

Approved

Keith Roe
Date
2/20/90

MINUTES OF THE House COMMITTEE ON Taxation

The meeting was called to order by Representative Keith Roe at
Chairperson

9:00 a.m./p.m. on February 15, 1990 in room 519-S of the Capitol.

All members were present except:

Representative Adams, excused
Representative Crowell, excused
Representative Fuller, excused

Committee staff present:

Tom Severn, Research Department
Chris Courtwright, Research Department
Don Hayward, Revisor's Office
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Representative Gary Blumenthal
Representative Kerry Patrick
Marlin Rein, University of Kansas Medical Center
Dennis Kissinger, City Manager of Salina
Alan Sims, City of Overland Park
Bob Evans, City Manager of Bonner Springs
Don Seifert, City of Olathe
Art Davis, City of Lenexa
George Barbee, Kansas Lodging Association
Linda Pruitt, Lenexa Chamber of Commerce

Representative Kerry Patrick testified in support of HB 2850, stating that it was introduced to avoid the inevitable cronyism and political favoritism that results when the people's money is not put out for competitive bid. He also stated that it is to save the taxpayers money by requiring all collection work done by the state to be put out for competitive bid. (Attachment 1)

Marlin Rein, University of Kansas Medical Center, testified on HB 2850, requesting that Committee Staff assure that there are no statutory conflicts with this bill and other existing statutes which provide for the provision of legal services to Regents institutions. Mr. Rein also stated that he is concerned with whether competitive bid always secures the best end result. (Attachment 2)

Chairman Roe concluded the hearing on HB 2850.

The Chairman directed the Committee to turn to HB 2637.

Representative Gary Blumenthal testified in support of HB 2637, stating that the information to be provided to city or county officials would be beneficial for informing them if all required businesses are paying the local sales or transient guest tax. He also stated that the information made available to the cities and counties would assist them in developing more accurate revenue projections for budgetary purposes. (Attachment 3)

Dennis Kissinger, Salina City Manager, testified in support of HB 2637, stating that it provides an excellent opportunity for improved efficiency and effectiveness of government in Kansas, and they would be willing to pay appropriate costs. (Attachment 4)

Alan Sims, City of Overland Park, testified in support of HB 2637, stating that it would allow the City to prepare more accurate monthly budget forecasts of sales tax. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation,
room 519-S, Statehouse, at 9:00 a.m./~~p.m.~~ on February 15, 1990.

Bob Evans, City of Bonner Springs, testified in support of HB 2637, stating that the release of information on the City's retail sales tax collections by businesses would benefit the City as well as the State and County. (Attachment 6)

Don Seifert, City of Olathe, testified in support of HB 2637, stating that it would simply provide a means for cities and counties to assist the Department of Revenue with its responsibilities to administer, enforce, and collect local sales taxes. (Attachment 7)

George Barbee, Kansas Lodging Association, testified in opposition to HB 2637, stating that the lack of confidentially safeguards in the bill is the major concern of the lodging industry. He also stated that if a property owner fails to comply with the provisions of the statutes relative to collection and submittal of the tax, there are penalty provisions ranging from interest charges, fines and imprisonment. (Attachment 8)

Art Davis, City of Lenexa, testified in support of HB 2637, stating that they are not able to predict, verify, or hold accountable, any particular cause if they are not provided a detailed breakdown of revenue origin. (Attachment 9)

Linda Pruitt, Lenexa Chamber of Commerce, testified in support of HB 2637, stating that under the present statute, they are unable to accurately project revenues for budget planning when revenue predictions are based on blind estimates. (Attachment 10)

Written testimony was provided by:

Linton Bartlett, City of Kansas City, Kansas (Attachment 11)

Cindy Simons, McPherson County Appraiser (Attachment 12) (HB 2826)

Vice Chairman Marvin Smith announced that there will be a further hearing on HB 2637.

The minutes of February 14, 1990, were approved.

The meeting adjourned at 10:00 a.m.

KERRY PATRICK

REPRESENTATIVE, TWENTY-EIGHTH DISTRICT
 JOHNSON COUNTY
 10009 HOWE DRIVE
 LEAWOOD, KANSAS 66206



TOPEKA

COMMITTEE ASSIGNMENTS

MEMBER: ENERGY AND NATURAL RESOURCES
 LABOR AND INDUSTRY
 LOCAL GOVERNMENT
 JOINT COMMITTEE ON SPECIAL CLAIMS
 AGAINST THE STATE

HOUSE OF
 REPRESENTATIVES

To: House Taxation Committee

Date: February 15, 1990

From: Kerry Patrick

Re: House Bill 2850-**Requiring competitive bidding for the contracting of all collection work by all state agencies.**

I. Rationale:

The purpose of this bill is to save the taxpayers money by requiring all collection work done by the state to be put out for competitive bid. It is also being introduced to avoid the inevitable cronyism and political favoritism that result's when the people's money is not put out for competitive bid.

The type of collection work that I am talking about, that to be put out for competitive bid, is the type of work that one can write specifications for. It is the type of work that a particular state agency, such as the KU Medical Center or Department of Revenue or SRS, knows that they will be doing every year that they are in existence.

II. Newspaper Articles:

What prompted this bill were the attached newspaper articles that show how the KU Medical Center has been ripped off through the collection work done by certain politically well connected law firms and businesses. It is outrageous that the KU Medical center, according to the Legislative Research Department, spent over \$1.2 million last year to **outside attorneys and collection firms to collect debts** that were due and owing. Four firms or businesses received almost \$1.1 million. And remember, this doesn't include the

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 Attachment 1

cost to the state for the staff and computer for the regular billing procedures of the med center.

III. Passage of this bill could easily save the state over \$1 million at KU Medical Center alone.

After these stories broke, I have had some extensive discussions with many law firms and collection agencies in the Kansas City Metropolitan area who expressed to me their opinion that if this work were put out to competitive bid the cost to the medical center would range from \$100,000 to \$200,000.

An additional article in the Kansas City Star indicated that attorney's and collection agencies for the Med Center were getting 40% of the amount collected. The story pointed out that no other hospital surveyed in the greater Kansas City area permitted themselves to be charged more than 25% for these type of services.

Kansas fees to lawyers do double in four-year period

Political patronage blamed

By Rich Hood 10-8-89
and Jim Sullinger K.C. Star
staff writers

Kansas now pays private lawyers more than double what it did four years ago to handle state work, and critics say political patronage appears to be a major reason.

