

Approved On: _____

2/20/87

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on February 19, 1987 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Adam, Wagnon, Grotewiel, Fox

Committee staff present:

Tom Severn, Legislative Research
Chris Courtright, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

Mr. Mark Burghart, Kansas Department of Revenue, discussed HB-2208, 2209, 2210, 2211, 2212 and 2213, all technical bills requested by the Department. (Attachment 1)

Mr. T. C. Anderson of the Society of Certified Public Accountants appeared and requested the committee stipulate that the Department be required to use statistically valid methods of sampling for HB-2209. (Attachment 2)

Mr. James Turner with the Kansas League of Savings and Loans requested the committee ammend HB-2208 and lower the privelege tax rate on Savings & Loans. (Attachment 3)

Azzie Young appeared on behalf of the Department of Health and Environment and supported HB-2213. (Attachment 4)

The minutes of the previous meeting were approved.

There being no further business, the meeting was adjourned.


E. C. Rolfs, Chairman



KANSAS DEPARTMENT OF REVENUE
Office of the Secretary
Robert B. Docking State Office Building
Topeka, Kansas 66612-1588

TO: The Honorable Ed. C. Rolfs, Chairman
House Committee on Taxation

FROM: Harley T. Duncan
Secretary of Revenue

RE: House Bill 2208

DATE: February 19, 1987

Thank you for the opportunity to appear before you today on House Bill 2208 which would clarify the return filing method for financial institutions under the privilege tax.

Explanation

Changes made to K.S.A. 79-1110 in 1981 have made it necessary to make corresponding changes to clarify K.S.A. 79-1107 and K.S.A. 79-1108. In 1981 K.S.A. 79-1110 was amended to change the due date of the privilege tax return from April 15th to "on or before the 15th day of the fourth month following the close of its federal taxable year..." This means that a privilege tax return and the payment of taxes is due three and a half months after the end of a federal taxable year. This gives rise to the current problem. K.S.A. 79-1107 and 79-1108 currently provide for the income of the fiscal or calendar year which immediately precedes the federal taxable year-end to be used as the basis for computing the tax due. Fiscal or calendar years are 12 month periods. This means that if a taxpayer has two, short taxable years within a one-year period, the tax is computed twice in a one-year period based upon the income for two annual periods. Literally read, this causes the statute to use the same net income more than once to measure the privilege tax for these two short periods. In addition, the existence of two, short taxable years within a one year period means that payment of tax may occur more than "annually" as provided in K.S.A. 79-1107 and 79-1108.

In House Bill 2208 K.S.A. 79-1107 and K.S.A. 79-1108 are changed in an identical manner. The tax is to be measured by the net income for the next preceding taxable year as opposed to the "next preceding calendar or fiscal year". In this way the return due three and a half months after the end of the taxable year will include only the net income from the corresponding, preceding taxable year and not the income from the preceding 12 months.

Given the changes proposed in House Bill 2208, K.S.A. 79-1108(a) is unnecessary. The income tax statutes already require that a taxpayer's taxable year shall be the same as the federal taxable year. It is not necessary for the taxpayer to make an election under this statute.

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The other change in House Bill 2208 at Section 3 addresses the question of whether the legislature wants to include federally exempt interest in the measure of the privilege tax. Interest on Puerto Rican bonds are an example of the income which is never included in federal taxable income and which is not deducted in arriving at taxable income. K.S.A. 79-1109 currently provides for the taxation of interest of the U.S. or its possessions "to the extent deducted in arriving Kansas taxable income..." Because the Puerto Rican interest is not deducted in arriving at federal taxable income or Kansas taxable income, it can not be included in the measure of the privilege tax. It has not been deducted in arriving at Kansas taxable income. If the legislature intends to include this kind of exempt interest in the measurement of privilege tax, the phrase "deducted in arriving at" should be replaced by "not included in". This would cover the situation where federally exempt interest is never included in federal taxable income in the first place.



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State Office Building · Topeka, Kansas 66612-1588

TO: The Honorable Edward C. Rolfs, Chairman
House Committee on Taxation

FROM: Harley T. Duncan
Secretary of Revenue

RE: House Bill 2209

DATE: February 19, 1987

Thank you for the opportunity to appear before you on House Bill 2209. The Department encourages enactment of this bill.

