

Approved April 13, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Joan Wagnon at
Chairperson

9:10 a.m./~~p.m.~~ on Monday, April 1, 1991 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Tom Severn & Chris Courtwright, Legislative Research;
Don Hayward & Bill Edds, Revisors;
Linda Frey, Committee Secretary & Douglas E. Johnston, aide

Conferees appearing before the committee:

Chairman Wagnon called the committee to order at 9:10 a.m. for hearings on HB 2616 and SB 9.

Hearings were opened on HB 2616.

The following people testified in favor of HB 2616:

Donald P. Schnacke, representing the Kansas Independent Oil & Gas Assoc. (KIOGA) (attachment 1)
James B. Devlin, Chairman of the KIOGA Ad Valorem Tax Committee (attachment 2)
Dr. Don Steeples, Associate Director of the Ks. Geological Survey, presented testimony on behalf of Dr. David R. Collins, Chief of Technical Information Services for the Ks. Geological Survey (attachment 3)
Bev Bradley, Ks. Assoc. of Counties (attachment 4)

Written testimony in opposition to HB 2616 was submitted by Alan Steppat of Pete McGill and Associates on behalf of the Kansas Legislative Policy Group (attachment 5).

Hearings were closed on HB 2616 and opened on SB 9.

Mark A. Burghart, General Counsel for the Ks. Dept. of Revenue, testified in regard to SB 9 (attachment 6).

The following people testified in favor of SB 9:

Nancy Hempen, Douglas County Treasurer and Secretary of Ks. County Treasurers Assoc. (attachment 7)
Chris McKenzie, Douglas County Administrator (attachment 8)
Leeanne Hays Gillaspie, Chief Deputy County Counselor for Johnson County (attachment 9)
Donald R. Seifert, Asst. Director of Administrative Services for the city of Olathe (attachment 10)
John T. Torbert, Executive Director of the Ks. Assoc. of Counties (attachment 11)

Steven R. Wiechman, General Counsel of the Ks. Assoc. of Counties testified in favor of, and suggested amendment to SB 9 (attachment 12).

Hearings were suspended on SB 9. The committee adjourned at 10:15 a.m.



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202
(316) 263-7297 • FAX (316) 263-3021
1400 MERCHANTS NATIONAL BANK BLDG. • TOPEKA, KANSAS 66612
(913) 232-7772 • FAX (913) 232-0917

April 1, 1991

TO: HOUSE COMMITTEE ON TAXATION

RE: HB 2616

Ever since Kansas, Inc. conducted a study that concluded taxes were high on oil and gas production, and particularly high when compared with production in other states, we have been attempting to bring to the attention of the legislature, legislative reform that would address that issue. That study made recommendations to protect production in Kansas. It is in that spirit, HB 2616 is before you.

HB 2616 simply states that if an oil and gas property that has property taxes exceeding 50% of net income, that property is exempt from county ad valorem taxes.

Typically, these are oil properties with little income and heavy expenses and are close to being plugged. These also could be natural gas properties that are shut in and have gross income that will not meet the 50% of net income test as defined in HB 2616.

There will be testimony from Jim Devlin, Wichita, Chairman of our ad valorem tax committee and Dr. David Collins of the Kansas Geological Survey to demonstrate that this is not a big impact on the counties, but is important to the operators and Kansas to keep these wells producing.

We urge passage of HB 2616.

Donald P. Schnacke

HOUSE TAXATION
Attachment #1
04/01/91

April 1, 1991

Kansas House Committee on Taxation

RE: House Bill 2616

Ladies and Gentlemen:

I am Jim Devlin, an independent oil operator and Chairman of the KIOGA Ad Valorem Tax Committee. I appear here, today, to support House Bill 2616.

This bill is designed to continue the productivity of marginal wells by exempting leases that have in the past paid 50%, or more, of their net income in Ad Valorem taxes. By preserving these low profit wells, it allows the operator to keep them producing until higher prices would make them more profitable, thus returning them to the tax roles. In addition, it allows continued employment of pumpers, service crews, truckers, etc., or allows the continued production until current, or new, secondary recovery methods can be utilized.

I don't have a lot of statistical data to present today, but a recent study by one operator might well be typical. This company, Petroleum Production Management, Inc. operates 63 leases in 10 Kansas counties. If House Bill 2616 had been in effect this year, 13 leases would qualify for exemption. Last year 33 of the 63 were exempt from severance tax by low productivity. With a total 1990 Ad Valorem Tax bill of \$184,325 on the 63 properties, \$23,368, or 12%, would have been exempt.

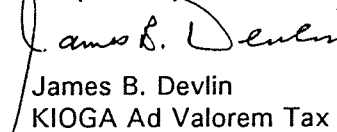
6 out of 10 counties would have exempt properties:

Comanche	1 out of 6
Finney	3 out of 13
Kiowa	4 out of 12
Rooks	1 out of 1
Scott	3 out of 6
Sedgwick	1 out of 2

There is a misconception that producing wells that are plugged can be "re-opened". This is true only of the wells where the pipe is not pulled and the expense of "re-opening" a plugged well would preclude many of the cased wells from ever producing again. For the most part, when a well is plugged, it is gone forever. We believe that every effort to continue production should be made and House Bill 2616, even though it would affect only 10 to 15 percent of the taxes paid, it could affect 20% of the wells.

This bill would help protect low productivity wells, low income wells and jobs.

Respectfully,



James B. Devlin
KIOGA Ad Valorem Tax Committee
Chairman

HOUSE TAXATION
Attachment #2
04/01/91




KANSAS GEOLOGICAL SURVEY

1930 Constant Ave., Campus West
The University of Kansas
Lawrence, Kansas 66047
913-864-3965

Statement before the House Committee on Taxation relating to
House Bill 2616

Presented by:


Dr. David R. Collins
Chief, Technical Information Services
Kansas Geological Survey

Chairman and members of the committee:

I am appearing today to express the general view of the Kansas Geological Survey that the energy policy of this state should support regulatory and tax policies which promote continued operation of oil and gas wells with marginal production. The object of such policies should be to prevent premature abandonment of producing wells, with the associated loss of access to the remaining known resources.

