

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATIONThe meeting was called to order by SENATOR PAUL "BUD" BURKE at  
Chairperson11:00 a.m. ~~p.m.~~ on March 1, 1984 in room 526-S of the Capitol.All members were present ~~except~~Committee staff present: Wayne Morris, Research Dept.  
Tom Severn, Research Dept.  
Don Hayward, Revisor's Office

## Conferees appearing before the committee:

Bill Edds, Department of Revenue  
Ron Gaches, Kansas Chamber of Commerce and Industry  
Marian Warriner, League of Women Voters  
Harley Duncan, Secretary of Revenue

The chairman called on Bill Edds, Revenue Dept., who outlined for the committee the changes and amendments recommended in SB 798 which amends the Kansas income tax act. (Attachments #1 and #2)

The committee held a hearing on SB 799 which would make changes in the tax rates for income over \$10,000 and provide for indexing of the income tax brackets.

Senator Angell presented a chart showing the 1985 federal tax rates with and without the federal income tax deduction limitation imposed by the 1983 SB 436 (federal rates indexed one year at 5%). He called attention to the broad line which shows what would happen in 1983 if the federal income tax deduction had not been passed and said he was trying to cut off that "spike". (Attachments #3 and #4)

The chairman recognized Ron Gaches, KCCI, who told the committee that they would like to endorse the portion of the bill that would index the individual income tax rates beginning with July 15, 1984. KCCI supports this type of action being adopted by the Kansas legislature and would urge reporting the bill favorably. He said they have no policy to address the solution of "spiking" rates as shown by Senator Angell. He believes the intent was to have a progressive income tax and thinks changing the brackets can address that problem.

The chairman recognized Marian Warriner, who said the League of Women Voters endorses the progressive features of this bill but had some questions to be answered before taking a position on SB 799. (Attachment #5)

The chairman recognized Harley Duncan, Secretary of Revenue, who said he was opposing the bill because it is the position of the Department that it is premature to act to repeal or modify the effects of SB 436 at this time. He said the reason SB 436 was enacted is because of the financial turmoil experienced last year; and it is too early to say that has passed, and it is uncertain where it will end up this year. 1985 is even more uncertain because of the deficit. It makes it necessary for him to support SB 436 in place for the two years scheduled, and then review to make desirable and necessary changes. The "spike" you are looking at is not what you could call the effective marginal rate and should not be confused with the effective tax rate. This is the total adjusted income and the effective tax rate does not contain a "spike". It was possible under prior law for the effective tax rate to climb and then flatten out and it could develop a hump.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,  
room 526-S, Statehouse, at 11:00 a.m. ~~p.m.~~ on March 1, 1984

The chairman commented that SB 799 is an attempt by the members of this committee to sunset SB 436. He asked the Secretary how much SB 436 would generate, and he estimated about \$40 to \$45 million in 1985.

The chairman asked if it is no greater problem to deal with next year than now. He said you have substantial input into decisions the Governor makes in the budget. He would feel better if he knew the Governor's budget was going to include a plan to deal with the loss of revenue.

The Secretary said this was not a matter the Governor thinks should be addressed this year but next year. Perhaps we could extend it or alter the tax tables to provide a higher rate of tax at the top of the schedule. The chairman asked Mr. Duncan how he would answer his constituents who express concern about when the tax is going to be ended. He said he didn't think they are going to buy the language that we are going to have to wait until next year.

Mr. Duncan said he would say that SB 436 was a necessary change and that of itself it is a defensible move and there is no way of replacing the tax loss.

Senator Angell said one alternative would be to put an 8% charge on taxes and let all the people carry the burden, but he didn't hear that proposal made because it probably couldn't pass. He asked if the Secretary would support taking SB 799 out and rolling the federal deduction back and take out \$20 million each year--one-half this year and one-half next year. The Secretary said he could not support that because as explained earlier, he believes it is premature to act at this time, and he doesn't think SB 436 is an undesirable change.

Senator Angell said he had heard from taxpayers who were paying income taxes 60 to 80 percent higher than before SB 436 on incomes ranging from \$35,000 to \$50,000.

