forbes*, June 4 2012.
[16] Ibid; Andrew Koenig, MO House of Representatives.
[17] Saving Communities, "Sales Tax Destroys Commerce," *Saving Communities*; Belson and Schweber, "Sales Tax Cut in City May Dim Allure of Stores Across Hudson," *New York Times*, Jan. 18 2007.

Kansas – A Model for Missouri's Future?

It is necessary to look at the sales tax change in Kansas because taxation in Missouri may eventually follow in the footsteps of its neighbor -- away from production to consumption taxation. In recent years both states have depended fairly evenly on income and sales taxes in proportions that have deviated no more than 20% from one tax to the other.[18] Where deviations do exist, Missouri depends more heavily on income, and Kansas more heavily on sales. Both states have adopted recent income tax cuts; first Kansas in 2012 with HB 2117, a massive cut that resulted in a dramatic budget shortfall, and Missouri in the 2015 session with the more restrained SB 509.[19]

The fact that Missouri and Kansas share a border directly affects the tax policy of both states. An action by one is likely to affect the other. No state wishes to lose businesses or tax revenue to the other and as stated when discussing the possibility of tax avoidance, Missouri and Kansas both risk revenue loss if they differ too greatly in terms of their income-sales tax ratios with one another. If theory holds up, by keeping Missouri too reliant on the income tax and Kansas too reliant on the sales tax, the Kansas side of the border would likely see more businesses and state-commuting employees, while the Missouri side would likely see an increase in commuting shoppers who are avoiding Kansas' higher sales taxes. This simplistic theory is of course dependent on the assumption that one of these two states does not hold higher taxes of both types; a possibility which should result in both consumption and production losses in that state. This theory furthermore does not account for the way in which taxes are spent on public

[18] United States Census Bureau, "Annual Survey."
[19] Brad Cooper, "Brownback signs big tax cut in Kansas," *The Kansas City Star*, May 23 2012; David Lieb, "Missouri GOP legislators hope to enact income tax cuts similar to Kansas," *The Topeka Capital-Journal*, May 5 2014.

services, which economists suggest can produce gains that can mitigate or even override the losses in growth that are associated with increased taxes.[20] Other problems arising from the simplicity of the theory revolve around civic-minded vs profit-maximizing attitudes and other policies such as tax exemptions which might mitigate the effects of the taxes. In 2013 when different tax plans were circulating in the House and Senate (without the veto-trumping majority that would be seen the following year) Representative Andrew Koenig the House Chair of Ways and Means made reference to this point suggesting that "the package of tax changes would help Missouri compete with states like Oklahoma and Kansas"[21]

The work of Jack Walker, the political scientist responsible for spawning the literature on policy diffusion, provides another explanation for the relationship between Missouri and Kansas that is seen on this issue. The theory of policy diffusion suggests that "policy innovations" will spread amongst states and that states become increasingly willing to adopt policies when said policies have already been implemented successfully in other states.[22] The Kansas case is very important because it shows Missouri quite clearly that such an implementation is possible (and further helps to highlight the positives and negatives of such) but the policy idea itself is not new as it has been spreading around the country for many years with even national-level legislators considering two different consumption tax models, the "Flat Tax" and the "National

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[20] Chye-Ching Huang and Nathaniel Frentz, "What Really Is the Evidence on Taxes and Growth," *Center on Budget and Policy Priorities,* Feb. 18 2014; William McBride, "Empirical Evidence on Taxes and Growth: A Response to CBPP," *The Tax Foundation*, Feb. 21 2014.

[21] Virginia Young, "Mo. House Passes Bill Cutting Income Tax and Raising Sales Tax," *St. Louis Post-Dispatch*, April 24, 2013.

[22] Jack Walker, "The Diffusion of Innovation among the American States," *The American Political Science Review*, Sept. 1969, p. 889-890.

Retail Sales Tax," in the period between 1995 and 1998.[23] Walker's research suggests that regional characteristics are especially important for policy diffusion, but that a state's region is grouped not necessarily by all immediate neighbors, but in terms of a self-defined league.[24] In this part of his study Walker specifically looked at Missouri which he noted had focused its policy concerns upon its western and southern neighbors, seeking to outdo them (and meeting this goal with success), while largely ignoring its neighbors to the northeast (which had surpassed it).[25] According to Walker, Missouri will seek to maintain a primacy among the others in its own league, and thus it is more resistant to diffusion from states that are not a part of this league (even states that are normally considered major policy innovators such as California and New York); and it will be more likely to adopt policies which others in its league have adopted and which it fears might give those states an advantage over Missouri.[26]

Some empirical support for Walker's theory can be derived from a report on consumption taxation from Deloitte. Missouri, Kansas, Oklahoma and Texas are each cited by Deloitte scholars as states that have seen legislation advancing consumption taxes over production taxes.[27] Of these states in 2014 Missouri is the only one to have not used consumption more than production; Texas meanwhile collects no income taxes and receives 82.7% of its revenue from sales and/or gross receipts taxes.[28] It is possible that Texas was regarded as an innovator and that diffusion has spread state-by-state from Texas to Missouri with consumption increasing closer to the innovating state, a theory

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[23] William G. Gale, "Don't Buy the Sales Tax," *The Brookings Institution,* March 1998.
[24] Walker, "The Diffusion of Innovation," p. 892; 895.
[25] Ibid.
[26] Ibid.
[27] Joe Eleniewski et al., "Current Trends in State Taxation: Consumption Tax Versus Income Tax," *Deloitte Development LLC,* 2015, p. 25.
[28] United States Census Bureau, "Annual Survey of State Government Tax Collections," 2015.

which is somewhat threatened by Kansas becoming much more dependent on consumption taxes than Oklahoma as of 2014. This problem in the theory is one which can be somewhat explained, in the last several years prior to 2014 Kansas and Oklahoma have had their consumption and production taxes at similar levels of dependency (about 50/50), and it is possible due to other factors (perhaps relating to its league) that Kansas has simply been more responsive to the innovation than has Oklahoma (or that somehow Oklahoma is unnaturally resistant for a similar reason).[29] The support for the innovation theory overall is furthered somewhat by Deloitte bringing up Nebraska whose governor at the time, Dave Heineman, had expressed support for consumption taxes.[30] However as of now it seems unlikely that Nebraska will continue on this path as the current governor and legislators are instead choosing to focus on cutting property taxes, and according to Scott Drenkard of the Tax Foundation problems in Kansas have made the state (and others) wary of pursuing tax reforms of this type.[31] If Walker's theory holds true in this situation and diffusion occurs, it could be the case that Kansas focusing more heavily on consumption will lead Missouri to do so and in turn Nebraska may as well with the policy having hopped north state-by-state from Texas.

The work of other diffusion theorists are also relevant in this scenario. Menzel and Feller examine how the perception of a state's innovativeness might prove more important than the reality of their innovativeness.[32] Another, Foster, was able to determine that even when controlling for regional similarities in politics and economics

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[29] Ibid, 2007-2014.
[30] Joe Eleniewski et al., "Current Trends in State Taxation," p. 32.
[31] Tony Gray, "Revenue Forecast Up Slightly," *Fremont Tribune*, Feb. 26, 2016; Scott Drenkard, "Kansas' Pass-through Carve-out: A National Perspective," *The Tax Foundation*, March 15 2016.
[32] Donald Menzel and Irwin Feller, "Leadership and Interaction Patterns in the Diffusion of Innovations among the American States," p. 534.

region and neighbors still matter.[33] These points give further credibility to Walker's points regarding Missouri and the concept of diffusions among specific leagues. According to diffusion theory it should be Kansas and Arkansas, not Illinois and Iowa, that Missouri is going to continue to be primarily concerned with. Kansas may be scoffed at for its policy decisions by some such as Rep. Curtis of St. Louis who suggested that Missouri should "rather lead than follow any state, especially Kansas," but what our eastern neighbor does is of importance and is likely to produce some type of policy response.[34]

To understand Missouri's potential direction it is necessary to look at the specifics of the Kansas income tax cuts in 2012 and the subsequent sales tax raises that occurred last year. The cut was projected to reduce state income taxes by "$3.7 billion over five years" and makes it so that the state has only two brackets instead of three (with the new upper bracket below the previous middle bracket and the new low even lower than it was previously; the new brackets rates are 4.9% and 3%, and dropping over time, vs the previous of 6.45%, 6.25% and 3.5%).[35] Perhaps the biggest change associated with the tax cut is "the way pass-through businesses are taxed" with income from the business itself not being taxed at all and instead taxing only income from the "wage income" paid by the owner to his or herself.[36]

This pass-through income not being taxed was intended to create jobs, by incentivizing putting income back into the business instead of taking it home for personal

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[33] John L. Foster, "Regionalism and Innovation in the American States," p. 186-187.
[34] Virginia Young, "Mo. House Passes Bill Cutting Income Tax and Raising Sales Tax;" Walker, "The Diffusion of Innovation," p. 892; 895.
[35] Brad Cooper, "Brownback signs big tax cut in Kansas."
[36] Mark Robyn, "Not in Kansas Anymore: Income Taxes on Pass-Through Businesses Eliminated," *The Tax Foundation*, May 29 2012.

use, but according to the Tax Foundation the results for such have been problematic.[37] It was originally estimated that 119,000 business owners would make use of this program, and instead there were about 330,000 who signed up (these numbers are for owners, not the businesses themselves, meaning a business owned by multiple people sees multiple filings).[38] Some see these additional numbers and tout the Kansas program as a success because they believe it means that businesses are coming into the area. Nick Jordan of Kansas' revenue department stated "in tax year 2013 alone there were 8,666 new filers representing $464.6 million in new income," but this growth being labeled as proof is misleading because such an assumption fails to account for other major factors: 1) general growth trends and 2) the incentive created for changes in how taxes are filed.[39]

In regards to the growth trends it is necessary to understand that growth rates in the state, states in the region (averaged) and states across the country (averaged) have all been positive across the country in all years since 2005 except for 2009 and 2015. For analysis of this growth I examine data regarding Gross State Product. In 2009 all three of these rates dropped into the negative, presumably due to the recession; and in 2015 only Kansas' growth rate dropped into the negative, meanwhile the regional and national growth had dropped but continued to be positive.[40] Excluding this last year's recent reduction in GSP, Kansas' growth rates have not been anomalous and it thus cannot be assumed that their growth should be attributed to their policy (in fact if any change in GSP is in direct relation to these policy changes it may be the recent negative anomaly

[37] Ibid; Scott Drenkard, "Kansas' Pass-through Carve-out."
[38] Scott Drenkard, "Kansas Pass-through Carve-out;" Brian Lowry, "More Business Owners Using Tax Exemption in Kansas than Expected," *The Wichita Eagle*, Feb. 21 2015.
[39] Brian Lowry, "More Business Owners Using Tax Exemption in Kansas than Expected."
[40] Kansas Department of Commerce. Indicators of the Kansas Economy. 2016.

which occurred in the same year as the sales tax hike). While looking at Kansas' Gross State Product in 2014, the state's Department of Commerce showed that its GSP was growing faster than the other five states in its self-defined "6-state region" (which does not include itself) a point which, while true, ignored the fact that it was still ranked fifth among the seven in terms of actual GSP with a GSP that was 53% of Missouri's (which itself was only number two of the seven).[41] By 2015 Kansas has dropped to being only 50.9% of the GSP of Missouri, and of the states in the region Colorado (the state already at the front of the pack) saw the greatest growth between 2014 to 2016.[42] The 2016 and 2014 data regarding the number of private establishments within the state versus the region and the nation are even more damning of Kansas' argument that the growth is proven, as it has seen significantly less growth than average among its region and the nation.[43] One point of support for Kansas' assertions comes from their unemployment level as it is at 4.0%, the lowest it has been since 2001; however this might also be simply a regional trend, as Missouri is also at the lowest rate it has been at since 2001 (at 4.3%).[44] The trends within the data provide a great deal of room for questions, they are not especially conclusive in one way or another.