Because of technical problems associated with moving oil to a well from the surrounding rock pores, only 20-40% of the known resource around a well is actually retrieved. The Kansas Geological Survey, along with other research groups in Kansas is actively involved in development and testing of new technologies and methods of subsurface analysis which could permit recovery of significantly higher percentages of oil in place.

It is important to recognize that once production stops and wells are plugged on an oil or gas lease it is extremely unlikely that new wells would be drilled into an already marginal reservoir without major increases in oil or gas prices. Wells are drilled where production rates from anticipated discoveries are expected to exceed the costs of drilling, completing, and producing from the well. Even if smaller quantities are found, the well may be completed if tests indicate that the found resource will produce at a rate covering completion and operating costs; drilling costs are now a sunk cost. Even if the decision to complete proves to have been wrong, production will occur if the resulting revenue exceeds operating costs; at this point completion costs are also sunk costs.

Where wells have been abandoned and plugged, investors and drilling companies know that the production rates expected from a new well will not be sufficient to cover drilling and completion cost, unless there have been price increases not currently anticipated in the world market.

As stated in a 1989 report from the Bartlesville Project Office of the Department of Energy (Abandonment Rates of the Known Domestic Oil Resource, DOE/BC-89/6/SP, November, 1989):

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Attachment #3
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"As the wells that provide access to the oil resources remaining after conventional recovery are plugged, the potential for future economic recovery of the oil is largely forfeited at oil prices projected in the foreseeable future. Because many advanced recovery projects cannot be justified economically if new wells must be drilled or if wells must be re-entered for testing, injection, and production, continuing abandonment will limit the potential of advanced oil recovery in the near- and long-term.

The same report indicates that current trends will result in abandonment of 80% of Kansas' known oil resources by 1997.

As with other bills before the Legislature where these views have been expressed, House Bill 2616 is targeted to provide extended producing life for those wells closest to the economic limit of their production history. In addition to extending the availability of these wells for application of advanced recovery technologies, the affected leases will provide an extended stream of taxable income to both the working and royalty interests.

Thank you for your attention to these remarks.



"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

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(913) 461-5694

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Geary County Commissioner
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Executive Director

John T. Torbert

April 5, 1991

To: Representative Joan Wagnon, Chairperson
Members House Taxation Committee

From: Bev Bradley, Deputy Director
Kansas Association of Counties

Re: HB 2616--exemption certain oil and gas properties
from property taxation

The Kansas Association of Counties is opposed to HB 2616
for the following reasons:

We oppose further narrowing of the tax base by
additional exemptions.

Gas and oil is currently valued as a piece of
personal property as it lies in the ground. To
use federal guidelines, specifically the "federal
net taxable income amount" deals with income and
adds another whole layer of bureaucracy which is
not in the best interest of the public.

It is impossible to tell whether stripper wells or
high dollar wells are being exempt under this
criteria because of all the conditions which are
allowed as federal income tax exemptions.

It would take additional people in the appraisers
office of oil producing counties to determine the
effects of this legislation.

This proposed legislation is too broad in scope and too
difficult to interpret to achieve the intended goal. KAC
opposes HB 2616.

TSB2616

HOUSE TAXATION
Attachment #4
04/01/91



Kansas Legislative Policy Group

412 Capitol Tower, 400 West Eighth, Topeka, Kansas 66603, 913-233-2227

TIMOTHY N. HAGEMANN, Executive Director

Testimony To
The House Taxation Committee

On

House Bill 2616

April 1, 1991

Madam Chairperson and members of the committee, I am Alan Stepat of Pete McGill and Associates. We appear on behalf of the Kansas Legislative Policy Group (KLPG) which is an organization of county commissioners representing 24 oil and gas producing counties from primarily the western part of the state.

We appear today in opposition to House Bill 2616. Because of the unknown impact this legislation would have in the oil and gas producing counties across the state, we feel this bill would further erode many counties tax base. In addition, who would determine if the lease would receive such exemption, would it be the county appraiser, property valuation division or the Board of Tax Appeals.

It should be stated that in a few counties the short term effects of the passage of HB 2616 will be minimal. However, in many counties the effects will be

HOUSE TAXATION
Attachment #5
04/01/91

Page Two

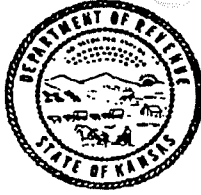
April 1,1991

meaningful and in some, specifically southeast Kansas the effects will be immediate and devastating.

During the last three sessions (including a special session) you have struggled to solve a property tax problem in Kansas that was partially created by the narrowing of the tax base. By creating one more exemption, you simply compound the problem and move further away from a solution.

Therefore, we respectfully request that the committee reject HB 2616.

Thank you for your consideration.



KANSAS DEPARTMENT OF REVENUE

Office of the Secretary

Robert B Docking State Office Building

915 SW Harrison St

Topeka Kansas 66612-1588

MEMORANDUM

To: The Honorable Joan Wagnon, Chairperson
House Committee on Taxation

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

Date: April 1, 1991

Subject: Senate Bill No. 9

Thank you for the opportunity to appear and comment on S.B. 9. The bill codifies a temporary regulation promulgated by the Department on October 1, 1990 which altered the method by which depreciation is computed for purposes of the motor vehicle tax. The bill also prorates mill levies when a registration year extends over 2 calendar years. The Department's original regulation was intended to address the perceived inequity in the current system of taxing motor vehicles identified by the Attorney General in Opinion No. 90-100. That opinion held that the current staggered registration system for vehicles was unconstitutional because owners with surnames at the end of the alphabet pay more than those at the beginning of the alphabet. Staggered registration under this type of system failed to allow the same depreciation deduction for those at the end of the alphabet that is enjoyed by those at the beginning of the alphabet. The regulation was promulgated after the Department received a written opinion from the Attorney General stating that administrative action would be appropriate (Attorney General Op. 90-110) to alleviate the perceived inequity.