The committee considered SB 813 which provides for "use value" appraisal as a determining factor in valuing agricultural land for property tax purposes.

Senator Kerr stated he would like to replace what the House struck in the reappraisal bill, and that there needs to be some flexibility in the time that this information comes together.

Senator Kerr made a conceptual motion to amend SB 813 so that in the event reappraisal occurs before a classification amendment has been passed, then "use value" would be used; and if reappraisal occurs with classification of property, "use value" would be optional. Senator Montgomery seconded the motion and the motion passed.

Senator Kerr made a conceptual motion to change the capitalization of agricultural land under "use value" appraisal to the rate as originally proposed in SB 275. Senator Allen seconded the motion. The motion failed to pass.

Senator Angell moved and Senator Ehrlich seconded a motion to report SB 813 as amended favorable for passage. The motion carried.

The committee considered SB 749.

Senator Mulich moved and Senator Johnston seconded a motion to recommend SB 749 for an interim study. The motion passed.

The chairman adjourned the meeting at 12:00 noon. The committee will meet at 11:00 a.m. on March 2.

ASSESSMENT AND TAXATION

OBSERVERS  
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
MARCH 1	Kelly Jo Connor	Olathe	Sen. Burke
	Mark Bowerman	olathe	Sen Burke
	Ron Gaches	TOPEKA	KCCI
	TJ Wilder	TOPEKA	KLSI
	John Blotke	Manhattan	K.F.B.
	John D. Miller	Topeka	KCSIC
	Roy Freeland	Topeka	Myself
	Frances Kastner	Topeka	Ks Food Dealer
	Pat Hoeber	olathe	myself
	Mike Beaman	Topeka	KLA
	Mike Fisher	"	"
	RON CALBERT	NEWTON	U.T.U
	Marian Staviner	Lawrence	L.A.V.K
	Herley Duncan	Topeka	Revenue
	Bill Elds	Topeka	Revenue
	Steve Stoff's	Topeka	Revenue
	Tom Shundi	Topeka	Revenue
	Harold Pitts	Topeka	
	Don Denny	Topeka	AP
	T.C. Anderson	Topeka	KSCFA
	Janice Marcum	"	Dept of Revenue

M E M O R A N D U M

To: Senate Assessment and  
Taxation Committee

Date: February 29 1984

From: Department of Revenue

Re: Senate Bill 798

Senate Bill 798 makes the following changes in the Kansas Income Tax Act:

1. Amends K.S.A. 79-3221d to allow discretion by the Department of Revenue in the exact wording to appear on the income tax returns providing for designation of refunds for the Nongame Wildlife Improvement Program.

Background: K.S.A. 79-3221d, regarding the nongame wildlife improvement program, allows individuals to donate money to the NGWL program via additions to their tax liability, deductions from refunds due them, or additional contributed dollars. The statute prescribes the exact instruction language to be used on the face of the individual tax return.

The language inappropriately refers to a separate spousal decision on a joint return. If a spouse wishes to make separate decisions on an individual tax return, the spouse would file separately, not jointly. On a joint return, only one liability is established or one refund approved.

Space constraints on the individual income tax return (Form 40) are such that all unnecessary language should be eliminated. The language prescribed by this statute is wordy, and as explained above, needless.

2. Amends K.S.A. 79-3226 to provide for notice by first class mail to individual taxpayers for income tax assessments and other adjustments.

Background: K.S.A. 79-3226, regarding income tax, specifies the requirements on the state in issuing notices of tax assessments or other adjustments. Current law requires the Department to mail such notices utilizing certified or registered mail, a requirement that ostensibly assures the taxpayer's right to timely notification and the department's assurance that such mail is delivered. There are problems with this provision, including:

- (a) A taxpayer is not necessarily timely advised, especially if the postal service has difficulty finding the taxpayer, to secure a signature indicating receipt. First class mail is usually just as quickly delivered.
- (b) In assessment situations some taxpayers with outstanding liabilities may be reluctant or may refuse to accept a letter from the Department of Revenue, in order to avoid payment. Hence, the statutory intent to assure delivery is frustrated.

