

Approved

Date

3/29/90

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 March 27, 1990 in room 519-S of the Capitol.

All members were present except:

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:

Senator Janis Lee
Representative Bruce Larkin
Mark Burghart, General Counsel, Department of Revenue
Paul Fleener, Kansas Farm Bureau
Jim Maag, Kansas Bankers Association
Ed Moses, Kansas Aggregate Producers Association

Representative Larkin requested introduction of a House Concurrent Resolution for a change of classification. The provisions of his proposal targets relief to small business, reduces non-profit from current 30% assessment to 12%, and raises business machinery from 20% to 27%.
(Attachment 1)

A motion was made by Representative Fry, seconded by Representative Harder to introduce the Resolution requested by Representative Larkin. The motion carried.

A motion was made by Representative Aylward, seconded by Representative Long, to introduce a bill to ban the release of mylar balloons. The motion carried. (Attachment 2)

Chairman Roe directed the Committee to turn to SB 600.

Senator Lee testified in support of SB 600, stating that allowing a state or national bank or a production credit association a tax credit for extending or renewing an agricultural production loan to an eligible borrower would be prudent and beneficial. (Attachment 3)

Paul Fleener, Kansas Farm Bureau, testified in support of SB 600, stating that they recognize that many things have improved in "farm country." However, not all of agriculture has fully recovered.
(Attachment 4)

Jim Maag, Kansas Bankers Association, testified in support of SB 600, stating that with the possibility of a downturn in the ag economy due to drought or other factors, having such a program in place and ready to work is good insurance. (Attachment 5)

Chairman Roe concluded the hearing on SB 600.

The Chairman directed the Committee to turn to SB 471.

Mark Burghart, Department of Revenue, reviewed a Memorandum on SB 471. He stated that the majority of the money collected from the royalty revenue is returned to the local water districts. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation,
room 519-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 27, 1990

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Ed Moses, Kansas Aggregate Producers Association, testified in support of SB 471 as amended. He stated that by setting the price realistically, the State of Kansas can preserve a market share on which to base an increase in the future. (Attachment 7)

Chairman Roe concluded the hearing on SB 471.

A motion was made by Representative Lowther, seconded by Representative Branson, to report SB 418 favorable.

A substitute motion was made by Representative Smith, seconded by Representative Fuller, to amend SB 418, that the proceeds of the tax increases be decoupled from the Board of Regents. The motion failed with a count of 12 nays and 8 yeas.

The Chairman directed the Committee back to the original motion.

A substitute motion was made by Representative Wagnon, seconded by Representative Dean, to amend SB 418, to help licensed wholesale dealers located within Kansas. The motion failed. (Attachment 8)

The Chairman directed the Committee back to the original motion.

A substitute motion was made by Representative Guldner, seconded by Representative Grotewiel, to amend SB 418 to include a 50 percent increase in the wholesale price of alcoholic beverages. This would have a positive effect on the General Fund of about \$6 million. The substitute motion to amend carried.

A motion was made by Representative Lowther, seconded by Representative Branson, to report SB 418 as amended favorably. The motion carried with 13 yeas. Representatives Adam, Reardon, Smith, and Wagnon were recorded as voting nay.

A motion was made by Representative Reardon, seconded by Representative Wagnon, to report HB 3079 favorably for passage. The motion carried.

A motion was made by Representative Guldner, seconded by Representative Harder, to report SB 572 favorably.

A substitute motion was made by Representative Spaniol, seconded by Representative Lowther, to amend SB 572, to consider the valuation of CRP land the same as grassland. The substitute motion failed.

The Chairman directed the Committee back to the original motion to report SB 572 favorably. The motion carried.

A motion was made by Representative Guldner, seconded by Representative Pottorff, to report SB 551 favorably.

A substitute motion was made by Representative Wagnon, seconded by Representative Reardon, to table SB 551. The substitute motion carried.

A motion was made by Representative Snowbarger, seconded by Representative Charlton, to report SB 471 favorable for passage.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation,
room 519-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 27, 1990

A substitute motion was made by Representative Aylward, seconded by Representative Wagnon, to amend SB 471, to change the maximum royalty rate to 10 cents and to leave the authority to the Department of Revenue to set rates up to the maximum 10 cents per ton.

Representative Aylward withdrew her substitute motion to amend SB 471.

A substitute motion was made by Representative Lowther, seconded by Representative Reardon, to amend SB 471, to make the rate at 4 percent per ton. The substitute motion failed.

The Chairman directed the Committee back to the original motion by Representative Snowbarger to pass SB 471 favorable. The motion carried.

The minutes of March 26, 1990, were approved.

The meeting adjourned at 10:30 a.m.