The temporary regulation addressed the perceived inequity by accelerating depreciation to January 1 when the period for which an owner is seeking to register a motor vehicle covers a portion of two calendar years. Attached you will find a worksheet which illustrates the effect the regulation has on the precise example cited in the Attorney General's opinion. The new methodology for computing depreciation affects motor vehicle registrations occurring after January 1, 1991.

The portion of S.B. 9 relating to the proration of mill levies was recommended by several counties. This feature of the bill was designed to further insure equitable treatment among vehicle registrants. This change could not be accomplished by administrative regulation according to the Attorney General. (Attorney General Op. 90-115).

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*

HOUSE TAXATION
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The language prorating mill levies may be problematic. There is a serious question whether the average county mill levy information can be provided to the Department in time to prepare charts and make necessary programming changes to compute the motor vehicle taxes by January 1. Currently, such levy information may not be received by the Department until February in some instances. The average county levies, therefore, can not be certified by the Secretary as required by K.S.A. 79-5105(c) until after the January 1 date. This problem could be remedied if the county wide average levy is required to be transmitted to the Department by November 1 and the requirement calling for the Secretary's certification is eliminated.

RELATED LITIGATION

Following the release of the Attorney General's opinion regarding staggered registration, several suits were filed challenging the current registration system. Below is a brief summary of that litigation.

SHAWNEE COUNTY. A class action suit was filed on August 27, 1990 in Shawnee County District Court. (Bernard A. Zarda, Sr. et al. v. State of Kansas et al.) The Department answered on behalf of all named defendants. Plaintiffs subsequently amended their petition to name certain additional defendants including Franklin, Johnson, Leavenworth and Wyandotte Counties. The Department filed a motion to dismiss for failure to exhaust administrative remedies. The case was recently dismissed by the district court for failure to exhaust administrative remedies. The plaintiffs have appealed to the Kansas Supreme Court.

JOHNSON COUNTY. A class action suit was filed in Johnson County on September 18, 1990. (James L. Ungerer et al. v. State of Kansas et al.) The Department filed a motion to dismiss for failure to exhaust administrative remedies. The case was transferred to Shawnee County and has yet to be dismissed.

QUO WARRANTO. A petition for quo warranto was filed by the Attorney General in the Kansas Supreme Court on September 14, 1990. The Attorney General sought to have the current system of taxation for motor vehicles declared unconstitutional as a denial of equal protection. Since the temporary regulation promulgated by the Department on October 1, 1990, addressed the concerns of the Attorney General, the quo warranto action was dismissed by his office.

I would be happy to respond to any questions you might have regarding the bill or the related litigation.

Example: Model Year 1989 Vehicle Purchased in June 1989; Sold in Dec. 1994

Calendar Year	Depr. Value	Tax Value (X.30)	Tax for 12 mos. @ 120 mils	A's Tax	T's Tax
89	15,000 / 12,600	4,500 / 3,780	540 / 454	270 76 (7/1-12/31 1/1-2/29)	225 45 416 (7/1-11/30 12/1-12/31 1/1-11/30)
90	12,600 / 10,584	3,780 / 3,175	454 / 381	(3/1-12/31 1/1-2/29) 378 64	(11/1-12/31 1/1-11/30) 38 349
91	10,584 / 8,891	3,175 / 2,667	381 / 320	318 53	32 293
92	8,891 / 7,468	2,667 / 2,240	320 / 269	267 45	27 247
93	7,468 / 6,273	2,240 / 1,882	269 / 226	224 38	22 207
94	6,273 / 5,269	1,882 / 1,581	226 / 190	188 32 <hr/> 1645 + 308 = 1953	19 174 <hr/> 363 + 45 + 1686 = 2094
Sell in Dec '94 CREDIT/REFUND				-32 (1/1-2/29) <hr/> 1921	-174 (1/1-11/30) <hr/> 1920

* 1 off due to rounding.

92-55-2a. Valuation of motor vehicles; allowance for depreciation. (a) When the period for which an owner is seeking to register a motor vehicle covers a portion of two calendar years, the value of a motor vehicle to be registered shall be reduced by taking into account depreciation which is equal to the product determined by multiplying 16% by a fraction, the numerator of which is the number of months in the next succeeding calendar year remaining in the owner's registration year and the denominator of which is 12. The depreciation allowed hereunder shall be in addition to the amounts allowed as reductions in the value of a vehicle pursuant to K.S.A. 79-5105(a).

(b) The method of computing depreciation set forth in subsection (a) shall be applied to all motor vehicles which are registered after January 1, 1991. (Authorized by K.S.A. 79-5115; implementing K.S.A. 79-5105; effective _____, _____.)

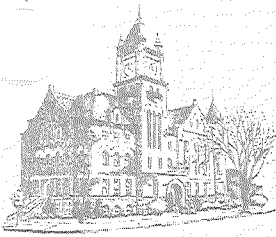
~~BY _____~~
APPROVED
ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

SEP 26 1990

APPROVED BY FDL

Attachment 6-4



Douglas County Treasurer
DOUGLAS COUNTY COURTHOUSE
Eleventh & Massachusetts
Lawrence, Kansas 66044

April 1, 1991

To: Representative Wagon, Chairperson and Members of the
House Taxation Committee

From: Nancy Hempen, Douglas County Treasurer and
Secretary of Kansas County Treasurers Association.

Thank you for the opportunity to appear before you today to continue to express my concerns with regard to the motor vehicle tax system. I want to emphasize to you that the protection of the staggered registration system is extremely important. Most counties could not handle the volume if vehicle renewal transactions were all due at one time. The inability to handle this work load is due to the higher overall vehicle transaction volume realized over the last 10 years, the insufficient VIPS equipment available in the counties, and to insufficient staffing and space allocations.