The sampling language addition that we propose in K.S.A. 79-3610 will not change the way the Department audits. We currently use and will continue to use sampling. Occasionally a taxpayer's business activity is so extensive (several thousands of transactions each month) that it is impractical to examine all the records. Under these circumstances we look at a reasonable number of the taxpayer's records to determine an error rate. We then make the statistical assumption that the same amount of errors occurred with all transactions during the audit period. The majority of large companies prefer that sales and use tax audits be based on sampling. An audit is disruptive to their business and they want to keep it as short as possible. Sometimes it takes an auditor several weeks to examine one month of transactions.

This sampling language addition is to protect the Department from the small number of taxpayers who will protest our audits based solely upon the fact that not all records were examined. In the past, the Department has been put in the position of either having an auditor spend months examining additional records, or abating most of the audit. We do not believe that taxpayers should have the opportunity to avoid an audit just because they know that the Department does not have the manpower or funds to conduct a complete audit of all their records.

If sampling is used and the taxpayer does not agree with our finding, the taxpayer can always conduct his own audit based upon a documented sampling method, to show different results. Certainly, the Department will work with the taxpayer to determine if our sample is not representative of the whole. Lastly, the taxpayer does retain the right to appeal our audit.

The use of statistical sampling is permitted under generally accepted auditing standards. Over the years, the accounting profession has shown that sampling can give highly reliable results within a given precision range. The accounting profession uses sampling methods on many

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The Honorable Edward C. Rolfs, Chairman
House Committee on Taxation
February 19, 1987

of their audit engagements.

Many states, such as Missouri, have adopted similar sampling language in their sales and use tax laws and regulations. As businesses grow, so does the need for audit sampling.

Thank you for the opportunity to appear on this matter. Again, we encourage your passage of this bill. I will be glad to answer any questions.

TJS:amd



KANSAS DEPARTMENT OF REVENUE
Office of the Secretary
Robert B. Docking State Office Building
Topeka, Kansas 66612-1588

MEMORANDUM

TO: The Honorable Edward C. Rolfs, Chairman
House Committee on Taxation

FROM: Harley T. Duncan, Secretary
Kansas Department of Revenue

RE: House Bill 2211

DATE: February 18, 1987

House Bill No. 2211 would amend certain sections of the income tax act and the withholding tax act by providing that all references to the federal internal revenue code shall mean the federal internal revenue code of 1986, as amended.

The Tax Reform Act of 1986 specified that the internal revenue code of 1954 was amended and reenacted as the internal revenue code of 1986. The amendments proposed by this Bill would be necessary to maintain ongoing conformity with the federal income tax code and would eliminate confusion in determining the code to which Kansas law conforms.

The failure to enact House Bill No. 2211 or a Bill with similar provisions would result in the Kansas income tax act being tied to federal law that is no longer in force and could threaten the legitimacy of our entire individual and corporate income tax system.

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MEMORANDUM

To: The Honorable Edward C. Rolfs, Chairman
House Committee on Taxation

From: Harley T. Duncan, Secretary
Kansas Department of Revenue

Re: House Bill 2212

Date: February 19, 1987

Thank you for the opportunity to appear before you on House Bill 2212. The Department of Revenue requested that the bill be introduced to correct an apparent oversight in legislation enacted in 1986 to ease the criteria for qualifying for enhanced enterprise zone benefits.

The sales tax exemption for projects within enterprise zones provided by K.S.A. 1986 Supp. 79-3606(ee) is contingent upon a taxpayer qualifying for the income tax credit under the Job Expansion and Investment Credit Act of 1976, K.S.A. 1986 Supp. 79-32,153 et seq. 1986 H.B. 3121 made a number of changes to the statutes governing the income tax credit in order to make the credit more available to taxpayers and to make the provisions less difficult to administer by the Department of Revenue. The 1986 legislation focused on "investment" made by a taxpayer in a qualified business facility rather than be concerned with whether a taxpayer had constructed, acquired or leased a new business facility, an expansion or a replacement facility. Because of the difficulty in applying certain of the statutory provisions to specific fact situations, some taxpayers were denied the credit even though they fell within the general intent of the law. For example, retooling operations would qualify under the 1986 legislation but did not under the prior law.

When proposing the 1986 legislation it was always the Department's intent to allow the sales tax exemption for the same "expenditures" which qualified for the income tax credit. Unfortunately, by oversight certain language was included in K.S.A. 1986 Supp. 79-3606(ee) to restrict the exemption for machinery and equipment to that which is installed in conjunction with the original establishment of a facility. H.B. 2212 eliminates this restrictive language. Under the bill, retooling operations would qualify for the sales tax exemption, if such project would qualify for the income tax credit under K.S.A. 1986 Supp. 79-32,153.