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(c) In order to process, record and monitor the sending of certified or registered mail, the Department expends several hundred hours on approximately 10,000 pieces of certified or registered mail. Mailing costs average \$2.00 per piece for expenditures totalling more than \$20,000 in Fiscal Year 1983. This process is not proving to be effective in meeting the intent of the Legislature.

3. Amends K.S.A. 79-3228 to include the following language relating to income tax penalties and interest charges:

"If any taxpayer has filed an incorrect or insufficient return, there may be added to the tax an additional amount equal to twenty-five percent (25%) of the unpaid balance of tax due plus interest at the rate per month prescribed by K.S.A. 1982 Supp. 79-2968(a) from the date the tax was due until paid."

Background: K.S.A. 79-3228 provides for penalties and interest charges, and the circumstances under which such charges may be assessed. The statute does not contain a strict negligence penalty. Hence, as an example, a corporate filer may each year file a return that willfully disregards Departmental instructions from prior years' filing experiences. Current law allows only that, after Departmental notification, such incorrect or insufficient returns be corrected within a specified time. No penalty is assessed. The Department proposes that, particularly in the case of a corporate filer who consistently files incorrect or insufficient returns, a penalty be applied to deter the recurrent filing of insufficient returns.

4. Amends K.S.A. 79-3228(b) (at line 71) to make it clear that a taxpayer must file and pay the tax to avoid penalties.

Background: K.S.A. 79-3228(b), regarding income tax penalties and interest, includes language that appears ambiguous as to the obligation of a taxpayer to timely file and pay tax liabilities. Current language implies that a person could avoid penalties and interest by merely filing a timely return, when in fact the tax payment must be made to avoid a penalty situation.

5. Amends 79-3230 to expand the allowable time for action from 90 to 180 days for both taxpayer reporting and state response to federal adjustments.

Background: K.S.A. 79-3230 discusses periods of limitation, extension agreements and notices of agreements with the internal revenue service. Currently, taxpayers must report federal adjustments to the state within 90 days, and the state must act within 90 days of receipt of such reports. The 90 day time requirement makes it difficult for the Department to timely receive,

adjustments. In some instances, the Federal report may not be received for up to nine months, making a timely state response impossible.

6. Amends 79-3230(e) to key state extension of period of time for assessment of taxes to agreements between the taxpayer and the internal revenue service.

Background: K.S.A. 79-3230(e) specifies the arrangements by which the taxpayer and the Department can agree to extensions of time for assessment action or refund claim filing. Current practice provides for state recognition of a federally negotiated extension. However, without statutory authorization, this practice could vary from one administration to the next, thereby creating inconsistency and taxpayer confusion.

7. Amends K.S.A. 79-3274 to include the following language relating to limitations on allocable nonbusiness income:

"Allocable nonbusiness income shall be limited to the total nonbusiness income received which is in excess of any related expenses which have been allowed as a deduction during the income year."

Background: This statute, in its discussion of nonbusiness income, fails to clarify the extent to which business expenses relate to nonbusiness earnings. The Department's current practice is to identify and take into account wherever possible such relationships. The Department wishes to establish statutory authority to continue this practice.

8. Amends K.S.A. 79-32,107 relating to clarification of persons who may be penalized for noncompliance with the withholding and estimated payment provisions of the income tax act, by substituting "taxpayer" for "individual" (at line 238).

Background: K.S.A. 79-32,107 discusses employers' and fiduciaries' penalties for noncompliance with the withholding and estimated payment provisions of the income tax act. Described therein is the provision authorizing the Director of Taxation to collect amounts due for under-payment of withholding by employers or estimated taxes by individuals. By specifying individuals, it is unclear as to whether or not the director may collect from an entity (e.g. corporation, trust).

9. Amends K.S.A. 79-32,109(c) to establish that the residency of an estate or trust is determined solely by the residency of the decedent at the time of death, regardless of where administered.

Background: K.S.A. 79-32,109(c) defines a "resident estate" as an "estate of a deceased person whose domicile was in this state at the



time of his or her death, which is administered in this state" (emphasis added). This language allows income from Kansas sources to escape Kansas taxation solely because such income accrues to an estate administered outside of Kansas. This problem most frequently arises in border counties, especially the Kansas City area.

