

Approved Monday, March 4, 1991

Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

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

11:00 a.m./~~pm~~ on Monday, February 25, 1991 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Assistant Revisor
Bill Edds, Assistant Revisor
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Mark Beshears, Property Valuation Department, Dept. of Revenue
Jonathan P. Small, Attorney at Law, representing KS Auto Merchants Association
Ernie Mosher, League of Municipalities
Chairman Dan Thiessen
Senator Janice McClure
Lee Courtney
Jerry Lindberg, Resident of Liberal, KS
C. J. Wettstein, Chairman-Board of County Commissioners of Seward County
John Rudd, Liberal City Manager

Chairman Dan Thiessen called the meeting to order at 11:06 and said the committee will accept bill requests today, and he recognized Mark Beshears, Department of Revenue.

Mark Beshears proposed a bill request concerning transient guest taxes and bed and breakfast facilities. (NO ATTACHMENT)

Senator Phil Martin moved to introduce the proposal by the Department of Revenue as a committee bill, 2nd by Senator Gerald Karr. The motion carried.

Jonathan P. Small proposed a bill request to the committee relating to coin-operated devices and fees for the operations and sales tax upon vender's net invoice cost. (ATTACHMENT 1)

Senator Janis Lee moved to introduce the proposal by Jonathan Small as a committee bill, 2nd by Senator Petty. The motion carried.

Ernie Mosher, League of Municipalities proposed to the committee for their consideration, which would mandate that every property tax levy be approved by an elected governing body.

Senator Sheila Frahm moved to introduce the proposal by Ernie Mosher as a committee bill, 2nd by Senator Martin. The motion carried.

Chairman Dan Thiessen proposed to the committee to introduce a bill that would reduce the interest rate for delinquent property taxes.

Senator Montgomery moved to introduce the proposal by Senator Dan Thiessen as a committee bill, 2nd by Senator Audrey Langworthy. The motion carried.

Chairman Dan Thiessen said conferees may speak on (1) or all (3) of the bills scheduled to be heard today, SB222, SB223 and SB230. The Chairman recognized Senator Janice McClure, sponsor of the bills.

SB222:AN ACT allowing penalties and interest upon unpaid property taxes to be waived.

SB223:AN ACT granting the city of Liberal no-fund warrant authority for property tax payment purposes.

SB230:AN ACT relating to property taxation, exempting certain property therefrom owned by the city of Liberal.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 ~~xxx~~/p.m. on Monday, February 25, 1991

Senator Janice Lee McClure said that her constituents from Liberal all agree that SB230 is really the bill that they need.

Chairman Thiessen recognized Representative Holmes, and Representative Holmes said that he was just in the committee room, and he had to get back to the House Floor.

Chairman Thiessen recognized Lee Courtney, Mayor of the City of Liberal, KS.

Lee Courtney said he would like to mention that Kelly Carter is the new Miss U.S.A. from Liberal and also a graduate of Liberal High School USD480, and he said, they are very proud of her achievements and he said, they in Liberal know that she is very worthy as the recipient of the USA title.

Mr. Courtney said he was here to testify to all three bills, that is on the committees agenda today. He said the bills relate to the taxation of the City's airport royalty interest. SB222 allowing the Board of County Commissioners of Seward County to waive the penalties and interest on airport taxation. SB223 which authorizes no fund warrants for their airport taxation matter, and SB230 exempts the oil and gas royalty interest owned by the City of Liberal from 1984 through 1992.

He said, they are seeking only a limited time exemption. The Liberal Municipal Airport was owned by the federal government and used as a B-24 training base during World War II. The airport was conveyed to the City of Liberal on May 28, 1948 to serve the civil aviation needs of the flying public. The City is required by federal regulation to use all funds generated on the airport for aeronautical purposes. The intent of the federal government in conveying the airport properties to the City, was to provide sufficient income, from rentals, leases, and royalties, to make the airport as self supporting as possible.

He said, in 1987 Seward County assessed the tax on the royalty interest going back 3 years to 1984. The City appealed to the Board of Tax Appeals, and the courts of KS, including the Supreme Court, but failed to get relief on the matter.

He said, the City of Liberal taxpayers contribute an equivalent to 2½ mills, or approximately \$150,000 each year for support of our municipal airport. That \$150,000 is in addition to other revenues received by the airport such as royalties, rents, leases and other service charges. Our municipal airport does not have funds on hand to pay the tax liability and if the airport is required to pay, the City would have to issue no fund warrants.

He said, it has been calculated that should the City of Liberal be required to pay the royalty property tax penalties and interest, the effect on the tax levy for the City of Liberal would require a 2.637 mill increase, in the property tax levied by the City. The net effect would be an increase of 1.441 mills for each City of Liberal taxpayer.

Included in his hand out are exhibits on the property tax effect for the taxation, prepared by the Liberal City Manager, and a copy of the Resolution adopted by the Liberal City Commission supporting the legislative effort, and Page 6 of his handout he recognized Don Guild, President of Seward County Community College, Don Witzke, President of Liberal USD #480, Jerry Lindberg, Executive Vice President of Liberal Chamber of Commerce, Liberal City Manager, John Rudd and Joe David, Convention & Tourism Director. (ATTACHMENT 2)

Jerry Lindberg said he was speaking today in support of the (3) Senate Bills and he said, he felt it would be important to their community to provide the necessary relief in solving the communities airport taxation problem, and he said their Board had voted unanimously to support the City's effort in trying to resolve this situation. He asked the committee members support on these (3) bills. (NO ATTACHMENT)

The following is in opposition of SB230.

C. J. Wettstein, Chairman, Seward County Commissioners said he was testifying in opposition to Senator Janice McClure's SB230.