Kansas Department of Administration records obtained by *The Kansas City Star* for the last four years show fee totals have risen from \$5.2 million to \$10.8 million.

Of that sum, hundreds of thousands of dollars has flowed to law firms with strong Republican ties since Democratic Gov. John Carlin left office in January 1987 and was succeeded by Republican Gov. Mike Hayden, the records show.

"The increases for Republicans are staggering," said Jim Parrish, Kansas Democratic chairman.

Some critics also contend that Kansas could save money by giving more legal work to the state's lawyers.

But state officials say it is not always possible to save money that way.

And Kathy Peterson, Hayden's press secretary, denied decisions were based on politics.

"He (Hayden) has no control over it," she said of assigning the legal business. "It's done quite independently at each agency's level."

The decisions on parceling out the legal work are made by Attorney General Bob Stephan, Insurance Commissioner Fletcher Bell and state agency directors in Hayden's administration. Stephan, Bell and Hayden are Republicans, but Stephan and Bell also were in office while Carlin was governor.

Burdett Loomis, chairman of the University of Kansas political science department, said the system of distributing state legal work clearly is a form of political patronage.

"Who would be surprised by that?" Loomis asked. "It's legal, simple and straightforward."

State Rep. Kerry Patrick, a Leawood Republican, said patronage in legal fees is common in both parties.

"This might be politics as usual, but it's still not right," Patrick said.

The rules of the patronage game don't appear to change, some Democrats and Republicans said. When Democrats hold power, Democratic law firms get plum assignments. When Republicans are in, the money shifts to Republicans.

"What an economic dearth it's been for the Democrats," Larry Gates, a Johnson County Democratic lawyer, said of the decrease that Democratic law firms have seen under a Republican governor.

But Gates added that he believed his own firm had been treated fairly.

Gates knows the system from being on the inside when Carlin was governor. Gates is a former treasurer of the state Democratic Party and his law firm did well under the Carlin administration.

Gates has seen the income of his law firm from state fees drop from \$151,589 in the last year Carlin was in office to \$39,127 last year under Hayden.

Stephan fired Gates' firm, Gates & Clyde, and hired Republican lawyer Jerry Dickson from Johnson County.

The State Line Corporation, headed by Dickson's wife, DeLome, also saw its legal fees from the state increase from \$87,275 in 1986 to \$377,295 last year.

Dickson said the legal fees were based on merit.

The Republican law firm of former Gov. Robert Bennett also has seen its revenues from state contracts rise from

Rules of the game

\$174,415 in 1986 to \$455,030 last year.

Parrish said he was shocked to learn that the law firm of Fred Logan, a Johnson County lawyer who was chosen by Hayden to be state Republican chairman, earned more than \$103,000 last year in state fees, up from \$11,000 four years ago.

Parrish himself received \$14,000 last year for handling workman's compensation cases.

"I suppose they are giving me a token amount just to have a Democrat on the books," Parrish said.

Logan said he did not regard the increase in fees from the state as a reward for his service as state chairman.

Logan said the firm's business picked up after his brother Scott joined his solo practice in 1986. Scott Logan specializes in representing insurance companies.

"Being state chairman was a real financial burden for me," said Logan, who resigned last month. "It is certainly a strain on a law practice, and on this firm. I think we do a good job; that is why we have been hired."

Some other lawyers who have enjoyed dramatic increases in their income from the state during the last four years agreed that legal work was awarded on the basis of merit, not politics.

Marvin Harder, a KU political scientist and former secretary of administration under Carlin, disagreed.

"Politics does enter in," Harder said.

"I wouldn't rule out the possibility, though I have no personal knowledge of it, that the governor himself might suggest to a Cabinet officer that he use

the services of someone who had been a good contributor or supporter of the governor," Harder said. "I think that is very likely to have happened in the past."

Loomis said some law firms contain both politically active Democrats and Republicans so they don't lose state business when administrations change in Topeka.

Perhaps the best example is the law firm of Holbrook, Ellis and Heaven in Kansas City, Kan.

Reid Holbrook is a prominent Democrat; Jeff Ellis is a prominent Republican.

In Carlin's last year the Holbrook firm made more money from the state than any other with \$205,889. Last year the Holbrook-Ellis firm made even more—\$398,432, but that ranked its income only third among the state's private lawyers.

Public vs. private

Last year the Kansas Legislative Division of Post Audit examined the use of state-employed and private attorneys by state government.

Barbara Hinton, an auditor, said the division found that the number of staff attorneys employed by the executive branch had grown from 165.8 in 1984 to 221 by 1988, resulting in a growth in salaries from \$4.5 million to \$7.3 million.

She said a similar increase also occurred in legal work done by outside lawyers—from \$4.6 million in 1983 to \$7 million by 1987.

By this year, according to state records, that total had grown to \$10.8 million.

Hinton said 85 percent of work done by private attorneys is contracted by four agencies: the Board of Indigent's Defense Services, the insurance department, the University of Kansas

Medical Center and the attorney general's office.

The post audit division's report suggested money could be saved by hiring more staff attorneys for work now done by private lawyers.

Hinton said, however, that she knows of no attempt to slow the increasing costs.

"Nobody has really jumped on that bandwagon," she added.

For example, Hinton said, the report suggested \$200,000 a year could be saved by hiring more staff attorneys to defend the workman's compensation fund.

The insurance department has only one staff attorney and contracts \$5 million in legal work each year to private firms.

Chris Cowger, the department's attorney, said Bell, the state insurance commissioner, has resisted adding more staff attorneys. Bell, a Republican, was unavailable for comment.

"I know it's always been a concern of the Legislature about all the attorneys we hire," Cowger said.

GOP Rep. David Miller, a Eudora Republican who is chairman of the Legislature's post audit committee, said the increase in attorney costs was disturbing but not surprising.

"This is just a small piece of an overall picture of massive increases in state spending over the last three years," said Miller, whose committee oversees efficiency in state government.

Art Griggs, the Department of Administration's chief attorney, contends, however, that the state selects legal firms objectively.

Griggs said the governor's office carefully screens firms hired by the executive branch to make sure work isn't being done by private firms that could be handled by agency staff attorneys.