10. Amends K.S.A. 79-32,139 to provide that corporations required to file tax returns in Kansas make the same election as to subchapter S election filing status with Kansas as they do with the internal revenue service.

Background: K.S.A. 79-32,139 discusses the requirement of Kansas corporations, having elected to file with the internal revenue service as a subchapter S corporation, to file similarly in Kansas. Corporations with non-resident shareholders doing business in Kansas have an option to choose either corporate filing status or subchapter S filing status. Such corporations obviously will elect whichever option affords them the most advantageous tax position, thereby giving such corporations a decided tax advantage over comparable Kansas corporations. The Department wishes to establish a policy providing that any corporation doing business in Kansas, and filing under subchapter S with the internal revenue service, must file similarly in Kansas, regardless of the residence of the shareholders.

Suggested Amendment  
to S.B. 798

On page 2, in line 80, after "return" by inserting "due to negligence or intentional disregard of the provisions of the act of which this act is amendatory or rules and regulations promulgated thereunder, but without intent to defraud"

*Attch. 2  
(3/1/84)*



KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Attachment #3

Room 545-N - Statehouse

Phone 296-3181

Date February 20, 1984

TO: SENATOR CHARLIE ANGELL Office No. 355-E  
RE: MARGINAL TAX RATES BEFORE AND AFTER 1983  
SENATE BILL NO. 436

This memorandum is in response to your request for an analysis of the marginal tax rates in Kansas, taking into account the effect of the federal income tax deduction as amended by 1983 S.B. 436.

Presented below are adjusted gross income, federal taxable income, federal income tax, Kansas taxable income, Kansas income tax, and the increase in the Kansas tax, for example taxpayers, with adjusted gross incomes from \$1,000 to \$60,000 at adjusted gross income intervals of \$1,000.

Assumptions

All data are for the 1983 tax year. Kansas adjusted gross income (AGI) was assumed to equal federal AGI. The example taxpayers were assumed to be unmarried filing a single return, claiming one exemption, and were assumed not to use itemized deductions on either the federal or Kansas return. Tax tables were used where applicable. This distorted the additional tax for the income bracket immediately above \$20,000.

The additional Kansas tax, shown in the last column, is based on an additional \$1,000 of AGI and reflects the deductibility of federal tax; thus it will not compare with the statutory tax tables which are based on Kansas taxable income. The last column can be converted to an effective marginal rate by moving the decimal point one digit to the left. For example, at an AGI level of \$22,000, each additional \$1,000 adds \$54 to the Kansas income tax, an effective marginal rate of 5.4 percent. Similarly, at an AGI level of \$36,000, each \$1,000 adds \$90 of tax, an effective marginal rate of 9.0 percent.

The effective marginal rates are presented graphically in Figure 1. Figure 1 shows that the effective marginal rate increases up to an AGI level of \$35,000 but decreases thereafter from 9 percent to 6.75 percent. Also shown on Figure 1 are the effective marginal rates which would have applied without 1983 S.B. 436 which limited the deductibility of federal income tax. Without S.B. 436, the effective marginal rates begin to decline at an AGI level of approximately \$19,000. The table upon which these rates are based is available in the Kansas Legislative Research Department.

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I hope this information is useful to you. If you have further questions please contact me.