He said, in 1983 the City of Liberal, KS signed leases for Oil and Gas Exploration on the Liberal Municipal Airport Property. This is a vast amount of acreage the City of Liberal received from the Federal Government after the Second World War.

He said, in 1985 The Director of Property Valuation Department sent a memo to all County Appraisers in KS, instructing them to make sure all cities and other governmental subdivisions filed exemptions on government owned properties. In 1986 the City of Liberal filed a request for exemption on certain oil and gas producing leases on the airport property. Hearings were held and on (3) separate occasions, the Board of Tax Appeals ruled the oil and gas wells were not exempt, and the City of Liberal was going to have

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m. ~~4:30~~ on Monday, February 25, 1991

to pay the ad valorem taxes on the royalty production from these wells. In 1989 the Board of Tax Appeals made their final ruling on the case, "the City's use was not an exclusive use as required by K.S.A. 79-201".

He said, the City of Liberal then filed this matter as an Appeal, and the Shawnee District Court, upheld the ruling of the Board of Tax Appeals.

He said, since the City of Liberal has lost all of the cases, and appeals, like they were told they would in the very beginning, they are now asking County Commissioners and Legislators to step in and solve their problem of incompetent management.

He said, the City of Liberal asked the Seward County Commissioners to help them get a law passed stating the County Commissioners would have the "authority" to abate the penalties and interests on the taxes, which amount to around \$62,880.00 and the Seward County Commissioners agreed to support unanimously. He said, he felt they had some leeway in which to work with some other problems they had.

He said, then they came back and asked them to pass another bill to take the taxes off the taxroll, and he said, that "Senator McClure said that only the Legislature can do that".

He said, if the City of Liberal would have paid their taxes to begin with, like the law stated, they would never have had the penalties and interest added. (ATTACHMENT 3)

Chairman Thiessen asked Mr. Wettstein if he knew what happened to the \$3.3M they received in income? Mr. Wettstein said they used this, but we haven't came up with figures, but we do have a print-out that they gave us, and he said, he thought the members probably had a copy of it on a colored sheet in some of the handouts.

John Rudd, Liberal City Manager said what Mr. Wettstein is referring to, was distributed strictly to the County Commissioners. He said about, \$1.M of the \$3.3M is property taxes, and about \$1.M royalties and a bit over \$1.M is rents and leases. He said, regardless of the royalties income received, the airport is still supported by the taxpayers, because there is not sufficient revenues to support the airport, and the revenues from the royalties are strictly used for operation of maintenance at the airport and in debt service. (NO ATTACHMENT)

After committee discussion Chairman Thiessen concluded hearings on SB230 and he adjourned the meeting at 11:55 a.m.

JONATHAN P. SMALL, CHARTERED

Attorney and Counselor at Law
Suite 304, Capitol Tower
400 West Eighth Street
Topeka, Kansas 66603
913/234-3686

February 22, 1991

PROPOSED SENATE BILL _____ 1991

Proposed Changes:

- A. A \$3.00 annual per product vending machine license fee on all machines except amusement and music
- B. A \$50.00 annual per music machine license fee for amusement and music machines - in lieu of other state sales tax
- C. Sales tax upon 135% of vendor's net invoice cost for all machines except music and amusement (as opposed to 4.25% on gross retail receipts)
- D. Local sales taxes: remain in place upon 135% of vendors net invoice cost.

Benefits:

- A. Closes significant abuse of present sales tax system
- B. Decreased administrative costs - Dept. of Revenue
- C. Enhances state enforcement capability
- D. Tax computation would keep pace with inflation of product cost
- E. Efficient and timely auditing capability - Dept. of Revenue
- F. Potential long-term gain to state treasury and local taxing units.

ZS0225B1

2-25-91
ATT, 1

TESTIMONY OF
THE CITY OF LIBERAL, KANSAS
SUPPORTING SENATE BILL 222, 223 AND 230
MONDAY, FEBRUARY 25, 1991

Before the Assessment and Taxation Committee
of the Kansas Senate

Presented by:

Lee Courtney,
Mayor
City of Liberal, Kansas

Chairperson Thiessen & Members of the Committee:

My name is Lee Courtney, Mayor of the City of Liberal. I am here to testify, with the Committee's permission, generally on three bills which are before the Committee today. The bills relate to the taxation of the City's airport royalty interest. The bills that I will be discussing will be Senate Bill 222 allowing the Board of County Commissioners of Seward County to waive the penalties and interest on airport taxation. Senate Bill 223 which authorizes no fund warrants for our airport taxation matter. And finally, Senate Bill 230 which exempts the oil and gas royalty interest owned by the City of Liberal from 1984 through 1992. It should be pointed out that we are seeking only a limited time exemption.

The land comprising the original Liberal Municipal Airport was owned by the federal government and used as a B-24 training base during World War II. When the military needs for the facility ceased, the airport was conveyed to the City of Liberal on May 28, 1948 to serve the civil aviation needs of the flying public. As required by the federal government since the conveyance of the airport, as airport property is dedicated for public use, use of this property is restricted to uses that are compatible with airport operation. These would include incidental uses of farming, recreation, drilling and/or production of oil and/or

minerals, etc. While the incidental uses are being made of the land, it remains available for other uses that may be considered necessary for future development of the airport. The City is required by federal regulation to use all funds generated on the airport for aeronautical purposes. All money collected from royalties have been used entirely on the airport. The intent of the federal government in conveying the airport properties to the City, was to provide sufficient income, from rentals, leases, and royalties, to make the airport as self supporting as possible. The FAA encourages municipal airports to utilize all airport property to generate income so as to reduce the amount of tax revenue necessary for the maintenance, operation, and development of the public use airport. I have attached to my testimony a letter from the FAA dated April 7, 1990 to the Liberal City Engineer that will confirm my remarks.