With the implementation of the Department of Revenue's temporary regulation, a significant change to the motor vehicle tax system has occurred. The equity problem has obviously been a real concern and has raised most of the questions being asked. I still believe the real question that needs answering is - "what is equitable?" I share the concern with the Department of Revenue and have had the opportunity to work very closely with them on the problem. The temporary regulation implemented by the Department of Revenue on January 1, 1991 did not correct the equity problem, although it is a beginning.

Representatives of cities, counties, school districts and the Kansas Assoc. of Counties have worked very closely with the Department of Revenue to find an equitable solution, protect the staggered registration / tax system and minimize the revenue impact for local units of government.

HOUSE TAXATION
Attachment #7
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Nancy L. Hempen, County Treasurer
Courthouse

Eleventh & Massachusetts / Lawrence, Kansas 66044 / (913) 841-7700

SB 9 is before you today because the Attorney General's opinion (90-112) does not give the Department of Revenue the authority, without legislation, to change the mill levy along with the depreciation. SB 9 addresses the additional change needed to make the motor vehicle tax system completely equitable for all taxpayers throughout the alphabet for the life of the vehicle.

By accelerating the mill levy to January 1st, along with the depreciation, "A" and "V" would be paying on two depreciations and two mill levy rates in one registration year. (Registration periods, except UXYZ, encumber a part of two calendar years.)

For example, assume Mr. "A" and Mr. "V" each register a 1986 Ford Mustang purchased June 1, 1985 and sold June 1, 1991. The documentation shown on the attached page reflects the taxes that would be paid, for the life of the vehicle, (1) under the original system, (2) under the Department of Revenue system with the temporary regulation now in effect, and (3) under the proposed SB 9. As you can see, the inequity is eliminated using the formula spelled out in SB 9.

In the event that the temporary regulation expires, what happens? Do we revert back to the original system? What consequences will result by using either system? These are the kinds of questions that require an answer.

A key element in this puzzle, that is not resolved by this legislation, is the revenue loss to local units of government. The Department of Revenue's temporary regulation is projected to create \$24 million in revenue loss for fiscal year 1991. These losses were not anticipated in the fiscal year 1991 budgets. With the passage of SB 9, these losses are only reduced by about 7 million. Please remember, this is in addition to the losses local units have already incurred due to the real estate reappraisal.

Recently, many counties have been forced to make large tax refunds due to the Supreme Court ruling regarding inventory exemptions for the railroads and public utilities. In Douglas County the refund was \$67,649.24. That amount, I'm sure, is larger in other counties. This is another example of lost revenue to local units of government.

I know how complex and difficult this has been, but I ask you to please use your legislative wisdom to protect the staggered vehicle registration/tax system, to make the system equitable and to minimize the loss of revenue to local units of government. Your support and passage of SB 9 will bring equality to the motor vehicle tax system. A solution to revenue loss is still needed.

Before making any decision, I hope you will consider the effects of all proposals and how they will effect every taxpayer as well as the local units of government.

Thank you for your time and I would be happy to answer any questions.

<u>CRAWFORD COUNTY</u>	"A"	"V"	Difference
(72 months of ownership)			
Original system (Depreciation & mill levy at renewal)	1,381.90	1,489.97	106.07
Dept. of Revenue (Depreciation Jan. 1 Mill levy at renewal)	1,351.23	1,330.59	20.64
SB 9 (Depreciation & Mill levy Jan. 1)	1,351.32	1,351.32	-0-

DOUGLAS COUNTY

(72 months of ownership)			
Original System (Depreciation & Mill levy at renewal)	1,340.24	1,421.14	80.90
Dept. of Revenue (Depreciation Jan. 1 Mill levy at renewal)	1,310.27	1,183.94	126.33
SB 9 (Depreciation & Mill levy Jan. 1)	1,314.54	1,314.54	-0-

Example used is a 1986 Ford Mustang, class 10

Douglas County

TO: House Taxation Committee
FROM: *W* Chris McKenzie, Douglas County Administrator
DATE: April 1, 1991
SUBJECT: Senate Bill 9

I appear today on behalf of the Board of County Commissioners in support of 1991 Senate Bill 9. As you have already learned, the purpose of Senate Bill 9 is to equalize the motor vehicle tax burden for taxpayers--no matter what the first letter of their last name. That in and of itself is a very important objective. In addition to supporting that objective, I also urge you to support an amendment to SB 9 to reduce the significant potential that an administrative action taken only months ago by the prior Secretary of Revenue will have on raising local property taxes in the very near future. Let me explain what may initially appear confusing but which is fundamentally very simple.

Attached is a table prepared for the interim tax committee by the Legislative Research Department which illustrates the projected fiscal consequences for local governments of recent changes in the motor vehicle tax laws. Column 3 ("Projected CY90 Taxes") contains an estimate of the statewide motor vehicle tax collections in calendar year 1990 of \$301,805,939. Due to increases in assessed valuations in 1989 as a result of reappraisal, the countywide average tax rates that are used to compute motor vehicle taxes in calendar year 1991 declined significantly, causing an estimated loss of over \$55 million (or an 18.3% reduction) in motor vehicle tax revenue to local governments in 1991--a loss which was felt most significantly by school districts since they account for more than 50% of the property taxes levied and collected statewide. This loss--for which we were able to budget--is illustrated in Column 4 ("Projected CY91 Taxes") and it resulted in some increases in local property taxes as allowed by the property tax lid law last session.

After budgeting to sustain one major loss of motor vehicle tax revenue in FY 1991, in September, 1990 the Secretary of Revenue implemented temporary administrative regulations which not only have the effect of shifting the inequity of the taxation system from the back half of the alphabet to the front half, but which cause an unbudgeted loss of revenue statewide to schools, cities, counties, townships, etc. of an estimated \$23 million--an additional 9.3% revenue loss if you compare Column 5 ("Proj. CY91 Taxes with Temp. Reg.") to Column 4 in the table. This means local governments in Kansas in one calendar year will experience a loss of 27% in motor vehicle tax revenue--one-third of which we did not have the chance to account for last summer in our 1991 budgets.

