

Approved February 09, 1987

Date

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS

The meeting was called to order by Senator Dan Thiessen at  
Chairperson

1:30 ~~xxx~~/p.m. on Tuesday, February 3, 1987 in room 527-S of the Capitol.

All members were present except:  
Senator Eric Yost

Committee staff present:  
Jerry Ann Donaldson - Research Department  
Gordon Self - Revisor's Office  
Marion Anzek - Committee Secretary

Conferees appearing before the committee:  
Paul Bicknell-Department of Human Resources  
Senator Gerald Karr  
Evora Wheeler-Emporia, KS  
Rob Hodges-Kansas Chamber Commerce and Industry-KCCI  
Jerry Jones-Kansas Film Company  
Senator Michael Johnston  
Bob Story-representing Job Inc.

Chairman Thiessen called the meeting to order at 1:30 p.m.

Senator Morris made a motion to approve the minutes of January 26, 1987 seconded by Senator Ehrlich. Senator Werts moved to reconsider the minutes and moved to amend by striking the word "had," in paragraph 3, seconded by Senator Morris. The minutes were approved as amended.

Chairman Thiessen said the Department of Human Resources stated there may be a conflict with SB4 and called upon Paul Bicknell.

Paul Bicknell said the Department of Human Resources had received correspondence from the Department of Labor, concerning the Federal Unemployment Tax Act and non-profit organizations. We feel this can be taken care of simply by just making a small additional language stating that the exclusions would not apply to services performed for a governmental entity or non-profit organization.

The following appeared in support of SB4.

Senator Gerald Karr, co-sponsor of SB4 said there were conferees from Emporia and the Department of Commerce who, he would like to have speak as they had information primarily on individuals that had worked 2 or 3 days for a film company that filmed a movie in Emporia and these individuals can give a more detailed background. Senator Karr introduced Evora Wheeler, and said she worked directly with the production company in the auditors' office of Clandon Productions, a company engaged in the making of the movie "Broken Commandments" in Emporia, KS.

Evora Wheeler said SB4 allows for the exemption of reporting and paying unemployment taxes on persons employed as "extras" in the making of movies and this would attract other movie companies to produce their movies in Kansas. Lyon County generated \$1,223,237. paid to businesses and individuals during the period of October 20 through December 30, 1986. I strongly encourage the members of this committee to support SB4. (See Attachment 1)

Rob Hodges said SB4 was brought to the Advisory Council last fall and we gave it consideration and it is part of the recommendations that he gave to the committee at an earlier meeting. He said, the Advisory Council has no problems with the bill being handled in its own form as it comes to you today by itself, and the Advisory Council recommends this bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,  
room 527-S, Statehouse, at 1:30 a.m./p.m. on Tuesday, February 3, 1987

Jerry Jones representing the Kansas Film Commission said he would like the members of the committee to know the production of filming has grown in Kansas the last 3 years. Three fiscal years ago we generated \$500,000. in Kansas and last year we generated just over a \$1,000,000. So production is growing in Kansas and I strongly recommend this committee to pass SB4.

Chairman Thiessen concluded hearings on SB4 and turned attention of the committee to SB52, calling on Senator Johnston, sponsor of the bill.

Senator Johnston explained the bill and said the bill would allow garnishment once every pay period. Currently, it is allowed once a month. If someone gets paid by the week they are required to pay 25%, and it seems to me that we have a circumstantial situation where we discriminate against employees who happen to be paid in less frequent intervals, from other employees. (See Attachment 2) Last year this was in Judiciary Committee and allowed for twice a month, so this bill has been considered before.

Following discussion regarding the bill in Judiciary Committee last year and the bill being considered in that committee Senator Steineger made a motion to refer the bill to Judiciary Committee, seconded by Senator Norvell. A substitute motion was made by Senator Ehrlich to report SB52 adversely, seconded by Senator Steineger. The substitute motion carried.

Chairman Thiessen and members of the committee apologized to the conferees who attended the meeting expecting to testify on SB52 and asked them to turn their written testimony into the committee secretary, which would be part of permanent record of the meeting.

Evelyn Gates-Education Officer-Office of Judicial Administration.  
(See Attachment 3) In opposition of SB52.

Ron Smith-KBA Legislative Counsel (See Attachment 4) In support of SB52.

Chairman Thiessen recognized Bob Storey on introduction of a bill.