Since the early 1950's the City, from time to time, has entered into oil and natural gas leases with a variety of companies and received oil and gas royalties from the production on the former Liberal Airbase. The oil and gas royalties income to the airport peaked in the mid 1980's although the City continues to receive revenue today.

In 1987, Seward County assessed the tax on the royalty interest going back three years to 1984. The City appealed to the Board of

Tax Appeals, the courts of Kansas, including the Supreme Court, but failed to get relief on the matter.

The total tax on the royalty interest due from 1984 to the present amounts to \$121,447 plus penalties and interest in the amount of \$62,880. The airport royalty property taxes liability total \$182,927. During the time of appeal, the values of the royalty income were not added to the local government tax base, therefore, it did not affect their tax levies. If abatement of the tax is granted it would not reduce any of the local government tax bases.

I am sure the members of the Committee are well aware that although airports are the economic lifeblood of any rural Kansas community, airports are not self-supportive. The City of Liberal taxpayers contribute an equivalent to 2-1/2 mills, or approximately \$150,000 dollars each year for support of our municipal airport. That \$150,000 dollars is in addition to other revenues received by the airport such as royalties, rents, leases and other service charges. Our municipal airport does not have funds on hand to pay the tax liability and if the airport is required to pay, the City would have to issue no fund warrants. The only loser will be the taxpayer of the City of Liberal.

Liberal's relationship with our County is much different than in other communities. The City of Liberal residents make up 89% of

the population of Seward County. It has been calculated that should the City of Liberal be required to pay the royalty property tax penalties and interest, the effect on the tax levy for City of Liberal would require a 2.637 mill increase or approximately \$156,000 increase in the property tax levied by the City. The effect on the mill rates for other units of government would be as follows: State of Kansas, no effect; Seward County, down .512 mills; Liberal USD #480, down .574 mills; Seward County Community College, down .110 mills. The net effect would be an increase of 1.441 mills for each City of Liberal taxpayer.

I have included, attached to my testimony, exhibits on the property tax effect for the taxation, prepared by the Liberal City Manager. Also included is a copy of the Resolution adopted by the Liberal City Commission supporting the legislative effort.

The City of Liberal felt that the support and operation of our municipal airport was a very important community issue. To that end, we contacted the units of government which would be affected by change in the taxation of the airport. We contacted Seward County Board of Commissioners, Board of Education for Liberal USD #480, Board of Trustees of Seward County Community College, and the City of Liberal. Those four bodies make up 99% of the taxes levied and received for operation of the various units of local

government. These bodies have all united in support of our legislative effort to correct the problem.

In summary, the airport taxation issue faced by the Liberal Airport, developed over a variety of years and we in Liberal, have attempted to come to a community consensus in order to avoid severe financial hardship for our airport and to alleviate as much as possible, the impact on the local taxpayer. Our airport is not a "for profit" organization. It is in existence because of financial support from the rentals and leases on the property, royalty income generated from the oil and gas leases, and by the property tax payer. The consensus of all the governing bodies affected by the Liberal Airport taxation was that if the taxes would be required to be paid, it would result in a minimal reduction of taxes outside the City, but would require a substantial tax increase for the 89% of the County resident taxpayers in the City. With your support we will be able to go forward with providing excellent service for our aviation public and provide some necessary relief for the Liberal taxpayer.

It my pleasure to introduce the representatives for the other governmental units who have come 350 miles today to speak briefly on how important the legislation is for our community.

Representing Seward County Community College is Don Guild who is the president.

Don Witzke, who is the president of the Liberal USD #480 Board of Education, is representing USD #480 Board.

In addition, also present, is Jerry Lindberg the Executive Vice President of the Liberal Chamber of Commerce, representing the Board of Directors for the Liberal Area Chamber of Commerce.

The County Commission was unable to attend due to previous commitments.

Also available for any questions, is Liberal City Manager, John Rudd and Convention & Tourism Director, Joe Davis.



U.S. Department
of Transportation

Federal Aviation
Administration

Central Region
Iowa, Kansas,
Missouri, Nebraska

601 E. 12th Street
Kansas City, Missouri 64106

APR 17 1990

Mr. Larry Mangan
City Engineer
P.O. Box 2199
325 North Washington
Liberal, KS 67905-2199

Dear Mr. Mangan:

Liberal Municipal Airport
Liberal, Kansas
Public-Use Property
Telephone Conversation Dated April 10, 1990

Land comprising the original Liberal Municipal Airfield was owned by the Federal Government and was used as a military airfield during World War II. At this time, all land and facilities were considered necessary for aeronautical purposes. When military needs for the facility ceased, the airport was conveyed to the city of Liberal, Kansas, by Quitclaim Deed dated 28 May 1948, as corrected by Deed dated 21 April 1949, to serve the civil aeronautical needs of the flying public. At this time, all land and facilities were also considered necessary for aeronautical purposes. It was recognized at the time of this transfer that some of the land may be used to provide revenue for the maintenance, operation, and development of the airport. The City is required to use all funds generated on the airport for aeronautical purposes.

The Federal Government has entered into a number of grant agreements with the City after 1948, and federal funds have been expended for various items of airport development. Part II, Section C (copy enclosed) of the project application, attached to, and made a part of the latest Grant Agreement Project Number 3-20-0050-03 dated June 30, 1989, required the City to provide an Exhibit A depicting land dedicated for aviation use by the aeronautical public. This property is considered necessary for maintenance operation, and development of the airport. This would include such item as land for the runways, taxiways, apron areas, etc.; provide line of sight; noise compatibility; and etc. All of this property is considered public airport property necessary to serve the aeronautical needs of the flying public.

