

Approved April 3, 1987
Date

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Fred A. Kerr at
Chairperson

11:00 a.m./~~p.m.~~^{XX} on April 2, 19⁸⁷ in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Tom Severn, Research
Chris Courtwright, Research
Don Hayward, Revisor's Office
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

Mark Burghart, Department of Revenue
Mary Alice Horsch, Sedgwick Co.
Franklin Lane, Johnson Co. Conservation District
Gerry Ray, Johnson County

Chairman Kerr called the meeting to order and said that the agenda for the day was to have hearings and possible action on House Bills 2552 and 2156 and possible action on H.B. 2271.

HOUSE BILL 2552

Mark Burghart, (Attachment 1) testified in support of H.B. 2552. He explained that the Department of Revenue had requested this bill. He said that this bill, if enacted, would impose personal liability on individuals for non-collection and/or payment of: transient guest tax, gallonage tax on liquor, cigarette stamp and tobacco products taxes, all of the various motor fuel taxes, bingo enforcement tax, liquor enforcement tax and liquor excise tax. With the enactment of this legislation, the Department could impose personal liability upon corporate officers for any of these cases.

He noted that under H.B. 2552 the Department could not impose the tax on just anyone, but only on an individual who is responsible for the collection of payment of the tax, or has control, receipt, custody or disposal of funds due and owing under any of the various tax statutes. He also said that the provisions of this bill would be used as a last resort only.

He said that if this legislation is not passed, a corporation needs only to dissolve and re-incorporate to effectively avoid the tax. The Department feels that passage of this legislation will be an aid in reducing the accounts receivable problems which have been identified by both Legislative Post Audit and the Legislative Committee on Governmental Organizations.

HOUSE BILL 2156

Mary Alice Horsch of Sedgwick Co. testified in favor of H.B. 2156. She stated that this bill removed the limitation of \$7,500 that can be appropriated to conservation districts from county general funds. She said that passage of this bill would give the county commissioners greater flexibility in funding conservation districts. In the past, urban counties with large assessed valuation have been reluctant to establish separate mill levies for amounts less than \$55,000, the maximum conservation district funding that can be raised by property taxes in each county.

Franklin Lane, (Attachment 2) testified in support of H.B. 2156. He stated that they would also like to see the \$7,500 limit that counties are allowed to contribute to the Conservation District removed. This would enable the County Commissioner the flexibility to fund the work of the Conservation District at the appropriate level of their individual county.

Kenneth Kern, State Conservation Commission was unable to attend but sent testimony supporting H.B. 2156. (Attachment 3)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on April 2, 1987

Gerry Ray testified in support of H.B. 2156.

COMMITTEE DISCUSSION ON H.B. 2271

Senator Burke said that he wished to clarify that the current application of this bill would not only include Johnson County, but also Wyandotte and Leavenworth counties. He said that he had asked that an amendment be drafted which would change the funding mechanism in the bill to one in which a property tax could be imposed for the stormwater control purposes and that the property tax be allowed to be three mills. This would be in lieu of the 1/10 cent sales tax which is currently in the bill.

Senator Burke moved that his proposed amendment be adopted. Senator Mulich seconded. (Attachment 4)

Chairman Kerr explained that he favored the amendment and suggested that it be adopted and that if it is agreeable to the legislators involved, the bill could be sent to a conference committee for a few weeks while officials in Johnson, Wyandotte and Leavenworth counties determine whether or not the property tax mechanism would be workable. Motion carried.

Senator Allen moved that H.B. 2271 be recommended favorably for passage. Senator Mulich seconded. Motion carried.

COMMITTEE DISCUSSION ON H.B. 2552

There was committee discussion and concern raised about whether or not this bill would really mean that the person responsible for avoiding the payment of collected taxes would be the one actually assessed in the bill. Some concern was expressed that a controller or clerk might be the one actually handling the money, but that the "supervisor" might be the one who actually ordered that the tax not be paid. There was discussion about inserting some "excusable neglect" language.

Senator Burke moved to amend the bill by inserting an "excusable neglect" clause. He stated that it was not the level of proof he was searching for but the individual. Senator Frey seconded.

After continued committee discussion, it was decided to postpone action on this bill until a later meeting.

Senators Burke and Frey withdrew their motion and second.

