

Approved On: _____

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on March 22, 1988 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Crowell

Committee staff present:

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

The committee discussed HB-2959 - AN ACT relating to financing of certain facilities or improvements by municipalities; concerning use of countywide and city retailers' sales tax proceeds. Discussion centered on a balloon amendment that was proposed. Representative Vancrum moved, second by Representative Wunsch, to adopt the balloon amendment. The motion carried. Representative Snowbarger moved, second by Representative Vancrum, that HB-2959 as amended be passed favorably. The motion carried. (Attachment 1)

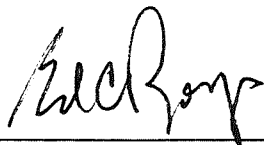
John Luttjohann, Director of Taxation, spoke as a proponent for SB-553 - AN ACT supplementing the Kansas Withholding and declaration of estimated tax act; concerning registration thereunder. (Attachment 2) Representative Wagnon moved, second by Representative Pottorff, that SB-553 be placed on the consent calendar. The motion carried.

Mr. Bill Waters, attorney for Division of Property Valuation, spoke as a proponent for SB-453 - AN ACT relating to property taxation; effecting statutory amendments necessary and incidental to the reappraisal and classification of property for taxation purposes. PVD proposed alternative language for Section 2 of SB-453 and technical amendments to clarify personal property filing dates. (Attachment 3)

There was considerable discussion concerning definitions of vacant lot, homesite, and public utility. Janice Marcum, representing the Department of Revenue, explained their interpretation of the terms involved. Chairman Rolfs said he would be more comfortable if there was a definition of Public Utility in the statute book.

The minutes of the March 18 meeting were approved.

There being no further business, the meeting was adjourned.



Ed C. Rolfs, Chairman

HOUSE BILL No. 2959

By Committee on Economic Development

2-12

0017 AN ACT relating to financing of certain facilities or improve-
0018 ments by municipalities; concerning use of countywide and
C city retailers' sales tax proceeds; amending K.S.A. 1987 Supp.
0019 12-195 and repealing the existing section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 1987 Supp. 12-195 is hereby amended to
0023 read as follows: 12-195. (a) Except as otherwise provided in
0024 subsection (b), no city or county shall commit any of the funds or
0025 proceeds derived from a retailers' sales tax as a guarantee for the
0026 payment of bonds issued by such city or county.

0027 (b) Any city or county which is the recipient of funds derived
0028 from a local option sales tax pursuant to K.S.A. 12-187 et seq., and
0029 amendments thereto is hereby authorized to issue revenue
0030 bonds to provide for the payment of all or any portion of the cost
0031 of public facilities or improvements of such city or county for
0032 which such city or county is authorized pursuant to the constitu-
0033 tion or laws of this state to issue general obligation bonds,

0034 ~~excluding~~ any facilities or improvements to be used for com-
0035 mercial or retail purposes, *except that, with regard to revenue*
0036 *bonds issued pursuant to this section by the city of Overland*
0037 *Park, Kansas, in lieu of such exclusion, there shall be excluded*
0038 *any facilities to be used exclusively for commercial or retail*
0039 *purposes.* In the event the governing body of a city or county
0040 proposes to issue such bonds, and the question of pledging the
0041 revenues received from the countywide or city retailers' sales tax
0042 has not previously been submitted to and approved by the voters
0043 of the city or county, such proposition shall be published once
0044 each week for two consecutive weeks in the official city or
0045 county newspaper, as the case requires. If, within 30 days after

and to pledge revenues received from countywide or city retailers' sales taxes for the payment thereof. No such bonds shall be issued for the payment of all or any portion of the cost of

such prohibition shall not apply to revenue bonds issued for the payment of the cost of constructing or improving a convention or exposition hall or center or public auditorium

Attach 1

0046 the last publication of the proposition, a petition signed by not
0047 less than 4% of the electors of the city or county, as the case
0048 requires, who voted for the office of secretary of state at the last
0049 preceding general election for such office requesting an election
0050 thereon, no such bonds shall be issued unless the proposition is
0051 submitted to and approved by a majority of the voters of the city
0052 or county, as the case requires, voting at an election held
0053 thereon. Any such election shall be called and held in accord-
0054 ance with the provisions of K.S.A. 10-120, and amendments
0055 thereto, or in accordance with the provisions of the mail ballot
56 election act.