The second issue is with how taxes are now being filed, and it is argued by the Tax Foundation as creating an incentive to simply avoid taxes rather than create of jobs.[45] Scott Drenkard, while representing the organization in a hearing before the Kansas House Committee on Taxation, stated very candidly that "if they passed a provision like this in

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[41] Kansas Department of Commerce. Indicators of the Kansas Economy. 2014.
[42] Ibid.
[43] Ibid.
[44] FRED, "MOUR," *Federal Reserve Bank of St. Louis*, Jan. 2016; FRED, "KSUR," *Federal Reserve Bank of St. Louis*, Jan. 2016.
[45] Scott Drenkard, "Kansas Pass-through Carve-out."

Washington, D.C., where I live and work, I would go to my employer the next day and ask them to start paying me as an independent contractor. I would still be doing the same job and contributing the same value to the economy, I just wouldn't be paying any income taxes."[46] The way the tax policy has been developed, without exceptional auditing and clear laws declaring what might be considered personal vs business income it is possible to have one's wage income be declared as zero and all income declared as business income (meaning that such is tax free). Drenkard's statements suggest that this part of the policy is responsible for the problems that the state has seen following the tax cut enactment and that this particular part of the policy is damning similar tax reform plans nationally by being such a poor example of what such should entail.[47] He argues that instead of broadening the tax base and lowering tax rates, as is expected with such reform, this aspect of the policy has resulted in the state lowering rates while simultaneously narrowing the base "and the wheels are coming off because of it."[48] If Drenkard and the Tax Foundation are correct Kansas' perceived business gains may just be the result of savvy individuals and companies choosing to change their tax filing status.

Accompanying the cuts were the removal of numerous deductions and tax credits. Those removed included rebates on food sales tax but credits for charitable deductions and interest on home mortgages made it through the cracks.[49] Neither of these deductions were desired within the original plan of Governor Brownback and one of them has since been partially cut. In the 2015 session to address their budget issues

[46] Ibid.
[47] Ibid.
[48] Ibid.
[49] Mark Robyn, "Not in Kansas Anymore."

Kansas dropped this deduction on home mortgages to 50% of the federal deduction, and to further alleviate their budget concerns the state chose to slow their continuing decrease of the income tax keeping their two brackets at 2.7% and 4.6% through 2017.[50] The budget issues caused by the income tax cut had to be addressed as the state was dealing with deficits in the hundreds of millions and is likely to still be "$400 million in the hole" around June 2016 without further cuts or tax increases.[51] The resulting deductions and cuts affected the school system (with Republicans and Democrats arguing about the extent of this effect), and since the state is legally required to provide a minimal amount of funding to education this may continue to complicate the budget process.[52]

It was due to the deficits that Kansas implemented two bills in 2015 (SB 270 and HB 2109) which will generate $384 million.[53] The key facet of the tax plan is that it is what increased the state sales tax rate from 6.15% to 6.5%.[54] The original plan of Governor Brownback, which had functioned on its own for about three years prior to this had actually lowered the sales tax by six-tenths of a cent; so this change was a sharp one.[55] Overall, since 2010, the state has gone from a 5.7% sales tax to the current 6.5%, with multiple increases and decreases in between.[56] After accounting for local sales taxes this makes Kansas the state with the eighth highest sales tax in the country.[57] The plan's

[50] Edward Eveld, "Kansas income tax changes could sting," *The Kansas City Star*, Oct. 19 2015.
[51] Dave Helling, "Analysis: Kansas workers with low to moderate incomes will feel the greatest pain from tax increases," *The Kansas City Star*, June 13 2015.
[52] Ibid; Dion Lefler and Brian Lowry, "Kansas' Support to School Districts will be cut $127.4 million, Education Department says," *The Kansas City Star*, Jan. 2015.
[53] Joseph Henchman, "Kansas Approves Tax Increase Package, Likely Will Be Back For More," *The Tax Foundation*, June 12 2015; Brian Lowry, "Tax Plan Passes House and Senate, Brownback Set to Sign," *The Kansas City Star*, June 12 2015.
[54] Joseph Henchman, "Kansas Approves Tax Increase Package."
[55] Brian Lowry, "Tax Plan Passes House and Senate;" Brian Lowry, "Fact check: Did Brownback increase the Kansas sales tax," *The Wichita Eagle*, July 11 2014.
[56] Ibid.
[57] Joseph Henchman, "Kansas Approves Tax Increase Package."

other parts raise revenue by increasing the cigarette tax by 50 cents per pack, add a tax of 20 cents per milliliter upon e-cigarettes products, have a one-time tax amnesty for those who pay their owed back taxes, cancels further intended income tax reductions and allows income taxes to effect partnership "guaranteed payments."[58] Interestingly the plan also lowers the revenue in one regard, with a provision that completely exempts individuals from the income tax who make $5,000 or less and joint filers who make $12,500 or less.[59] The cigarette and e-cigarette provision are expected by the Tax Foundation to result in increased smuggling, which has already proven to be problematic for Kansas, and as such Missouri (which is already an unintentional exporter of such products via smuggling) will likely benefit at Kansas' expense in this regard, as Kansas is instigating a more extreme form of the distortion previously discussed about sales taxes along borders.[60] The "guaranteed payments" issue is projected to raise revenues about $20 million per year, but as indicated by the information from tax service professional Shawn Sullivan who recommends his clients contact his company immediately to "discuss strategies" and potentially enact a "change in the partnership agreement," it is likely that many partnership agreements will simply be changed to evade the tax.[61] The result of this is that the already existing incentive to reconfigure one's company is furthered by this provision of the tax plan but the provision may hold little actual revenue-gaining power in the long-run. Henchman points out that this plan is likely an

[58] Ibid.
[59] Ibid.
[60] Ibid; Scott Drenkard and Joseph Henchman, "Cigarette Taxes and Cigarette Smuggling by State, 2013," *The Tax Foundation*, Feb. 6 2015.
[61] Joseph Henchman, "Kansas Approves Tax Increase Package;" Shawn Sullivan, "Partnership guaranteed payments will be taxable; should you review your partnership agreement," *AGH CPAs & Advisors*, July 1 2015.

incomplete one and that Kansas' legislators will be brought back many more times to address budgetary issues in this manner "absent more fundamental changes."[62]

The results of these tax changes overall are facing criticism for exemplifying the problems of a consumption tax. Those on the left side of the political spectrum suggest that the policies are highly regressive, a valid consideration which appears to be holding up unfortunately well in this situation. Whereas some on the right sought changes because of the way the tax plans were carried out and they had problems with specific proposals, the left's criticism is necessary to look at in a fuller picture with all bills in place. According to an analysis by the Institute on Taxation and Economic Policy the resulting tax changes have made it so that "people making less than $23,000 a year [the bottom 20%] will pay an average of $197 more a year in overall taxes […] people making between $23,000 and $42,000 [20%-40%] will see an average overall increase of $66. But people making more than $493,000 — the top 1 percent of Kansans — will pay $24,632 less in taxes."[63] Those within the 40-60% range of income will see a very modest tax break of approximately $29 with the new regressive tax values decreasing or increasing at alarming rates on either side.[64] In all these changes have earned Kansas the status of having the 9th most regressive state taxes as compiled by ITEP.[65] This point is made worse when considered that ITEP describes every state as having at least somewhat regressive policies; in fact, their analyses reveal that replacing all state/local taxes with a flat rate income tax would be a more progressive alternative to the current state/local

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[62] Joseph Henchman, "Kansas Approves Tax Increase Package."
[63] Brian Lowry, "As Gov. Sam Brownback signs Kansas budget plan, he denies that it counts as a tax increase," *The Kansas City Star*, June 16 2015.
[64] Kelly Davis, "And that's a Wrap… the Failed Experiment in Kansas Continues," *Tax Justice Blog*, June 16 2015.
[65] Ibid.

taxes across the country.[66] Meanwhile, in spite of these changes, Kansas finds itself only #22 in the Tax Foundation's ranking for business tax climate (with low tax states tending towards the top), above neighboring Nebraska (27) and Oklahoma (33) but still ranking below Missouri (17).[67] Without a better tradeoff in this secondary ranking it becomes even more questionable whether the positives provided by Kansas's tax tradeoffs will be worth the negatives incurred; and for Kansas' low income individuals this seems quite unlikely.

In Kansas this process of moving away from production taxation and towards consumption taxes has already taken multiple years and according to Governor Brownback it is not done. The Governor is committed to his "glide path to zero" and has identified the bills passed so far as simply continuing a complete "transition from taxes on productivity to consumption-based taxes."[68] The Kansas case highlights a lot of pitfalls associated with this movement and for those wishing to pursue such as Missouri might it is a lesson to learn from. One key item that has yet to be considered but that is rife throughout the Kansas experience and is common among many who support this transition is the desire to lower taxes overall. Governor Brownback himself is very concerned with this particular agenda. While it might simply be necessary for coalition building, for many of the supporters of the tax plan it is as much about, if not more about, lowering taxes than it is about establishing a better method of revenue collection. This problem was lamented by consumption-favoring economics professor Scott Sumner of Bentley University who stated "in a better world both parties would agree on an efficient

[66] Institute on Taxation and Economic Policy, "Who Pays," *ITEP*, Jan. 14 2015.
[67] Megan Hart, "Kansas falls in tax ranking due to sales tax increase," *The Topeka Capital-Journal*, Dec. 26 2015.
[68] Brian Lowry, "Tax Plan Passes House and Senate."

tax regime, and then fight over progressivity. When the GOP won elections they could cut taxes, and when the Dems won they could raise taxes."[69] An assumption of a revenue-neutral change being enacted is one that has become extremely unlikely and the issue is becoming ever more likely to split along partisan lines.