The state gets a good deal from the Bennett law firm, said Larry Winn III, a partner in the firm and the 3rd Congressional District GOP chairman.

The firm's revenues have increased under a Republican governor, but that is because it has increased the number of bad debts it attempts to collect for the KU Medical Center, Winn said.

The Bennett law firm received \$175,415 from the state in 1986 and \$455,030 for fiscal year 1989.

"For a number of years we have collected bills for the KU Med Center," Winn said. "Many of the bills are old and musty. We do that on a contingent basis. We submit 60 percent of what we collect to the university and keep 40 percent for ourselves."

Winn said the KU collection business was referred to the firm by the attorney general, but some of the firm's business comes from state agencies under the governor's control. Those cases are handled by Bennett for the Department of Social and Rehabilitation Services.

Winn said Hayden has tried to have state government lawyers handle as many cases as they can.

"But it is not cheap to hire lawyers at the state level. It's a constant judgment: What is the most cost-effective way to do business," Winn said. "Sometimes it's better to do it in-house, and sometimes it's cheaper to hire it done."

Two major reasons for the increase in state legal costs don't have apparent political overtones. About a third of the \$10.8 million goes to lawyers who represent indigent clients. Those lawyers are chosen by district courts.

One of the biggest legal costs for the state is the bill for Richard A. Simms, a special assistant attorney general on contract to the state to represent Kansas in a dispute with the state of Colorado. The legal battle is over water rights to the Arkansas River.

Simms has been paid \$2 million by the state in the last four years.

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TOP 10

These are the 10 private attorneys or legal firms that received the most money in fiscal 1989 under contracts with the state of Kansas.

1. Richard A. Simms **\$739,999**

Simms, a special assistant attorney general from New Mexico, represents Kansas in a dispute over water rights with Colorado.

2. Bennett, Lytle, Wetzler, Winn, Martin & Wolfe **\$455,030**

The firm, headed by former Republican Gov. Robert Bennett and which includes 3rd District GOP Chairman Larry Winn III, collects bad debts at the University of Kansas Medical Center and handles work for state agencies.

3. Holbrook, Ellis & Heaven **\$398,432**

Reid F. Holbrook, a Democratic activist, and Jeff Ellis, a Republican fund-raiser, handle medical malpractice cases for the state.

4. State Line Corp. **\$377,295**

The firm is headed by DeLome Dickson, wife of Jerry Dickson. The couple are Johnson County Republican activists and self-described major party fund-raisers for 25 years. The firm collects bad debts for KU Medical Center.

5. Woodard, Blaylock & Hernandez **\$299,537**

The Wichita law firm, which includes GOP activists, specializes in handling medical malpractice cases for the state.

6. Turner and Boisseau **\$279,931**

Lee Turner, a major GOP fund-raiser from Great Bend, and Eldon Boisseau, husband of the Kansas GOP secretary, Janet Boisseau, head the firm, which handles medical malpractice cases for the state.

7. Sloan, Lstrom, Eisenbarth, Sloan & Glassman **\$165,341**

The firm, which has GOP connections, handles medical malpractice cases for state.

8. Ratner, Mattox, Ratner and Kinch **\$161,237**

The Wichita firm, made up primarily of Democrats, includes Lee Kinch, Sedgwick County Democratic chairman and husband of Republican state Rep. Elizabeth Baker. It handles medical malpractice cases for the state.

9. Alderson & Alderson **\$159,385**

Robert Alderson of Topeka, former assistant to Attorney General Bob Stephan, handles collection of KU Medical Center bad debts.

10. Wayne Hundley **\$158,559**

Hundley, of Topeka, is a former assistant to Stephan. He handles collections of KU Medical Center bad debts.

Source: Kansas state records and interviews with attorneys.

Star chart

DATE: Sun. 10-15-89

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| <input type="checkbox"/> TOPEKA CAPITAL-JOURNAL | <input type="checkbox"/> GARDEN CITY TELEGRAM | <input type="checkbox"/> OLATHE DAILY NEWS |
| <input type="checkbox"/> WICHITA EAGLE | <input type="checkbox"/> HAYS DAILY NEWS | <input type="checkbox"/> PARSONS SUN |
| <input type="checkbox"/> KANSAS CITY TIMES | <input type="checkbox"/> HUTCHINSON NEWS | <input type="checkbox"/> PITTSBURG MORNING SUN |
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| | | WINFIELD DAILY COURIER |

Reform talk starts on state legal fees

Pay to lawmakers at issue

By Rich Hood
and Jim Sullinger
staff writers

Talk of reform is building in Kansas to overhaul a system that permits lawyers with political ties to collect hundreds of thousands of dollars annually in fees from the state.

More than half the lawyers who serve in the Kansas Legislature received state fees.

State records obtained by *The Kansas City Star* show fees paid to lawyers in the Legislature or to their law firms have leaped from \$53,905 four years ago to \$372,706 last year.

That is part of an overall increase in state spending for private attorneys from \$5.2 million in fiscal 1986 to \$10.8 million last year.

Lynn Hellebust, Kansas chairman of Common Cause, a non-profit group that seeks stricter ethical standards in government, said the increase in fees paid to state lawmakers is staggering.

"There is always a certain amount of patronage in a political system, and our culture accepts a certain amount of it, but this crosses a line most people would accept," Hellebust said. "State officials ought not to be doing business with the state, period."

While the practice of paying lawmakers legal fees is not illegal, Hellebust said it represents questionable ethics.

"This strikes me as a straight-out abuse of the legislative position," he said.

Hellebust said Common Cause would propose legislation next year to demand that the state seek bids for contracts with attorneys and to ban state lawmakers from doing business with or collecting fees from state agencies.

House Majority Leader R.H. Miller, a Wellington Republican who is not a

lawyer, said the money the state paid to lawmakers who are lawyers appears to be a form of patronage.

Most of those lawmakers are Republicans.

Most of those lawmakers are Republicans.

Miller said such legal work instead should be bid just like other state work.

"There is something that just doesn't sound quite right about the state using legislators," he said. "It's a natural inclination not to bite the hand that feeds you."

Miller said the Legislature would consider establishing a code of ethics for lawmakers next year and an ethics committee to monitor violations.

Most of the lawmakers whose firms received the highest amount of state fees defended the practice, contending they and their firms were hired on merit, not for political reasons. They also denied there was anything improper in receiving fees from the state while writing the state's laws.