0057 (1) Such bonds shall be authorized by ordinance of the gov-
0058 erning body of such city or resolution of the governing body of
0059 such county. The bonds may be issued as registered bonds or
0060 coupon bonds, payable to bearer, and, if coupon bonds, may be
0061 registrable as to principal only or as to principal and interest, and
0062 may be made exchangeable for bonds of another denomination
0063 or in another form. The bonds may be in such form and denomi-
0064 nations, may have such date or dates, may be stated to mature at
0065 such time or times, may bear interest payable at such times and
0066 at such rate or rates, may be payable at such places within or
0067 without the state, may be subject to such terms of redemption in
0068 advance of maturity at such prices, and may contain such terms
0069 and conditions, all as the city or county shall determine. The
0070 bonds shall have all the qualities of and shall be deemed to be
0071 negotiable instruments under the laws of the state of Kansas. The
0072 authorizing ordinance or resolution may contain any other terms,
0073 covenants and conditions that the city or county deems reason-
0074 able and desirable, including without limitation those pertaining
0075 to the maintenance of various funds and reserves, the nature and
0076 extent of any security for payment of the bonds, the custody and
0077 application of the proceeds of the bonds, the collection, transfer
0078 and disposition of sales tax revenues, the investing of bond
0079 proceeds or any funds pledged to the repayment of the bonds,
0080 and the rights, duties and obligations of the city or county and
0081 the owners of the bonds.

0082 (2) The authorizing ordinance or resolution may provide for

0083 the execution of a trust indenture between the city or county and
0084 any financial institution within or without the state of Kansas.
0085 The trust indenture may contain any terms, covenants and con-
0086 ditions that are deemed desirable by the city or county.

0087 (3) Any authorizing ordinance or resolution and trust inden-
0088 ture relating to the issuance of and security for the bonds shall
0089 constitute a contract between the city or county and the owners
0090 of the bonds, which contract, and all covenants, agreements and
0091 obligations therein, shall be promptly performed in strict com-
0092 pliance with the terms and provisions of such contract, and the
93 covenants, agreements and obligations of the city or county may
0094 be enforced by mandamus or other appropriate proceeding at
0095 law or in equity. The pledge of revenues made by the city or
0096 county shall be valid and binding from the time when such
0097 pledge is made and the revenues so pledged and thereafter
0098 received by the city or county shall immediately be subject to the
0099 lien of such pledge without such physical delivery thereof or
0100 further act on the part of the city or county, and the lien of any
0101 such pledge shall be valid and binding as against all parties
0102 having claims of any kind against the issuer, irrespective of
0103 whether such parties have notice thereof. Neither the authoriz-
0104 ing ordinance or resolution nor any other instrument by which a
0105 pledge is created need be filed or recorded except in the records
0106 of the city or county.

0107 (4) The revenue bonds may be sold in such manner, either at
0108 public or private sale, and upon such terms as the city or county
0109 shall determine to be reasonable, including sale at discount. It
0110 shall be plainly stated on the face of *each* such bond that it has
0111 been issued under this act, that the bonds shall be special
0112 obligations of the city or county, payable solely and only from the
0113 revenues ~~derived from the collection of such local sales taxes,~~
0114 ~~and except that, with regard to revenue bonds issued pursuant~~
0115 ~~to this section by the city of Overland Park, Kansas, in lieu of~~
0116 ~~such statement, each such bond shall state that the bonds shall~~
0117 ~~be special obligations of the city, payable solely and only from~~
0118 ~~the revenues pledged to the payment of the bonds. It shall be~~
0119 ~~also plainly stated on the face of each revenue bond issued~~

0120 pursuant to this section that in no event, shall the bonds consti-
0121 tute an indebtedness of the state of Kansas or the city or county
0122 for which the faith and credit of the state of Kansas or city or
0123 county is pledged.