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**Kansas Society of
Certified Public Accountants**

FOUNDED OCTOBER 17, 1932

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460

HOUSE BILL 2209

HOUSE COMMITTEE ON TAXATION

February 19, 1987

Mr. Chairman, members of the Committee: My name is T.C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants. With me today is Charles Clinkenbeard, CPA, president of the Kansas Society, who will be available to respond to questions you might have.

In general, the Kansas Society supports the concept of HB2209. We believe that the use of statistical sampling techniques can be a cost-effective way of examining large volumes of accounting data for determining sales tax deficiencies and, moreover, that its use will enhance the quality of these examinations.

The objectives of such a program should be to maximize the effectiveness of statistical sampling, to make sure that any resulting adjustments to tax liability are statistically sound, and to provide for fair, equitable treatment of taxpayers by using these statistical techniques.

To this end, the Kansas Society would ask that HB2209 be amended to include two additional provisions.

First, that the Department of Revenue notify the taxpayer in writing when sampling procedures are to be used and that the notification include the design of the sample,

its population and other data necessary to permit the taxpayer to determine if the procedure was proper and equitable.

This is important inasmuch as the design of the sample may not have considered adequately the effects of seasonal fluctuation in the taxpayer's business, a change in lines of business or merchandise, the opening or closing of new stores or locations. The sample may just not be representative or the sample may not have been large enough to ensure reliable results.

Past sampling methodology typically used by the Department has involved the selection of some very small portion of the total sales during the audit period for testing, such as two months' sales out of 48 months under audit. Some taxpayers have been lulled into a false sense of security thinking that, since documentation is being requested for such a small volume of transactions, only a small liability would result due to the low aggregate amount of sales to be documented.

The fallacy of this belief is that the object of the sampling is to compute an average "error rate" from the sample items. This average is then applied to the total of all sales throughout the audit period as a basis for assessment of additional tax on the taxpayer.

Secondly, we would ask that wordage such as "If the taxpayer demonstrates that any sampling method used by the Department of Revenue was not in accordance with generally recognized sampling techniques, the audit will be dismissed as to that portion of the audit established by projection based upon the sampling method and a new audit may be performed."

This language will protect the taxpayer in the event the Department makes an honest mistake in developing a sampling program for the taxpayer's business.

Thank you, Mr. Chairman, and Mr. Clinkenbeard or I will be happy to stand for questions.

KLSI Kansas
League of
Savings
Institutions

JAMES R. TURNER, President • Suite 512 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

February 19, 1987

TO: HOUSE COMMITTEE ON TAXATION
FROM: JIM TURNER, KANSAS LEAGUE OF SAVINGS INSTITUTIONS
RE: HOUSE BILL NO. 2208

The Kansas League of Savings Institutions appreciates the opportunity to appear before the House Committee on Taxation in support of House Bill No. 2208 and to request an amendment to that section of the statute pertaining to the privilege tax rate applicable to savings and loan associations.

The proposed amendment would create equity between privilege tax rates paid by commercial banks in Kansas and those rates paid by savings and loans. Accordingly, we would request that H.B. 2208 be amended as follows:

On Page 2, line 56, by deleting "4½%" and inserting "4¼%,"

On Page 2, line 59, by deleting "2¼%" and inserting "2-1/8."

These changes would create equity in the tax rates. The most recent data we have received from the Revenue Department for 1985 indicates this change would have resulted in lost revenue to the State of \$6,541.

We would appreciate the committee's earliest consideration of amending H.B. 2208 as proposed.

James R. Turner
President

JRT:bw

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON H.B. 2213

PRESENTED TO: House Committee on Taxation

February 19, 1987

This is the official position taken by the Kansas Department of Health and Environment on H.B. 2213.

BACKGROUND INFORMATION:

This bill amends K.S.A. 1986 Supp. 79-3606 which relates to sales taxation. Section (gg) requires that on and after October 1, 1987, all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children (WIC) are exempt from sales tax.

The School Lunch and Child Nutrition amendments of 1986, as included in Public Laws 99-500 and 99-591, Title III, were recently enacted. One provision in particular, Section 342, makes states ineligible to participate in the Supplemental Food Program for Women Infants and Children if state or local sales tax is collected within the state on WIC food purchases.