State officials who directed the fees to the lawyers also said they saw nothing wrong with the practice, which they described as based on merit and past acquaintance.

"When you hire attorneys, you hire attorneys you trust," said Neil Woerman, chief of staff for Attorney General Bob Stephan.

The law firm that includes state Sen. Richard Bond, an Overland Park Republican, received the most state fees last year, \$455,030.

Records indicate most of the state money to the law firm in which Bond is a member came

from the collection of bad debts for the University of Kansas Medical Center. The firm neid that contract before Bond joined the firm in November 1985.

Second highest fees went to the law firm in which state Rep. Barbara Allen, a Prairie Village Republican, is an associate. The Perry and Hamill firm received \$141,427.

Allen said she was asked to work on some cases for Stephan: she had previously worked in his office as an assistant attorney general.

Records show the firm had been doing a lot of work for the state long before she joined it.

She said that at no time did her law firm pressure her to vote for or against any bill before the Legislature, and that she would abstain from voting on any measure that benefited her law firm.

The third-highest total went to the law firm of state Rep. Michael O'Neal, a Hutchinson Republici-

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LEGISLATIVE ADMINISTRATIVE SERVICES

DATE: Sun 10-15-89

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| | | <input type="checkbox"/> WINFIELD DAILY COURIER |

can and chairman of the House Judiciary Committee.

This year O'Neal moved from vice chairman to chairman of that panel. At the same time the state income his law firm received jumped from \$78,000 to \$114,050.

State Sen. Wint Winter Jr., a Lawrence Republican, said two of his law partners do most of his firm's state legal work, which amounted to \$21,374.

He said he doesn't work on any of it.

"I couldn't do that," he said. "I'm uncomfortable with it. I think it's tacky at best."

Winter is chairman of the Senate Judiciary Committee and vice chairman of the Senate Ways and Means Committee, which decides how much money each state agency receives.

But Winter said he couldn't ask his partners to reject the work.

"It would be unfair to my law firm to be prohibited or eliminated from representing a bunch of people because I happen to be in the Legislature," he said.

He said the answer to the ethical dilemma is full disclosure of a lawmaker's financial interests.

Winter said conflicts will always arise in a citizen legislature, and the proper place to judge those conflicts is an ethics committee or at the voting booth.

Ed Bideau, a Republican from Chanute who retired from the Legislature in January after serving as chairman of the House Legislative, Judicial and Congressional Apportionment Committee, saw his income from the state swell from \$1,253 five years ago to \$31,844 last year.

Bideau said no connection existed between his legislative position and his expanded state fees.

"I have been representing the worker's fund since 1975, long before I became a lawmaker," he said.

O'Neal could not be reached for comment, but Ron Todd, assistant insurance commissioner, said the department awarded business to O'Neal based on his expertise, not his powerful position in the Legislature.

"There was no connection between his position in the Legislature and giving him insurance business," Todd said. "Over the years we became acquainted with him and became more knowledgeable of his expertise in insurance, especially in worker's compensation."

Todd said the insurance department sees no conflict in having state lawmakers who handle legislation that affects the insurance industry and the department receive fees from the department.

"There is no conflict," he said. "They certainly are not the only ones we have. We paid fees last year to 90 attorneys."

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Testimony on House Bill 2850
University of Kansas Medical Center

My name is Marlin Rein and I am the Associate University Director of Business Affairs at the University of Kansas Medical Center. I am appearing here today on behalf of the University Hospital. House Bill 2850 would appear to impact Regents institutions in two regards. Amendment of K.S.A. 76-745 in Section 4 relates to the current statutory authority of the State Board of Regents to convene a negotiating committee to obtain collection services. That authority has been traditionally used to pursue the collection of delinquent accounts for student loans and dormitory accounts. I am not the appropriate party to address that section of the bill and will not comment further with regard to the amendment.

My testimony today will focus on new Section 1 of House Bill 2850 which provides that all contracts to provide any collection services for state agencies shall be entered into pursuant to competitive bids. As defined in Subsection B, we believe the term "collection services" includes any and all services provided by attorneys in the provision of collection services. For nearly 20 years, the University Hospital has utilized outside attorneys appointed by the Attorney General for collection services after the institution had exhausted its own internal efforts. We typically have had a panel of three to four firms appointed by the Attorney General who have provided this service. Those firms are compensated by the retention of a percentage of amounts collected on delinquent accounts.

I am uncertain as to whether I appear as an advocate of House Bill 2850 or not. I would offer a couple of observations that I think are relevant to the issue. First, if our interpretation of the purposes and scope of House Bill 2850 are correct, I would ask that your staff assure that there are no statutory conflicts with this bill and other existing statutes which provide for the provision of legal services to Regents institutions. My particular concern is with K.S.A. 76-713.

The second concern is whether competitive bid always secures the best end result. It would be possible for one collection agency or one group of attorneys to offer the service at a lesser cost and yet have the institution disadvantaged by such a contract. In other words, firms that pursue the collection of accounts aggressively, even though they retain a higher percentage, would be preferred if the end result is that the institution realizes a higher level of income.

I would call to your attention House Bill 2974 which is also in this committee. That bill addresses the same general subject but provides that such collection services would be secured through a structured negotiating process. An initial reaction would be that such a procedure may be more workable than a competitive bid procedure.

In conclusion, I would restate that we have no opposition to House Bill 2850, other than the concerns noted, as the apparent purposes of the act are ones in which we are in total agreement, that being to obtain the best services available at the least cost to the institution.

2/15/90

Attachment 2

GARY H. BLUMENTHAL
 REPRESENTATIVE, TWENTY-THIRD DISTRICT
 JOHNSON COUNTY
 10125 EDELWEISS CIRCLE
 MERRIAM, KANSAS 66203-4608
 HOME (913) 262-4635
 CAPITOL OFFICE (913) 296-7693



TOPEKA

HOUSE OF
 REPRESENTATIVES

MEMBER: EDUCATION
 ELECTIONS
 FEDERAL AND STATE AFFAIRS
 LEGISLATIVE, JUDICIAL AND CONGRESSIONAL
 APPORTIONMENT

House Taxation Committee

February 15, 1990

Local Sales and Transient Guest Tax Information

I appreciate the opportunity to meet with the committee regarding HB 2637. This bill would require the state director of taxation to provide information to city or county officials, relating to local sales taxes and transient guest taxes. This information would be provided upon request by the city or county official and would be distributed to them on a confidential basis.