0124 (5) Any bonds issued under the provisions of this section and
0125 the interest thereon, shall be exempt from all taxes levied by the
0126 state of Kansas, or any political or taxing subdivision thereof,
0127 except inheritance taxes.

0128 (6) Bonds may be issued for the purpose of refunding, either
0129 at maturity or in advance of maturity, any bonds issued under
0130 this section. Such refunding bonds may either be sold or deliv-
0131 ered in exchange for the bonds being refunded. If sold, the
0132 proceeds may either be applied to the payment of the bonds
0133 being refunded or deposited in trust and there maintained in
0134 cash or investments for the retirement of the bonds being re-
0135 funded, as shall be specified by the city or county and the
0136 authorizing ordinance or resolution or trust indenture securing
0137 such refunding bonds. The authorizing ordinance or resolution
0138 or trust indenture securing the refunding bonds may provide that
0139 the refunding bonds shall have the same security for their pay-
0140 ment as provided for the bonds being refunded. Refunding
0141 bonds shall be sold and secured in accordance with the provi-
0142 sions of this act pertaining to the sale and security of the bonds.

0143 (7) Bonds issued under the provisions of this act shall be
0144 eligible to secure the deposit of public funds under article 14 of
0145 chapter 9 of the Kansas Statutes Annotated and amendments
0146 thereto.

0147 (8) Bonds issued under the provisions of this act shall be in
0148 addition to and not subject to any statutory limitation of bonded
0149 indebtedness imposed on such city or county.


0150 Sec. 2. K.S.A. 1987 Supp. 12-195 is hereby repealed.

0151 Sec. 3. This act shall take effect and be in force from and
0152 after its publication in the Kansas register.

pledged to the payment of the bonds, and

MEMORANDUM

TO: Honorable Ed Rolfs, Chairman
House Taxation Committee

FROM: John R. Luttjohann, Director of Taxation
Department of Revenue 

DATE: March 22, 1988

SUBJECT: Senate Bill No. 553, as amended by Senate Committee

Thank you for the opportunity to appear before you today on Senate Bill No. 553, as amended by Senate Committee.

This legislation, as amended, would add a new provision to the Kansas withholding and declaration of estimated tax act which would require any person making application for a withholding tax certificate to be current on all outstanding taxes, including interest and penalties, before the new certificate could be issued. In addition, the amended legislation would define the term "person" to include any individual, partnership or corporation or responsible party of a corporation.

The Department supports this legislation as it would assist in the collection of delinquent taxes. In addition, it simply makes sense to require a person to pay any outstanding tax liabilities before obtaining a withholding tax number.


I would be glad to answer any questions which you may have.



KANSAS DEPARTMENT OF REVENUE
Division of Property Valuation
Robert B. Docking State Office Building
Topeka, Kansas 66612-1585

M E M O R A N D U M

TO: The Honorable Edward Rolfs, Chairman
House Committee on Taxation; and Committee Members

FROM: Terry D. Hamblin, Director 
Division of Property Valuation

DATE: March 18, 1988

SUBJECT: Senate Bill No. 453

Attached to this memorandum are the following documents:

Attachment 1: Proposed alternative language for Section 2 of SB 453. This section includes the definitions of "merchant," "manufacturer" and "inventory".

Attachment 2: Requested technical amendments to clarify personal property filing dates and repeal K.S.A. 79-306a which is not in active use but requires every person of full age and sound mind, who has no property to list to sign a statement to that fact and deliver it to the county assessor.

Attachment 3: Memorandum to Senator Fred Kerr and the Senate Assessment and Taxation Committee concerning the term "vacant lot."

Attachment 4: Memorandum to Senator Fred Kerr and the Senate Assessment and Taxation Committee concerning the term "retail cost when new."