Bob Storey, Attorney representing an organization called Job Inc. This Company was formed for the purpose of publishing lists of available employment in various areas throughout the United States, it is franchised, and these franchises are offered for sale in Kansas and we discovered under the provisions of our employment agency law, there is no provision for a job listing service. The way they work, for instance if in Topeka they would go to Good-year or Frito Lay, etc. and find out what jobs are available. They then publish and sell this list to individuals or companies, and sometimes the jobs have already been filled.

Jerry Powell with the Department of Human Resources has contacted North Carolina which has this provision in its Human Resources Division and they say that it has worked excellent in North Carolina, and provided more jobs to people within the scope of the law.

Senator Werts moved to have a bill introduced and referred back to committee, seconded by Senator Norvell. The motion carried.

The meeting adjourned at 2:18 p.m.



TIMONY  
TO THE  
LABOR, INDUSTRY AND SMALL BUSINESS COMMITTEE  
IN REGARD TO  
PROPOSED AMENDMENTS TO SENTATE BILL 4

PRESENTED BY  
EVORA A. WHEELER  
811 HOMEWOOD  
EMPORIA, KANSAS

BACKGROUND: My experience includes sixteen and one-half years as a staff member of the Emporia Chamber of Commerce, with interest and experience in the economic development of the area and the entire state of Kansas. Most recent experience was in the auditors' office of Clandon Productions, a company engaged in the making of the movie "Broken Commandments" in Emporia, Kansas.

ECONOMIC IMPACT OF MOVIE ON EMPORIA/KANSAS:

According to records of expenditures, there was a minimum\* of \$1,223,237 paid to businesses and individuals in Lyon County during the period of October 20 through December 30, 1986. These expenditures were for: use of properties; services (such as welding, printing, painting, art, auto-body repair, photography, child care, signs, cleaning, security, carpenters, nursing, etc.) supplies/equipment (stage set, repairs, office, replacement, etc.); City/County services; food, flowers, music, entertainment (clubs & restaurants); furniture and auto rentals; lodging; medical care; legal services; communication equipment; fuel; payroll of regular employees (secretarial, drivers, helpers); "extras": miscellaneous and petty cash expenditures.

\*I used "minimum" because there were some bills received, and paid, by the Company after it returned to California. However, I feel these figures provide ample information about the economic impact of movie-making on the Kansas economy; particularly when multiplied by the "5" factor.

There was additional minimum of \$86,000 spent in the cities of Lawrence, Topeka, Council Grove, Madison, Williamsburg, and Wichita, to name a few.

PROBLEM: Unlike approximately thirty other states in which one of the auditors has been involved in movie-making, Kansas laws require the reporting and payment of unemployment taxes on "extras," or "casual" or "temporary" labor as it is referred to in some states. Since "extras" usually are engaged for only one or two days, and may number 500 to 2,000, depending on the movie, it would be an exorbitant additional expense for the company just in the area of paper work.

RECOMMENDATION: I strongly encourage the members of this Committee to support SB4, which allows for the exemption of reporting and paying unemployment taxes on persons employed as "extras" in the making of movies. This legislative action would enhance the efforts of the Kansas Film Commission to attract other movie companies to produce their movies in Kansas. As with attracting any type of industry to our state, we MUST be willing to make some concessions in order to attain an image that we really do want to attract business to Kansas.

2/3/87

Senate Labor, Industry & Sm. Business  
Attachment 1 2-3-87

# State of Kansas

## Senate Chamber

MICHAEL L. JOHNSTON  
SENATE MINORITY LEADER  
SENATOR, FOURTEENTH DISTRICT  
LABETTE COUNTY AND PARTS OF  
CRAWFORD, MONTGOMERY AND  
NEOSHO COUNTIES  
P.O. BOX 4  
PARSONS, KANSAS 67357-0040



COMMITTEE ASSIGNMENTS  
MEMBER ELECTIONS  
GOVERNMENTAL ORGANIZATION  
INTERSTATE COOPERATION  
LEGISLATIVE BUDGET  
LEGISLATIVE AND CONGRESSIONAL  
APPORTIONMENT  
LEGISLATIVE COORDINATING COUNCIL  
WAYS AND MEANS

## Office of Minority Leader

STATE CAPITOL  
TOPEKA, KANSAS 66612-1565  
913-296-3245

Senate Labor, Industry & Small Business Committee

Senate Bill 52, Frequency of Wage Garnishment

February 3, 1987

Statement by Senator Michael L. Johnston

Thank you, Mr. Chairman, and members of the Committee, for affording me the opportunity to appear today.