COMMITTEE DISCUSSION ON H.B. 2156

Concern was expressed by committee members about the lack of any knowledge of prior support for this bill which would totally eliminate the lid on the amount of money that county commissioners could appropriate from their general fund for conservation districts. It was noted that lids have been in place for twenty or thirty years or more.

Senator Burke moved to amend the bill by raising the lid to \$10,000 rather than having no lid. Senator Karr seconded. Amendment was adopted.

Committee members noted that the bill as amended could be placed in conference committee for a time in order to gauge support, or lack thereof, for removing the lid.

Senator Burke made a motion to favorably pass H.B. 2156. Senator Allen seconded. Motion carried.

After one correction concerning the minutes of the meeting of April 1, 1987, Senator Mulich made the motion to accept them. Senator Salisbury seconded. Motion carried.

Meeting adjourned.

MEMORANDUM

TO: Senate Assessment and Taxation Committee

FROM: Harley T. Duncan, Secretary
Department of Revenue

DATE: April 2, 1987

SUBJECT: Testimony for House Bill No. 2552

This legislation would impose personal liability upon individuals for non-collection and/or payment of the following taxes, regardless of the form under which the taxpayer conducts business: transient guest tax, gallonage tax on liquor, cigarette stamp and tobacco products taxes, all of the various motor fuel taxes, bingo enforcement tax, liquor enforcement tax and liquor excise tax. Therefore, with the enactment of this legislation, the Department could impose personal liability upon corporate officers for any of the just-mentioned taxes.

During the 1986 Legislative Session, a bill with identical language was passed with respect to sales and compensating taxes (see K.S.A. 79-3643). The Department is now requesting that this personal liability be carried over to the other taxes which it administers.

It is important to note that under House Bill 2552 the Department could not impose the tax on just anyone. The tax could be imposed only upon an individual who is responsible for the collection or payment of the tax, or has control, receipt, custody or disposal of funds due and owing under any of the various tax statutes. In addition, the Department would like to stress that the provisions of this bill would be used only as a last resort -- when all other efforts at collecting and satisfying any outstanding tax liabilities have failed.

Should this legislation not be enacted, a corporation merely needs to dissolve and re-incorporate to effectively avoid the tax. The Department has experienced such occurrences with respect to sales taxes. One retailer has re-incorporated at least two times and has a total outstanding sales tax liability of approximately \$150,000 from these "different" corporations. Since all of the liability accrued prior to July 1, 1986, the Department cannot hold the sole/individual officer personally liable.

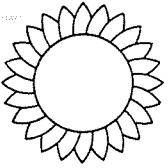
On a more positive note, however, the Department was able to collect \$23,349 of outstanding sales taxes during the fall of 1986 due to the passage of K.S.A. 79-3643. The business which owed this amount of sales tax was a corporation and it was only after pursuing one of the officers individually did the corporation pay the outstanding liability in full.

In addition, with respect to liquor excise taxes, the Department is seeing the following occur: clubs are operating as reciprocal clubs for one year; the clubs fall short of the 50% food sales which is required to be reciprocal; the clubs merely re-incorporate after the one year, receive a new liquor license and remain in business. It is not difficult to see how such clubs could end up owing the state not only sales tax but also liquor excise tax.

Finally, it is the Department's opinion that the passage of this legislation will be an aid in reducing the accounts receivable problems which have been identified by both Legislative Post Audit and the Legislative Committee on Governmental Organizations since it will add one more "tool" which can be used by the Department.

The Department strongly supports passage of House Bill 2552.

The Johnson County Conservation District, in conferring with the Johnson County Board of Commissioners, wishes to have the District Law pertaining to the funding of Conservation Districts changed. With the rate of the mill levy in Johnson County being so high, the small amount of extra monies needed by the Conservation District does not justify making it a line item.