There are 62 counties and 119 cities statewide that levy a local sales tax and 43 cities and 15 counties which levy a transient guest tax. As you know, the cities are responsible for levying these taxes, however, the Department of Revenue is responsible for collecting them. Although the city may hold an election to determine whether or not sales tax shall be levied within its own community, city officials often are in the dark regarding specifically how much revenue may be expected from this source.

2/15/90

Attachment 3

This information would be beneficial to these cities and counties for two major reasons. First, names of retailers and hotel/motel operators would enable local officials to determine whether all businesses in the city or county who should be paying a local sales or transient guest tax are actually reporting and paying them. This could be especially important in geographically bordering areas. Taxes which should have been credited to one city can actually be credited to its neighboring city. For example, in 1988, guest tax collections from an Overland Park motel were credited to the City of Olathe. Correcting that problem took a great deal of work and caused both cities cash flow problems. If the information requested in HB 2637 would have been available to these two cities, the entire problem may have been avoided.

The second major reason that HB 2637 would be beneficial to the cities and counties of Kansas is that the information made available by the bill would assist them in developing more accurate revenue projections for budgetary purposes. If the city and county budgetary officers were aware of the amount of taxes received from each retailer on a monthly basis, their projections for the following year would obviously be more reliable. Additionally, when a city or county takes in less revenue than was originally budgeted, the local officials would be able to alleviate the situation

by making the appropriate expenditure cut-backs.

One area of concern regarding this bill is the confidentiality issue. Will vendor information be made public? Currently, K.S.A. 79-3614 prohibits the disclosure of all information received by the Director of Taxation from any excise tax returns except for official purposes. I feel that the use which these cities and counties would be putting this information to should constitute an official purpose. K.S.A. 75-5133 also prohibits the dissemination of such material, but allows for the publication of statistics. This bill would also require that this information be kept confidential by the cities and counties. This would insure that the information would not be disseminated throughout the public and private sectors, but rather used exclusively by the cities and counties for making revenue projections.

Finally, I would like to point out that the cities and counties I have spoken with have absolutely no objection to paying a small fee to cover the cost of the distribution of these monthly reports. The cities and counties feel that the benefit derived from the availability of this information is definitely worth paying the fee assessed to cover the administrative costs of the reports.

I do not believe that information regarding the amount of sales tax and transient guest tax, and who paid them, is information that should not be available to the local officials. The information would assist the cities and counties by allowing them to make more reliable revenue projections.

**City of
Dodge City**



CITY HALL
P.O. Box 880
Dodge City, Ks. 67801-0880
Phone 316/225-1391

January 30, 1990

The Honorable Keith Roe
Chairman, House Committee on Taxation
Room 112-S
State Capitol
Topeka, KS 66612

Dear Mr. Roe:

On behalf of the City of Dodge City and our 21,000 citizens, we would like to express our support and interest in HB 2637. This bill, as outlined in information we have received, would provide a city or county official confidential access to information relating to local retail sales tax as well as the transient guest tax. We believe this information is especially important in order to ensure equitable enforcement of the law as well as assisting local governing bodies in developing solid revenue projections for budgetary purposes.

Of extreme importance in our community is the transient guest tax. I am sure you know Dodge City is a major tourist attraction within the State of Kansas. Our tourism promotion budget is solely dependent on the transient guest tax; and to allow us to adequately enforce its collection as well as develop reliable revenue projects, would enhance our ability to effectively implement the tourism development strategy.

Once again, we encourage you and your committee to act favorably on HB 2637, and if we can be of any further assistance or any comments are needed, please do not hesitate to contact us.

Respectfully,

A handwritten signature in cursive script that reads "Jim Lembright".

Jim Lembright
Mayor

JW:jl

cc: Kathryn Sughrue
Janice McClure
Gary Blumenthal
Mayor: Jim Lembright

Commissioners: Bob Carlson, Tom Martin, Dale Northern, Kent Smoll



CITY OF OLATHE

February 8, 1990

Representative Vincent Snowbarger
State Capitol Bldg.
Room 446-N
Topeka, KS 66612

Re: HB 2637 - Local Sales and Transient Guest Tax Information

Dear Vince:

Thank you for co-sponsoring House Bill 2637 concerning disclosure of local sales tax and guest tax information. We believe this information would greatly enhance our revenue projections used in the city's annual budget process. Better information on retail sales in the community would also enhance our ability to track general economic trends.

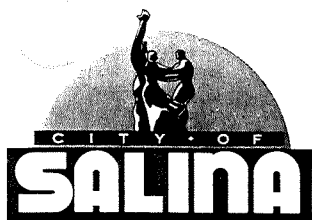
In 1988, we had a situation where guest tax collections from an Overland Park motel were incorrectly credited to Olathe. Correction of the error caused both cities some bookkeeping and cash flow problems, which might have been avoided if information had been available to local officials. I would be happy to speak on this bill when a hearing is scheduled.

Sincerely,

Donald R. Seifert
Planning and Development Director

DRS/tgt

cc: Representative Keith Roe
Representative Gary Blumenthal
E.A. Mosher



City-County Building
300 West Ash Street
P.O. Box 736
Salina, KS 67402-0736

Summary Written Testimony before House Taxation Committee
RE: H.B. 2637

February 15, 1990
by Dennis M. Kissinger, City Manager

At the direction of the Salina City Commission, I am appearing in favor of H.B. 2637, regarding Local Sales and Transient Guest Tax Information.

The City of Salina supports this bill for the following reasons:

- 1) Improved Enforcement - Local governments would be able to compare local information identifying businesses to the information on sales or transient guest tax payers received from the Department of Revenue. With limited state staff and budget, this would provide an opportunity for localities to assist in identifying businesses which may not be on the sales tax rolls for that locality, but should be.
- 2) Minimizing Misallocations - There have been instances in which sales or guest tax proceeds have been misallocated to other local units of government. Possible misallocations could be found at a much earlier date if the local units have business payment data to review. During 1989, a shortfall of approximately \$6,000 was experienced by Salina in Transient Guest Tax Funds. This shortfall caused serious concern and delays in certain convention and visitors programs. The Department of Revenue ultimately located a misallocation of Saline County taxes from one motel to a neighboring city. Had the provisions of H.B. 2637 been in effect, we would have been able to identify the reason for the revenue shortfall very quickly and to point the Revenue Department in the right direction, thus saving significant state staff time and effort.