HOUSE TAXATION
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Courthouse

Eleventh & Massachusetts / Lawrence, Kansas 66044 / (913) 841-7700

While your and our constituents may be cheering because these combined actions have significantly lowered local motor vehicle taxes, none of us should be fooled by the transparency of this temporary reduction. Some county governments may be able to tighten their belts and use their rapidly dwindling cash reserves to tide the county over for one year, but they can not and will not be able to do it for very long without raising the general property tax. The alternative is to make across the board cuts in all programs beginning with services to the aging and bridges and ending with services to youth and zoning.

In its present form SB 9 would reduce the loss to local governments from the Secretary of Revenue's administrative regulation from \$23 million to \$17.8 million in 1992, assuming collections are the same in 1992 as they are projected for 1991. SB 9 does not address the unplanned 1991 revenue loss of \$23 million. This can not be reversed unless the legislature acts immediately to reverse the Secretary's actions or the new Secretary of Revenue does so.

Our proposed amendment is quite simple. Enact SB 9 as written and provide complete equality to motor vehicle taxation in Kansas, but also include an adjustment factor of 7.8% to hold counties, cities, schools, townships and other local governments relying on motor vehicle tax revenue harmless from any future revenue loss. I hope the current Secretary of Revenue takes decisive administrative action to lift the prior Secretary's regulation and avoid the \$23 million revenue loss in calendar year 1991. In 1992 and beyond, however, SB 9, together with the hold harmless adjustment factor, provides the long term solution to this problem.

Douglas County officials have worked hard to help devise SB 9 and the reforms it contains. We now ask that you help us have the resources to deliver the services the legislature mandates we deliver or that the public expects without having to raise the general property tax to replace valuable motor vehicle tax revenue.

Thank you for your time and attention.

cc: Douglas County Commission
Douglas County Legislative Delegation
Secretary of Revenue

Tables 1 and 3

(Combined)