BRUCE F. LARKIN
REPRESENTATIVE, DISTRICT SIXTY-TWO
R.R. 1
BAILEYVILLE, KANSAS 66404



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: EDUCATION
AGRICULTURE AND SMALL BUSINESS

CLASSIFICATION PROPOSAL

Key provisions of this proposal:

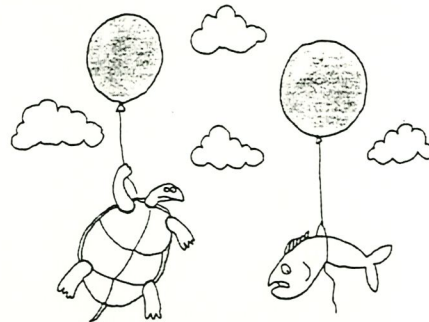
- 1) Targets relief to small business.
 - A. The first \$50,000 of appraised valuation will be assessed at 15%. All valuation over \$50,000 will be assessed at 30%.
 - B. Allows the dollar valuation figure to be changed in the future with a 2/3 vote of the Legislature.
- 2) Reduces non-profit from current 30% assessment to 12%.
- 3) Raises business machinery from 20% to 27%.

3/27/90

Attachment 1

State Legislatures April 1990

Florida bans balloons released in air: hazard to wildlife



Disney World is no longer sending up clusters of helium balloons since Florida passed the nation's first law banning their release into the atmosphere. The Delaware House and the Virginia Senate have similar legislation pending, in response to alarms raised by conservation organizations. Those pretty mylar toys are attractive and deadly to marine mammals, sea turtles and other wildlife; eaten, the plastic often leads to death by starvation. Creatures entangled in it frequently drown.

3/29/90

Attachment 2

JANIS K. LEE
 STATE SENATOR, 36TH DISTRICT
 JEWELL, MITCHELL, NORTON,
 OSBORNE, PHILLIPS, REPUBLIC,
 ROOKS AND SMITH COUNTIES
 RR 1, BOX 145
 KENSINGTON, KANSAS 66951
 (913) 476-2294 HOME
 (913) 296-7366 TOPEKA



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE
 ASSESSMENT AND TAXATION
 ELECTIONS
 ENERGY AND NATURAL RESOURCES
 LEGISLATIVE EDUCATIONAL PLANNING
 COMMITTEE
 LOCAL GOVERNMENT

TO: HOUSE TAXATION COMMITTEE
 Representative Keith Roe, Chairman

FROM: Senator Janis Lee

RE: SB 600

DATE: March 27, 1990

SB 600 would permit a state or national bank or a production credit association a tax credit for extending or renewing an agricultural production loan to an eligible borrower. This legislation was originally passed in 1986 and has been reauthorized each year since then. It provides for an "interest buy-down" program which authorizes a tax incentive to banks for reducing rates of interest on certain agricultural loans which have been classified by any banking regulator as substandard or doubtful. The interest rate charged by the lending institution would be at one percentage point less than the prime interest rate but shall not exceed an amount equal to 3% per annum on the unpaid principal balance of the loan. The tax credit allowed to the bank production credit association for any taxable year shall not exceed 1/5 of the total tax credit of the bank allowed under this act. Unused tax credit can be carried forward as a credit to the bank's tax liability, but no more that 1/5 of the total amount can be used in any one year.

The farm economy has recovered from the worst times. However the severe drought and wind we experienced in some areas last year and the possibility of the same occurring again this year - especially in north central Kansas - cause continued concern. I believe it would be prudent and beneficial to have this authority available.

The credit was claimed by 68 banks in 1988 for at least 669 loans equating to \$170,500 in foregone tax revenues for 1988.

3/27/90
 Attachment 3



PUBLIC POLICY STATEMENT

HOUSE TAXATION COMMITTEE

**RE: S.B. 600 -- Extending the program allowing tax credits
for interest rate reduction for agricultural production loans**

March 27, 1990
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

My name is Paul E. Fleener. I am the Director of the Public Affairs Division for Kansas Farm Bureau. We are speaking on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

Farm Bureau worked hard in the development and passage of the original program to provide reduced interest rates on "troubled" agricultural production loans. During that period of severe financial stress in agriculture, qualified borrowers who could reasonably be expected to service the principal and interest of the loan were provided this assistance in an effort to slow the flow of those being forced off farms.

We are proponents of S.B. 600 which extends the program one year to 1991. We recognize that many things have improved in "farm country." However, not all of agriculture has fully recovered. We've had drought problems in '88 and '89 in Kansas. We can only hope the moisture outlook for agricultural production continues to look up, given snow and recent rains.

We respectfully encourage this Committee to approve S.B. 600. We will attempt to respond to any questions. Thank you!

3/27/90

Attachment 4



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 27, 1990

TO: House Committee on Taxation
RE: **SB 600** - Interest Rate Reduction on Agricultural Loans

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to discuss the provisions of **SB 600** with the Committee. The bill would extend for one more year the law which allows Kansas banks to receive a privilege tax credit for the amount of interest income lost when reducing the interest rate on certain classified loans. This law was first enacted by the 1986 Legislature and has been extended for one year in each subsequent session.

A report to the Legislative Post Audit Committee by the Legislative Division of Post Audit in June of 1989 gave this program a favorable review. A copy of the summary of Legislative Post Audit's findings is attached.