The Kansas Coalitions – Who Got the Bills Passed and Who Fought Against Them

The politics behind these initiatives in Kansas is also a necessary feature to understand, as many of the same interest groups, party coalitions, etc. will either play a direct role in the development of these types of policies within Missouri or will have a Missouri-based counterpart that will do so. For this analysis the following people and groups will be explored in greater depth as key contributors to the efforts to either pass, fight or significantly alter the different bills that had passed through Kansas:

For	Against	Sought Changes
-Governor Sam Brownback -Republican Legislators	-Democrat Legislators -Kansas Center for Economic Growth: -CBPP; ITEP and affiliated group CTJ.	-The Tax Foundation -ALEC -Kansas Chamber of Commerce -AFP; ATR; Grover Norquist -Defecting Republican Legislators

Governor Brownback: The Governor made clear throughout the last few years that he is very pro-consumption tax and that he wanted to advance this agenda as much as possible. He specifically has advocated for greater excise taxes on tobacco and alcohol and is willing to increase the sales tax.[70] In the 2012 election, which followed the tax cut, he was actively assisting very conservative candidates who were challenging the more moderate incumbent Republicans in the legislature.[71] Brownback is ideologically among

[69] Scott Sumner, "Clear thinking about taxes," *The Money Illusion*, March 9 2015.
[70] Brad Cooper, "Brownback advocates consumption tax as income tax alternative in Kansas," *The Kansas City Star*, April 2 2015.
[71] John Eligon, "In Kansas, Conservatives Vilify Fellow Republicans," *The New York Times*, Aug. 5 2012.

the more conservative coalition which had gained control of the House in 2010 (with about 70/125 seats), and in the 2012 election he hoped this coalition would gain at least three senators to gain control of the Senate as well.[72] This control was seen as necessary because of the 14 moderates in the Senate who often voted with the eight Democrats to maintain a majority coalition, with the conservative and moderate Republicans in Kansas effectively operating as "separate parties" since 1994.[73] The moderate Republicans were in turn backed by former Republican Governor Bill Graves, but the end result played in Brownback's favor as eight moderate Republicans, including Senate President Steve Morris, were replaced by more conservative candidates in the primary.[74]

In spite of the electoral success for Brownback in 2012, when the time came to reconcile the budget in 2015 he was again met with some resistance. This resistance led to him threatening the use of his veto powers to secure the previous pass-through business exemption after Representative Hutton (R) led legislation intending to scale it back.[75] As the deliberations ended up carrying the session 23 days over the intended 90, Brownback made a threat to simply make either sweeping across-the-board cuts of the budget or to do line item vetoes of the budget for the state's universities giving the legislator mere days to come up with a deal if they wished to avoid this outcome.[76] As the executive head of one side of an ever-raging intra-party conflict Brownback uses his authority and bully pulpit to attempt to guide his party (and accordingly the whole of the legislature) in the direction that he desires.

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[72] Ibid.
[73] Ibid.
[74] Roxana Hegeman and Heather Hollingsworth, "Conservatives win big in Kan. Senate primaries," *Associated Press*, Aug. 8 2012.
[75] Jim McLean, "Lawmaker pushing to restore business tax gives up the fight," *Kansas Health Institute*, June 10 2015.
[76] Brian Lowry, "Tax Plan Passes House and Senate."

Republican Legislators: In the case of all of the Kansas legislation Republican legislators were inevitably the key drivers; Brownback may have great authority but he is still dependent on support in the legislature to achieve policy goals. The initial tax cuts were passed in May in spite of having been previously killed in the Senate in March with this bill being used as an odd negotiation tool between the two houses who were seeking to come up with a less costly tax cut plan than what this bill had offered.[77] Governor Brownback waited to see if negotiations resulted in a different plan, with nothing panning out, and so he signed HB 2117 as the legislature went with this larger tax cut effectively by default.[78]

The secondary tax plan measures saw more problems for the Republican members of the legislature. While moderates fought the more conservative members of the party in the first case, SB 270 and HB 2109 saw the party effectively split along three lines, with the two sub-factions opposing their fellows for radically different reasons. Though they struggled to reach consensus on the different bills the legislature "got it done" to quote Governor Brownback after he signed SB 270 and HB 2109.[79] If not for House Speaker Ray Merrick's willingness to hold out and press the vote as much as possible HB 2109 would not have passed. Though SB 270 had passed the House it did so with the minimum of 63 votes, and HB 2109 was in even worse shape with only 59 votes in favor (before any votes were placed from the 19 representatives who were absent).[80] Merrick did a "call of the House" to get enough of the absent members in to get the required

[77] Brad Cooper, "Brownback signs big tax cut in Kansas;" Mark Robyn, "Not in Kansas Anymore."
[78] Ibid.
[79] Brian Lowry, "As Gov. Sam Brownback signs Kansas budget plan."
[80] Brian Lowry, "Tax Plan Passes House and Senate."

number necessary for passing this bill as well.[81] Commenting on this Merrick explained how a vote to raise taxes like this tends to be hard for Republicans, him included.[82] Some of this coalition, including Ron Highland the chair of the education committee, attempted to get support for the bill by pointing out the harm that the Governor's budget slashing might cause to education.[83] The end result played out in their favor, but by bare minimum amounts in both houses; and it did so only after one of the two opposing Republican factions caved in on itself and reluctantly supported the bill due to the mounting pressure.

Democrat Legislators: Making up a clear minority of the legislature, Democrats in Kansas had very little power through which to stop any of these bills from being passed. In 2012, when the tax cut was passed, Democrats had 33/125 House seats and 8/40 Senate seats; by the time SB 270 and HB 2109 were filed their numbers had dropped to 27/125 in the House (with the number of senators still at eight).[84] Democrats stood in opposition to these bills, with the Senate minority leader Anthony Hensley calling the tax increase bills "Robin Hood in reverse" and stating that "We're asking poor people to pay more to keep a misguided, reckless tax policy in place."[85] Hensley further insisted that these bills represented "the largest tax increase in state history."[86] Though they could do very little in either situation, based on their numbers, their opposition to the tax bills served as a great thorn in the side of supporters including the Governor who knew that defecting Republicans would have a large block of vote support from these legislators.

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[81] Ibid.
[82] Ibid.
[83] Ibid.
[84] Ballotpedia, "Kansas on Ballotpedia," *Ballotpedia*, 2016.
[85] Brian Lowry, "As Gov. Sam Brownback signs Kansas budget plan."
[86] Ibid.

Governor Brownback laid a great deal of blame at the Democrats' feet as the legislature grappled with the tax increase issues, saying "The minority party put forward no proposals to solve this issue. None. They just wanted to see it fail."[87] One Democrat was among the list of legislators who refused to go back on their anti-tax pledges during SB 270 and HB 2109, John Alcala. This particular legislator's case is interesting because it highlights how the Democrats and the most conservative of the Republicans (who had made and stuck to these same pledges) were on the same side in this issue, with Alcala's pledge and party affiliation both placing him decidedly against the Governor.[88]

Kansas Center for Economic Growth: A research organization, the Kansas Center for Economic Growth has been very vocal of its opposition of the Kansas tax plans especially the 2015 increases. Their director, Annie McKay, describes the plans as collecting revenue in a way that hurts Kansas' families without any good economic results to make up for this; according to her "lawmakers promised Kansans 'pro-growth' tax policy, but all this legislation will grow is the number of families struggling to make ends meet."[89] The organization posts pieces rallying against the tax plans and speaks with the media and legislators to further their cause. In one such piece they state the Kansas tax plan is "promising never-ending recession conditions."[90] To show this they cite the numerous public service cuts and subsequent rises in local property taxes that have had to occur to make up the difference (with rural counties apparently having to raise taxes the most).[91] The Center also used its research to suggest that Texas and

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[87] Ibid.
[88] Tim Carpenter, "Dozens of Kansas legislators violate no-tax pledges," *The Topeka Capital-Journal,* June 14 2015.
[89] Ibid.
[90] Kansas Center for Economic Growth, "Tax Cuts Taking Toll on Kansas Communities," *Kansas Center for Economic Growth,* April 2015.
[91] Ibid.

Florida (the cited innovation leaders to use as a model) are a poor model for Kansas as these states actually rank worse than Kansas on issues such as education, poverty and income equality.[92] This organization is a part of a network called the State Priorities Partnership which is itself "coordinated by the Center on Budget and Policy Priorities."[93]

Center on Budget and Policy Priorities (CBPP); the Institute on Taxation and Economic Progress (ITEP) and affiliated group Citizens for Tax Justice (CTJ): All three organizations are national-level left-leaning economic research organizations. ITEP and CTJ are directly connected with one another, with the former providing research for the latter and collaborating on work at the federal level.[94] Like the Kansas Center for Economic Growth these three organizations contributed to a lot of the literature that was used to rally against these policies and which has served as advice against similar programs in other states.[95] The dialogue between researchers at CBPP and the Tax Foundation on the general issue of consumption vs production (as opposed to the Kansas specific policies) is very interesting as the organizations are at odds on this issue and criticize each other's work.[96]

The Tax Foundation: The Tax Foundation is a conservative-leaning think tank that attempts to guide the national and state legislatures towards tax policy that follows their "principles of sound tax policy: simplicity, neutrality, transparency and stability."[97]

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[92] Kansas Center for Economic Growth, "It's not Always Sunnier in Florida," *Kansas Center for Economic Growth,* Feb. 2013.
[93] State Priorities Partnership, "About," *State Priorities Partnership,* 2016.
[94] Institute on Taxation and Economic Policy, "Mission and History," *ITEP,* 2016.
[95] Institute on Taxation and Economic Policy, "Who Pays;" Kelly Davis, "And that's a Wrap… the Failed Experiment in Kansas Continues."
[96] William McBride, "What is the Evidence on Taxes and Growth;" Chye-Ching Huang and Nathaniel Frentz, "What Really Is the Evidence on Taxes and Growth;" William McBride, "Empirical Evidence on Taxes and Growth: A Response to CBPP."
[97] The Tax Foundation, "About Us," *The Tax Foundation*.