Part V, "Assurances" (copy enclosed), has been incorporated in the latest grant agreement with the City. Paragraph 29 of these assurances require the City to keep a current Airport Layout Plan (ALP) showing the present boundaries and all facilities dedicated for public airport use along with future development planned for the airport. One of the sheets prepared as part of this ALP is a land-use plan depicting the use to be made of the property. This ALP is also approved by the Federal Aviation Administration (FAA). All development and use of the airport property by the city must be in accordance with the current approved ALP.

Paragraphs 19, 20, 21, and 22 of these assurances requires the City to maintain and operate the airport in a safe and serviceable condition, and to keep the airport open to the public on a fair, reasonable, and non-discriminatory basis.

Paragraphs 24, 25, and 26 of these assurances requires the City to establish and maintain a schedule of fees and charges to make the airport as self-supporting as possible. We strongly encourage airport owners to utilize all airport property to receive income, so as to reduce the amount of tax revenue necessary for the maintenance, operation, and development of the public-use airport. As airport property is dedicated to a public purpose (aeronautical), use of this property is restricted to uses that are compatible with airport operations. This would include such incidental uses as farming, recreational, drilling and/or production of oil and/or minerals, etc. While these incidental uses are being made of the land, it remains available for any other use which may be considered necessary for the future development of the airport.

Under our compliance program, we periodically review sponsors of surplus military and airports developed with federal funds to determine if they are in compliance with their obligations. The latest compliance determination for this airport was dated July 21, 1988, and at this time, we had no knowledge that the airport property was being used for other than airport purposes to serve the aeronautical needs of the flying public. We know of no taxing authority that requires another political sub-division to pay taxes on public-use airport property.

We hope this letter will be adequate to serve your needs. If you have any questions, feel free to call this office (816-426-6619).

Sincerely,



Louis E. Oberkrom
Compliance Specialist

RESOLUTION NO. 1304

A RESOLUTION SUPPORTING THE CITY OF LIBERAL'S EFFORT TO EXEMPT THE LIBERAL MUNICIPAL AIRPORT FROM PROPERTY TAXATION.

WHEREAS, the City of Liberal Municipal Airport's royalty interest was assessed as personal property for the years 1984 through 1990, and

WHEREAS, the airport royalty personal claimed property tax, interest and penalty liability for 1984 through 1990 is \$212,244.92 of which \$89,342.55 is claimed as penalties and interest, and

WHEREAS, 100% of the royalty income for the Liberal Municipal Airport is used exclusively for the operation and maintenance of the airport and its facilities, and


WHEREAS, The City of Liberal would receive a portion of the taxes generated by the Airport royalty taxation, and

WHEREAS, it would not be prudent for one tax supported local government agency to tax another tax supported local government agency,


NOW, THEREFORE, BE IT RESOLVED by the City Commission that:

1. The City Commission supports and encourages the Kansas State Legislature to enact legislation to abate, cancel and strike from the tax rolls all delinquent and future personal property taxes levied against the City of Liberal.
2. The City Clerk is hereby directed to provide a copy of the Resolution to Senator Janice McClure and Representative Carl D. Holmes.

ADOPTED this 21st day of January, 1991.



Lee Courtney, Mayor



Debra S. Giskie, City Clerk

| Liberal Airport Taxation General Information | | | | |
|---|-----------------------|--------------------------|-------------------------|--|
| Unit of Government | Property Value | Current Mill Rate | % Share of Taxes | |
| State of Kansas | \$153,891,628 | 1.500 | 1.17% | |
| Seward County | \$153,891,628 | 16.910 | 13.17% | |
| City of Liberal | \$59,175,508 | 29.553 | 23.01% | |
| Liberal – U.S.D. 480 | \$102,686,373 | 62.576 | 48.73% | |
| Seward Co. Comm. Coll. | \$153,891,628 | 17.880 | 13.92% | |
| Total | | 128.419 | 100.00% | |

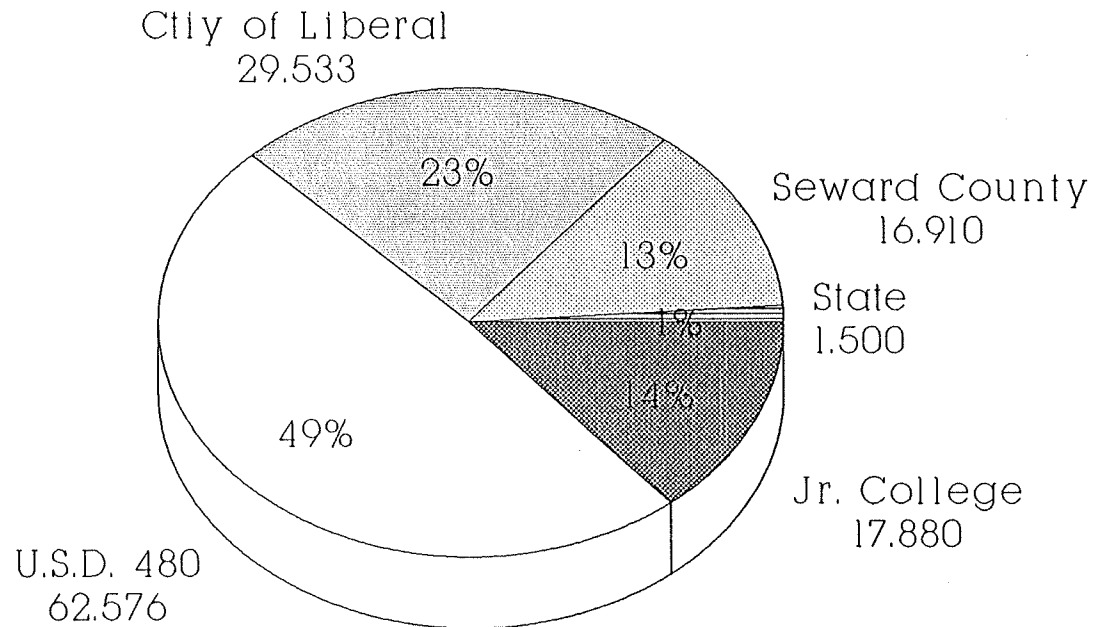
| Unit of Government Share in Airport Tax | | | | |
|--|---------------------------------------|--|-----------------------|--|
| Unit of Government | Share of Royalties Airport Tax | Share of Penalties & Interest | Share of Total | |
| State of Kansas | \$1,414 | \$0 | \$1,414 | |
| Seward County | \$15,939 | \$62,880 | \$78,819 | |
| City of Liberal | \$27,856 | \$0 | \$27,856 | |
| Liberal – U.S.D. 480 | \$58,984 | \$0 | \$58,984 | |
| Seward Co. Comm. Coll. | \$16,854 | \$0 | \$16,854 | |
| Total | \$121,047 | \$62,880 | \$183,927 | |