I don't think anyone is certain how often other inadvertent misallocations occur, either through misreporting by a retailer or other error. Sales tax receipts vary so greatly from month to month that it is impossible today for a local government to know if a month or quarter of lower-than-expected receipts is due to a downturn in the local economy or a possible misallocation. The Revenue Department cannot possibly be expected to catch all misreporting or other errors, but localities could clearly identify a local business missing from a monthly or quarterly report.

- 3) Budgeting and Revenue Forecasting Improvement - We believe it is essential for local governments in this



CITY COMMISSION
JOSEPH A. WARNER, MAYOR
CAROL E. BEGGS
JOHN DIVINE
ROBERT E. FRANK
STEPHEN C. RYAN

CITY MANAGER
DENNIS M. KISSINGER
(913) 823-2277

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time of tight finances and tax concerns to do the most effective job possible of budgeting and financial planning. In Salina, we have a skilled, professional staff including a CPA Finance Director. We are regularly providing our elected officials with both short-term and long-term budget and finance projections. With better information on sales and guest tax trends, we can do a more effective job. There is, obviously, a very significant difference for the future if a local sales tax is growing a 2% per year due to increased fast-food hamburger sales, as compared to growth in sales of durable goods. We believe better information leads to better decision-making.

- 4) Improved Program Impact Analysis - Again, better information can lead to better decision-making. The City of Salina has spent \$7 million on downtown redevelopment and improvements. Ongoing Downtown Business Improvement programs are underway. Our City Commission is constantly searching for good means of analyzing the real public benefit of these investments and programs. Under the provisions of this bill, a local government such as ours could look at factual retail trends within various business districts of the City or County. In this manner, we could better evaluate the success of our projects and programs.
- 5) Impact of Other Factors on Business - Another example of public purpose usage of local tax information is in analyzing possible temporary negative impacts of public projects. In Salina, we are currently replacing a major bridge, causing substantial traffic changes for a business district. Several affected businesses have claimed substantial sales losses due to this project. With factual information on prior and current sales trends, the local officials could identify true impacts and perhaps better justify special programs to mitigate any negative impact.

Summary

We believe H.B. 2637 provides an excellent opportunity for improved efficiency and effectiveness of government in Kansas. We are willing to pay appropriate costs of this. We strongly support necessary confidentiality provisions which prohibit divulging information to anyone other than authorized public officials for clear public purpose use.

In addition, having previously been a City Manager in a Missouri city, I can testify how well a similar system has worked there since implemented several years ago. The system is supported by state and local officials, and the business community has apparently found no abuse or reason to object. No efforts have been made to repeal their program.

We have been pleased with the cooperation our City has always received from the Kansas Department of Revenue. We believe this bill would provide advantages both to their staff operations and to local government.



Overland Park

**TESTIMONY BEFORE
HOUSE TAXATION COMMITTEE**

Good morning, Chairman Roe and members of the House Taxation Committee. My name is Alan Sims, Assistant to the City Manager, representing the City of Overland Park. I appear before you today in support of HB 2637.

HB 2637 would require the Director of Taxation to provide upon request a monthly report identifying the amount of sales and transient guest tax remitted by retailers doing business in a city or county.

There are several reasons for our support of HB 2637, one of which is a specific situation that created considerable confusion. As with many other Convention and Visitors Bureaus, transient guest tax revenues received by a city are then transferred to the CVB to fund their operating budget. In the third and fourth quarters of 1988, after receiving a significant reduction in these funds, the city began to investigate the cause of the shortfall. After several months, it was determined by the Department of Revenue that a hotel in Overland Park was incorrectly entered into their system as being in Olathe. Consequently, \$42,000 that was supposed to be sent to Overland Park was

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incorrectly sent to Olathe, without Overland Park having any means of determining where the problem was. The Overland Park Convention & Visitors Bureau, which is directly responsible for bringing in millions of dollars to our state and local economy, had to curtail worthwhile programs until the issue was resolved. HB 2637 would help to alleviate this situation from reoccurring by providing a simple system of checks and balances that presently does not exist.

Another reason for our support of this bill is that HB 2637 would allow the city to prepare more accurate monthly forecasts of sales tax. Since the cash basis law requires local governments to only spend what is received, it is urgent that each local government know as early as possible any potential changes to a major revenue source.

Monthly sales tax forecasts are prepared based on tax distributions from the previous months and years. These projections are not only used for planning purposes in determining the operating budget, but also in forecasting revenue used to fund the city's five-year capital improvements budget. Any significant variance in monthly tax revenues for more than a quarter can have an adverse effect and is a signal to carefully review and revise planned expenditures.

One final reason for our support of HB 2637 is the uncertainty in the economic climate of our state as a result of reappraisal and classification. Since the City of Overland Park

relies heavily on sales and transient guest tax revenues and they are not as stable as some other sources, any additional forecasting tool would be greatly appreciated.

We thank you for this opportunity to appear in support of HB 2637.



City of
BONNER SPRINGS



February 15, 1990

RE: HOUSE BILL #2637 LOCAL SALES & TRANSIENT GUEST TAX;
REPORTS TO COUNTIES AND CITIES

TO: HONORABLE CHAIRMAN AND MEMBERS OF THE COMMITTEE

The City of Bonner Springs feels that the release of information on the City's retail sales tax collections by businesses would benefit the City as well as the State and County. Benefits would include:

- We license any business doing business within the City and could use this information to help match registrations of businesses with the State.
- Our Local Retail Sales tax (1%) funds 30% of our General Fund. The revenue is vital to our day to day operation and has allowed us to reduce our dependence on the property tax.
- Since our fund balances are small, our control over cash flow is very important. We routinely end the fiscal year with less than 1% cash carry forward. Any upset in sales tax collections would impact city services immediately. We experienced one major problem with a distribution in March, 1988. We noticed our sales tax collections were not meeting our projections. The Department of Revenue assisted us but could not release certain information. Calls were made monthly and the staff in the Department were very accommodating by phone, however, no answer was found.
- The Department of Revenue has a very competent staff with the information available to them. However, even with additional staffing, they do not have the "local" knowledge to "see" problems in sales tax payments or easily identify "missing" local taxpayers.
- Members of our staff went to the Department in April of 1989. Mr. John Parks had discovered our problem. He was unable to disclose the problem due to State Statute. This error was due to an error in coding. The revenue was distributed in error to another City. This problem lasted fourteen months. We had already ended the year and adjustments in services had to be made to end the year within revenue available. We ended the year with \$8,366 or 1% of the General Fund revenue remaining.