Throughout their numerous studies and their discussions with the Kansas Legislature the Tax Foundation has made it clear that they do not agree with the exemption for pass-through income. With the initial tax cut Mark Robyn called the pass-through exemption "misguided" and said that though Kansas is "on the right track […it] should be cautious about favoring some businesses over others."[98] The organization is in favor of tax reform, but is extremely critical of the manner in which it was done in Kansas; especially because it feels that Kansas' poor example is hurting their efforts to assist in tax reform in other states such as Nebraska.[99]

American Legislative Exchange Council (ALEC): ALEC is a conservative organization which claims nonpartisan status and which is made up of legislators and private interests. In Kansas prior to the sales tax increase ALEC lobbied the Kansas legislature, with the ALEC CEO and a top official dealing with fiscal issues passing letters out directly.[100] In the letters the pair congratulated Kansas for the 2012 tax cuts, provided employment statistics in favor of these cuts and urged the legislators that going back on these cuts would be problematic.[101] Calling for reliability they urged lawmakers to keep the business exemption, suggesting that getting rid of this would punish the creation and movement of pass-through businesses that had come into Kansas under the pretense that they would not be taxed on this income.[102] They further urged against the Governor's plans for raising excise taxes because such violates their "principle of economic neutrality" by "singling out specific industries" and because practically

98 Mark Robyn, "Not in Kansas Anymore."
99 Scott Drenkard, "Kansas Pass-through Carve-out."
100 Lisa Nelson and Jonathan Williams, "An Open Letter to Kansas Lawmakers: All Taxes Hinder Economic Growth…But Some Taxes are Worse Than Others," *ALEC*, June 1 2015.
101 Ibid.
102 Ibid.

smuggling from Missouri will reduce the projected revenue (as had been pointed out by the Tax Foundation).[103] ALEC's ultimate recommendations for policy emphasized the "spending side of the fiscal coin" and the use of "broad based consumption taxes."[104] ALEC cites the Tax Foundation for support in this very letter, specifically the article by William McBride, and yet the group stands in clear opposition to The Tax Foundation on the pass-through income issue.

Kansas Chamber of Commerce: The role of the Chamber of Commerce in this is centered primarily around 2012 after the voting for HB 2117. Supporting the Governor's attempted culling of moderate Republicans, the chamber targeted eight of the moderate Republican Senators for removal and backed their challengers with maximum contributions from their PAC.[105] In addition to the 2012 vote, the Chamber's support for challengers came in part from some Senators choosing to support sales tax increases in 2010 "instead of responsible spending cuts."[106]

Though the Chamber agreed with the Governor in 2012 its motives place it in the same tertiary faction that ALEC, AFP and ATR have found themselves in following the 2015 bills. Prior to voting on HB 2109 the Chamber communicated its position to the legislature, which was summed up by the Chamber President as "Please don't vote for this bill, but if you do, please fix it next year."[107]

Americans For Prosperity (AFP); Americans for Tax Reform (ATR); Grover Norquist: AFP and ATR are conservative, anti-tax interest groups that are very active

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[103] Ibid.
[104] Ibid.
[105] Scott Rothschild, "Business lobby, aided by $36,000 from Koch Industries, targets eight Republican incumbents in state Senate for defeat," *Lawrence Journal-World*, Jan. 10 2012.
[106] Ibid.
[107] Jonathan Shorman, "Kansas Chamber asks Lawmakers Supporting Tax Hikes to Make Changes in 2016," *The Topeka Capital-Journal*, June 9 2015.

throughout the country. Though these organizations are not directly connected to one another they operated in the same capacity in Kansas. Both organizations created pledges for legislators saying that they would combat tax increases; signatures which "served as currency to secure endorsements from conservative political groups" and which Norquist describes as "practically required for Republicans seeking office."[108]

Americans for Prosperity is an organization which attempts to mobilize conservative voters at a grass-roots level, encouraging them to contact legislators, knock on doors, make calls and sign petitions in ways that boost their overall goal of "economic freedom."[109] In 2012 AFP was described by David Weigel of the Washington Post as "one of the most powerful conservative organizations in electoral politics," he explained that the organization spent "seven figures so far this year on TV ads against Barack Obama."[110] Even ignoring the organization's many other efforts, which include hosting regular events and working to inform voters of their causes, their money-raising potential and campaign involvement is impressive.[111] In Kansas the group was also directly involved in the anti-moderate campaigning that the Chamber of Commerce engaged in following the 2012 tax cut votes.[112]

Grover Norquist is the head of ATR, which he founded in 1985.[113] The group's anti-tax pledge is its "flagship project" and something Norquist takes very seriously.[114] Commenting on the Kansas votes, Norquist stated that an affirmative vote on tax

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[108] Tim Carpenter, "Dozens of Kansas legislators violate no-tax pledges;" Americans for Tax Reform, "About the Taxpayer Protection Pledge," *Americans for Tax Reform*, 2013.
[109] Americans for Prosperity, "About" *Americans for Prosperity*, 2016.
[110] David Wiegel, "Behind the Cato-Koch Kerfuffle," *Slate*, March 1 2012.
[111] Ibid; Americans for Prosperity, "About."
[112] John Eligon, "In Kansas, Conservatives Vilify Fellow Republicans."
[113] Newsmax, "Norquist's No-Tax Pledge Hurting GOP in Hard-Hit States," *Newsmax*, June 11 2015.
[114] Americans for Tax Reform, "About," *Americans for Tax Reform*, 2013.

increases (instead of advocating for budget cuts) was a clear violation of the pledge.[115] According to Norquist "Raising taxes is what people do when they can't govern."[116] Due to common complaints from those seeking comprehensive tax reform, such as Kansas attempted to do, Norquist claims that the pledge allows for such; but he clarifies that the pledge requires revenue-neutral changes to take place at once, not tax reductions and subsequent increases as were done in Kansas: "A tax preference eliminated today is a tax preference not available for tax reform tomorrow."[117]

The influence of both groups pose a very credible threat to the Kansas legislators who violated their pledges. Though this is speculation it seems very likely that both groups will target such legislators more harshly than those who simply refused to take the pledge. With the likely result being similar to the prior drive to get rid of moderates in the 2012 elections; especially if the Chamber of Commerce joins them in such a campaign.

Defecting Republican Legislators: In Kansas Republicans hold a supermajority, and as such Democrat opposition is not enough to stop a bill from passing, so whenever a bill fails (or almost fails) defecting Republicans can be found voting among the Democrats. Some of the moderate Republicans who would later be targeted by Brownback had voted alongside Democrats against the original income tax cuts with 27 House and 3 Senate Republicans doing so.[118] In the House these moderates brought the vote to 59 Nays versus the 64 Yeas and in the Senate to 15 Nays versus the 23 Yeas.[119] Though many of

[115] Tim Carpenter, "Dozens of Kansas legislators violate no-tax pledges."
[116] Newsmax, "Norquist's No-Tax Pledge Hurting GOP."
[117] Americans for Tax Reform, "Myths and Facts About the Taxpayer Protection Pledge," *Americans for Tax Reform*, June 20 2012.
[118] Kansas Legislature, "S Sub HB 2117," *Kansas State Capitol*, March 21 2016.
[119] Ibid.

the Republicans who had comprised this moderate Republican wing had been ousted by their fellows following this opposition, or as in the case of John Vratil simply left the legislature, some remained including Carolyn McGinn and Vicki Schmidt who defeated their challengers in the primaries.[120]

As stated, the situation in 2015 with SB 270 and HB 2109 saw much more tension among Republican legislators, with a three-faction split in which both moderates and the most conservative individuals deviated from the governor's desires. These individuals instead followed (either intentionally or coincidentally) the policy advisement of the Tax Foundation or ALEC (especially with some wishing to keep anti-tax pledges to AFP or ATR). Some including Senator Longbine, Representative Hutton and Senate Ways and Means Chair Jim Denning agreed with the Tax Foundation and wanted to get rid of the exemptions for pass-through income.[121] Longbine had accused Brownback of blackmailing legislators by threatening to veto any attempt to pull back the exemption and effectively forcing them to choose the sales tax raises or across the board cuts to services including education.[122] Elaborating on this position Longbine compared this tax plan to going to the dentist to address heart failure instead of to a cardiologist.[123] Though the efforts of these legislators were given up in the 2015 session, Denning made it clear that their opposition to the exemption would be voiced again in the following session.[124]

Other legislators agreed with ALEC and were reluctant to vote yes on these same bills because they increased taxes rather than making cuts.[125] Many of these individuals

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[120] Ibid; John Eligon, "In Kansas, Conservatives Vilify Fellow Republicans."
[121] Jim McLean, "Key Kansas Senator Calls For Budget Fix, No More 'Band-Aids,'" *KCUR*, Oct. 6 2015; Brian Lowry, "As Gov. Sam Brownback signs Kansas budget plan."
[122] Chuck Samples, "Longbine not happy with tax bills or tactics from Governor," *KVOE*, June 13 2015.
[123] Brian Lowry, "Tax Plan Passes House and Senate."
[124] Jim McLean, "Key Kansas Senator Calls for Budget Fix."
[125] Brian Lowry, "Tax Plan Passes House and Senate."

were among the 53 legislators who signed pledges authored by AFP and/or ATR.[126] One, John Rubin, explained that this tax plan's freezing of the income tax cuts was a major problem and that by including that "This bill effectively ends the march to zero."[127] The vast majority of the legislators supporting ALEC's perspective collapsed under the pressures placed on them and sided with the Governor. As a result of the 53 signers of the AFP and ATR tax pledges, only six voted against both tax bills.[128] Representative John Whitmer was described by reporter Brian Lowry as having eventually come "to the lectern sobbing to urge his colleagues to vote in support of the bill" and claiming that while he was not proud of his vote he felt it was necessary.[129] In the Senate the 20-20 tie on SB 270 was only broken as a result of Senator Rob Olson changing his vote from no to yes, going against all expectations and breaking his pledges to both AFP and ATR (not only had he signed both pledges but he had reaffirmed this commitment in an April interview).[130] Were it not for the reluctant support of these bills that was eventually given from many within this secondary branch of defecting Republicans the tax raise bills would have failed and sweeping cuts would have occurred within the budget; a prospect that would have actually been preferred by the disappointed groups AFP, ATR and ALEC.[131]

[126] Ibid, Tim Carpenter, "Dozens of Kansas legislators violate no-tax pledges."
[127] Tim Carpenter, "Dozens of Kansas legislators violate no-tax pledges."
[128] Ibid.
[129] Brian Lowry, "Tax Plan Passes House and Senate."
[130] Tim Carpenter, "Dozens of Kansas legislators violate no-tax pledges."
[131] Lisa Nelson and Jonathan Williams, "An Open Letter to Kansas Lawmakers;" Tim Carpenter, "Dozens of Kansas legislators violate no-tax pledges;" Newsmax, "Norquist's No-Tax Pledge Hurting GOP".