| Airport Royalty Property Taxes, Penalties & Interest | | | | |
|---|---|-------------------------|---|----------------------------|
| Unit of Government | Share of Airport Tax Pen & Int | Less Tax Payment | Net Share of Airport Tax Pen & Int | Effect on Mill Rate |
| State of Kansas | \$1,414 | \$0 | \$1,414 | 0.000 |
| Seward County | \$78,819 | \$0 | \$78,819 | -0.512 |
| City of Liberal | \$27,856 | \$183,927 | (\$156,071) | 2.637 |
| Liberal – U.S.D. 480 | \$58,984 | \$0 | \$58,984 | -0.574 |
| Seward Co. Comm. Coll. | \$16,854 | \$0 | \$16,854 | -0.110 |
| Total | \$183,927 | \$183,927 | (\$0) | 1.441 |

Does not include Cost Associated with No-Fund Warrants including Interest.

Airport Taxation

Mill Rates - % Share of Tax

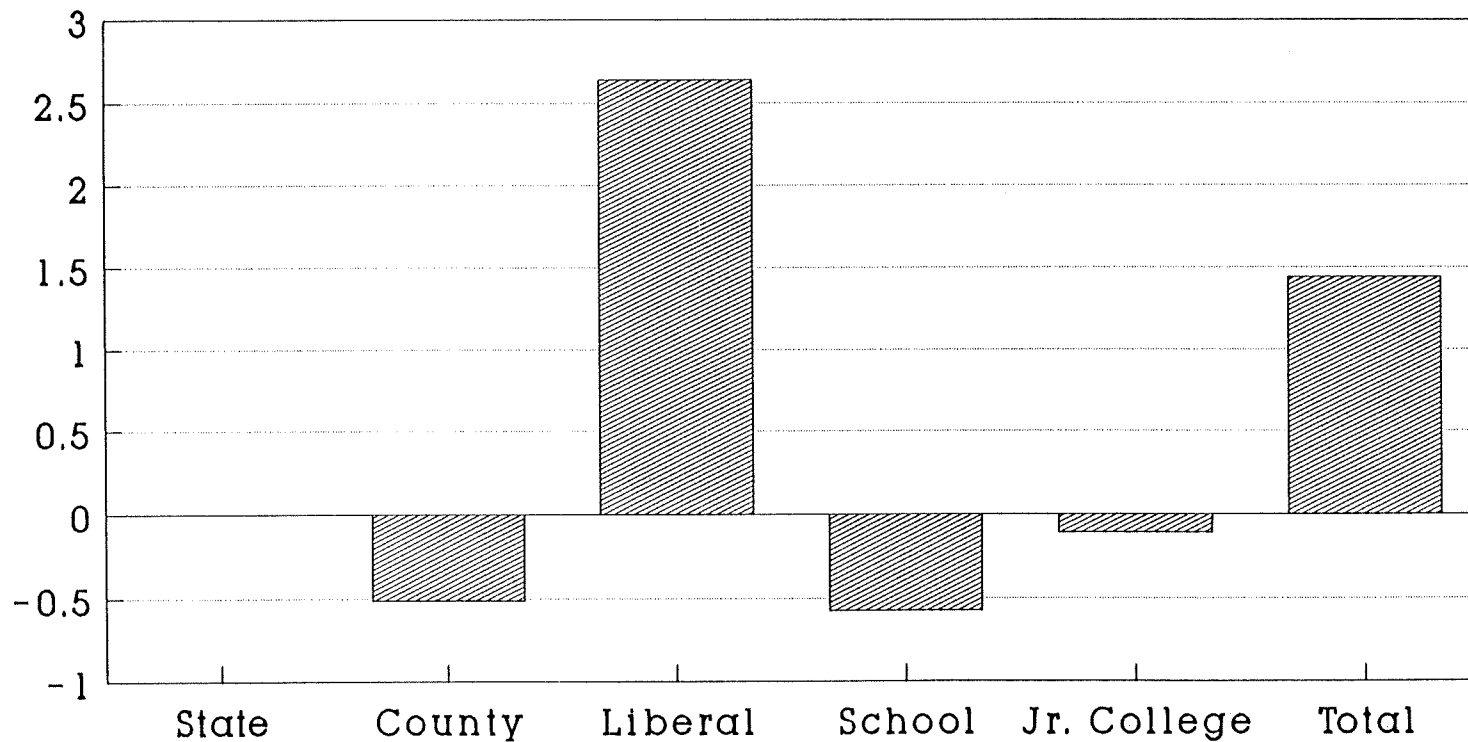


Based on 1990 Distribution

2-12

Airport Royalty Taxation

Effect on Mill Rate



Net Change Mill Rate

Total = Effect on Liberal Taxpayer

TESTIMONY OF
SEWARD COUNTY COMMUNITY COLLEGE
SUPPORTING SENATE BILL 222, 223 AND 230
MONDAY, FEBRUARY 25, 1991

Before the Assessment and Taxation Committee
of the Kansas Senate

Presented by:

Don Guild,
President
Seward County Community College
Liberal, Kansas

My name is Don Guild, I am the President of Seward County
Community College, representing the Board of Trustees.