Johnson County
Kansas

January 5, 1986

Mr. Franklin Lane, Chairman
JOHNSON COUNTY CONSERVATION DISTRICT
304 S. Clairborne - Suite 102
Olathe, Kansas 66061

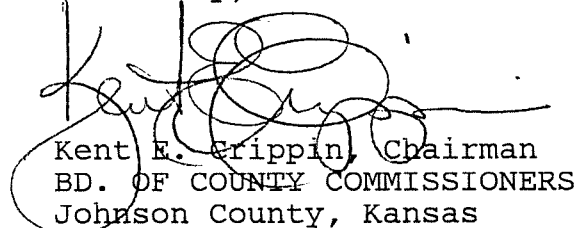
Dear Mr. Lane:

This is to advise you that the Johnson County Board of Commissioners has adopted a position supporting your Board's efforts to obtain legislation removing the \$7,500. limit that counties are allowed to contribute to the Conservation District's budget. We feel this will allow County Commissioners the flexibility to fund the work of the Conservation District, at the appropriate level of their individual county.

This position has been included in Johnson County's 1987 Legislative Program, and Gerry Ray, the County's Intergovernmental Coordinator, is prepared to present supporting testimony before a Legislative Committee at the proper time.

We wish you success in getting the legislation adopted, and suggest that you stay in contact with Ms. Ray during the legislative session.

Sincerely,



Kent E. Grippin, Chairman
BD. OF COUNTY COMMISSIONERS
Johnson County, Kansas

KEC/db

cc: BOARD OF COUNTY COMMISSIONERS
E. H. Denton, County Administrator
Gerry Ray, Jo. Co. Intergovernmental Coordinator
Jack Manahan, Director, Jo. Co. Office of
Management and Budget



State Conservation Commission

Telephone (913) 296-3600

109 S.W. 9th Street, Room 300

Topeka, Kansas 66612

SENATE ASSESSMENT AND
TAXATION COMMITTEE
House Bill no. 2156

TESTIMONY BY
KENNETH F. KERN
EXECUTIVE DIRECTOR

The State Conservation Commission is the state agency that works closely with conservation districts to preserve our natural resources of water and soil.

There have been many changes in the programs of conservation districts.

Attachment No. 1 indicates the basic organization of the conservation districts before 1980 and their program.

Attachment No. 2 is the current organization and programs of the conservation districts.

The conservation districts rely on three sources of funds:

1. County Commission:
 - a. Up to \$7500 from county general fund
 - b. And/or .5 mill levy up to \$55,000
2. State general fund - State matches first \$7500 received from county commission.
3. Enterprise fund - Local fund raising activities authorized in statute. Examples - selling grass seed, owning and renting out grass drill, etc.

Attachment No. 3 is the breakdown of the tax funds from the county commission and matching funds from the state for each of the 105 conservation districts.

SENATE ASSESSMENT AND
TAXATION COMMITTEE
House Bill No. 2156
TESTIMONY continued
Page 2