SB 9

Table 1: CY 1991 Motor Vehicle Tax Projections and Estimates

Alphabetical by County

KANSAS COUNTY NAME	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Projected CY90 Values	Projected CY91 Values	Projected CY90 Taxes	Projected CY91 Taxes	Proj. CY91 Taxes with Temp Req	Est CY91 Taxes with Prorated Levies & Values	Est CY91 Taxes, Prorated Taxes & Values, Oct 1 Yr
ALLEN	\$10,884,000	\$11,320,000	\$1,333,330	\$1,438,411	\$1,304,159	\$1,364,497	\$1,323,016
ANDERSON	5,856,000	6,090,000	613,337	632,531	573,495	586,898	569,056
ATCHISON	11,006,000	11,447,000	1,687,521	1,582,053	1,434,395	1,467,918	1,423,293
BARBER	5,534,000	5,755,000	712,995	598,220	542,386	555,062	538,188
BARTON	25,701,000	26,729,000	3,481,423	3,158,160	2,863,399	2,930,319	2,841,237
BOURBON	9,891,000	10,286,000	1,468,808	1,367,141	1,239,541	1,268,511	1,229,940
BROWN	7,746,000	8,056,000	1,026,283	868,673	787,597	806,004	781,502
BUTLER	41,427,000	43,085,000	5,933,707	5,252,732	4,762,477	4,873,781	4,725,618
CHASE	2,493,000	2,593,000	273,869	282,685	256,301	262,291	254,318
CHAUTAUQUA	3,368,000	3,503,000	412,065	374,250	339,320	347,250	336,694
CHEYENNE	14,408,000	14,984,000	1,730,259	1,476,321	1,338,531	1,369,814	1,328,171
CHEYENNE	2,719,000	2,828,000	317,476	253,569	229,903	235,276	228,124
CLARK	2,624,000	2,729,000	259,545	281,587	255,305	261,272	253,329
CLAY	6,678,000	6,945,000	835,731	856,293	776,372	778,209	754,552
CLOUD	7,467,000	7,766,000	1,095,153	1,170,387	1,061,151	1,085,951	1,052,938
COFFEY	8,207,000	8,536,000	354,611	405,241	367,418	352,354	341,642
COMANCHE	2,429,000	2,526,000	278,607	276,070	250,303	253,588	245,879
COWLEY	26,267,000	27,318,000	3,863,207	3,829,308	3,471,906	3,553,047	3,445,035
CRAWFORD	24,576,000	25,559,000	3,722,622	2,910,400	2,638,763	2,700,433	2,618,340
DECATUR	3,474,000	3,612,000	380,928	350,814	318,071	325,505	315,610
DICKINSON	13,754,000	14,304,000	1,694,572	1,561,021	1,415,326	1,448,403	1,404,372
DONIPHAN	5,520,000	5,740,000	823,878	710,726	644,391	659,452	639,404
DOUGLAS	55,195,000	57,403,000	8,805,838	6,784,046	6,150,868	6,294,620	6,103,264
EDWARDS	3,560,000	3,703,000	423,017	363,489	329,564	337,266	327,013
ELK	2,553,000	2,655,000	326,421	352,376	319,488	326,955	317,015
ELLIS	20,823,000	21,656,000	2,747,600	2,227,508	2,019,607	2,066,807	2,003,976
ELLSWORTH	5,239,000	5,448,000	607,636	658,529	597,066	611,020	592,445
FINNEY	24,776,000	25,767,000	2,639,078	2,691,605	2,440,389	2,497,423	2,421,501
FORD	20,107,000	20,912,000	3,006,455	2,558,849	2,320,023	2,374,244	2,302,067
FRANKLIN	15,888,000	16,524,000	2,128,610	1,951,524	1,769,382	1,810,734	1,755,687
GEARY	14,571,000	15,154,000	1,911,024	1,691,664	1,533,775	1,569,621	1,521,904
GOVE	3,129,000	3,254,000	325,232	326,397	295,934	296,819	287,796
GRAHAM	2,957,000	3,075,000	386,824	381,406	345,808	351,494	340,809
GRANT	7,545,000	7,847,000	475,861	426,889	387,046	384,091	384,050
GRAY	5,298,000	5,510,000	616,733	621,127	563,155	576,317	558,797
GREERLEY	1,820,000	1,892,000	197,750	186,118	168,747	172,691	167,441
GREENWOOD	5,740,000	5,969,000	891,409	849,279	770,013	788,009	764,054
HAMILTON	2,458,000	2,557,000	267,752	242,841	220,176	227,477	220,562
HARPER	6,374,000	6,629,000	817,483	782,562	709,522	726,105	704,031
HARVEY	21,909,000	22,786,000	3,213,733	3,033,469	2,750,345	2,814,623	2,729,059
HASKELL	4,402,000	4,578,000	293,790	283,977	257,472	263,490	255,479
HODGEMAN	2,338,000	2,432,000	289,436	301,235	273,120	290,268	281,444
JACKSON	8,078,000	8,401,000	1,132,256	940,235	852,480	872,403	845,882
JEFFERSON	13,248,000	13,778,000	1,737,213	1,467,320	1,330,370	1,361,462	1,320,073
JEWELL	3,365,000	3,500,000	416,693	413,495	374,902	383,664	372,001
JOHNSON	429,951,000	447,149,000	76,352,063	46,783,806	42,417,317	43,408,651	42,089,028
KEARNY	4,559,000	4,741,000	228,928	222,344	201,592	206,304	200,032
KINGMAN	7,657,000	7,963,000	828,617	876,325	794,534	813,103	788,385
KIOWA	3,664,000	3,811,000	335,824	332,995	301,915	308,971	299,579
LABETTE	15,170,000	15,777,000	2,263,227	2,223,129	2,015,637	2,062,745	2,000,037
LANE	2,637,000	2,743,000	318,887	348,752	316,201	319,836	310,113
LEAVENWORTH	39,068,000	40,631,000	6,029,727	4,959,284	4,496,418	4,601,503	4,461,618
LINCOLN	2,946,000	3,064,000	335,286	383,651	347,844	355,973	345,151
LINN	7,063,000	7,345,000	508,289	499,518	452,896	456,996	443,103
LOGAN	2,846,000	2,960,000	306,008	307,461	278,765	286,356	277,651
LYON	23,448,000	24,386,000	3,483,810	3,370,030	3,055,494	3,126,904	3,031,846
MARION	9,415,000	9,792,000	1,054,853	1,021,170	925,860	947,814	919,000
MARSHALL	8,892,000	9,248,000	1,193,488	1,138,078	1,031,857	1,055,973	1,023,871
MCPHERSON	22,080,000	22,963,000	2,634,087	2,674,412	2,424,800	2,481,470	2,406,034
MEADE	4,204,000	4,372,000	449,760	398,630	361,424	369,871	358,627
MIAMI	19,942,000	20,739,000	2,627,606	2,295,231	2,081,010	2,129,645	2,064,904
MITCHELL	5,870,000	6,105,000	692,403	729,662	661,560	684,613	663,801
MONTGOMERY	26,438,000	27,496,000	4,025,451	3,844,072	3,485,292	3,566,746	3,458,317
MORRIS	4,958,000	5,156,000	541,788	533,371	483,590	494,892	479,847
MORTON	4,074,000	4,237,000	290,395	292,524	265,221	271,420	263,169
NEMAHA	8,552,000	8,894,000	943,816	824,276	747,344	764,810	741,559
NEOSHO	12,618,000	13,123,000	2,088,285	2,096,501	1,900,828	1,945,252	1,886,116
NESS	4,016,000	4,176,000	461,411	469,024	425,248	435,187	421,957
NORTON	4,362,000	4,536,000	599,933	594,109	538,658	551,247	534,489
OSAGE	12,272,000	12,763,000	1,394,309	1,314,919	1,192,193	1,220,056	1,182,966
OSBORNE	3,983,000	4,142,000	439,282	488,753	443,136	448,492	434,858
OTTAWA	4,446,000	4,624,000	483,951	525,742	476,672	487,813	472,983
PAWNEE	6,185,000	6,433,000	740,302	662,675	600,826	614,867	596,176
PHILLIPS	4,949,000	5,147,000	597,500	651,635	590,816	604,624	586,243
POTTAWATOMIE	14,110,000	14,674,000	903,440	962,270	872,458	892,848	865,706
PRATT	8,764,000	9,114,000	1,105,172	1,135,408	1,029,437	1,053,496	1,021,470
RAWLINS	2,962,000	3,081,000	398,482	386,031	350,002	358,181	347,293
RENO	46,589,000	48,453,000	6,572,734	5,705,163	5,172,681	5,293,572	5,132,647
REPUBLIC	5,507,000	5,727,000	676,479	709,345	643,139	658,170	638,162
RICE	8,572,000	8,915,000	948,101	1,022,819	927,356	949,029	920,178
RILEY	28,853,000	30,007,000	4,218,720	3,683,160	3,339,399	3,417,444	3,313,554
ROOS	5,506,000	5,726,000	635,439	667,165	604,896	619,033	600,215
RUSH	3,286,000	3,417,000	385,296	398,884	361,655	353,354	342,612
RUSSELL	7,694,000	8,002,000	936,332	910,644	825,651	844,947	819,261
SALINE	39,684,000	41,271,000	5,611,703	4,836,762	4,385,331	4,487,821	4,351,391
SCOTT	5,473,000	5,692,000	751,813	615,236	557,814	570,851	553,497
SEDGWICK	331,971,000	345,250,000	46,458,175	40,513,570	36,732,303	37,590,772	36,448,013
SEWARD	15,947,000	16,585,000	2,009,444	1,684,241	1,527,046	1,562,734	1,515,227
SHAWNEE	126,464,000	131,523,000	22,553,815	18,589,005	16,854,031	17,247,926	16,723,589
SHERIDAN	2,802,000	2,914,000	388,178	306,068	277,501	283,987	275,354
SHERMAN	5,896,000	6,132,000	776,161	636,740	577,311	590,803	572,843
SMITH	4,136,000	4,301,000	534,482	517,041	468,784	479,740	465,156
STAFFORD	4,845,000	5,039,000	622,487	546,654	495,633	507,216	491,797
STANTON	3,001,000	3,121,000	243,248	237,720	215,533	220,570	213,865
STEVENS	6,007,000	6,248,000	236,910	229,042	207,665	212,518	206,057
SUMNER	18,182,000	18,910,000	2,872,630	2,362,583	2,142,075	2,192,137	2,125,497
THOMAS	7,006,000	7,286,000	941,060	791,392	717,528	741,306	718,770
TREGO	3,237,000	3,366,000	404,239	383,771	347,953	356,085	345,260
WABAUNSEE	5,309,000	5,521,000	626,702	566,365	513,505	525,506	509,530
WALLACE	1,798,000	1,870,000	170,968	156,621	142,003	145,322	140,904
WASHINGTON	5,050,000	5,252,000	589,885	612,726	555,538	568,522	551,239
WICHITA	2,641,000	2,747,000	312,909	329,673	298,903	305,889	296,590
WILSON	7,278,000	7,569,000	850,782	877,668	795,752	814,350	789,593
WOODSON	3,144,000	3,270,000	360,187	363,503	329,576	337,278	327,025
WYANDOTTE	101,887,000	105,963,000	19,602,907	15,685,586	14,221,598	14,553,970	14,111,529
	\$2,033,268,000	\$2,114,603,000	\$301,805,939	\$246,457,466	\$223,454,769	\$228,652,948	\$221,701,899