In some instances the state program was used by banks throughout the state in conjunction with FmHA interest rate buy-down and guaranty programs. Such a combining of programs may well have resulted in keeping a significant number of farmers in business who otherwise would not have been able to service a growing debt load.

In light of the Post Audit report, we see no reason why the program should not be continued. The agricultural environment in Kansas has, thankfully, improved over the past three years, but there always looms the possibility of a downturn in the ag economy due to drought or other factors. To have such a program in place and ready to work is good insurance for the ag economy of the state. Therefore, we would urge the committee to recommend **SB 600** favorably.


James S. Maag
Senior Vice President

3/27/90

Attachment 5

RESULTS OF THE STATE'S PROGRAM FOR REDUCING INTEREST RATES ON AGRICULTURAL LOANS

Summary of Legislative Post Audit's Findings

In 1986, the Legislature created a program for reducing interest rates on agricultural loans. The program allows banks to extend or renew agricultural production loans to eligible farmers at reduced interest rates in return for tax credits on their privilege taxes. To qualify for a reduced-rate loan, a farmer must have an agricultural production loan that has been classified as substandard or doubtful by a banking regulator or as a problem or vulnerable by the farm credit administration. This audit addresses legislative concerns about the costs and benefits of this program.

How much has the interest reduction tax credit program cost the State? The interest reduction credit program has or will cost the State approximately \$859,800 for interest rate reductions made through June 1988. This figure includes \$170,500 in foregone tax revenues for 1988 and \$689,300 in foregone tax revenues for 1989 and beyond. This cost represents the tax credits claimed by 68 banks for about 670 loans. On average, the 1988 interest reduction tax credits for participating banks represented 10.5 percent of their total privilege taxes. Several factors may affect the actual cost of the program. For example, banks did not always use correct amounts to calculate their maximum allowable tax credit, three banks used a tax form that inappropriately limited their credits, and one bank we visited routinely claimed tax credits for unqualified loans.

What are the results of the interest reduction tax credit program? Generally, the interest reduction tax credit program appears to be helping the farmers it was intended to help. Most borrowers who received loans under the interest reduction program were individual farmers with grain and livestock operations, and had been experiencing financial difficulties. While most of the participating farmers were able to make the required payments on their reduced-rate loans, the interest rate reduction was often only one of several steps taken to help restructure debt and increase cash flow. Many bank officials in our sample indicated that they would have reduced the interest rates on certain loans even without the tax credit. The program, however, allowed them to reduce the interest rates on more loans by greater amounts than they would have without the program.

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.


Meredith Williams
Legislative Post Auditor



KANSAS DEPARTMENT OF REVENUE

Office of the Secretary
Robert B Docking State Office Building
915 SW Harrison St
Topeka Kansas 66612-1588

To: The Honorable Keith Roe, Chairman
House Committee on Taxation

From: Mark A. Burghart, General Counsel
Kansas Department of Revenue

Date: March 26, 1990

Subject: S.B. 471

Thank you for the opportunity to appear and comment on S.B. 471. The bill was introduced by the Joint Committee on Administrative Rules and Regulations after the Joint Committee had reviewed one of the Department's regulations. K.A.R. 92-9-6 increased the royalty rate from \$.02 per ton to \$.15 per ton of sand extracted from a Kansas river bed. S.B. 471, as originally introduced, would have amended K.S.A. 70a-102 to provide that the royalty rate may not exceed \$.15 per ton. Prior law had imposed no limitation on the royalty rate. Rather, the authority to determine the royalty rate had been delegated to the Secretary of Revenue to be addressed through administrative rules and regulations. Senate Committee amendments lowered the proposed rate from \$.15 to \$.08 per ton.

The sand royalty rate has not been increased since the 1920's. This fact was taken into account by the Department when determining the amount of the increase. The rate increase from \$.02 to \$.15 per ton was included in the Governor's 1988 FY budget recommendations. The proposed change was submitted to and approved by the Attorney General and the Department of Administration. A public hearing was conducted on the proposed increase on April 17, 1989. Notice of the public hearing was published in the Kansas Register in accordance with statutory criteria. Sand companies on file with the Department were notified of the increase by memorandum dated October 13, 1989. The rate increase would be effective November 1 to be reflected in the payment due on or before December 15. The companies were also advised that K.S.A. 70a-102 provided an exemption for sand used exclusively in the construction of public highways, public buildings and other public use. For some companies as much as 50% of the production could be exempt.

General Information (913) 296-3909
Office of the Secretary (913) 296-3041 • Legal Services Bureau (913) 296-2381
Audit Services Bureau (913) 296-7719 • Planning & Research Services Bureau (913) 296-3081
Administrative Services Bureau (913) 296-2331 • Personnel Services Bureau (913) 296-3077

3/27/90

Attachment 6

Gross sand royalty revenue for the most recent 10 fiscal years is as follows:

<u>Fiscal Year</u>	<u>Gross Receipts</u>
1980	\$73,500
1981	55,000
1982	40,600
1983	48,800
1984	57,700
1985	75,900
1986	87,600
1987	79,500
1988	78,400
1989	65,500

It is the Department's position that the rate increase contained in the Department's regulation (\$.15 per ton) is appropriate in light of the fact that the rate has not changed in over 50 years.