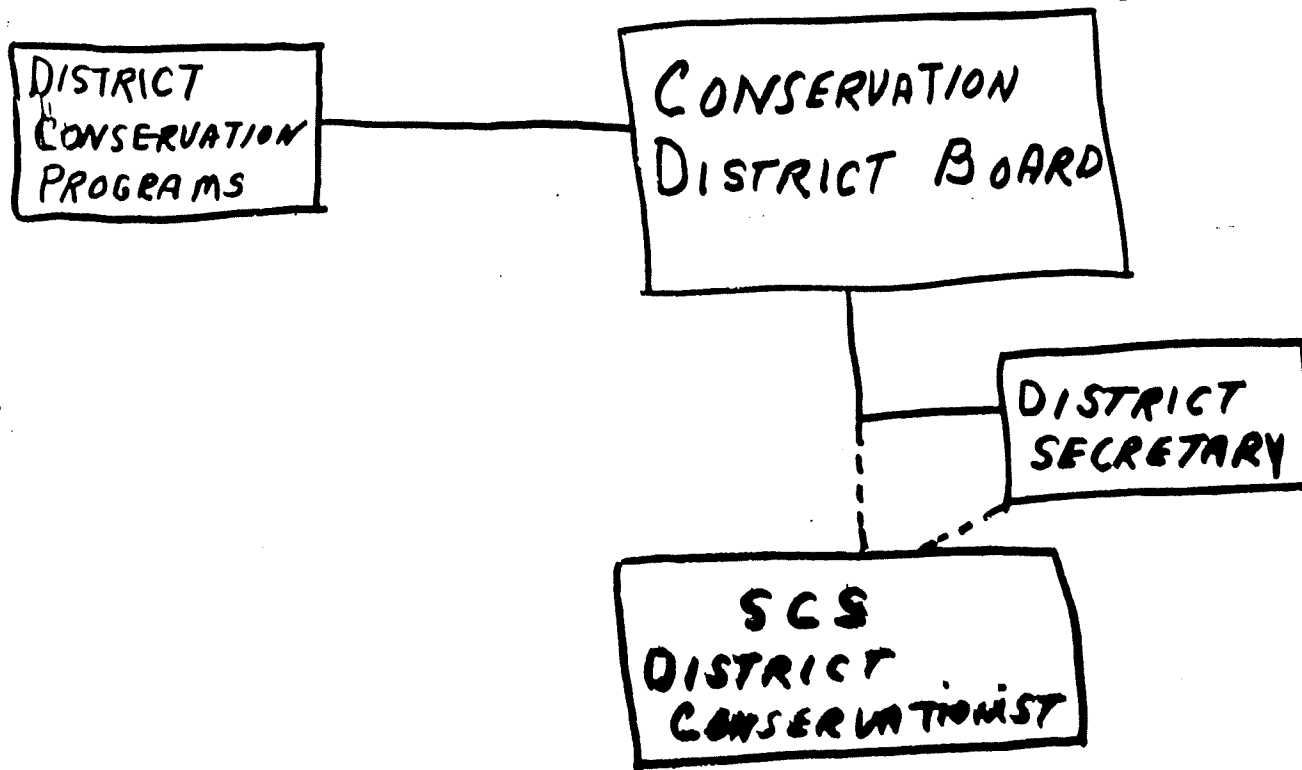
The proposed change to K.S.A. 2-1907b is based upon a suggestion from the Johnson County Financial Administrator. Urban counties with fairly large assessed valuation do not desire, and in some cases, will not establish