I am speaking today in support of Senate Bill 222, 223 and 230.
Which will solve our attempt to provide some necessary relief in
solving the communities airport taxation problem.

I have attached to my testimony today, Resolution adopted by my
board on January 15th, supporting Liberal's effort for the
legislation.

Thank you.

RESOLUTION NO. 1-91

A RESOLUTION SUPPORTING THE CITY OF LIBERAL'S EFFORT TO EXEMPT THE LIBERAL MUNICIPAL AIRPORT FROM PROPERTY TAXATION.

WHEREAS, the City of Liberal Municipal Airport's royalty interest was assessed as personal property for the years 1984 through 1990, and

WHEREAS, the airport royalty property tax, interest and penalty liability for 1984 through 1990 is \$212,244.92 of which \$89,342.55 is penalties and interest, and

WHEREAS, 100% of the royalty income for the Liberal Municipal Airport is used exclusively for the operation and maintenance of the airport and its facilities, and

WHEREAS, Seward County Community College would receive a portion of the taxes generated by the Airport royalty taxation, and

WHEREAS, it would not be prudent for one tax supported local government agency to tax another tax supported local government agency,


NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Seward County Community College, that:

1. Seward County Community College supports and encourages the Kansas State Legislature to enact legislation to abate, cancel and strike from the tax rolls all airport property including minerals owned and/or operated by the City of Liberal.
2. The Secretary of the Board is hereby directed to provide a copy of the Resolution to the Clerk of the City of Liberal, Kansas, Senator Janice McClure and Representative Carl D. Holmes.

ADOPTED this 15 day of January, 1991.



Chairman, Board of Trustees



Clerk, Board of Trustees

TESTIMONY OF
LIBERAL USD #480
SUPPORTING SENATE BILL 222, 223 AND 230
MONDAY, FEBRUARY 25, 1991

Before the Assessment and Taxation Committee
of the Kansas Senate

Presented by:

Don Witzke,
President
USD #480 Board of Education
Liberal, Kansas

My Donald E. Witzke, I am President of the Board of Education for Liberal USD #480. I am speaking on behalf of Senate Bill 222, 223 and 230. USD #480 feels it would not be prudent for one tax supported local government agency to tax another tax supported local government agency.

I have attached to my testimony today, a Resolution adopted by the USD #480 Board on January 21st, supporting Liberal's effort for the legislation.

Thank you.

NOTE: This is the resolution that Mayor Courtney will be asking that you adopt.

RESOLUTION NO. V 13

A RESOLUTION SUPPORTING THE CITY OF LIBERAL'S EFFORT TO EXEMPT THE LIBERAL MUNICIPAL AIRPORT FROM PROPERTY TAXATION.

WHEREAS, the City of Liberal Municipal Airport's royalty interest was assessed as personal property for the years 1984 through 1990, and

WHEREAS, the airport royalty personal property tax, interest and penalty liability for 1984 through 1990 is \$212,244.92 of which \$89,342.55 is penalties and interest, and

WHEREAS, 100% of the royalty income for the Liberal Municipal Airport is used exclusively for the operation and maintenance of the airport and its facilities, and


WHEREAS, U.S.D. #480 would receive a portion of the taxes generated by the Airport royalty taxation, and

WHEREAS, it would not be prudent for one tax supported local government agency to tax another tax supported local government agency,

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of U.S.D. #480 that:

1. U.S.D. #480 supports and encourages the Kansas State Legislature to enact legislation to abate, cancel and strike from the tax rolls all delinquent and future personal property taxes levied against the City of Liberal.
2. The Secretary of the Board is hereby directed to provide a copy of the Resolution to the Clerk of the City of Liberal, Kansas, Senator Janice McClure and Representative Carl D. Holmes.

ADOPTED this 21st day of January, 1991.


Chairman, Board of Education
President


Secretary, Board of Education

TESTIMONY OF
LIBERAL AREA CHAMBER OF COMMERCE
SUPPORTING SENATE BILL 222, 223 AND 230
MONDAY, FEBRUARY 25, 1991

Before the Assessment and Taxation Committee
of the Kansas Senate

Presented by:

Jerry Lindberg,
Executive Vice President
Liberal Area Chamber of Commerce
Liberal, Kansas

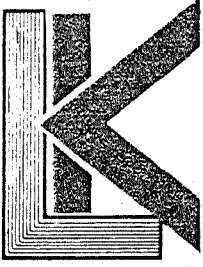
My name is Jerry Lindberg and I am Executive Vice President of the Liberal Area Chamber of Commerce, today representing the Board of Directors.

I am speaking today in support of Senate Bill 222, 223 and 230. Which will solve our attempt to provide some necessary relief in solving the communities airport taxation problem.

Our board voted unanimously to support the City's effort in trying to resolve this situation.

I have attached to my testimony, a letter further supporting the City and the issue at hand.