PREPARED TESTIMONY
ON
SENATE BILL NO. 9

PRESENTED BY
LEEANNE HAYS GILLASPIE
CHIEF DEPUTY COUNTY COUNSELOR
JOHNSON COUNTY, KANSAS

APRIL 1, 1991

HOUSE TAXATION
Attachment #9
04/01/91

I. INTRODUCTION

On behalf of the Board of County Commissioners of Johnson County, I wish to express our appreciation for the opportunity to appear before this Committee and present testimony on Senate Bill No. 9. The Board of County Commissioners of Johnson County does support Senate Bill No. 9 and urges this Committee to favorably recommend passage of the bill. Furthermore, the Board does support and concurs in a proposed amendment to Senate Bill No. 9, which would clarify the manner in which the appropriate mill levy amount was determined in past years for motor vehicle taxation across the State of Kansas.

As drafted, Senate Bill No. 9 amends K.S.A. 79-5105, the so-called tax and tag law, to alter the formula used to establish the assessed valuation for motor vehicles. The amendment seeks to eliminate the alleged "alphabet inequity" by prorating the annual sixteen (16%) percent depreciation factor throughout the year.

The additional amendment, not contained in the printed bill, but proposed and strongly recommended here, would state legislatively that the applicable county average tax rate that was to be used to assess motor vehicles taxes during the tax years 1981 through 1991 was the average tax rate from two years prior to the year of registration. That amendment would clarify the statutory language to conform to the actual state practices.

II. POSITION OF JOHNSON COUNTY

The Board of County Commissioners does support Senate Bill No. 9, as currently drafted, as well as the additional, proposed amendment concerning the applicable average tax rate determination.

Johnson County, as well as the State and other counties, has been a defending party in various lawsuits filed over the last year challenging the taxation of motor vehicles. While Johnson County has vigorously defended against those claims, and will continue to do so, the Board of County Commissioners does believe that Senate Bill No. 9, with the proposed additional amendment, can best resolve all issues, providing an acceptable system of taxation of motor vehicles.

III. DISCUSSION

Senate Bill No. 9, as drafted, amends K.S.A. 79-5105 in two primary areas. First, the bill prorates throughout the year the application of the annual 16% depreciation factor. That change seeks to eliminate the perceived inequity that persons registering new vehicles during the latter months of the calendar year did not receive full benefit of the depreciation factor and, thus, paid taxes on a higher vehicle value than persons registering vehicles during months at the beginning of the calendar year.

Secondly, the bill amends current statutory language to indicate that the applicable county average tax rate is that tax rate derived from the levy rates for the year two years

prior to the year of registration--not the one preceding year. That change would conform the statutory language to state practices.

Since K.S.A. 79-5105 was originally adopted, the Kansas State Department of Revenue has always certified the applicable county average tax rates to the County Treasurers based upon tax rates from two years preceding the year of vehicle registration. That process has generally gone unchallenged since 1981 and has basically benefitted tax payers since mill levies generally increased. In 1989, however, reappraisal changed that formula, and the rates certified by the State Department of Revenue have been challenged by lawsuits. Potentially, there is more that \$60,000,000 at stake state wide, should the challenges prevail. The proposed amendments seek to clarify those issues.

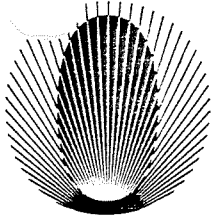
IV. CONCLUSION

The Board of County Commissioners of Johnson County firmly believes that Senate Bill No. 9 will benefit all Kansas counties and the State Department of Revenue. The Bill, as drafted, will best resolve many of the issues and challenges that have been raised against the state system of motor vehicle taxation.

Moreover, the Board strongly urges that Senate Bill No. 9 be further amended to clarify that the applicable average tax rate, to be used from 1981 through 1991, was the rate from the calendar year two years prior to the registration

year. That change merely recognizes and conforms the statutory language with the practices of the State Department of Revenue.

The Board urges this Committee to pass favorably upon and support adoption of Senate Bill No. 9, with the proposed additional amendment.



City of Olathe

TO: Members of the Senate Assessment and Taxation Committee
FROM: Donald R. Seifert, Asst. Director, Administrative Services *DRS*
SUBJECT: Senate Bill No. 9 - Calculation of Motor Vehicle Tax
DATE: April 1, 1991

On behalf of the city of Olathe, thank you for the opportunity to appear today on Senate Bill No. 9 concerning the motor vehicle tax. We have appeared before this committee on several occasions on this subject. Many of you served on the 1990 interim committee, and the city commends your work in studying this issue and drafting a bill aimed at eliminating the "alphabet inequity" in the current system.