My sponsorship of Senate Bill 52 is a result of a letter I received from a constituent who pointed out the gross injustice in the restrictions on wage garnishments in our current law.

Under our current law, a creditor is restricted to garnishing up to 25% of the earnings of a debtor once a month. However, there is no consideration given to whether those earnings are paid weekly, semi-weekly or monthly.

For example, a monthly salary of \$1,000 paid weekly could result in a garnishment of \$62.50 per month (25% of \$250.00). The same salary paid monthly would result in a \$250.00 garnishment per month (25% of \$1,000).

The current restriction on the frequency of garnishments works a gross injustice to both debtors and creditors. Senate  
Senate Labor, Industry & Sm. Business  
Attachment 2 February 3, 1987

Bill 52 corrects that inequity by limiting garnishment to once a pay period rather than once a month. This language is consistent with federal law which limits wage garnishment to once a pay period.

I urge your support of Senate Bill 52 which will make our wage garnishment law more equitable for both creditors and debtors.



EVELYN GATES  
EDUCATION OFFICER  
296-4855

State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
301 West 10th  
Topeka, Kansas 66612-1507

(913) 296-2256

January 28, 1987

To: Gary Stotts, Acting Director of the Budget  
From: Jerry Sloan, Budget and Fiscal Officer  
Re: Senate Bill No. 52

This bill would amend the garnishment procedure to allow garnishments once a pay period instead of the current once a month. This bill would have a fiscal impact on the judicial branch.

Many wage earners are paid in pay periods of less than one month which could greatly increase the number of garnishments. Most garnishments are issued on lower paid persons who are also more likely to be paid more often than once a month.

Since garnishments are a post-judgment remedy, case filings and terminations are not helpful in estimating fiscal impact. In a prior survey, it was estimated that statewide approximately 116,000 are issued each year. While it might be overly conservative if we were to estimate an increase of 50% in the number of garnishments with the passage of this bill, this would create an additional workload of 58,000 garnishments. It is estimated that each garnishment requires approximately one-half hour to process with the cost of postage and forms being about one dollar each. The result of this would be an additional cost to the counties of \$58,000 while an additional 29,000 hours of staff time would be required in the district courts. Cost for additional temporary help to handle this workload would be \$177,862.

JS:dlh

Senate Labor, Industry and  
Small Business  
Attachment 3  
February 3, 1987

1. REQUEST FOR GARNISHMENT

This form is executed and signed by the attorney requesting the garnishment. The form is then filed with the clerk.

2. ORDER OF GARNISHMENT

The clerk will execute this form indicating under "Purpose of Garnishment" the percentage to be withheld as indicated by the attorney for the "Request for Garnishment".

3. ANSWER OF GARNISHEE

A form and instructions to the Garnishee for the purpose of attaching the earnings of the wage earner.

4. DISPOSABLE EARNINGS TABLE

A form and instructions to the Garnishee used to compute the amount of earnings which may be withheld. (This table is in compliance with the Federal Minimum Wage schedule).

ISSUE FOR PROCESS: Original and 1 copy of "Order of Garnishment Earnings"  
3 copies of "Answer of Garnishee Earnings"  
1 copy of "Disposable Earnings Table"

ANSWER DATE: Within 30 days after service upon a garnishee of an "Order of Garnishment Earnings", the garnishee shall file the "Answer of Garnishee Earnings" with the clerk of the court.

ANSWER OF GARNISHEE: Upon the filing the "Answer of Garnishee Earnings", the clerk shall promptly mail a copy of the answer to the plaintiff and defendant.

Within 10 days after the filing of the "Answer of Garnishee" the plaintiff and/or the defendant may deny any statement in the answer.

If the garnishee fails to file the "Answer of Garnishee" within 30 days, the court may grant judgment against the garnishee for the amount of the judgment.

ORDER TO PAY FUNDS INTO COURT: The "Order to Pay" must not be issued until 10 days after the filing of the "Answer of Garnishee".

Upon receiving the "Garnishment Money" the clerk will "age" the check. Admin. Order No. 30, states "checks drawn on a local bank received by the court will be held a minimum of seven days"--"checks drawn on an out-of-town bank received by the court will be held a minimum of fourteen days.