The Missouri Coalitions -- Who is Working in Missouri for and against Consumption Taxes

The same style of analysis I used for Kansas will be used in Missouri with brief explanations of the roles of differing key players and whether they fall into the pro-Consumption or pro-Production coalitions.

Pro-Consumption	Pro-Production
-Republican Legislators -Keith English (Defecting Democrat) -Show-Me Institute, Grow Missouri and Rex Sinquefield -Missouri Chamber of Commerce, ATR, AFP -The Tax Foundation -ALEC	-Governor Jay Nixon -Democratic Legislators -Missouri Budget Project -CBPP, ITEJ and CTJ

Republican Legislators: In 2013, a year after the initial Kansas tax cuts, the Republican legislators of Missouri sent HB 253 to the Governor. The bill was very similar to the Kansas legislation, albeit less drastic and non-immediate. Along with numerous other provisions (most of which were tangential) the bill would have lowered corporate income tax rates and the top personal income tax rate by 3% and 0.5% respectively over ten years, it would have made a 50% exemption on pass-through income over five years, and it would exempt another $1,000 for those making under $20,000 (for a total exemption of $3,100).[132] This legislation passed the House and Senate only to be vetoed by Governor Nixon and the Republicans in the legislature were unable to rally enough votes to overturn the veto. Fifteen Republicans in the House joined with Democrats in voting against the legislation with the final vote being 94 ayes and 67 noes (a lessened degree of support than was offered for the bill before the veto, the vote for which was 103 ayes and

[132] Missouri House of Representatives, "SS HB 253 – Taxation," *Missouri House of Representatives,* 2013; Ashley Jost, "What is Next for Grow Missouri," *The Missouri Times,* Sep. 27 2013.

51 noes).[133] Nate Walker, Lyle Rowland and the other Republicans who broke ranks on this veto were later targeted by more conservative counterparts during their primaries, in the same manner that had occurred in Kansas.[134] The Missouri Club for Growth called for getting rid of this group and called them the “Flimsy 15” and “RINOs” after the vote, and the House Speaker at the time Tim Jones (who is now a director for this organization) spoke about this speech towards the fifteen in a somewhat cold manner, reaffirming the goals he felt the party should share.[135] Unlike in Kansas all of these legislators managed to hold onto their seats.[136] Though some might have assumed this to be a sign that a tax cut would prove impossible in Missouri (at least as long as Jay Nixon remained Governor), House Speaker Tim Jones assured the media that “this is only a temporary setback” and that the fight would continue next year.[137]

Just as the Speaker had promised, 2014 saw a fight once again and this time the Republican legislature proved successful. Senate Bill 509 [the full title after changes is technically SS#3/SCS/SBs 509 and 496] was proposed in the Senate by Senator Will Kraus and handled in the House by Representative Andrew Koenig. This bill resembled the Kansas tax cuts less than HB 253 differing from its predecessor in that it had phase-in triggers, wording in the legislation that accounts for partnerships and S-Corps., a halved deduction for business income (25%), and a halved exemption for low income ($500).[138]

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[133] Missouri House of Representatives, “Activity History for HB 253,” *Missouri House of Representatives*, 2013.
[134] Alan Greenblatt, “Rex Sinquefield: The Tyrannosaurus Rex of State Politics,” *Governing*, June 2015.
[135] Ashley Jost, “Members of the 15 Republican “No” Votes on HB 253 Receive Positive and (very) Negative Feedback,” *The Missouri Times*, Sep. 12 2013; Missouri Club for Growth, “Directors” *Missouri Club for Growth*.
[136] Alan Greenblatt, “Rex Sinquefield: The Tyrannosaurus Rex of State Politics,” *Governing*, June 2015.
[137] Elizabeth Crisp, “Missouri Legislature fails to override vetoes of tax cut, gun legislation,” *St. Louis Post-Dispatch*, Sep. 12 2013.
[138] Missouri Senate, “SB 509,” *Missouri General Assembly*, 2014.

The bill passed through both the House and Senate with votes of 102-49-12 and 23-9-2 respectively (with the third number representing a combination of vacant seats and legislators who were absent).[139] After the Governor vetoed this bill just as he had HB 253 the legislature overturned his veto. In a show of solidarity unlike what was seen at any point in the Kansas experience, all 108 Republican representatives in the House and all 23 Republican senators voted to overturn Governor Nixon's veto of SB 509.[140] To assure that they could accomplish this Republicans in the House postponed the vote one day to make sure that Rep. Brattin would not miss it.[141] Even with this full partisan support among Republicans, one more vote was needed in the House from a Democrat if the veto was to be overturned, a vote then-majority leader John Diehl rightfully assured the press he had.[142]

Keith English (Defecting Democrat): Though he is but one of the 109 representatives to vote against the veto, Keith English is the only legislator to have voted against party lines and he ended up being the deciding vote that was required to overturn the veto.[143] English' unique position is one that has ultimately resulted in his leaving the Democratic party and becoming the only Independent legislator in Missouri.[144] English before switching said that he had been punished by the Democratic Caucus by being stripped of his committees, and Rep. LeFaver reacted to the switch by saying that "You can't lose

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[139] Ibid.
[140] David Lieb, "Missouri GOP legislators hope to enact income tax cuts;" ABC 17 News Staff, "Rep. Keith English talks of Political Fallout from SB 509 vote," *KMIZ – The Networks of Mid-Missouri*, May 9 2014.
[141] David Lieb, "Missouri GOP legislators hope to enact income tax cuts."
[142] Ibid.
[143] David Lieb, "Missouri GOP legislators hope to enact income tax cuts;" ABC 17 News Staff, "Rep. Keith English talks of Political Fallout."
[144] Mike Lear, "Missouri House Members React to Keith English's Party Switch," *Learfield News & Ag. LLC*, Jan. 28 2015.

something that was never a part of your team anyway."[145] Other Democrats, including minority leader Jake Hummel, described English as untrustworthy pointing out that he had accepted office space from Republicans, and that he was not always honest about his intentions to vote against the party (which also tended to occur on issues relating to gun rights and abortion).[146] Republican legislators welcomed English, with the soon-to-resign new Speaker John Diehl expressing a willingness to make sure that English is still allowed to participate fully in the legislature.[147]

Show-Me Institute, Grow Missouri and Rex Sinquefield: The Show-Me Institute is the flagship institution of Rex Sinquefield who is himself regarded as one of the most powerful figures in Missouri politics. Unlike many of the think-tank style institutions examined, the Show-Me Institute does not maintain any façade of nonpartisanship and objectivity; it states openly that its policies are grounded in "free markets and individual liberty" and that they seek to promote market solutions to public policy.[148] The Show-Me Institute actively promotes consumption taxes over production taxes, with one publication suggesting broadening sales tax bases and getting rid of many economic development tax credits to make room for income tax cuts in a way that will not result in revenue shortfalls.[149] The same study explained how due to the way the income tax brackets are set up, people of some incomes in Missouri might actually experience higher income taxes than people of equivalent incomes in California because California's

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[145] Ibid.
[146] Ibid; Mike Lear, "Interview Audio: Keith English on not seeking another term in Missouri House, 'right-to-work,' and 2016 races," *Learfield News & Ag. LLC*, Oct. 16 2015.
[147] Ibid; Jason Hancock, "Missouri House Speaker John Diehl resigns over intern texts; Todd Richardson replaces him," *The Kansas City Star*, May 14 2015.
[148] Show-Me Institute, "About Show-Me Institute," *Show-Me Institute*, 2016.
[149] Michael Rathbone, "Taxes Are Still Too High for Missouri," *Show-Me Institute*, Oct. 15 2015.

income taxes (though higher overall) have brackets much more stratified.[150] The Institute believes that cutting the corporate income tax is an idea which will boost the economy and thus applauded that part of SB 26 which preceded HB 253 in 2013 and would likewise applaud the finalized versions of HB 253 and SB 509.[151] Though supporting such a bill the Institute did seem to suggest however that the lack of a means to offset the costs reduces the good of the bill, meaning revenue neutral (or at least minimally destructive) tax reform is likely the preferred prescription.[152] In a conversation with Patrick Ishmael, the director of governmental accountability at the Institute, he stated that the Institute might recommend revenue neutral options but in no way would say such is required (as wasteful spending can be eliminated instead); and he further added that the Institute would also support a gradual phase out of production to consumption.[153] Ishmael is the author of a piece by the Institute that directly followed the passage of SB 509 saying that in addition to making the first income tax cut in a century that the state is now on the path to greater reform.[154] In the piece he explains that the Show-Me Institute has "helped lead tax reform efforts in Missouri for many years" and that the bill is a "very modest" reform "serves as a mile marker on the path of greater reforms."[155]

Grow Missouri is a coalition that was originally formed to rally support for HB 253 and get the veto overturned.[156] Included in their efforts was a rally in Chesterfield Missouri at which Texas Governor Rick Perry was the key speaker arguing in favor of

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[150] Ibid.
[151] Michael Rathbone, "One Step Closer," *Show-Me Institute*, Feb. 27 2013.
[152] Ibid.
[153] Patrick Ishmael, Director of Government Accountability, Show-Me Institute.
[154] Patrick Ishmael, "Missouri's Tax Reform Journey Has Only Just Begun," *Show-Me Institute*, May 9 2014.
[155] Ibid.
[156] Collin Reischman, "Coalition Prepares launch of Massive Campaign Aimed at Overriding HB 253 Veto," *The Missouri Times*, July 23 2013.

cutting income taxes.[157] More importantly than this single event, the group is responsible for most of the ads supporting the bill on television, radio, YouTube and Facebook.[158] In addition to campaigning to get the veto overturned, Grow Missouri provided groups such as the Club for Growth, the Associated Industries of Missouri, the National Federation of Businesses and the Chamber of Commerce with a means of organizing together politically and joining with citizens who share similar ideals at the grassroots level.[159] Unlike the Show-Me Institute where Sinquefield is directly involved with the board in addition to contributing funds, Grow Missouri is connected to Sinquefield primarily through his funding of the organization and its subsidiary groups (with his first donation to the organization itself being $1.3 million).[160] The organization, rather than ceasing to exist following the 2013 veto, continued its efforts and made working with legislators to craft new legislation a key priority.[161]