Thank you



LIBERAL CHAMBER OF COMMERCE

505 N. KANSAS TELEPHONE (316)-624-3855 P.O. BOX 676 LIBERAL, KANSAS 67901

February 21, 1991

Mr. John Rudd
City Manager
Box 2199
Liberal, KS 67905-2199

Dear John:

The Liberal Chamber of Commerce Board of Directors met today, February 21, and examined the airport property taxation problem. After discussion, the Chamber Board of Directors voted unanimously to support the city's efforts to exempt the oil and gas royalty payments from property tax. These royalty payments are received by the city and used only for airport improvements.

The Board unanimously endorsed passage of House Bills 2234, 2246, and 2341 and Senate Bills 222, 223, and 230. These bills support the city's position and allow for forgiveness of taxes from 1984 through 1992.

The Chamber Board understands the Seward County Community College Trustees, U.S.D. 480 School Board, and Seward County Commissioners have also voted to support the city's efforts to abate the property taxes at the airport due to oil and gas royalty payments.

Sincerely,

Jerry Lindberg
Executive Vice President

JL/sd

RESOLUTION NO. 91-5

A RESOLUTION CONCERNING DELINQUENT TAXES, PENALTIES AND INTEREST OF THE CITY OF LIBERAL.

WHEREAS, the City of Liberal, Kansas owns oil and gas producing property and has received royalty income from said property since 1984 and has not paid personal property taxes thereon, through and including the year 1990, and,

WHEREAS, the City of Liberal, Kansas did file a request for an exemption from taxation on said oil and gas producing property before the Board of Tax Appeals of the State of Kansas in Docket No. 0994-86-TX, and,

WHEREAS, the Board of Tax Appeals of the State of Kansas, did deny said request of the City of Liberal, Kansas, exempting the royalty income from personal property taxation and the City of Liberal, did appeal said decision through the Courts of the State of Kansas, and,

WHEREAS, the Supreme Court of the State of Kansas, on the 5th day of December, 1990, in Case No. 89-64358-A, did uphold the ruling of the Board of Tax Appeals of the State of Kansas, and deny the exemption relief from personal property taxation on the royalty income received by the City of Liberal, and,

WHEREAS, the City of Liberal, Kansas, has now a tax delinquency in the amount of \$121,046.84 incurred from 1984 to 1990 inclusive, and a further delinquency of penalties and interest in the amount of \$62,880.45 incurred from 1984 through 1990 inclusive, and,

WHEREAS, the payment of said taxes, penalties and interest would cause severe financial hardship on the City of Liberal, Kansas.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Seward County, Kansas, that;

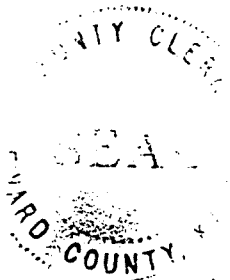
The Board of County Commissioners of Seward County, Kansas, request that the legislature of the State of Kansas, grant to the Board of County Commissioners of Seward County, Kansas, the authority to abate, cancel and discharge all delinquent personal property taxes, penalties and interest incurred by the City of Liberal, Kansas, from the oil and gas royalties received by the City of Liberal, Kansas, from 1984 to 1990 inclusive.

The Board of County Commissioners of Seward County, Kansas, request that the legislature of the State of Kansas, grant the authority to the Board of County Commissioners to abate, cancel and discharge said taxes, penalties and interest incurred by the City of Liberal, Kansas until December 31, 1992.

County Resolution 91-5
February 4, 1991
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BE IT FURTHER RESOLVED that the County Clerk of Seward County, Kansas, submit a copy of this Resolution to Senator Janice McClure and Representative Carl Dean Holmes.

THE ABOVE AND FOREGOING RESOLUTION having been duly made by motion, seconded, and adopted by the majority of the Board of County Commissioners of Seward County, Kansas, on the 4th day of February, 1991.



Chairman Board of County Commissioners
C.J. Wettstein

Seward County Clerk,
Dorothy Sanborn

DRAFT NO. 1 RS 0611

AN ACT relating to property taxation; exempting certain property therefrom owned by the city of Liberal.

Section 1. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

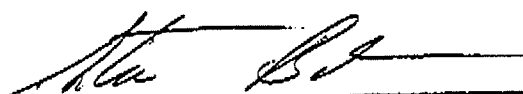
All oil and gas royalty interests which are owned by a city pursuant to conveyance of real property by the federal government by quit claim deed dated May 28, 1948, as corrected by deed dated April 21, 1949, the revenue received from which is used exclusively for airport purposes.

The provisions of this section shall be applicable to all taxable years commencing after December 31, 1983 and ending prior to January 1, 1993.

Sec. 2. All property taxes levied for any taxable year to which section 1 applies upon property described in section 1, and are here hereby declared to be forgiven.

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

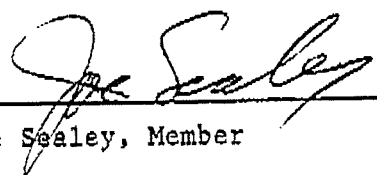
C.J. Wettstein, Chairman



Stan Boles, Vice-Chairman

ATTEST:

Dorothy Sanborn, County Clerk



Joe Sealey, Member

TESTIMONY ON SENATE BILL 230
AND HOUSE BILL 234/

Honorable Senators and Representatives,

My name is C. J. Wettstein. I am the Chairman of the Board of County Commissioners of Seward County, Kansas and I am here today to testify "against" Senator Janice McClure's and Representative Holmes proposed Senate Bill No. SB 230 and House Bill No. 234/.

I want to explain to you, the background of this legislation you are being asked to act on today.

In 1983, the City of Liberal, Kansas, signed leases for Oil and Gas Exploration on the Liberal Municipal Airport Property. This is a vast amount of acreage the City of Liberal received from the Federal Government after the Second World War.