**REQUEST FOR GARNISHMENT**

DISTRICT COURT OF \_\_\_\_\_ COUNTY, KANSAS

\_\_\_\_\_

\_\_\_\_\_ Plaintiff

VS.

\_\_\_\_\_ Defendant  
Address (if before judgment)

\_\_\_\_\_ Garnishee  
Address

Case No. \_\_\_\_\_

- 1.  Attach Earnings
- 2.  Attach Other Property

**TO THE CLERK:**

**ISSUE ORDER OF GARNISHMENT** in the above entitled cause, returnable according to law, and direct the same to the Sheriff or Process Server of \_\_\_\_\_ County, State of \_\_\_\_\_, for the above named Garnishee, and Defendant (if before judgment).

1. If this garnishment is attaching the earnings of the defendant, please complete the following:

**Purpose of Garnishment**

(A)  Support (Check the following that apply)

For Current Support

For Support Judgment

50% (a) Defendant also supports a wife or child not covered by the support order.

60% (b) Defendant does not support a wife or child not covered by the support order.

5% (c) This garnishment is to recover payments at least 12 weeks overdue.

% Total limit of disposable earnings to withhold.

(B)  Bankruptcy

(C)  Federal or State Tax

(D)  Other \_\_\_\_\_  
(Specify)

2. If this garnishment is attaching funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company, please complete the following:

The amount of \$ \_\_\_\_\_ is to be withheld. (This amount is 1 1/2 times the amount of the claim or judgment) I hold a good faith belief that the party to be served with this garnishment order has, or will have, assets of the judgment debtor.

Date issued: \_\_\_\_\_

By \_\_\_\_\_, Deputy

Attorney for \_\_\_\_\_

**REQUEST FOR GARNISHMENT**

ORDER OF GARNISHMENT  
(Earnings)

IN THE DISTRICT COURT OF

COUNTY, KANSAS

\_\_\_\_\_

\_\_\_\_\_ Plaintiff \_\_\_\_\_

vs.

\_\_\_\_\_

\_\_\_\_\_ Defendant \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Garnishee \_\_\_\_\_

No. \_\_\_\_\_

Purpose of Garnishment

Support \_\_\_\_\_% to be withheld

Bankruptcy

Federal or State Tax

Other \_\_\_\_\_

ORDER OF GARNISHMENT  
(Earnings)

The State of Kansas to said Garnishee:

You are hereby ordered as a garnishee to file with the clerk of the above named court, within thirty (30) days after service of this order upon you, your answer under oath stating whether you are indebted to the defendant by reason of earnings (compensation for personal services, whether denominated as wages, salary, commission, bonus or otherwise) due and owing the defendant, and stating the amount of any such indebtedness. Computation of the amount of your indebtedness shall be made in the manner prescribed by the answer form served herewith and shall be based upon defendant's earnings for the entire normal pay period in which this order is served upon you. You are further ordered to withhold the payment of that portion of defendant's earnings required to be withheld pursuant to the directions accompanying said answer form until the further order of the court. Your answer on said form shall constitute substantial compliance with this order.

Failure to file your answer as aforesaid may entitle the plaintiff to judgment against you for the full amount of his claim and costs.

WITNESS my hand and seal of said court at \_\_\_\_\_ in said county,

this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

CLERK OF THE DISTRICT COURT

By \_\_\_\_\_ Deputy Clerk

RETURN ON SERVICE OF GARNISHMENT

I hereby certify that I executed the foregoing Order of Garnishment in the following manner:

(1) SERVICE ON GARNISHEE: On the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ by delivering a copy of said Order of Garnishment to \_\_\_\_\_, the person in charge at \_\_\_\_\_

Time: \_\_\_\_\_ M.

(2) PERSONAL SERVICE ON DEFENDANT: On the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, I served a copy of said Order of Garnishment on each of the following named defendants:

\_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_

Time: \_\_\_\_\_ M.

(3) RESIDENTIAL SERVICE ON DEFENDANT: On the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, I left a copy of said Order of Garnishment for each of the following named defendants:

\_\_\_\_\_ by leaving such copies at \_\_\_\_\_ the dwelling place or usual place of abode of such defendant(s), with a person of suitable age or discretion then residing there, to-wit:

\_\_\_\_\_ Age: \_\_\_\_\_

Time: \_\_\_\_\_ M.