The organization, as a whole, has committed itself to positive efforts towards getting tax cuts passed and has not participated in negative political campaigns though member organizations including the Club for Growth have not adopted such a policy; Grow Missouri has chosen instead to engage those who were against the early policies and see what, if anything, can be done to fix those problems and gain the support of those legislators for future legislation.[162] After the veto override of SB 509 the organization

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[157] Ashley Jost, "What is Next for Grow Missouri."
[158] Collin Reischman, "Eyes On: Grow Missouri and 2014," *The Missouri Times*, Sep. 8 2014.
[159] Collin Reischman, "Coalition Prepares launch of Massive Campaign Aimed at Overriding HB 253 Veto;" Grow Missouri, "Overview," *Grow Missouri*, 2014.
[160] Ibid.
[161] Ashley Jost, "What is Next for Grow Missouri."
[162] Collin Reischman, "Eyes On: Grow Missouri and 2014;" Ashley Jost, "What is Next for Grow Missouri."

expressed excitement about such and stated that they were already beginning work "on the next phase of their efforts" including, more recently, tax credit reform[163]

Sinquefield is a controversial figure in Missouri state politics because he has poured so much money into state politics, being accused "of trying to buy state government" by Democrats including Governor Nixon and Senator McCaskill, and by some Republicans including former state auditor Tom Schweich.[164] After HB 253 failed Sinquefield's money was a major funding source against the incumbents, with him putting hundreds of thousands of dollars behind the challengers.[165] The Senate Leader Ron Richard stated that Sinquefield should receive "some, though not all, of the credit" for SB 509's success saying that Sinquefield "has the ability and wherewithal to move ideas that need to be debated."[166] In traditional political science vernacular this indicates that he has some ability to control the agenda (and thus what the legislature focuses its efforts on), which is an incredible power. Sinquefield has donated millions to different campaigns, and has also given millions of dollars to the Club for Growth and to Grow Missouri (which themselves have contributed greatly to campaigns, meaning that Sinquefield's funds have since traveled into other campaigns by proxy).[167] For the current statewide races (which will be decided in August and November of this year) Sinquefield has already a great deal of money, with Catherine Hanaway and Bev Randles (the former chair of the Club for Growth) each receiving $1 million from him for their

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[163] Marshall Griffin and Jo Mannies, "Missouri House Joins Senate To Override Veto of Tax-Cut Bill," *St. Louis Public Radio*, May 6 2014; Grow Missouri, "Show-Me Tax Credit Reform," *Grow Missouri*, Sep. 24 2015.
[164] Alan Greenblatt, "Rex Sinquefield: The Tyrannosaurus Rex of State Politics," *Governing*, June 2015.
[165] Ibid.
[166] Ibid.
[167] Rachael Herndon, "Sinquefield donates $1.2 million to MO Club for Growth PAC," *The Missouri Times*, Sep. 14 2014.

campaigns; and Koster and Kinder (the Democrat and Republican frontrunners in the Gubernatorial race) have each received hundreds of thousands of dollars in donations from him in the past, specifically during their 2012 races.[168]

Sinquefield is very committed to the tax policies that he prefers. He finds the Kansas tax cuts to be excellent, and expects Missouri to follow suit via a "domino theory" which, as he describes it, is incredibly similar to Walker's diffusion theory.[169] His ultimate goal is oddly specific, as he desires to see the state be rid of its individual and corporate income taxes and have a sales tax "capped at 7 percent" take its place.[170] Sinquefield's immediate circles of communication include Travis Brown "his lobbyist," who is featured on Fox and who wrote *How Money Walks*; Arthur Laffer, the man behind the Laffer Curve; and Stephen Moore, the "chief economist at the Heritage Foundation."[171] In addition to all being in the national spotlight in some way these individuals have all contributed to a book along with Sinquefield called "An Inquiry into the Nature and Causes of the Wealth of States: How Taxes, Energy, and Worker Freedom Change Everything" that promotes numerous issues including consumption taxes over production taxes.[172] Along with these fellows Sinquefield is promoting these policies at a national level, having personally written an article in Forbes on May 4 2015 praising the Kansas tax plan.[173] The influence of these four is being felt in Missouri and if

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[168] Alan Greenblatt, "Rex Sinquefield: The Tyrannosaurus Rex of State Politics;" National Institute on Money in State Politics, "Rex A. Sinquefield," *National Institute on Money in State Politics*.
[169] Alan Greenblatt, "Rex Sinquefield: The Tyrannosaurus Rex of State Politics."
[170] Ibid.
[171] Wiley, "An Inquiry into the Nature and Causes of the Wealth of States: How Taxes, Energy, and Worker Freedom Change Everything," *John Wiley & Sons*, 2016.
[172] Ibid.
[173] Rex Sinquefield, "Kansas Economic Growth Is On The Rebound--Look At The Real Numbers," *Forbes*, May 4 2015.

Sinquefield has his way Walker's theory may prove true and his influence may diffuse across many other states as well.

Missouri Chamber of Commerce, ATR and AFP: Included together these organizations all share a view for the future of Missouri like Sinquefield's, and they were equally excited to see SB 509 pass in spite of the Governor's objections. However, none of these organizations have been as influential in regards to this particular issue as Sinquefield's coalition has been. The Chamber of Commerce stated that they supported the bill's "cautious, responsible approach to reducing our income tax burden" and praised the General Assembly for its efforts.[174] Overall the Chamber in Missouri as a singular unit has been a lesser influence in Missouri than it was in Kansas though this is probably in part because of the Grow Missouri coalition forming to occupy the role they might otherwise have taken up unilaterally.[175] In 2013 the Chamber referred their readers to information from Grow Missouri after this more active group released a publication that was made to combat information that opponents to the bill had put out.[176]

Americans for Tax Reform likewise had no major role beyond congratulating the General Assembly, with Grover Norquist coming to the state and talking about the bill before the veto.[177] According to Norquist this bill is one made of compromise that solves for issues that were raised with HB 253 and one of "real progress."[178]

[174] Marshall Griffin and Jo Mannies, "Missouri House Joins Senate To Override Veto."
[175] Collin Reischman, "Coalition Prepares Launch of Massive Campaign Aimed at Overriding HB 253 Veto."
[176] Missouri Chamber of Commerce, "Dispelling Myths About HB 253," *Missouri Chamber of Commerce*, Aug. 2 2013.
[177] Collin Reischman, "Norquist Joins Tax Cut Fight as Republicans Work to Lock-up Override Vote," *The Missouri Times*, April 28 2014.
[178] Ibid; Scott Drenkard, "Missouri's 2014 Tax Cut: Minimal and Slow with a Small Business Gimmick," *The Tax Foundation*, May 14 2014.

Americans for Prosperity is quite active in Missouri. Just this month (March 2016) they created a March Madness themed bracket of different initiatives including Right-to-Work legislation, paycheck protection, "risk corridors" etc. the winner of which will receive "special scrutiny" from the group for the rest of the year; and of these 32 initiatives three were explicitly specific to Missouri.[179] They have likewise been working on other issues including paycheck protection in Missouri which just passed this month.[180] In regards to SB 509 protestors who are with the organization went to Columbia where Governor Nixon was speaking, countering his claims that the language removing the top bracket made it so that everyone who met it (anyone over $9,000 AGI) would no longer pay any income taxes (a claim that was echoed by Democratic Representative Judy Morgan the day of the veto).[181] The group's state director Patrick Werner shared the sentiment of Norquist following the passage of the bill saying "We hope this is the start of serious budget reform," and that "The state legislators who voted to override Governor Nixon's veto and pass SB 509 have won an important victory for the Missouri taxpayer and small business owners."[182]

The Tax Foundation: As in the Kansas case, the Tax Foundation has not been impressed by the Missouri tax cuts however the reasoning is quite different. According to the Tax Foundation the Missouri cuts through SB 509 move at "a glacial pace" and that "despite fantastical claims by supporters and detractors, these changes will have

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[179] Americans for Prosperity, "VOTE NOW in AFP's 2016 Taxpayer Madness Tournament," *Americans for Prosperity*, Mar. 4 2016.
[180] Americans for Prosperity, "Paycheck Protection Passes in Missouri," *Americans for Prosperity*, Mar. 3 2016.
[181] Brennan, "Opposition protests at Nixon's meeting at CPS," *93.9 The Eagle*, April 23 2014; HeyRubino, "Judy Morgan, MO Rep Comments on #SB509," *Youtube*, May 5 2015.
[182] Jessica Quick, "What they're Saying: Reaction to SB 509 Veto Override," *The Networks of Mid-Missouri Columbia*, May 6 2014

negligible positive or negative impact."[183] In their discussion to assuage fears of the tax cut hurting revenues, Drenkard points out that even if the plan were to have kicked in immediately (which it cannot) that the cut, which he values at $620 million, would still place Nixon's proposed budget for FY 2015 above that of FY 2014 which is itself above FY 2013. According to Drenkard's numbers the Nixon budget could have seen another $1.8 billion drop before falling to FY 2014 levels; which means that even if SB 509 turns out to be around $800 million as predicted by the Missouri Budget Project the budget is still increasing from previous years, albeit less so.[184] The As they were in Kansas, the Tax Foundation is critical of the pass-through income deduction which they point out prevents more greatly reducing the overall rate (an option they prefer by far); overall they argue that the bill fails to make any changes to the tax code that are significant enough to be considered true tax reform.[185] The bill's main income tax provision, which effectively gets rid of the top bracket by eventually merging it with the second highest, still leaves the other brackets where they have been since 1931 with most of Missouri's citizens benefitting from this by falling into the top tax bracket which begins at $9,000 (for comparison the lowest federal tax bracket in 2015 ended at $9,225, with 2016 updating to $9,275).[186] The Foundation argues that since most of Missouri's citizens are likely to fall into the top income tax bracket anyway having ten brackets (or nine once SB 509 kicks in all the way) is just an unnecessary complication that fails to make the tax more progressive; they suggest instead a single rate with a larger personal exemption for low

[183] Scott Drenkard, "Missouri's 2014 Tax Cut."
[184] Ibid; Amy Blouin, "Senate-Approved Tax Scheme Would Cost Nearly $800 Million SB 509 Would Require Cuts to Critical Services," *Missouri Budget Project,* April 4 2014.
[185] Ibid.
[186] Ibid; Bankrate, "Tax Brackets," *Bankrate,* 2016.

income individuals, or at least brackets which are adjusted for inflation to prevent this type of bracket creep.[187] Overall, the Tax Foundation's analysis makes this bill appear to be a minimalistic change that is incremental at best and deceptive at worst (with opponents and supporters generating the political activity seen in Kansas without generating similar policy).