Attachment 5: Explanation of the amendments contained in Section 8 of Senate Bill 453 relating to Homestead Property Tax Refunds.

Representatives of this Division will be available to discuss these documents with you and the committee at your convenience. If there is any further information which we may provide, please let me know.

Proposed New Section 2

New Sec. 2. To the extent herein specified merchants' and manufacturers' inventory shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas.

(a) As used in this section "merchant" means and includes every person, company or corporation who shall own or hold, subject to their control, any tangible personal property within this state which shall have been purchased with a view of being sold without modification or change in form or substance; and without out any intervening use.

(b) As used in this section "manufacturer" means and includes every person, company or corporation who is engaged in the business of transforming, refining, or combining materials and labor to convert tangible personal property from one form to another including packaging.

(c) As used in this section "inventory" means and includes those items of tangible personal property that (1) are held for sale in the ordinary course of business (finished goods); (2) are in process of production for such sale (work in process); or (3) are to be consumed either directly or indirectly in the production of finished goods (raw materials and supplies). Assets subject to depreciation accounting shall not be classified as inventory. A depreciable asset that is retired from regular use and held for sale or as standby or as surplus equipment shall not be classified as inventory.

The provisions of this section shall apply to all taxable years commencing after December 31, 1988.

Proposed Technical Amendments to SB453

Line 0240 - Strike "Between January 1 and" insert "on or before"; after March 1 insert ", or the next following business day if such date shall fall on a day other than a regular business day,"

Line 0242 - After "shall be" insert "on or before"; after "April 1," insert "or the next following business day if such date shall fall on a day other than a regular business day,"

Line 0479 - After "79-218" insert "79-306a"



KANSAS DEPARTMENT OF REVENUE
Division of Property Valuation
Robert B. Docking State Office Building
Topeka, Kansas 66612-1585

MEMORANDUM

TO: Senate Assessment & Taxation Committee
Senator Fred Kerr, Chair
FROM: Terry D. Hamblin, Director
DATE: February 12, 1988
SUBJECT: Vacant Lots

Article 11, Section 1(b) of the Kansas Constitution now requires that "Real property be further classified into four subclasses," and that "Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass" All real property is now defined as Class 1, and Subclass C consists of "Vacant Lots," which are to be assessed at 12% of their market value.

For the purposes of classification, the Property Valuation Division has defined "Vacant Lot" as a parcel of land which is unimproved except for utility services. Following from that:

- * Parcel is defined as a contiguous area of land under one ownership that can be included under one description for appraisal purposes as set forth in the Kansas Mapping Specifications.
- * Improvement is defined as buildings, structures, or other development located upon or attached to the land which, under Kansas law, become part of the real estate.
- * Utilities are defined as water, gas, electric, or sewer services available to the parcel.

Based upon this definition, the following implications should be noted:

1. Regardless of highest and best use considerations or current surrounding use, all residential, commercial, and industrial properties meeting the vacant lot definition criteria will be sub-classed and assessed as vacant lots. However, they will be appraised at their highest and best use.
2. Use of the word "lot" does not restrict how the parcel is legally described. It applies to platted subdivision lots and parcels described by metes and bounds descriptions or U. S. Government Survey references.

3. Vacant lots may be either urban or rural and no size limitation is imposed. For example, a vacant lot may be 50 X 100 feet, 1000 X 1000 feet, or 160 acres.
4. The definition implies that a parcel of land having an improvement (except utilities) on any portion thereof could not be considered a vacant lot. For example: A 10-acre tract of which 9 acres are vacant and unimproved and 1 acre is improved with a homesite or industrial facility. The 9 acres that are vacant and unimproved would not be segregated and sub-classed as a vacant lot. Additionally, such items as asphalt paving, fencing, or a small dilapidated shed having little or no value would all be considered improvements to the parcel.