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The adjustment was for approximately \$71,000.

-- Another error in reporting was found after calls to the Department in October of 1989. This was due to a payment that was not coded. It was not distributed until the proper city coding was provided.

We would urge your approval of House Bill #2637.

Respectfully submitted



Bob Evans
City Manager



CITY OF OLATHE

TO: Members of the House Taxation Committee

FROM: Donald R. Seifert, Planning and Development Director

SUBJECT: House Bill 2637, Local Sales and Transient Guest Tax Information

DATE: February 15, 1990

On behalf of the City of Olathe, thank you for the opportunity to appear today to discuss House Bill 2637. As you know, this bill would require the Department of Revenue to provide a periodic report on local sales tax and guest tax collections if requested by a city or county. The City of Olathe supports this bill. I would like to provide two brief examples of how we would use such information.

For some time, Olathe has looked to alternative revenue sources such as sales and guest taxes to finance our local government operations. Today, local sales taxes are an especially critical revenue source, accounting for more than 41% of our general fund revenues. The city presently receives a monthly sales tax report indicating gross collections. We suspect, although we have no reliable information, that our retail sales are heavily concentrated in a few sectors such as food and automobiles. The ability to monitor sales trends in these critical sectors would greatly enhance the reliability of our revenue projections, which

must be made 12 to 18 months in advance to fit the budget cycle. With better information, mid-year expenditure corrections could be made if warranted.

I would also like to cite another example of how this bill would be useful. Last year, we had a situation where approximately \$40,000 in guest tax collections from an Overland Park motel were incorrectly credited to Olathe. Correction of this error caused both cities some bookkeeping and cash flow problems, which might have been avoided if this type of report had been available to local officials. This error also caused a cash flow problem for the local Chamber of Commerce, which utilizes guest tax revenues for economic development and visitor promotion activities.

The city believes such accounting problems are rare. However, they do happen, especially in an area like Olathe that experiences frequent annexations, multiple zip codes, and contiguous borders with other cities. In our view, House Bill 2637 would simply provide a means for cities and counties to assist the Department of Revenue with its responsibilities to administer, enforce, and collect local sales taxes.

We would appreciate the Committee's favorable consideration of this bill.



DATE: February 15, 1990
TO: HOUSE TAXATION COMMITTEE
FROM: George Barbee, CAE
Executive Director
RE: HOUSE BILL 2637 - TRANSIENT GUEST TAX REPORTS

Mr. Chairman and members of the committee my name is George Barbee, President of Barbee & Associates and appearing before you today representing the Kansas Lodging Association. The Kansas Lodging Association is opposed to the state divulging transient guest tax receipt information as proposed in sections two and three of House Bill 2637.

Transient Guest Tax is a local option tax that was originally legislated at an intended 2% on each room rate per night collected by our hotels and motels from transient guests.

Unfortunately, the original statute was determined by an Attorney General to not be uniform and equal, so several cities have removed themselves from the 2% limit by charter ordinance. The tax in approximately forty-three cities with a Convention and Visitors Bureau ranges from a low 2% to a high 6% and is still rising. This tax produces over \$5.5 million dollars per year. The purpose of the tax is to fund the local tourism promotion efforts.

The tax is transmitted monthly by each paying hotel and motel to the State Department of Revenue. The department retains 2% of the total as an administrative fee and is to transmit the remainder to the local units of government where it is then to be credited to the county or city Transient Guest Tax Fund.

If a property owner fails to comply with the provisions of the statutes relative to collection and submittal of the tax, there are penalty provisions ranging from interest charges, fines and imprisonment.

The information regarding the taxes collected and transmitted to the state is sensitive and proprietary. This is information most business people would not want their best friend, their worst enemy or their competitor, especially their competitor, to have.

HB-2637 would require that the Department of Revenue provide a monthly report identifying each person collecting transient guest tax setting forth the amount of such tax remitted. The bill says that a request for this information must be made by a "city or county official" and is to be kept confidential.

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February 15, 1990

The bill does not define a "city or county official"; and, though it says that "it will be unlawful for any officer or employee to divulge any of this information in any manner", there is no containment provision restricting the information. Nor is there any penalty provisions for acting in an unlawful manner for divulging information. In a worst-case scenario I can imagine that a city clerk, a chamber executive, a cvb director, a mayor and each of the members of a city council could, by loose interpretation of the law, be privy to the information without violating it, or at least without fearing prosecution of any type.

The lack of confidentially safeguards in the bill is the major concern of the lodging industry.

It is interesting to note that in November 1989 the city of Salina passed an ordinance requiring hotel and motel owners to file a duplicate copy of their monthly Transient Guest Tax report to the city clerk. It may be that this is a local issue which should be dealt with locally as has been done in Salina, and should not be mandated by the state of Kansas.

Mr. Chairman and members of the committee we respectfully ask that to protect the divulgence of sensitive, proprietary, tax information of, for the most part, small businessmen, sections two and three be deleted from HB 2637

Thank you for allowing us to speak to this issue and I would be glad to respond to any questions that you might have.

TESTIMONY TO HOUSE TAXATION COMMITTEE

REGARDING HB 2637

LOU SERRONE, CITY COUNCILMEMBER

LENEXA, KANSAS

FEBRUARY 15, 1990

Mr. Chairman and Members of the Committee:

Art Davis
My name is Lou Serrone, Councilmember for the City of Lenexa, which is a city of approximately 33,000 residents located in Johnson County. I am here to speak specifically in support of House Bill 2637.

Lenexa's one cent sales tax constitutes 40% of the entire General Fund budget. As Lenexa has grown in the number of retail establishments, the result has been an increase in sales tax revenues which has allowed the City to reduce its dependence on property taxes for the General Fund. As we develop, we become increasingly reliant on alternative sources of revenue to provide needed services to residents while continuing to provide infrastructure for development.

Local governments are increasingly held accountable for projecting revenues at least 1 1/2 years in advance. Since the sales tax and transient guest tax are both fluctuating revenue sources that are solely dependent on market conditions, it is critical to have detailed information to project the next year's budget.