ALEC: Though the criticisms from liberal groups estimate they have unprecedented power in Missouri, like many of the other conservative groups that had been active in Kansas, ALEC's influence was not strongly felt in regards to SB 509.[188] In fact, like the Tax Foundation ALEC was not very impressed with the final result. ALEC described the tax cut as "pro-growth legislation that will help to grow the state economy and improve the lives of Missourians" but pointed out that there is a delay and that triggers have to take effect, and that even when in full effect this is "a decrease in total tax collections of less than 6 percent."[189]

ALEC was very critical of Governor Nixon for what they described as hypocritical behavior between HB 253 and SB 509. According to the organization the Governor offered tax incentives to Boeing in spite of his vetoes of tax breaks for all, thus he revealed that he recognizes reduced taxation as an incentive but refuses to use such on small and mid-size businesses that do not have the "political clout of a company like Boeing."[190] Rather than targeted tax cuts like this, ALEC would like to see more of the broad based cuts of bills like SB 509 which they feel is but a "first step."[191]

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[187] Scott Drenkard, "Missouri's 2014 Tax Cut;" Liz Malm, "Missouri Income Tax Bills Could Use Some Work," *The Tax Foundation*, Feb. 24 2014.
[188] Progress Missouri, "ALEC's Power in Missouri: Exposed," *Progress Now*, Jan. 2014.
[189] Ben Wilterdink, "Missouri Lawmakers Override Governor's Veto, Choose Economic Growth," *American Legislative Exchange Council*, May 7 2014.
[190] Will Freeland, "Missouri Tax Hypocrisy," *American Legislative Exchange Council*, Jan. 16 2014.
[191] Ibid; Ben Wilterdink, "Missouri Lawmakers Override Governor's Veto."

Governor Jay Nixon: Just as Governor Brownback's veto power allowed him to move the direction of legislation in Kansas towards consumption, so has Nixon used his veto power to keep Missouri away from such. In 2013 and again in 2014 Nixon vetoed the income tax cuts that were passed by the legislature.[192] In a statement following the veto Governor Nixon stated that he vetoed the bill because it threatens public schools and threatens Missouri's AAA credit rating.[193] As stated, at one point leading up to the veto the Governor had insisted "that a provision in the bill will wipe out state income taxes on income over $9,000 a year, which would cut the state's general revenue by 65 percent;" an assertion that (like the assertions of the Governor the year before) was denied by supporters of the bill.[194] The particular line that he was talking about is one that calls for the elimination of the top tax bracket after it becomes 5.5%, but which does not explicitly call for striking the words "but not over $9,000" from the second highest tax bracket (potentially leaving it as "Over $8,000 but not over $9,000") once the top bracket of "Over $9,000" is removed. [195] This is a potential wording error that a clever lawyer could attempt to exploit in court, and while this goes quite obviously against the spirit of the law, read as written this might see rulings against the state. It is thus plausible that in the years to come that this law will have to see a follow-up bill which either calls for the removal of these words from the legislation or which provides a similar fix. Governor Nixon pointed out though he saw this bill as a "scaled back" counterpart to HB 253, a bill which he actively campaigned against in 2013, he still could not support it; a move made

[192] Alan Greenblatt, "Rex Sinquefield: The Tyrannosaurus Rex of State Politics;: David Lieb, "Missouri GOP legislators hope to enact income tax cuts similar to Kansas."
[193] Office of Missouri Governor Jay Nixon, "Gov. Nixon Issues Statement on Senate Bill 509 Veto Override," *Office of Missouri Governor Jay Nixon*, May 6 2014.
[194] Marshall Griffin and Jo Mannies, "Missouri House Joins Senate To Override Veto of Tax-Cut Bill."
[195] Missouri Senate, "SB 509."

more predictable when at the end of the 2013 session Governor Nixon refused Rep. T.J. Berry's offer to fix the language of HB 253 to prevent problems the Governor and Attorney General said could occur based on wording.[196] Berry at the time stated that an agreement should be doable if the Governor is not against the tax cuts in general as the problematic wording could be fixed quickly in a special session, wording which the Governor and Attorney General Chris Koster said could allow for issues such as retroactive refunds.[197] Senator Kraus (the bill's sponsor) had met with the Governor, attempting to negotiate a means by which he would sign the bill, and offered substitutes that met the Governor's conditions of fully funding the education formula and which would "overhaul Missouri's system of tax credits." Unfortunately for the Governor these substitutions were not taken up by the Senate, and instead Senator Kraus added the delay saying that he is committed to fully funding the formula as the Governor had requested.[198]

Though the legislature was ultimately able to override Governor Nixon's veto in 2014 they did so by only one vote; the power to force such a vote in the first place carries incredible weight. If Missouri had a governor like Brownback perhaps HB 253 or a bill even closer to Kansas' tax cuts would have succeeded, but with a hostile governor Missouri Republicans have been forced to negotiate in order to get either reluctant support from the governor or enough support in the legislature to secure a veto-overriding

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[196] Office of Missouri Governor Jay Nixon, "Gov. Nixon Issues Statement on Senate Bill 509 Veto Override;" Tony Messenger, "Editorial: Jay Nixon Beats Rex Sinquefield; Missouri Wins," *St. Louis Post-Dispatch*, Sep. 11 2013; Ashley Jost, "Berry Suggests a Special Session for HB 253 following Koster's Letter about a Retroactivity Trigger," *The Missouri Times*, Aug 29 2013.

[197] Ashley Jost, "Berry Suggests a Special Session for HB 253."

[198] Marshall Griffin and Jo Mannies, "Missouri House Joins Senate To Override Veto of Tax-Cut Bill."

coalition. Governor Nixon thus has a profound effect on shaping the legislation even if he himself has not directly acted, via the law of anticipated reactions.[199]

Democratic Legislators: Unlike in Kansas, in Missouri there are enough Democrats in the legislature to make a sizable coalition of power. With about a third of the legislature they lack the power to unilaterally make policy, but they are plenty capable of blocking legislation; especially when joined the Governor and when some Republicans split from their party in the legislature. The fact that overturning the Governor's veto required both 100% support from Republicans and Representative English splitting from the Democrats shows that the Democrats have a significant amount of power in the legislature, at least when they are compared to their counterparts in Kansas.

The Democrats' were very against the tax cuts for the same reasons that were put forth by the Governor and the more liberal think tanks. After SB 509 passed a group of Democrats that included the minority leader released a statement saying: "Today will forever be remembered as the day public education died in Missouri."[200] Representative Jon Carpenter questioned the good that might be caused by this tax cut, suggesting that the 0.5% tax cut will not attract anyone to the state.[201] Earlier in the session he argued for an amendment on an alternative tax bill in the House from T.J. Berry that would have reduced the tax rate for those below 30,000, raised it for those above 300,000 and kept incomes between at the current rates; an amendment that was deemed out of order.[202] Notably, Carpenter is the representative who had pointed out the year before that HB 253

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[199] Joan Butler Ford and Morris Zelditch Jr., "A Test of the Law of Anticipated Reactions," *Social Psychology Quarterly* 51 (1988): 164.
[200] Jessica Quick, "What they're Saying: Reaction to SB 509 Veto Override."
[201] Marshall Griffin and Jo Mannies, "Missouri House Joins Senate To Override Veto of Tax-Cut Bill."
[202] Marshall Griffin, "Missouri House Endorses Tax Cut Bills," *St. Louis Public Radio*, Fed. 19 2014.

lacked a trigger for the business tax cuts in spite of having one for the tax cuts more likely to effect the middle class; a point which might have contributed to its downfall after the sponsor T.J. Berry said he realized Carpenter was right.[203] Representative Jeff Roorda, who had initially expressed a desire for the bill to succeed sustained the Governor's veto out of fear of the "fatal flaw" that the Governor spoke of regarding the wording of the top bracket elimination.[204] These different problems regarding the bill guaranteed the Democrats were nearly as uniform in their opposition to the bill as the Republicans were in their support for it.

Missouri Budget Project: A Missouri-specific counterpart to the Kansas Center for Economic Growth, this agency is also a left-leaning economic research organization that is part of the State Priorities Partnership network which fights "for a just and equitable America."[205] The Budget Project has released several publications and press releases against Missouri's tax plans and has stated that it is against broad based tax cuts.[206] Condemning the House Ways and Means committee (which is chaired by Rep. Koenig, SB 509's House handler) for rushing consideration of SB 509 the Budget Project's director Amy Blouin identified the bill as "a nearly $800 million tax scheme" that "disproportionately benefit[s] the wealthiest Missourians."[207] The Budget Project notably has higher expected costs than was put forth by official state fiscal notes, and this comes from analysis of different base years (2013 for MPB vs 2012) and use of IRS business income data "as compared to the data sources relied on in the fiscal note."[208] Just as their

[203] Tony Messenger, "Editorial: Jay Nixon Beats Rex Sinquefield."
[204] Virginia Young, "Mo. House Passes Bill Cutting Income Tax and Raising Sales Tax."
[205] State Priorities Partnership, "About."
[206] Collin Reischman, "Association Profile: Missouri Budget Project," *The Missouri Times*, March 11 2013.
[207] Amy Blouin, "House Ways & Means Committee Irresponsibly Rushes $799 Million Tax Cut," *Missouri Budget Project*, April 10 2014.
[208] Amy Blouin, "Senate-Approved Tax Scheme Would Cost Nearly $800 Million.

Kansas counterpart urged against following Texas and Florida, so too does the Project advise against following Kansas on this issue stating that "legislators should invest in schools, infrastructure and other services that strengthen Missouri's economic competitiveness."[209] According to their analyses the bill (once fully implemented) would make Missouri fall "$2 billion short of the revenue needed to fund services at FY2014 levels and fully fund the education formula."[210] The Budget Project has pointed out that because of the way the bill works, "the trigger fails to account for already depleted services" and as such "recession era cuts will become Missouri's new normal;" a prospect that they believe is very problematic.[211] The organization's focus on services puts them at direct odds with any form of tax cuts, but does not inherently place them at odds with a consumption-centered mentality. Currently they are advocating for the "Streamlined Sales Tax" which is intended to capture online sales and use taxes in a manner more comparable to traditional storefronts.[212] Based on the organization's general focus on revenue and opposition to broad based tax cuts however it seems unlikely that they would support such a shift to consumption if such was going to be revenue neutral.