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TESTIMONY

by

The Kansas Aggregate Producers Association

Before the

HOUSE COMMITTEE ON TAXATION

Regarding

SB471: concerning the removal of certain materials from rivers; relating to the payment of compensation therefor.

Thank you for the opportunity to provide commentary on Senate Bill 471 concerning the Sand Royalty Fees.

My name is Ed Moses. I am the Managing Director of the Kansas Aggregate Producers Association. I appear before you today along with Mr. Peter Powell of Builders Sand Company. Our Association represents over 250 aggregate, concrete, and associate member firms in the Kansas construction industry.

The Kansas Aggregate Producers Association and more particularly the Kansas River Sand Producers appear in support of SB471 as amended.

The State of Kansas has supplied sand to construction markets adjacent to the Kansas River since 1913. In the beginning, the royalty fee was set by oral agreement. In the 1930's written contracts were executed and the now defunct Executive Council was empowered to negotiate the fee with sand producers. At that time the royalty was set at \$.02 per ton, or approximately 4% of the \$.50 per ton market price. In 1964 all the contracts and fees were reviewed. At that time, due to market conditions, the royalty remained at \$.02 per ton. In 1989 the rate was unilaterally raised by the Department of Revenue to \$.15 per ton. The purchasers of the sand (Kansas River Sand Producers) were not consulted during this rate setting process.

3/27/90
Attachment 7

SB 471 was introduced by the Joint Committee on Rules and regulations because they thought it was poor policy for the Kansas Department of Revenue to set the rate.

During Senate hearings on the bill the Kansas River Sand Producers requested the rate be set at \$.08 per ton for the reasons outlined below:

- Current market conditions in the Johnson-Wyandotte County area, where 80% of the sand is consumed, are not even conducive to an \$.08 per ton raise. In the Wyandotte/Johnson County market the State must compete with Missouri River sand; which is not assessed a royalty by the State of Missouri or regulated by the U.S. Army Corp of Engineers. Production of sand is fixed (or inelastic) on the Kansas river by the Corp of Engineers while the price remains elastic. As a result a severe price increase will only drive Kansas river sand customers to Missouri River sand producers. By setting the price realistically , the State of Kansas can preserve a market share on which to base an increase in the future.

- Kansas River Sand Producers are required to bear the cost of the U.S. Army Corp of Engineer regulatory plan. As Missouri River producers are not regulated this is an additional cost component which adversely effects the ability of our producers to compete.

- Historically, the royalty was set at 4% of market price. Which was \$.02 on a market price of \$.50 per ton and should be \$.08 on the current average price of \$2.00 per ton.

- As pit operations are more cost effective, two river producers have already ceased river operations during the past year and have moved to pits. An unreasonable increase in price will encourage other river operators to evaluate the feasibility of river versus pit-type operations.

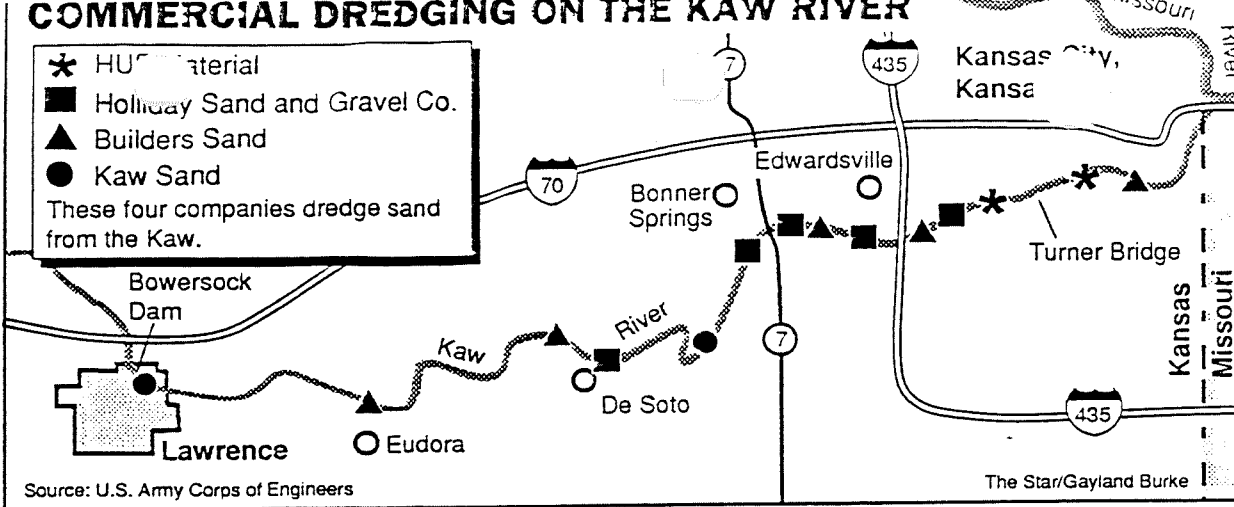
- The Department of Revenue, as a result of our December 12, 1989 meeting, believes there is justification to review the financial considerations associated with the increase (copy of letter attached).