This definition was developed after considerable thought, discussion and research. Formulation of the definition and its implication was not a matter taken lightly. The Property Valuation Division carefully reviewed existing legislation, attempted to track legislative intent, and studied many other possible definitions completely. Eventually, the definition just presented was selected as being most representative of the wording contained in the constitutional amendment. Should the committee feel differently and have other suggestions, the division would welcome the opportunity to hear and address them. Ultimately we are interested only in carrying out the order of the amendment, which is to ensure that each subclass of property be assessed uniformly throughout the state.



KANSAS DEPARTMENT OF REVENUE
Division of Property Valuation
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Topeka, Kansas 66612-1585

M E M O R A N D U M

TO: Senate Assessment & Taxation Committee
Senator Fred Kerr, Chair

FROM: Terry D. Hamblin, Director

DATE: February 12, 1988

SUBJECT: Retail Cost When New

Issue: What does the term, "retail cost when new," mean?

The term, "retail cost when new," appears in Art. 11, Sect. 1 of the Constitution of the State of Kansas (the "Classification Amendment"), which was passed by the voters of Kansas in 1986.

The meaning of the term, "retail cost when new," can be determined by examining the explanatory statement which appeared on the ballot in 1986 (See, HCR 5018, L. 1985, ch. 364). The explanatory statement provides in part as follows: "{c}ommercial and industrial machinery and equipment would be assessed at 20% of its fair market value." (Emphasis added.) It is therefore submitted that in the context of the "classification amendment" the term, "retail cost when new," is synonymous with the term, "fair market value" when new. Therefore, the starting point in determining the value of any commercial and industrial machinery and equipment is its fair market value when new, not fair market value determined at some other point in its economic life.

It is recommended, therefore, that no statutory definition of "retail cost when new," be approved by the Legislature. The Division of Property Valuation will prescribe commercial guides showing "retail cost when new" or devise such guides for distribution to county appraisers. The term, "retail cost," is a common term in commercial guides.

All commercial and industrial machinery and equipment will retain a residual value of 20% of the retail cost when new unless such property is no longer being used. If such property is no longer being used, its value shall be its "fair market value," which may be less than 20% of the retail cost when new. The assessment rate will remain 20%.

Explanation of Amendments to the Homestead
Property Refund Act Contained in Senate Bill 453

K.S.A. 79-4502(d) Homestead means the dwelling or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, not exceeding one acre , as is reasonably necessary for use of the dwelling as a home, and may - - - - -

K.S.A. 79-4502(f) - - - - - Whenever a homestead is an integral part of a larger unit such as a farm or a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is to the total value, except that the claimant may use the total property taxes accrued for the larger unit, but not exceeding 40 acres of land, except as the limitations of K.S.A. 79-4509 apply. - - - - -

Percentage computation when a homestead is part of a larger unit, like a farm. Assessed value of the homestead (homesite) assessed value of total parcel = _____% times the total tax bill for the parcel = credit for homestead tax credit.

Current law was established with the intent of allowing credit only on that which is actually being used for homesite purposes which could be up to forty acres. However, due to the condition of acreage records, and a lack of separate homesite valuation available to county clerks, actual practice has established a computation method for homestead relief tax credit which results in an attitude that forty acres under any use is to be credited (See computation worksheet attached). Tax credit for land has been computed by dividing the land assessed value for the total tract by the total number of acres in the entire tract then multiplying the result by forty to get the acreage assessed value on which tax credit is computed. In addition, the property records have had improvements, which under the classification amendment are classed as farm out buildings and to be assessed at 30% of market value, (nonresidential use) included in the total improvement assessed value for homestead credit computation purposes.

Proposed language was developed to follow the original intent of current law which was to allow credit for that which was actually utilized for homesite purposes whether urban or rural. This attitude would in actual practice eliminate land and improvements which are actually utilized for other than homesite (homestead) purposes.

Net effect: When looking only at current practice and current valuations it may appear that the change in law would take away some of the tax credit. However, one must realize that values for the homesite (homestead) land and improvements will, in most cases increase thereby resulting in a potentially higher dollar credit in the end result than is currently realized.