CBPP, ITEJ and CTJ: As of yet these organizations have played a very minor role in Missouri. Their research will likely increase if and when Missouri moves forward with their tax cut initiatives to the same rate as done by Kansas. As of now these organizations are pointing to Kansas and describing it as a model to avoid, and simply

[209] Amy Blouin, "House Ways & Means Committee Irresponsibly Rushes $799 Million Tax Cut."
[210] Amy Blouin, "Legislators Should Sustain Tax Vetoes," *Missouri Budget Project*, Sep. 9 2014.
[211] Marshall Griffin and Jo Mannies, "Missouri House Joins Senate To Override Veto of Tax-Cut Bill."
[212] Missouri Budget Project, "Enact the Streamlined Sales Tax to Strengthen State Services & Level the Playing Field for MO Businesses," *Missouri Budget Project*, Jan. 8 2016.

recognizing that Missouri is heading down Kansas' path.[213] In 2013 the CBPP posted an article praising Missouri legislators for not overturning Governor Nixon's veto of HB 253; and in 2014 the organization stated that the cut enacted with SB 509 was similar to Kansas in that it "is big cuts in income tax rates for the highest-income households to be paid for with cuts in funding for schools and other public services key to future economic growth, and often tax increases for low-income families."[214] CTJ and ITEP likewise responded to the proposed cuts from HB 253 saying that perhaps "Missouri could be a state where good information comes between the national anti-tax movement and their legislative agenda;" a perceived conflict that they would argue "good information" has since lost due to SB 509.[215] According to the ITEP, without factoring for SB 509, Missouri currently ranks #30 in terms of unfairness (meaning prior to the bill it was less regressive than the majority of the country).[216] It is questionable if and how much the bill might increase Missouri's ranking in this regard.

Missouri Today

Whereas Kansas has clear policy results that can be examined in depth, the situation in Missouri is one in which only the politics have taken root. If Missouri is going to transition towards consumption SB 509 is indeed just a first step as so many conservative groups have explained. If Missouri is not going to transition then the state will remain as it is, albeit with taxes and a budget that are lower than they otherwise could be. Next January will be the first instance in which the tax cut might be able to

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[213] Michael Leachman, "Debating Kansas' Tax Cuts," *Center on Budget and Policy Priorities*, Oct. 30 2014.
[214] Ibid; Nicholas Johnson, "Missouri Lawmakers Wisely Push Back Against Plan to Shift, Cut Taxes," *Center on Budget and Policy Priorities*, Sep. 12 2013.
[215] Kelly Davis, "Missouri's Kansas-Envy is Self-Destructive," *Citizens for Tax Justice*, May 1 2013.
[216] Institute on Taxation and Economic Policy, "Who Pays."

take effect, a possibility which may see a drop in the $9,000+ bracket from 6% to 5.9% and an exemption of 5% of one's business income; and regardless of any triggers, next January is guaranteed to provide the additional $500 deduction for low income individuals.[217] These changes, as expressed by the Tax Foundation, are likely to be quite minor. If the cut triggers every single year it will be 2021 when the full effect of the new law is fully realized; with any changes in the meantime serving as a mere preview of what is to come.

Currently Missouri's sales taxes sit at 4.225% (with a reduced rate of 1.225% for all food that can be purchased with food stamps) and local districts are allowed to raise their own sales and use taxes.[218] The state's excise taxes on gas and tobacco are among the lowest in the country.[219] Before SB 509 comes into effect it is likely that Missouri's consumption taxes will increase to some extent. The Senate is currently circulating a bill that would allow the tax on gas to increase to 22.9 cents beginning in January. Meanwhile the House has _____ bills in circulation that effect consumption taxes in some way or another.[220] ____ of these bills provide permission for the creation of new taxing districts.[221] In 2014 Missouri already has the second highest number of taxing districts with 1242 different districts (for comparison: at the time Texas had the most at 1515, Iowa had the third most at 994, 24 states had 100 or less and the entirety of the nation only had 9998).[222] The expansion of the number of these districts, especially

[217] Missouri Senate, "SB 509."
[218] Missouri Department of Revenue, "Sales/Use Tax," *Missouri Department of Revenue*, 2016.
[219] Associated Press, "Gas tax increase wins initial approval in Missouri Senate," *Associated Press*, March 30 2016; Scott Drenkard and Joseph Henchman, "Cigarette Taxes and Cigarette Smuggling by State, 2013.
[220] ______
[221] Ibid.
[222] Joseph Henchman and Richard Borean, "State Sales Tax Jurisdictions Approach 10,000," *The Tax Foundation*, March 24 2014.

where they overlap, results in increased taxes that are difficult for citizens to identify and hold accountable; and in spite of these districts' consumption-based taxing they are actually opposed by the Pro-Consumption Tax Foundation and Show-Me Institute.[223] Among the districts that Missouri allows to have taxing power are Community Improvement Districts (CIDs) and Transportation Development Districts (TDDs) of which there are over 200 just in the St. Louis region[224] As production taxation decreases it is reasonable to assume that these districts will grow even more, being used to make up lost state revenues at a more local level. Missouri may also choose to make up for state revenues by increasing excise taxes, raising the overall sales tax rate, blocking and removing legislation regarding sales tax holidays, and broadening the base to include services, internet sales and/or reducing exemptions for things such as food. Whether consumption taxes are raised at the local or state level it is currently very unlikely that these taxes will go without increasing in some way or another.

The coming election will be pivotal for the state. Missouri's governor race in particular has an immense potential to swing Missouri in the direction of Kansas. If Chris Koster wins and the two houses maintain their partisan composition the state is likely to keep the status quo, with Koster being the most likely to take similar positions to Governor Nixon. If however a Republican wins the gubernatorial race then one can expect a more consumption-friendly atmosphere (if for no other reason than vetoes becoming less likely). Due to how partisan the issue of consumption and production taxation is becoming it seems very likely that the partisan direction Missouri moves will directly determine whether Missouri accepts or rejects the further embrace of

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[223] Ibid; Show-Me Institute, "20 for 2020 An Agenda for Missouri," *Show-Me Institute*.
[224] Show-Me Institute, "20 for 2020 An Agenda for Missouri."

consumption over production. If Republicans can maintain the status quo or gain seats it is very likely that Missouri will continue on its current trajectory and adopt more policies like Kansas and Texas.

The issue driving this partisanship is something that needs to be considered not just here in Missouri but everywhere where this change is occurring. As stated previously the movement to bring about consumption taxation has in many ways been married to the movement of lowering taxes overall, and it is the conservative coalition which has taken up these movements. The work of William McBride, and the economic ideas behind it, explain the rationale for this marriage somewhat. As McBride's work explained property taxes and consumption taxes are *less* damaging but they are still damaging, accordingly McBride's primary argument is that all taxes cause economic distortions and reducing them all is the main priority; not simply switching types.[225] Given the differing ideas it is a possibility that the marriage of these movements will be problematic for one cause or the other. In particular I theorize that it is possible that the anti-tax movement will overshadow the consumption movement so much that the consumption tax may intentionally be designed with its regressive features intact. In Kansas, where food is taxed at the full [and now increased] sales tax rate (averaging $676 in taxes per year), Republican legislator Marvin Kleeb has stated that he is committed to lowering this tax and pointing out that this is a "nice, positive thing to vote on."[226] By replacing a tax with one that is more regressive, you create a new block of voters who are angry at the tax and thus a block of voters who are more likely to want to see taxes cut. It is very possible that Rep. Kleeb or another Kansan legislator will bring up such a

[225] William McBride, "What is the Evidence on Taxes and Growth."
[226] Dave Helling, "Analysis: Kansas workers with low to moderate incomes will feel the greatest pain."

measure and see success among the same individuals who helped raise the tax, and that the legislature will now enjoy a greater stream of popular will backing their decision to make this tax cut.[227] Such a tax cut, due to its regressive nature, is likely to have popular will backing it even where budget restraints might otherwise encourage it to remain (thus encouraging immediate cuts without the necessity of reestablishing funds). Political Science professor Richard Skinner believes that "all the Republican candidates will offer some sort of major tax cut," and what better cut is there than one that enjoys popular support? I believe my theory is supported by Drenkard's address of the Kansas legislature in which he calls out those legislators who see the pass-through exemption (an aspect which greatly furthers regressivity) as a step in getting rid of the income tax completely, and stating that it is a far better option to simply lower all rates (the broad-based option).[228] Put simply my theory in this regard is that regressivity may be being used by some in order to broaden the anti-tax coalition and that consumption taxes may be the means by which they achieve their goal rather than the goal itself.

Those in Missouri who are committed to genuine tax reform need not split from their current conservative coalition at the present time, but the policy priorities must shift if Missouri is to avoid the pitfalls experienced in Kansas. The recommendations of those dedicated to tax reform (the Tax Foundation throughout the Kansas experience and the Show-Me Institute here in Missouri) must be given more heed than those dedicated simply to broad anti-tax principles (such as Norquist). Giving primacy to the anti-tax voices will hurt the movement overall, as it guarantees that this movement gets bound up

[227] Ibid; Associated Press, "Kansas Senate declines to discuss phasing out food sales tax," *News-Press & Gazette Company*, March 23 2016.
[228] Scott Drenkard, "Kansas' Pass-through Carve-out: A National Perspective."

in the success of conservative coalitions even though these coalitions are themselves not bound up in the success of tax reform. If reforms are to be truly meaningful, the debate being framed must become focused on consumption vs production not less vs more.

Conclusion

The Kansas situation has provided a model for the potential future of Missouri. By passing SB 509 Missouri has shown that it is much further along the path than Nebraska, but Missouri is still near the beginning of the road to consumption and may stop in its tracks or even turn around. Political winds could stir the state in a liberal direction, the state might behave like Oklahoma and more strongly resist tax reform than Kansas; and perhaps Kansas' failures with the policy will cause lawmakers to balk at pursuing it for fear of ending up in the same situation. Those committed to tax reform assure Missouri that this path leads to a glorious end but the road itself is treacherous and it remains to be seen how strongly the state will be committed to moving towards this end. If Missouri is going to follow in Kansas' footsteps it needs to be careful to avoid the same problems, and having positives that become obscured by overwhelming negatives.

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