House Bill 2637 provides disclosure of detailed sales tax and transient guest tax revenues provided by particular businesses. Presently, cities do not have access to these detailed breakdowns and are not certain that appropriate taxes are being reimbursed to the responsible local unit of government. It is impossible to project an accountable or accurate budget 1 1/2 years in advance if a business of significant size moves out of town or experiences financial difficulty.

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The City of Lenexa recently encountered a major decrease in our 1989 transient guest tax revenues, amounting to approximately \$60,000 less than at the same period in 1988, yet occupancy rates were higher. Obviously, there has been some type of mistake for which we have no means to correct. The problem is that we are not able to predict, verify, or hold accountable, any particular cause if we are not provided a detailed breakdown of revenue origin. Cities need the ability to assist the Department of Revenue in verifying that proper credit was given to the respective jurisdictions.

Finally, I would add that our neighboring state of Missouri has provided this information to local governments for several years encountering no problems. Similar to Missouri statutes, House Bill 2637 contains a confidentiality clause requiring that this information be kept from public scrutiny. Cities need the ability to provide fiscal accountability and sound analysis when dealing in today's complex financial and budgeting environment. I believe that House Bill 2637 is good sound legislation that will tremendously assist local governments' accountability.

Mr. Chairman and members of the committee, thank you for allowing me to speak today and I would be pleased to answer any questions.



Lenexa Chamber of Commerce

Lenexa
KANSAS CITY'S RISING STAR



February 15, 1990

TESTIMONY TO

HOUSE TAXATION COMMITTEE

On Behalf of the
Lenexa Chamber of Commerce
By Linda Pruitt, Executive Director

Chairman Rowe and members of the Committee:

My name is Linda Pruitt, executive director of the Lenexa Chamber of Commerce, a business organization with over 600 members. The Chamber operates an economic development program and a convention and tourism program, both of which derive their funding from transient guest taxes paid by the lodging facilities in our city.

Under the present statute, we are unable to accurately project revenues for budget planning when revenue predictions are based on blind estimates. The provisions in H.B. 2637 would assist cities in identifying any miscalculations in the amount of sales tax and transient guest tax received, and with the strict confidentiality clause proposed in the amendment, businesses would be protected.

Recently we experienced a situation that illustrates the need for the proposed change in the statute. Our 3rd quarter 1989 transient guest tax receipts were approximately \$50,000 below projections. Because the City was denied access to detailed information, they had to assume the receipts were accurate and notified us that our 1990 budgets would have to be pared down by twenty percent. A significant amount of time was spent trying to figure out what had happened. The negative implications of this shortfall were reported in the newspaper, and we experienced a lot of frustration from having to make such drastic adjustments in our current marketing programs. As it turned out, our 4th quarter receipts received the first of February were \$47,000 more than expected, which made up the difference.

Had the City been receiving reports showing the amount of tax remitted monthly, this situation would not have occurred. We urge you to recommend in favor of H.B. 2637. Thank you for your consideration.

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TESTIMONY SUBMITTED TO THE HOUSE TAXATION COMMITTEE
ON HOUSE BILL 2637

LINTON BARTLETT, REPRESENTING THE CITY OF KANSAS CITY, KANSAS

The City of Kansas City, Kansas supports House Bill 2637 which would require that the Director of Taxation provide certain information on local sales and transient guest taxes to cities and counties upon their request. Information on who is paying the taxes and the amount being paid would be beneficial to the City for a couple of reasons.

First, the information would show whether or not all businesses and hotels-motels within the city that should be paying the taxes are actually reporting and paying them. Since the City and the State both derive revenue from these taxes, the City could use payment information to help insure that the city and the state are getting all the revenue due them.

Secondly, the City makes projections on revenue from these two taxes in formulating the annual budget. The information which this bill would allow the City to get from the Department of Revenue would allow the City to better track revenue trends. These trends would enable City finance personnel to make better revenue projections on which to base the budget. Also, if the information shows a downturn in tax revenue collection, the City could take appropriate steps in adjusting its expenditures.

A recent example of how the payment information would be useful to the City is that the City's latest receipts from the transient guest tax were \$15,000 less than expected. The City had raised this tax from 2% to 4% in October, 1989 and had built the projected additional revenue into the 1990 budget. The revenue from the tax is used to finance our Convention and Visitors Bureau and the Jack Reardon Civic Center. Without the information on who paid the tax and how much from the Department of Revenue, which this bill would allow the City to get, the City has no way of knowing if the shortfall is due to faulty revenue projections or to delinquent remittances of the tax by some businesses. This information would be crucial in making any necessary adjustments to expenditures.

The City would like to stress that this information would be kept strictly confidential and would be used only by City finance personnel. It would not be released to any other entity or organization.

For these reasons, the City of Kansas City supports House Bill 2637 and respectfully asks for favorable consideration by the House Taxation Committee.

written only

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Attachment 11



McPHERSON COUNTY

February 12, 1990

House Assessment and Taxation
%Mr. Keith Roe - Chairperson

RE: HB-2826
Amending K.S.A. 58-22236

Dear Mr. Roe:

As County Appraiser of McPherson County, I strongly support HB-2862 where as the certificate of value, filed with any deed, shall be open for public inspection. Because the purchase of properties are, and become, so vitally important to the county appraiser as a tool to assist in market value analysis for property appraisal, utilizing the certificate of value could save each county time and expense.

Currently, we have a repetitive means of gathering sales information. We know the price on the certificate, but cannot use the information. Therefore, we must manually seek an individual verification on each and every sale, before such a price can be used in our our analysis, simply because the document is not public record. It involves telephone calls, sending out a questionnaire, and generally the county dose not get a good response, therefore we know that sales occur and simply cannot use the information. By making the information a public record, the county would save money each year in doing research. Also, we would have a larger base in the data collected of more sales, which could better determine property values. The public could utilize the sales information as well, should they choose to do their own analysis.

It just seems that common sense would be to give this bill a positive consideration as amended. The passing of HB-2862 would assist the county in a better projection of current Market Values and it could also provide the public with their own source in which to verify individual values placed on property. Thank you for taking the time to hear my viewpoints.

Sincerely,



Cindy L. Simons, CKA
McPherson County Appraiser

CLS:as

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Attachment 12