The Kansas WIC program is presently exempt from the Retailers' Sales Tax. WIC vendors are required by K.A.R. 92-19-25 to secure an exemption certificate from KDHE in order to be exempt from paying taxes on food provided to WIC participants.

This amendment codifies the interpretation of the Department of Revenue regarding the Supplemental Food Program for Women, Infants and Children and the exemption of WIC foods from sales tax.

STRENGTHS:

State law to ensure that WIC funds are spent solely for the purpose of the WIC program and are not diverted to State and local treasuries will prevent the loss of the federal grant for the Supplemental Food Program for Women, Infants and Children which amounts to approximately \$13,550,683 per year.

WEAKNESSES:

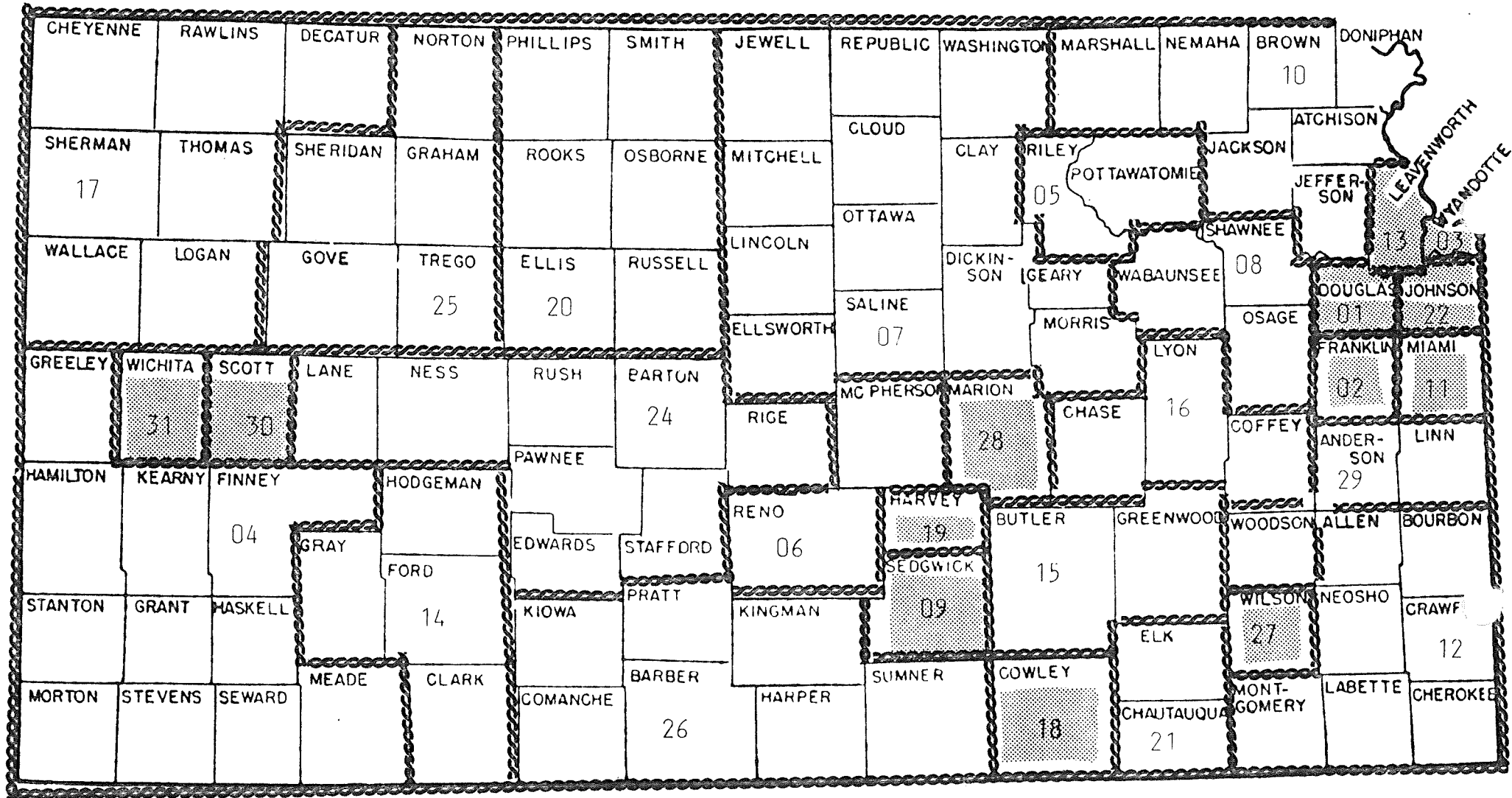
None

DEPARTMENT'S POSITION:

KDHE supports passage of H.B. 2213.

test.221

KANSAS WIC PROGRAM
(as of July 1, 1986)



- Multi-County Programs = 17
- Single County Programs = 13

Who Qualifies?