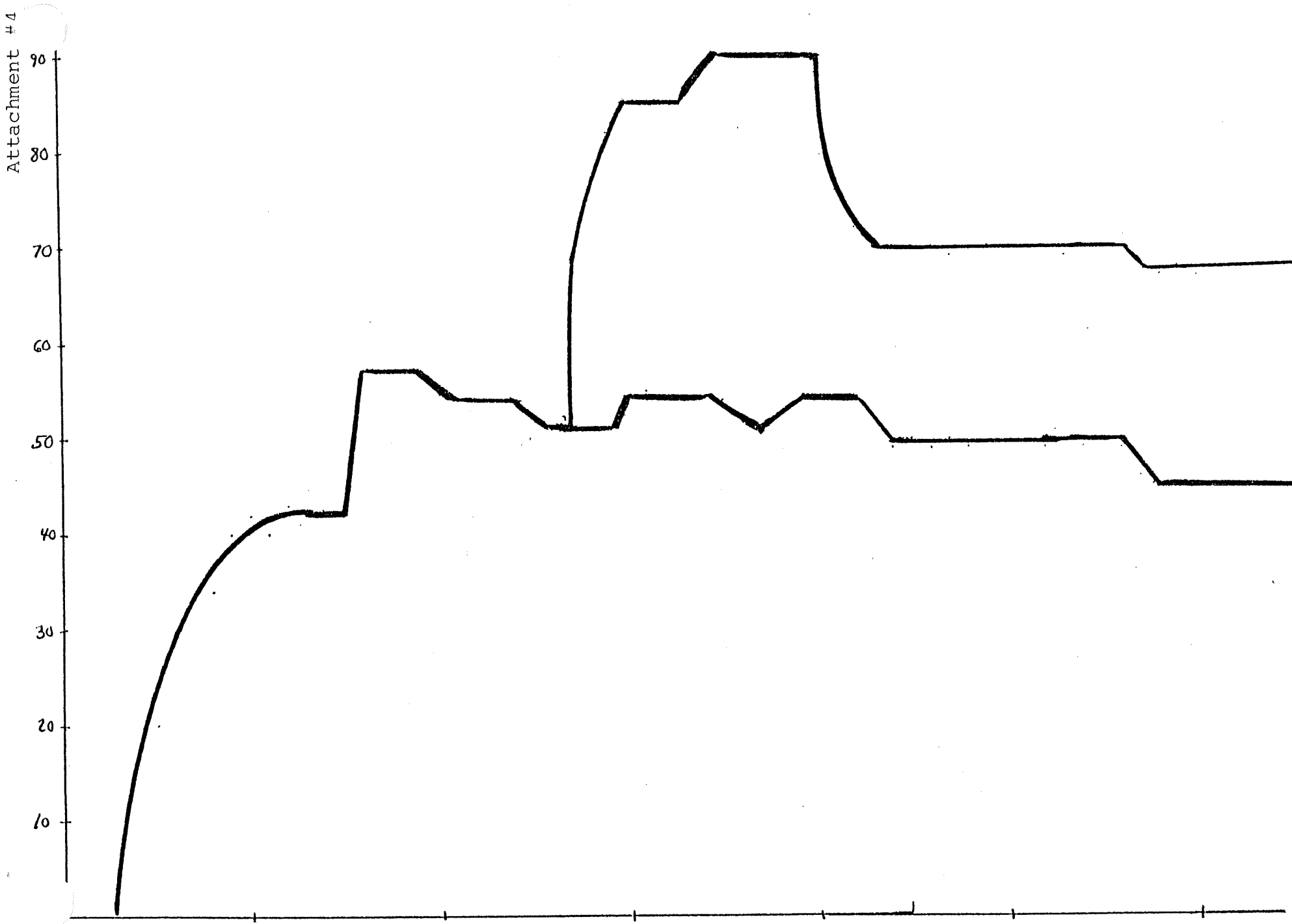
A handwritten signature in cursive script that reads "Thomas A. Severn".