As a result of the hearings the royalty fee was set at \$.08 per ton and the bill was passed by the Senate on a unanimous ballot.

We thank you for the opportunity to appear before you today and discuss these issues. The Kansas River Sand Producers respectfully request your favorable action on this legislation.

If there are any questions we will be happy to respond to them at this time.

K. Sker
Jan 29, 1990



Plan would limit Kaw dredging

Sand companies, environmental groups upset

By A. Scharnhorst
staff writer

The U.S. Army Corps of Engineers plans to limit commercial dredging on the Kaw River, a move that has disappointed sand companies and environmental officials.

A final regulatory report and environmental impact statement, released last week, contains provisions that Corps officials hope will slow the adverse environmental effects of dredging without seriously harming the companies that dredge the river for sand.

The report recommends sand removal be limited to about one-third of the previous rate along the stretch of river between Bonner Springs and the Missouri River. The regulatory plan, scheduled for final consideration by the Corps in March, also would limit sand removal to lesser degrees in other areas of the river.

Environmentalists and dredging companies have been at odds since discussions on the effects of dredging began more than 20 years ago. The proposed solution, however, does not suit either side.

Wildlife officials believe the regulations don't go far enough to protect the river ecosystem, which provides a home to several endangered and protected species of birds and fish.

Companies that dredge the river say the adverse economic effect of dredging limits would offset any environmental concerns.

Robert Smith, an ecologist with the Corps' Kansas City district office, said he did not think that any dredging company now operating would be denied a permit renewal. Four companies operate 14 dredges on the river

"I don't think it would ever be possible to satisfy every interest."
—Robert Smith, ecologist with the Army Corps of Engineers

between Lawrence and the Missouri River, Corps officials said.

Because of environmental concerns and structural damage to bridges, jetties and utility pipelines, the Corps recommended in 1987 that all dredging operations be banned. Complaints from dredging companies caused officials to re-evaluate that decision, Smith said.

Dredging company officials convinced the Corps that buying land and receiving zoning approval for the options—pit mining and dredging inferior sand from the Missouri River—would be costly and increase the price of concrete and asphalt, Smith said.

Currently, companies can dredge an unlimited amount of sand from the river.

Both sides told Corps officials of their concerns during a comment period on a draft of the regulatory plan circulated last year.

Charles Clark, president of Holliday Sand and Gravel Co. of Overland Park, predicts increased construction costs and shortages of concrete and asphalt as a result of the new limits.

"Our concerns remain," said Clark, who has five dredging operations on the Kaw between De Soto and its confluence with the Missouri River. "One (concern) is getting the sand to our custom-

ers." According to the Corps' environmental report, dredging is a major factor in sometimes extreme dropping of the river bed, widening of the river channel, bank erosion and millions of dollars in losses to property along the river.

In addition, dredging has contributed to the disappearing winter habitat for the American bald eagle and some endangered and threatened species of fish, including pallid sturgeon, flathead chub and sicklefin chub, said Larry Zuckerman, an aquatic ecologist with the Kansas Department of Wildlife and Parks.

Zuckerman said he thought the environmental report skirted the issue of damage to the ecology. "We're not happy," he said.

The worst environmental damage has been in the lower stretch of the river, between Bonner Springs and the Missouri. More than 75 percent of all sand dredged from the Kaw River comes from this area, Corps officials said.

The regulatory report calls for environmental issues to be examined at the time of renewal of each dredging operation's federal permit. Zuckerman says such a "piecemeal" approach would not guarantee protection of the environment.

But Smith, the Corps' ecologist, said he thought the report proposals presented the best solution to a difficult problem.

"I don't think it would ever be possible to satisfy every interest," he said. "People ask us to continue to look at issues and it seems like it's never-ending. There has to come a time when ... we get on with this."

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KANSAS DEPARTMENT OF REVENUE

Office of the Secretary
Robert B Docking State Office Building
915 SW Harrison St
Topeka Kansas 66612-1588

December 19, 1989

Robert F. Lytle
Bennett, Lytle, Wetzler, Winn & Martin
Suite 300
5000 W. 95th Street
P. O. Box 8030
Prairie Village, Kansas 66208-0030

RE: Sand Royalties

Dear Mr. Lytle:

Susan Duffy and I enjoyed meeting with you and the other members of your contingent on December 12 to discuss the recent increase in the rate for sand royalties from \$.02 per ton to \$.15 per ton. I believe we now have a better understanding of your arguments concerning the financial effects that such an increase would have upon the individual members of the sand extraction industry.