a separate mill levy for small amounts such as \$10,000, or even \$55,000.

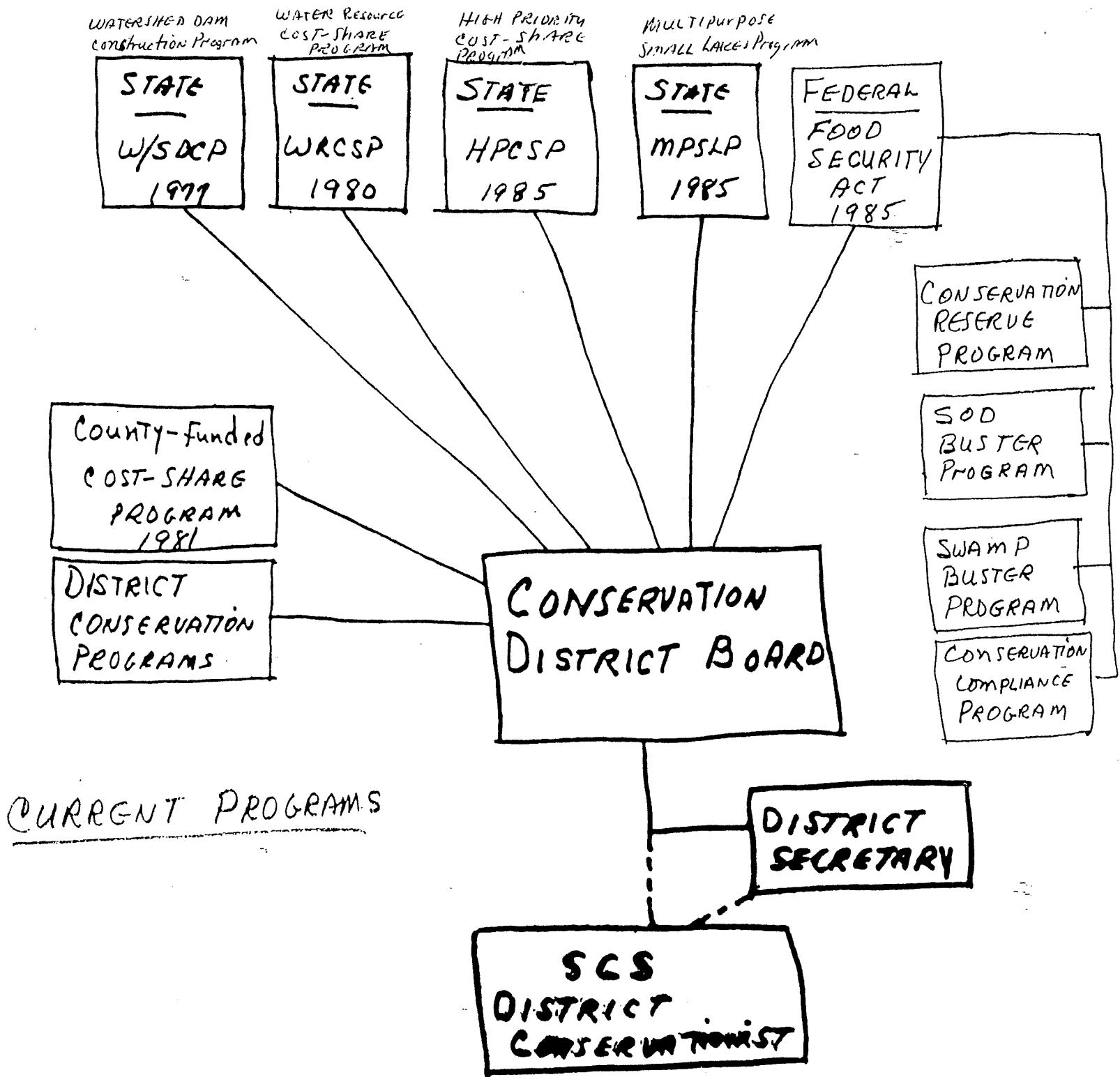
To illustrate this, the mill levy for Johnson County to raise \$10,000 is .00001499. (\$667,051,710 total assessed valuation in 1982.)