Thomas A Severn  
Principal Analyst

TAS/aem

Enclosures

Figure 1



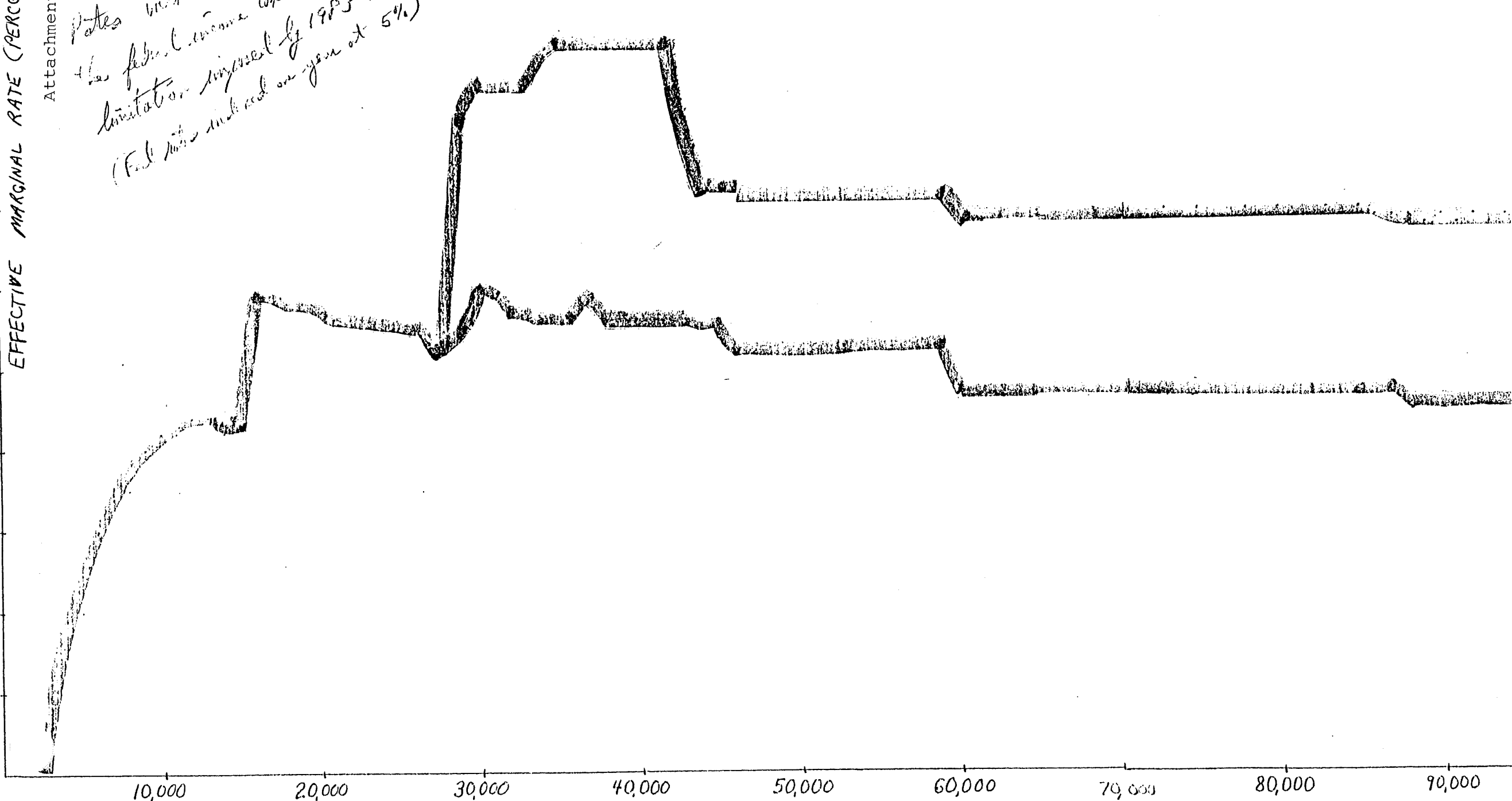
Atch. # (31.184)



Attachment #4

1985 Federal Tax Rates without the federal income tax limitation imposed by 1983 S.B. 436 (Full rate included on year at 54%)

EFFECTIVE MARGINAL RATE (PERCENT)



ADJUSTED GROSS INCOME

Attachment

# LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

March 1, 1984

## STATEMENT TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE CONCERNING SB 799

Mr. Chairman and Members of the Committee:

I am Marian Warriner speaking for the League of Women Voters of Kansas. Before we take a position on SB 799, we need time to analyze information which we hope is now or soon will be available.

1. The breakout of income, deductions and taxes for a typical taxpayer at several levels.
2. The estimates of level of revenue from individual income taxes over the next several years if this is passed.

Also with respect to the indexing of brackets we ask:

1. What will be the pattern of growth in individual income tax revenue in the next several years?
2. Is it wise to index our brackets at the same time that the federal income tax will be indexed?

These questions reflect our concern with (1) the progressivity of our tax system, and (2) with sustaining adequate state revenue.

This is information that I am sure you also want and I look forward to studying it when it becomes available.

Thank you.



Marian Warriner  
LWVK Lobbyist

*Atch. 5*  
*3/1/84*