In 1985, the Director of Property Valuation Department sent a memo to all County Appraisers in Kansas, instructing them to make sure all cities and other governmental subdivisions filed exemptions on government owned properties.

Then, in 1986, the City of Liberal filed a request for exemption on certain oil and gas producing leases on the airport property. Hearings were held, starting in 1986, before the Board of Tax Appeals of the State of Kansas. Eventually, on three (3) separate occasions, the Board of Tax Appeals ruled the oil and gas wells were not exempt, and the City of Liberal was going to have to pay the ad valorem taxes on the royalty production from these wells.

At the end of 1989, the Board of Tax Appeals made their final ruling on the case, "the City's use was not an exclusive use as required by K.S.A. 79-201".

The City of Liberal then filed this matter as an Appeal, from the Board of Tax Appeals, to the Shawnee District Court. The Shawnee District Court upheld the ruling of the Board of Tax Appeals. The City of Liberal appealed the Shawnee District Court decision to the Court of Appeals. The Court of Appeals upheld the Board of Tax Appeals decision. The City of Liberal then, appealed the Court of Appeals decision to the Supreme Court. But to no avail, the Supreme Court upheld the Board of Tax Appeals decision. Now, since the City of Liberal has lost all of the cases, and appeals, like they were told they would in the very beginning, they are now asking County Commissioners and Legislators to step in and solve their problem of incompetent management.

If you rule in favor of this bill, you are stating that our Board of Tax Appeals, our Shawnee District Court, The Court of Appeals of the State of Kansas and the Supreme Court of the State of Kansas, are evidently stupid and have made a bad decision. They all say, "this is a just obligation for taxes that must be paid". Let me ask you this, how can the legislature simply wave a magic wand and take away this tax, which is due on behalf of all the taxpayers of Seward County, not just those inside the city limits.

In this case, the City of Liberal is no different than any other taxpayer. If you can wave the magic wand for them, you are going to be asked to wave it for everybody else who has a problem.

The reason I object to the State of Kansas Legislature taking action to abate taxes, is because the only beneficiaries of such an action are those people living within the city limits of the City of Liberal.

I feel, if we are going to change legislation, we need to do it statewide by legislative action, and not on a case by case legislation, as we are trying to do now. Ladies and Gentlemen, I represent both city taxpayers and rural taxpayers, so however I would vote, I will be unpopular with one of my sets of taxpayers, but at the present time, right is right, by following the state law, and I feel I have to support the law as it reads and support the decisions of the court and appeals process. If we are not going to follow state laws, then why don't you all go home and give full authority to the counties to make up laws as they see fit.

The City of Liberal, Kansas, has had an income from these royalties, from 1984-1990, of \$946,655.00. This is almost one million dollars that have been taken in royalties, and have not been shared with all the taxpayers of Seward County, Kansas, and the ones I am referring to are the taxpayers who live outside the city limits of the City of Liberal.

I have read all of the decisions by the Board of Tax Appeals, transcripts of the hearings, briefs that were filed by both parties in this action, and nowhere, can I find any evidence that all of these revenues go to the operation of the Airport. The key thing the City has been saying all along is all the revenues go to the Airport. They provided the Board of County Commissioners with a document showing that in four (4) years they had expended out 1/2 million dollars in personnel services, yet there is not one permanent employee of the City of Liberal, who works at the Airport. The reason I say this is because over a week ago, I had asked City Manager John Rudd to provide me with a complete list of employees, and a complete listing of

salaries that had been paid out, and to date I have not recieved that list. Also they have shown expenses of over 1.1 million dollars in operation and maintenance, and yet the City maintains no municipal buildings for the operation of the airport.

This is not good legislation, because it encourages every government unit in the State of Kansas to defy existing State Law, until they have gotten themselves in so much debt, they say their only way out is to come before the Legislature to ask for tax relief.

I am sure this committee understands if governments own property, that is not exclusively used for governmental purposes, they have to pay taxes on it. The City of Liberal has used their Airport, and in the six (6) years preceeding 1990, they have had an income of 3.3 million dollars, including almost 1 million dollars of oil and gas royalty income.

In other words, every government agency in Kansas that wants to lease out it's government owned property, for revenue production, is not going to pay the taxes on it, and when they get in deep enough, they are going to come to the legislature and want a special bill passed.

The City contends the State has done this before, and based upon the examples, provided to me by Mayor Lee Courtney, of the City of Liberal, I can not see where the State of Kansas has ever passed such a law as they are proposing to be passed now.

The City of Liberal asked us, the Seward County Commissioners, to help them get a law passed stating the County Commissioners would have the "authority" to abate the penalties and interests on the taxes, which amount to around \$62,880.00. That bill, the Seward County Commissioners agreed to support unanimously. With this, I felt we had some leaway in which to work with some other problems we had.

Then, they came back and asked us to pass another bill to take the taxes off the taxroll, and Senator McClure said that only the Legislature can do that.

Frankly, that doesn't make sense. If the Legislature has the power to take taxes off the taxroll, the Legislature can give that power to the Seward County Commissioners.

In closing, if you vote for this, you are going to be encouraging governmental agencies to go out and purchase income producing properties, and then take them off of the tax roll. It may look rather odd when shopping malls are

owned by cities and governmental agencies, and they use the excuse that it was bought to enhance economic development.

Personally, I do not want either bill to happen. If the City of Liberal would have paid their taxes to begin with, like the law stated, they would never have had the penalties and interest added.

Also, if the Legislature passes this bill, and many more special interest bills are passed, abating taxes, the State of Kansas will start feeling the crunch from their portion of the taxes collected.

I do not favor this bill passing through legislation.

Thank You Very Much,



C.J. Wettstein
Chairman
Seward County Commissioner