For Sedgwick County to raise \$55,000, the mill levy is .00007409.
(\$742,320,220 total assessed valuation in 1982.)

The State Conservation Commission supports the removal of the limitation of general fund monies that the county commissioners may pay to the conservation district and requests your favorable consideration of this amendment.

BEFORE 1980





CONSERVATION DISTRICTS FUNDS
FY 1987

	County General Funds	Mill Levy		Other Funds	Total From County	State of Kansas Matched		County General Funds	Mill Levy		Other Funds	Total From County	State of Kansas Matched
		Matched	Unmatched						Matched	Unmatched			
ALLEN	7,500				7,500	7,500	LINN	7,500				7,500	7,500
ANDERSON	7,500			1,380	8,880	7,500	LOGAN	7,500				7,500	7,500
ATCHISON		7,500			7,500	7,500	LYON	3,600	3,900	14,000		21,500	7,500
BARBER	7,500			2,500	10,000	7,500	MEPHERSON	7,500		10,512		18,012	7,500
BARTON	3,000	4,500	16,500		24,000	7,500	MARION		7,500	2,500		10,000	7,500
BOHNSON	7,500		15,000		22,500	7,500	MARSHALL	7,500		5,000		12,500	7,500
BROWN	7,500				7,500	7,500	MEADE	7,500	7,500			7,500	7,500
BUTLER	7,500				7,500	7,500	MIAMI	7,500				7,500	7,500
CHASE	7,000				7,000	7,000	HITCHELL	7,500				7,500	7,500
CHAUTAQUA	6,875				6,875	6,875	MONTGOMERY	7,500				7,500	7,500
CHEROKEE	7,500		9,000		16,500	7,500	MORRIS	7,500				7,500	7,500
CHEYENNE	7,500				7,500	7,500	MERTON	7,500		13,162	763	21,425	7,500
CLARK		5,600			5,600	5,600	MEHARIA		7,500	4,226	655	12,381	7,500
CLAY		6,750			6,750	6,750	MERCER	7,500				7,500	7,500
CLOUD	7,500		9,500		17,000	7,500	NESS	7,500		7,500		15,000	7,500
COFFEY	7,500		7,500		15,000	7,500	NORTON		7,500			7,500	7,500
COMANCHE	7,500				7,500	7,500	OSAGE	7,500				7,500	7,500
COWLEY	7,500		5,000		12,500	7,500	OSBORN	7,500				7,500	7,500
CRAWFORD	7,500		3,000		10,500	7,500	OTAWA	7,500		1,000		8,500	7,500
DECATUR		6,500			6,500	6,500	PAWNEE	7,500				7,500	7,500
DICKINSON	7,500				7,500	7,500	PHILLIPS	7,500				7,500	7,500
DODD	7,500		1,900		9,400	7,500	POTTAWATOMIE	7,500		55,000		62,500	7,500
DODGE		7,500	5,818	3,182	16,500	7,500	PRATT		7,500	1,000		8,500	7,500
DOWNEY	4,700				4,700	4,700	RAWLINS	6,500				6,500	6,500
ECK		6,000			6,000	6,000	RENO	7,500		32,709.25		40,209.25	7,500
ELLIS	7,500		12,350		19,850	7,500	REPUBLIC	7,500		5,500		13,000	7,500
ELLSWORTH		7,500			7,500	7,500	RICE	7,500		15,000		22,500	7,500
FINNEY	7,500		11,000		18,500	7,500	RILEY	7,500		6,000	3,500	17,000	7,500
FORD	7,500				7,500	7,500	ROCK		7,500	7,500		15,000	7,500
FRANKLIN		7,500	375		7,875	7,500	RUSH	7,500		15,000		22,500	7,500
GARY	6,000				6,000	6,000	RUSSELL	7,500				7,500	7,500
GOVE		7,000			7,000	7,000	SALINE		7,500	2,500		10,000	7,500
GRAHAM	7,500		8,000		15,500	7,500	SCOTT	7,500				7,500	7,500
GRANT	7,500				7,500	7,500	SEDOWICK	7,500			52,980	60,480	7,500
GRAY	7,500				7,500	7,500	SEWARD	7,500				7,500	7,500
GREELEY	3,850				3,850	3,850	SHAWNEE	7,500				7,500	7,500
GREENWOOD		7,500	8,910		16,410	7,500	SHERIDAN	7,200				7,200	7,200
HAMILTON	7,500			2,000	9,500	7,500	SHERMAN		7,500	5,000		12,500	7,500
HARPER	6,000	1,500	13,500		21,000	7,500	SMITH		7,500	5,000		12,500	7,500
HARVEY		7,500			7,500	7,500	STAFFORD	7,500				7,500	7,500
HASKELL		7,500	1,500		9,000	7,500	STANTON	7,500		2,500		10,000	7,500
HODGEMAN		7,500			7,500	7,500	STEVENS	7,500		6,770		14,270	7,500
JACKSON	7,500		12,000		19,500	7,500	SUMNER		7,500	6,500		14,000	7,500
JEFFERSON		7,500	5,250		12,750	7,500	THOMAS	7,500				7,500	7,500
JEWELL	7,500				7,500	7,500	TREGO		7,180			7,180	7,180
JOHNSON	7,500				7,500	7,500	WABAUNSEE	7,500				7,500	7,500
KEARNEY	7,500		15,000		22,500	7,500	WALLACE	7,300				7,300	7,300
KINGMAN	7,500			3,000	10,500	7,500	WASHINGTON	7,500		30,000		37,500	7,500
KIOWA	7,500				7,500	7,500	WICHITA		7,500			7,500	7,500
LABETTE	7,500				7,500	7,500	WILSON		7,500	825		8,325	7,500
LANE	7,500		20,000		25,500	7,500	WOODSON	7,500				7,500	7,500
LEAVENWORTH	7,500			8,600	16,100	7,500	WYANDOTTE		7,500	6,426		13,926	7,500
LINCOLN		7,500	3,000		10,500	7,500	TOTALS	557,025	213,930	451,333.25	77,460	1,302,148.25	770,955

Proposed Amendment to HB 2271

On page 1, in line 24, by striking all after "a"; in line 25, by striking all before "for" and inserting "property tax in any amount not to exceed three mills in any year"; in line 27, by striking all after the period; by striking all in line 28; in line 29, before "amendments" by inserting "Such levy shall be exempt from the limitation imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive, and"; also, in line 29, by striking all after "to"; in line 30, by striking "sales" and inserting "levy the"; in line 41, by striking all after the period; by striking all in lines 42 to 45, inclusive;

On page 2, by striking all in lines 46 to 63, inclusive; in line 64, by striking "(c)" and inserting "(b)"; in line 65, by striking "sales";

In the title, in line 18, by striking "sales" and inserting "property"