Unfortunately, the Department of Revenue simply cannot ignore a valid regulation which has the force and effect of law. Absent a change in the regulation, \$.15 per ton must be remitted to the state on and after December 1, 1989 pursuant to the regulation and the contracts under which the sand companies are allowed to extract sand from Kansas riverbeds.

As I indicated during our meeting, I do not believe that the Joint Committee on Administrative Rules and Regulations had a complete understanding of the financial considerations associated with such an increase. Therefore, I will advise Dr. William Wolff, the staff person for the Joint Committee, of your concerns. It is my understanding that the Joint Committee has already voted to introduce a bill to statutorily set the royalty rate at \$.15 per ton. Consequently, Ed Moses will have another opportunity to present his arguments against a rate increase to a legislative committee during the 1990 Session. The appropriate standing committee can then decide whether the rate should be lowered or the increase phased in over a period of time.

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7-5

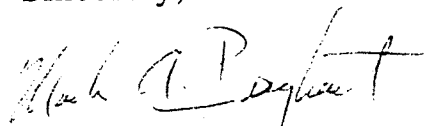
Robert F. Lytle
December 19, 1989
Page 2

Until K.A.R. 92-9-6a is amended or revoked, royalties at the rate of \$.15 must be remitted. However, royalties need not be remitted for any sand to be used exclusively for the improvement of highways, the construction of public buildings or for other public use.

Failure to remit the \$.15 amount shall constitute grounds for termination of any contract entered into between the sand company and the State of Kansas pursuant to K.S.A. 70a-101 et seq.

I trust this information will satisfy your immediate needs. Please contact my office if you require anything further.

Sincerely,



Mark A. Burghart
General Counsel

MAB:rab

cc: Ed Moses

As Amended by Senate Committee

Session of 1990

SENATE BILL No. 418

By Senators Bond, Winter, Langworthy, Martin, Oleen, Karr,
Moran, Morris, Anderson, Bogina, Daniels, Frahm, Francisco,
Gaines, Harder, Kanan, F. Kerr, Lee, McClure, Montgomery,
Strick and Vidricksen

12-28

13 AN ACT relating to taxation; increasing the rate of taxation imposed
14 upon cigarettes and tobacco products and providing for the dis-
15 position of revenue received therefrom; amending K.S.A. 79-3310,
16 79-3310b, 79-3311, 79-3312, 79-3371, 79-3372, 79-3378 and 79-
17 3387 and repealing the existing sections.
18

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

20 Section 1. *On and after June 1, 1990*, K.S.A. 79-3310 is hereby
21 amended to read as follows: 79-3310. There is imposed a tax upon
22 all cigarettes sold, distributed or given away within the state of
23 Kansas. The rate of such tax shall be ~~\$.24~~ \$.29 on each 20 cigarettes
24 or fractional part thereof or ~~\$.30~~ \$.3625 on each 25 cigarettes, as
25 the case requires. Such tax shall be collected and paid to the director
26 as provided in this act. Such tax shall be paid only once and shall
27 be paid by the wholesale dealer first receiving the cigarettes as herein
28 provided.

29 The taxes imposed by this act are hereby levied upon all sales of
30 cigarettes made to any department, institution or agency of the state
31 of Kansas, and to the political subdivisions thereof and their de-
32 partments, institutions and agencies.

33 Sec. 2. *On and after June 1, 1990*, K.S.A. 79-3310b is hereby
34 amended to read as follows: 79-3310b. On or before ~~October 31,~~
35 ~~1985~~ *July 31* June 30, 1990, each wholesale dealer, retail dealer
36 and vending machine operator shall file a report with the director
37 in such form as the director may prescribe showing cigarettes, cig-
38 arette stamps and meter imprints on hand at 12:01 a.m. on ~~October~~
39 ~~1,~~ ~~1985~~ *July* June 1, 1990. A tax of ~~\$.08~~ \$.05 on each 20 cigarettes
40 or fractional part thereof or ~~\$.10~~ \$.0625 on each 25 cigarettes, as
41 the case requires and ~~\$.08~~ \$.05 or ~~\$.10~~ \$.0625, as the case requires,
upon all tax stamps and all meter imprints purchased from the di-
rector and not affixed to cigarettes prior to ~~October 1,~~ ~~1985~~ *July*

3/27/90
Attachment 8

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1 June 1, 1990, is hereby imposed and shall be due and payable on
2 or before ~~October 31, 1985~~ ~~July 31~~ June 30, 1990. The tax imposed
3 upon such cigarettes, tax stamps and meter imprints shall be imposed
4 only once under this act. The director shall remit all moneys collected
5 pursuant to this section to the state treasurer who shall credit the
6 entire amount thereof to the state ~~general~~ state board of regents
7 margin of excellence fund.