WIC is for pregnant, breastfeeding, and post-partum women, infants, and children up to age 5. These persons must:

- 1) live in an approved WIC program area
- 2) meet income guidelines,
- 3) be a nutritional risk as determined by an approved competent professional.

A person is usually qualified on the program for six (6) months. After that, they may reapply if still eligible.

Remember -- WIC participation will not cut down on your food stamps, or keep your child out of a school lunch or breakfast program.

How Do I Apply?

Make a WIC certification appointment with the local WIC program. This certification will include:

- 1) measuring and recording height and weight,
- 2) a simple blood test to check for low iron in blood, (anemia),
- 3) a review of foods eaten,
- 4) a review of health history, and
- 5) a review of income and residency.

What Does WIC Provide?

The goal of WIC is to prevent or correct health problems caused by poor nutrition, by providing nutritious foods and nutrition education.

*Nutritious Foods - WIC foods are meant to supplement your diet at an important time in growth and development.

*Nutrition Education - A nutritionist or nurse will talk with you and provide films and pamphlets to help increase your understanding of nutrition.

*WIC Encourages Regular Health Care - Your WIC Clinic may have these services available: Immunizations, Family Planning, Well Baby Clinic. Ask your clinic about health care for you and your family.

WIC Food Packages

The following are the common food packages. The type and amount of food you receive is prescribed by the health professional, and may vary. The WIC food package does not provide all foods needed for a healthy diet. You may use your food stamps or monthly grocery budget to add fruits, vegetables, meats, and bread to complete your diet. Keep a current list of allowable foods in your voucher pouch.

PREGNANT AND BREASTFEEDING WOMEN, CHILDREN 1-5 YEARS

- * Milk, (fluid, evaporated, or dry)
- * Natural cheese
- * Eggs
- * Iron-fortified cereals (hot and cold)
- * Vitamin C rich juice
- * Dry beans, peas or peanut butter

INFANTS

- * Infant formula - for the entire first year of life
- * Infant cereal - started in diet after 4 months
- * Infant juice - started in diet after 6 months

CHILDREN/WOMEN WITH SPECIAL DIETARY NEEDS

- * Formula
- * Iron-fortified cereal
- * Vitamin C rich juice

WIC FOODS PROVIDE THESE NUTRIENTS:

Cheese, Milk -- Protein, Calcium, Vitamin A & D
Eggs -- Protein, Iron, Vitamin A
Cereal -- Iron, B-Vitamins
Juice -- Vitamin C
Dry Beans, Peas, and Peanut Butter -- Protein, Iron

When the health professional is preparing your food package, you may have a choice in what type of juice, what form of milk, or how much cereal you receive. Be sure to let her/him know so you can receive the foods you will use.

When you participate in the WIC program, you are asked to:
1) pick up vouchers monthly at your clinic, 2) keep all appointments, 3) use your vouchers for WIC foods only.

How Do I Get WIC Foods?

AT THE LOCAL WIC CLINIC -- The foods prescribed for you or your child will be printed on the vouchers. Every month, these vouchers must be picked up at your WIC clinic. At this time, the WIC staff is available to answer any questions and provide nutrition education to all participants.

AT WIC STORE -- The vouchers are good for 30 days. They can only be used at the store printed on your voucher. At the store, select WIC foods printed on your allowable food list.

ONLY WIC FOODS CAN BE PURCHASED WITH WIC VOUCHERS. After the voucher is filled in by the clerk, check it for accuracy. You do not pay for WIC foods. You do not receive change back. You do not exchange WIC foods for other non-WIC items OR cash.