Olathe supports the concept of this bill because as a matter of public policy, it is important to retain taxpayer confidence in the vehicle tax system. The motor vehicle tax represents an important revenue source to operate local units of government. In Olathe, the motor vehicle tax represents approximately 13% of the property tax collected for support of our library, debt service, and general operating funds. Preserving equity in such an important revenue source is essential. Indeed, equity should be a fundamental objective of any system of taxation.

Having said this, our support for Senate Bill No. 9 is tempered by the fact that correcting "alphabet inequity" causes local governments in Kansas to experience an additional motor vehicle tax revenue loss, in addition to the major loss experienced following implementation of state wide reappraisal. For the city of Olathe, we estimate an annual loss of approximately \$100,000 in addition to the \$550,000 reduction experienced in our 1991 budget after reappraisal. It is unrealistic to assume revenue losses of this magnitude can easily be made up by budget cuts and tax shifts to real property.

In summary, Olathe supports a system of fair motor vehicle taxation, but believes the solution in inequity in the present system should not come at the expense of local revenue. We would urge the committee to amend the bill to make it "revenue neutral" to units of local government.

Thank you again for the opportunity to comment on this bill.

HOUSE TAXATION
Attachment #10
04/01/91



"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

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R.R. 1, Box 76
Belpre, KS 67519
(316) 995-3973

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NACo Representative

Keith Devenney
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Executive Director

John T. Torbert

April 1, 1991

Testimony

To: House Taxation Committee

From: John T. Torbert
Executive Director

Subject: Senate Bill 9

The Kansas Association of Counties is in support of Senate Bill 9. We believe that it will bring a level playing field to the issue of motor vehicle taxation. The system envisioned and put in place by this legislation should provide equity and fairness so that the first letter of your last name will no longer make a difference. Citizens have the right to expect taxation to be equitable and we believe this legislation accomplishes that task.

I would point out however that our support for this legislation is not without qualification. It is estimated that this legislation will result in a loss of revenue to local units of government of more than \$17 million annually. The loss to county government would be about 20-25% of that amount. This association did suggest to the interim committee that brought this legislation forward that a multiplier be used so that we accomplished two very important goals- equity and no net revenue loss. I would hope that this committee would give consideration to language that would either put such a multiplier in place in this legislation or, would find some mechanism of replacing this revenue with state funds. A failure to do so on your part will probably mean an increase in ad valorem taxes to make up for this loss.

We do have another issue that needs to be addressed by amendment and I will now introduce our association legal counsel, Steve Wiechman, to explain this amendment.

HOUSE TAXATION
Attachment #11
04/01/91



"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

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Gary Hayzlett
Kearney County Commissioner
P.O. Box 66
Lakin, KS 67860
(316) 355-7060

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R.R. 1, Box 76
Belpre, KS 67519
(316) 995-3973

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(913) 272-8948

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Shawnee County Engineer
(913) 291-4132

NACo Representative

Joe McClure
Wabaunsee County Commissioner
(913) 499-5284

Executive Director

John T. Torbert

April 1, 1991

To: Representative Joan Wagon, Chairperson
Members of the House Taxation Committee

From: Steven R. Wiechman
General Counsel
Kansas Association of Counties

Re: SB 9 concerning taxation of motor vehicles.

Thank you for the opportunity to present testimony regarding Senate Bill 9. The purpose of my testimony is to address the need for amendment due to judicial interpretation of the phrase "next preceding year" made by the District Court of Johnson County, Kansas in a case that is now commonly referred to as the Dean and Underwood case.

The case involves a claim that the legislature in enacting K.S.A. 79-5105 in 1979 and amending it in 1982 created statutory language in that section of the law by itself that was clear and unambiguous and therefore NOT subject to interpretation of legislative intent. The District Court ruled that the language is such that at the time that registration is paid and personal property taxes is collected, the correct average mill levy that should be applied is the year immediately prior to the year that the registration and tax is paid.

As you can well image, this interpretation creates real havoc in the world of taxation since budgets and the distribution of taxes collected is based on what existed two years prior to the time of collection of the tax. This interpretation leaves the state and the counties in the same position that the legislation of Senator Jan Meyer addressed in 1982.

The Court also ruled that the Plaintiffs, some nine individuals in the Underwood case had failed to exhaust their administrative remedies. Therefore, they were not entitled to recover from the counties and the state some \$63 million in vehicle taxes because they had failed to properly exhaust their administrative remedies.

HOUSE TAXATION
Attachment #12
04/01/91



"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

EXECUTIVE BOARD

President

Gary Hayzlett
Kearney County Commissioner
P.O. Box 66
Lakin, KS 67860
(316) 355-7060

Vice-President

Marjory Scheuffler
Edwards County Commissioner
R.R. 1, Box 76
Belpre, KS 67519
(316) 995-3973

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(316) 321-5750

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Executive Director

John T. Torbert

In order to carry out the taxation plan that was put in place by the legislature and to prevent utter chaos IF another court were to rule that exhaustion had occurred AND that a refund or credit should be allowed, an amendment is needed to keep the budget, collection, and distribution of taxes in sequence as originally planned. At line 18, page 2 of the bill, an additional sentence needs to be added. It should read:

"For the tax years 1981 to 1991, the county average tax rate for the calendar year two years prior to the calendar year in which such registration period began shall be the applicable county average tax rate."

It could also be stated "From and after 1981, the county"

Since we addressing judicial interpretation and possible conflict, I would also suggest that the word "falls" on line 18 page 2 be changed to "begins". Since registrations generally fall into two calendar year periods, this could cause interpretation problems.

I will be happy to attempt to address any questions that you may have either on the case or the language involved in the amendments. We would respectfully request that you amend SB 9 to include both of these amendments.