All done in \_\_\_\_\_ County, Kansas

By \_\_\_\_\_ Deputy  
Process Server

Title or Office

County State



**DISPOSABLE EARNINGS TABLE**

If the order of garnishment states at the top that it is issued for the purpose of enforcing (1) an order of any court of BANKRUPTCY under Chapter XIII of the federal bankruptcy act or (2) a debt due for any STATE or FEDERAL TAX, you must retain in your possession until further order of the court all of the disposable earnings shown in (f) on your answer.

If the order of garnishment states at the top that it is issued for the purpose of enforcing an order for the SUPPORT of any person, withhold the percentage shown thereon.

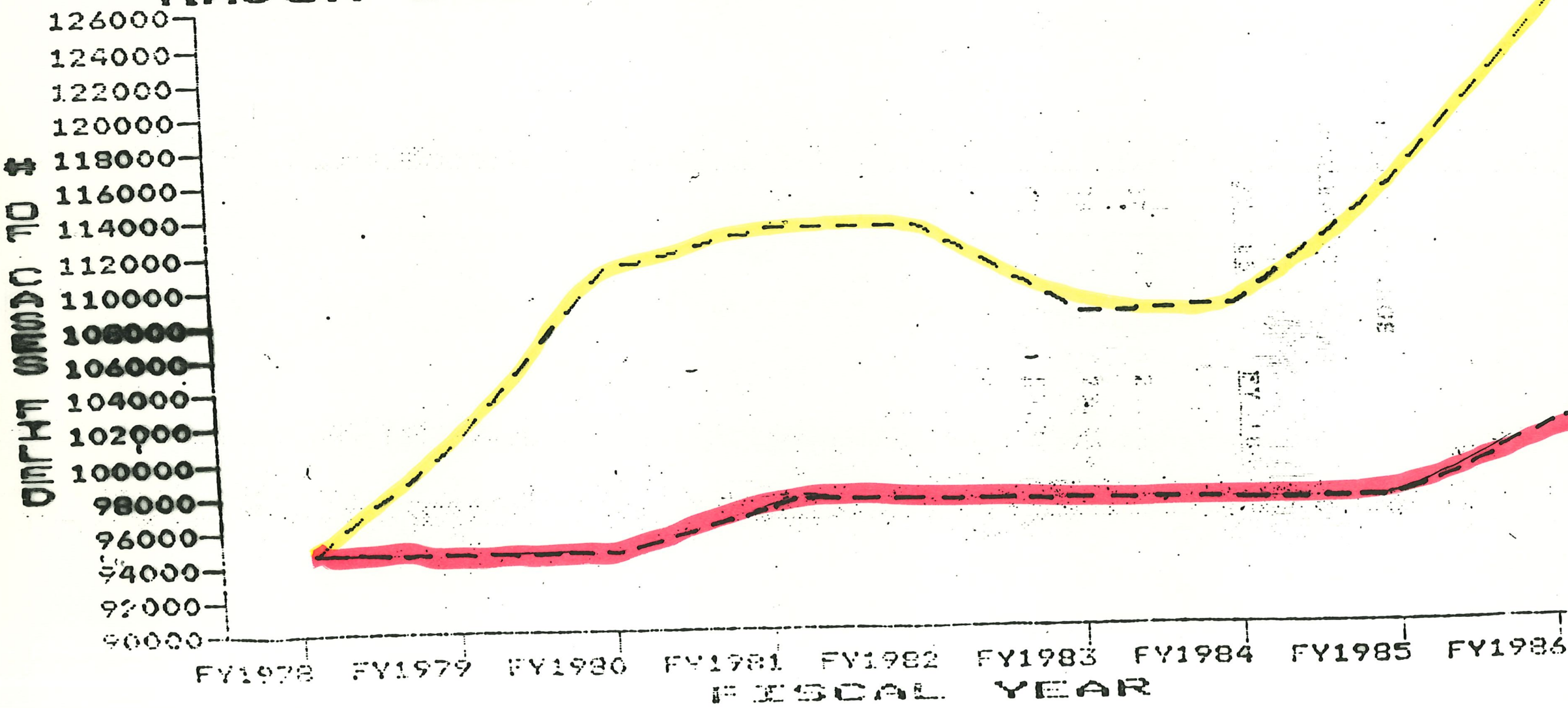
If the order of garnishment is not issued for any of such purposes, compute the amount of earnings which may be paid to the defendant pursuant to the following table and furnish the information required by (g) and (h) on your answer.