Rules to Remember

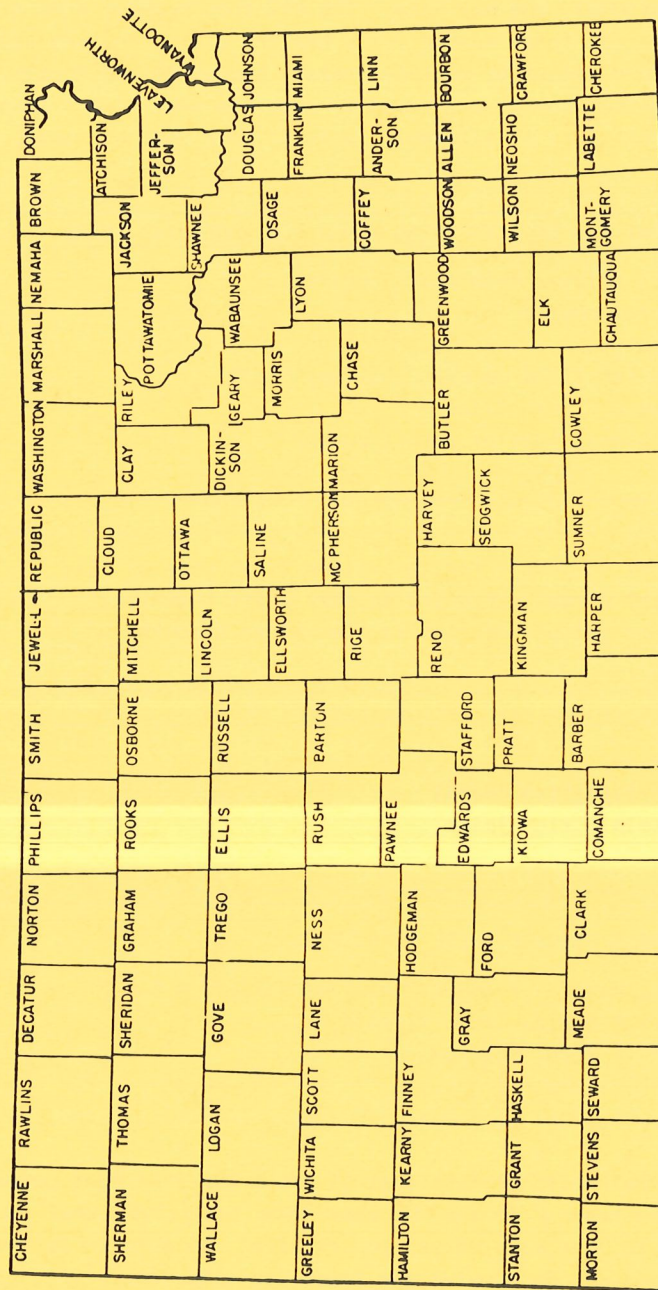
- 1) Ask your WIC clinic staff when and where vouchers will be issued.
- 2) Treat your vouchers as carefully as you would cash or checks. Vouchers must be picked up and spent only by the person they are made out to. If you lose them, report it to your WIC Clinic IMMEDIATELY!!! Keep your vouchers in your Voucher Pouch for safekeeping.
- 3) Use the vouchers for approved foods only. Other foods have less of the special nutrients you need. The allowable foods are listed on the back of your voucher.
- 4) Be sure to use your WIC vouchers before the expiration date printed at the top right corner of the voucher at the specified store.
- 5) You must sign the vouchers when you receive them at the clinic, and again when you go to the grocery store.
- 6) Remember to go to your WIC clinic when you are to pick up your vouchers, or are scheduled for a certification appointment.
- 7) WIC vouchers are made out to a specific grocer chosen by you and MUST be spent only at that store.

FAIL TO PICK UP VOUCHERS OR KEEP CERTIFICATION APPOINTMENTS TWO CONSECUTIVE TIMES MAY RESULT IN SUSPENSION FROM THE PROGRAM.

WIC is an equal opportunity program. If you feel you have been discriminated against because of race, color, national origin, sex, age, or handicap, write to the Secretary of Agriculture, Washington, D.C. 20250.

If you disagree with any decision made by the local agency, you have the right to a fair hearing. Contact the local agency for procedures under which fair hearings are processed.

KANSAS WIC PROGRAMS



A Guide To Participation In The Kansas WIC Program



Special Supplemental Food Program For Women, Infants & Children

Kansas Department of Health & Environment
Bureau of Family Health
Forbes Field, Bldg. 740
Topeka, Kansas 66620-7120
(913) 862-9360 Ext. 450

Attachment 4 cont.