8 Sec. 3. On and after June 1, 1990, K.S.A. 79-3311 is hereby
9 amended to read as follows: 79-3311. The director shall design and
10 designate indicia of tax payment to be affixed to each package of
11 cigarettes as provided by this act. The director shall sell water applied
12 stamps only to licensed wholesale dealers in the amounts of 1,000
13 or multiples thereof. Stamps applied by the heat process shall be
14 sold only in amounts of 30,000 or multiples thereof, except that such
15 stamps which are suitable for packages containing 25 cigarettes each
16 shall be sold in amounts prescribed by the director. Meter imprints
17 shall be sold only in amounts of 10,000 or multiples thereof. Water
18 applied stamps in amounts of 10,000 or multiples thereof and stamps
19 applied by the heat process and meter imprints shall be supplied
20 to wholesale dealers at a discount of ~~2.65%~~ ~~2.19%~~ 2.9%
21 value thereof, and shall be deducted at the time of purchase or from
22 the remittance therefor as hereinafter provided. Any wholesale cig-
23 arette dealer who shall file with the director a bond, of acceptable
24 form, payable to the state of Kansas with a corporate surety au-
25 thorized to do business in Kansas, shall be permitted to purchase
26 stamps, and remit therefor to the director within 30 days after each
27 such purchase, up to a maximum outstanding at any one time of
28 85% of the amount of the bond. Failure on the part of any wholesale
29 dealer to remit as herein specified shall be cause for forfeiture of
30 such dealer's bond. All revenue received from the sale of such stamps
31 or meter imprints shall be remitted to the state treasurer daily.
32 Upon receipt thereof, the state treasurer shall deposit the entire
33 amount thereof in the state treasury. The state treasurer shall first
34 credit such amount thereof as the director shall order to the cigarette
35 tax refund fund and shall credit the remaining balance as follows:
36 (a) From After July 1, 1990, through December 31, 1991, 17.25%
37 to the state board of regents margin of excellence fund; and there-
38 after, to the state dangerous drug law enforcement fund; and
39 (b) 82.75% to the state general fund. A refund fund designated the
40 cigarette tax refund fund not to exceed \$10,000 at any time shall be
41 set apart and maintained by the director from taxes collected under
42 this act and held by the state treasurer for prompt payment of all
43 refunds authorized by this act. Such cigarette tax refund fund shall

located within Kansas

only to licensed wholesale dealers located within Kansas

only to licensed wholesale dealers located within Kansas

2.9%

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1 be in such amount as the director shall determine is necessary to
meet current refunding requirements under this act.

2 The wholesale cigarette dealer shall affix to each package of cig-
3 arettes stamps or tax meter imprints required by this act prior to
4 the sale of cigarettes to any person, by such dealer or such dealer's
5 agent or agents, within the state of Kansas. The director is empow-
6 ered to authorize wholesale dealers to affix revenue tax meter im-
7 prints upon original packages of cigarettes and is charged with the
8 duty of regulating the use of tax meters to secure payment of the
9 proper taxes. No wholesale dealer shall affix revenue tax meter im-
10 prints to original packages of cigarettes without first having obtained
11 permission from the director to employ this method of affixation. If
12 the director approves the wholesale dealer's application for permis-
13 sion to affix revenue tax meter imprints to original packages of cig-
14 arettes, the director shall require such dealer to file a suitable bond
15 payable to the state of Kansas executed by a corporate surety au-
16 thorized to do business in Kansas. The director may, to assure the
17 proper collection of taxes imposed by the act, revoke or suspend
18 the privilege of imprinting tax meter imprints upon original packages
19 of cigarettes. All meters shall be under the direct control of the
20 director, and all transfer assignments or anything pertaining thereto
21 must first be authorized by the director. All inks used in the stamping
22 of cigarettes must be of a special type devised for use in connection
23 with the machine employed and approved by the director. All repairs
24 to the meter are strictly prohibited except by a duly authorized
25 representative of the director. Requests for service shall be directed
26 to the director. Meter machine ink imprints on all packages shall
27 be clear and legible. If a wholesale dealer continuously issues illegible
28 cigarette tax meter imprints, it shall be considered sufficient cause
29 for revocation of such dealer's permit to use a cigarette tax meter.
30

31 A licensed wholesale dealer may, for the purpose of sale in another
32 state, transport cigarettes not bearing Kansas indicia of tax payment
33 through the state of Kansas provided such cigarettes are contained
34 in sealed and original cartons.

35 *Sec. 4. On and after June 1, 1990, K.S.A. 79-3312 is hereby*
36 *amended to read as follows: 79-3312. The director shall redeem any*
37 *unused stamps or meter imprints that any wholesale dealer presents*
38 *for redemption within six months after the purchase thereof, at the*
39 *face value less ~~2.65%~~ ~~2.19%~~ thereof if such stamps or meter imprints*
40 *have been purchased from the director. The director shall prepare*
41 *a voucher showing the net amount of such refund due, and the*
director of accounts and reports shall draw a warrant on the state
treasurer for the same. Wholesale dealers shall be entitled to a refund

2.9%

4-8

1 of the tax paid on cigarettes which have become unfit for sale upon
2 proof thereof less ~~2.65%~~ ~~2.10%~~ of such tax. 2.9%

3 Sec. 4- 5. On and after June 1, 1990, K.S.A. 79-3371 is hereby
4 amended to read as follows: 79-3371. A tax is hereby imposed upon
5 the privilege of selling or dealing in tobacco products in this state
6 by any person engaged in business as a distributor thereof, at the
7 rate of ~~ten percent (10%)~~ 15% of the wholesale sales price of such
8 tobacco products. Such tax shall be imposed at the time the dis-
9 tributor: (a) Brings or causes to be brought into this state from
10 without the state tobacco products for sale; (b) makes, manufactures,
11 or fabricates tobacco products in this state for sale in this state; or
12 (c) ships or transports tobacco products to retailers in this state to
13 be sold by those retailers.