<u>ONE WEEK</u>		<u>TWO WEEK</u>	
<u>DISPOSABLE EARNINGS</u>	<u>WITHHOLD</u>	<u>DISPOSABLE EARNINGS</u>	<u>WITHHOLD</u>
\$ 1.00 to 100.50	Nothing	\$ 1.00 to 201.00	Nothing
\$ 100.51 to 134.00	All over \$100.50	\$ 201.01 to 268.00	All over \$201.00
\$ 134.01 and up	25% of total disposable earnings.	\$ 268.01 and up	25% of total disposable earnings.
<u>SEMIMONTHLY</u>		<u>MONTHLY</u>	
<u>DISPOSABLE EARNINGS</u>	<u>WITHHOLD</u>	<u>DISPOSABLE EARNINGS</u>	<u>WITHHOLD</u>
\$ 1.00 to 217.75	Nothing	\$ 1.00 to 435.50	Nothing
\$ 217.76 to 290.33	All over \$217.75	\$ 435.51 to 580.67	All over \$435.50
\$ 290.34 and up	25% of total disposable earnings	\$ 580.68 and up	25% of total disposable earnings

CHART

From 1978 through 1985 (fiscal year) major case filings in trial courts of Kansas increased 23%. Within the past few days, final FY 86 data became available, and major case filings in the trial courts increased 8.6% over FY 85.

# MAJOR CASE FILINGS FY1978-FY1986



MAJOR CASE FILINGS

STATEWIDE

	<u>FY '85</u>	<u>FY '86</u>	<u>% OF Change</u>
<u>CIVIL</u>			
Regular Actions	22,316	25,117	+12.6
Domestic Relations	23,484	23,128	- 1.5
Limited Actions	<u>47,319</u>	<u>53,396</u>	+12.8
Total, Civil	93,119	101,641	+ 9.2
 <u>CRIMINAL</u>			
Felony	10,470	11,111	+ 6.1
Misdemeanor	<u>11,846</u>	<u>12,604</u>	+ 6.4
Total, Criminal	22,316	23,715	+ 6.3
 TOTAL MAJOR CASE	115,435	125,356	+ 8.6



**KANSAS BAR  
ASSOCIATION**

1200 Harrison  
P.O. Box 1037  
Topeka, Kansas 66601  
(913) 234-5696

February 3, 1987  
SB 52

Mr. Chairman. Members of the Senate Labor, Industry and Small Business Committee. I am Ron Smith, KBA Legislative Counsel. KBA supports SB 52.

The major change in SB 52 is to allow garnishment of wages for each pay period rather than once monthly. For the person paid "weekly," it means the wages can be garnished weekly, rather than just one paycheck per month.

SB 52 is a business issue -- especially for small businesses, who constitute the bulk of cases filed to collect money for overdue bills. It is also an issue for state government, since the state can garnish wages for back taxes only once per month. This is fine if the employee is paid by a monthly check; the full amount can be garnished. Under current law, those paid weekly have only 1/4th the appropriate amount of wages withheld from their paychecks to satisfy lawful judgments. Those paid every two weeks have only 1/2 the appropriate amount of wages garnished. Only those who are paid monthly have the full amount of wages garnished.

Yes, there will be paperwork problems on larger non-retail employers with employees whose wages are garnished. Non-retail employers do not often use the garnishment law, so they don't see the inherent

Senate Labor, Industry & Sm. Business  
Attachment 4 February 3, 1987

ent unfairness of it's current language. However, there are solutions to the paperwork problems this bill creates for a few large employers. Those solutions mitigate the paperwork problems raised by this legislation.

1. For example, if the added paperwork problem is important, it could be arranged through an amendment to the garnishment statute that while garnishment occurs weekly, reporting of withheld wages would occur once monthly back to the court and the judgment-creditor's counsel. This would not affect the return flow of paper at the Clerk's offices while at the same time allowing all checks issued during the month to be garnished.

2. You could consider an amendment that would allow the cover form sent by the Clerk's office to indicate whether the judgment creditor intends the garnishment to be a "one-time" or "every pay-period" event; if the second box marked "every pay period" is marked, then the garnishee-employer is noticed that each paycheck of the month is required to be garnished, yet the reporting back to the court remains monthly. These suggestions should eliminate the paper flow problems.

Finally, enactment of this change will encourage debtors to do what the law now discourages: set up automatic withholding of wages at an agreed upon sum to go to satisfy lawful judgments. When that is done, the garnishment is unnecessary and the employer's paperwork is simplified.