14 Sec. 5- 6. On and after June 1, 1990, K.S.A. 79-3372 is hereby
15 amended to read as follows: 79-3372. On or before July 20, 1972
16 ~~31 June 30, 1990~~, each distributor having a place of business in this
17 state shall file a report with the director in such form as the director
18 may prescribe, showing the tobacco products on hand at 12:01 o'clock
19 a.m. on ~~July June 1, 1972~~ 1990. A tax at a rate equal to ~~ten percent~~
20 ~~(10%)~~ 5% of the wholesale sales price of such tobacco products is
21 hereby imposed upon such tobacco products and shall be due and
22 payable on or before ~~July 20, 1972~~ ~~31 June 30, 1990~~. The tax upon
23 such tobacco products shall be imposed only once under this act.
24 The director shall remit all moneys collected pursuant to this section
25 to the state treasurer who shall credit the entire amount thereof to
26 the state board of regents margin of excellence fund.

27 Sec. 7. On and after June 1, 1990, K.S.A. 79-3378 is hereby
28 amended to read as follows: 79-3378. On or before the twentieth
29 20th day of each calendar month every distributor with a place of
30 business in this state shall file a return with the director showing
31 the quantity and wholesale sales price of each tobacco product ~~(1)~~
32 (a) brought, or caused to be brought, into this state for sale; and
33 ~~(2)~~ (b) made, manufactured, or fabricated in this state for sale in
34 this state during the preceding calendar month. Every licensed dis-
35 tributor outside this state shall in like manner file a return showing
36 the quantity and wholesale sales price of each tobacco product
37 shipped or transported to retailers in this state to be sold by those
38 retailers, during the preceding calendar month. Returns shall be
39 made upon forms furnished and prescribed by the director. Each
40 return shall be accompanied by a remittance for the full tax liability
41 shown therein, less ~~four percent (4%)~~ ~~2.67%~~ of such liability as 2.9%
42 compensation to reimburse the distributor for his or her expenses
43 incurred in the administration of this act. As soon as practicable

1 after any return is filed, the director shall examine the return. If
2 the director finds that, in his or her the director's judgment, the
3 return is incorrect and any amount of tax is due from the distributor
4 and unpaid, he or she the director shall notify the distributor of
5 the deficiency. If a deficiency disclosed by the director's examination
6 cannot be allocated by him to a particular month or months, he or
7 she the director may nevertheless notify the distributor that a de-
8 ficiency exists and state the amount of tax due. Such notice shall be
9 given to the distributor by registered or certified mail.

10 Sec. 6- 8. On and after June 1, 1990, K.S.A. 79-3387 is hereby
11 amended to read as follows: 79-3387. All revenue collected or re-
12 ceived by the director from the licenses and taxes imposed by this
13 act shall be deposited monthly with the state treasurer and by him
14 or her credited who shall credit each such remittance as follows:
15 (a) From After July 1, 1990, through December 31, 1991, 33 1/3%
16 to the state board of regents margin of excellence fund; and there-
17 after, to the state dangerous drug law enforcement fund; and
18 (b) 66 2/3% to the state general fund.

19 New Sec. 7 9. There is hereby created the state board of regents
20 margin of excellence fund in the state treasury. All moneys credited
21 to such fund shall be expended or transferred in accordance with
22 appropriation acts solely for the purpose of implementing the strat-
23 egy, commonly known as the margin of excellence, of financing
24 the operating budgets and improving the quality, condition and per-
25 formance of the institutions of higher learning under the jurisdiction
26 of the state board of regents. On January 1, 1992, such fund is
27 hereby abolished.

28 New Sec. 8. On January 1, 1992, there is hereby created
29 the state dangerous drug law enforcement fund in the state
30 treasury. All moneys credited to such fund shall be expended
31 or transferred in accordance with appropriation acts solely for
32 the purpose of aiding the waging of the war against dangerous
33 drugs in this state by providing financial assistance for state
34 and local law enforcement agencies, the court system and pro-
35 grams providing drug treatment, counseling and education.

36 Sec. 9- 10. On and after June 1, 1990, K.S.A. 79-3310, 79-3310b,
37 79-3311, 79-3312, 79-3371, 79-3372, 79-3378 and 79-3387 are hereby
38 repealed.

39 Sec. 10 11. This act shall take effect and be in force from and
40 after its publication in the statute book *Kansas register*.

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