

Approved Saturday, May 11, 1991  
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Audrey Langworthy at  
Vice Chairperson

11:00 a.m./~~pm~~ on Wednesday, April 3, 1991 in room 519-S of the Capitol.

All members were present except:

Senator Dan Thiessen, Chairman (Excused)

Committee staff present:

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

Conferees appearing before the committee:

Mark Burghart, General Counsel, KS Department of Revenue  
Lee Metcalf, Executive Director, Johnson County Airport Commission  
Jim Davidson, Chief Counsel, Board of Tax Appeals, KS Department of Revenue

Senator Audrey Langworthy, Vice Chairman called the meeting to order at 11:10 a.m. and said the agenda for today calls for a hearing on HB2111 and she called upon Mark Burghart, General Counsel, KS Department of Revenue

HB2111:AN ACT concerning taxation; amending dates on which certain taxes are required to be remitted to the state; requiring financial institutions subject to the privilege tax to make estimated tax payments.

Mark Burghart said HB2111 provides generally for the acceleration of certain tax payments and also establishes a system of estimated tax payments for privilege taxpayers (banks and savings and loan institutions). (1) Employers with annual withholding over \$8,000 are required to remit the tax 4 times during each month. The one-time effect of the accelerated payments is \$8.0M (2) The liquor enforcement tax payment date is changed from the last day of the month following date of sale to the 25th day of the following month. The one-time effect of the accelerated payment is \$.8M (3) Privilege taxpayers are required to make estimated tax payments in the same manner as corporations for income tax purposes. Estimated tax payments would be made quarterly. The creation of a system of estimated tax payments for privilege taxpayers has a one-time effect of \$6.5M.

He said, the bill should be amended to provide that the estimated payments would be effective for privilege tax years beginning after December 31, 1991. He said, the total revenue for the various accelerators would be \$15.3M. (ATTACHMENT 1)

After committee discussion Madam Chairman concluded hearings on HB2111 and turned attention to SB399 and SB230 which are Airport Bills.

SB399:AN ACT concerning taxation; relating to certain airport authorities, exemption from taxation.

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

Madam Chairman said SB399 is the bill relating to Johnson County and she recognized Lee Metcalf, Executive Director, Johnson County Airport Commission.

Lee Metcalf said the Johnson County Airport Commission is the agency for Johnson County Government responsible for the (2) Johnson County Airports. He said, he wanted to emphasize a few points that were not in their testimony when we had hearings on the bills. He said, on the issue of Board of Tax Appeals, regardless of the ruling by the Board of Tax Appeals, the taxpayers will lose if this legislation is not adopted.

He said, if the Board of Tax Appeals rules against their exemption there will be a \$3.M+ back tax on liability that will have to be paid by someone, and he said, the way the leases are written at the airports it would be difficult to collect those taxes from tenants without some litigation and there is no insurance that the County

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would prevail. He said, if the Board of Tax Appeals rules favorably of their applications, then they would have total exemption with no limitation in the future, and he said, that is not the policy that they wish to carry on with in Johnson County. He said they want the non aviation properties on the tax rolls, but they do not want them on the tax rolls retro-actively.

He said, there are two classes of property affected by this bill, those are the properties that are owned outright by the County and leased to non aviation businesses, they are the properties that were funded with revenue bonds, and the assumption was that those properties could be exempt under the same provision as industrial for a limited period, but he said, it turned out and appears that the airport development revenue bonds do not carry the same exemption as the industrial development revenue bonds. (NO WRITTEN TESTIMONY)

After committee discussion Madam Chairman recognized Jim Davidson, Chief Counsel, Board of Tax Appeals.

Jim Davidson said that he has not had much participation in the Johnson County cases, but he said he was familiar with the facts. He advised the committee that the case is still pending and he said there isn't very much that he can comment on, but would be glad to answer, if he could. (NO WRITTEN TESTIMONY)

Senator Phil Martin asked what type of activities were occurring at the airport, that they would need to be taxable? Mr. Davidson said his understanding is, that there were a number of enterprises that were leasing real estate and improvements that were contained in the airport agreement, and they were conducting business and paying the Airport Authority a grant for the use of that property. He said, the question is, whether or not that property is exempt.

Lee Metcalf said they are currently collecting about \$350,000 a year from those tenants for rent.

Senator Fred Kerr asked what are the options, obviously the Board could decide in favor of the exemption, and it has been said, that if that is the decision of the Board, then that property is forever exempt, unless the law is changed to make it taxable.

Jim Davidson said he did not want to take issue with some testimony that he suspects has already been heard in this committee. He said, he thought the Boards impression of K.S.A. 79-201a-second which is the local government exemption section, is that it is at least in part based on the use of the property. He said, to that extent and to the extent of the changes over time, that does, in the Boards opinion have an impact of the exemption, to the extent that use is no longer exclusively governmental or proprietary and he said, those are the words in the statute that form the test for exemption.

Senator Fred Kerr said, if the Board rejects the application for exemption. He said, his question of the testimony is, that then means there is 10 years worth of back taxes because the appraisal went back to 1981, he asked Mr. Davidson, if this was his impression as well? Mr. Davidson said he could not say what period of time we are talking about as there would be some years where the properties have not been assessed, and he said, it is assumed there are some years where property has not been assessed and should have been under this kind of rule. He said, looking prior to 1991, which should have been assessments, but argumentative assessments. Senator Fred Kerr asked what the time frame would be? Mr. Davidson said at this time they do not have the briefs, but it could be a few weeks or a few months. Senator Fred Kerr asked if there was a precedence on agricultural land which is on this type of property, there are questions regarding whether agricultural being farmed or hay taken off, is there a precedence on that, is it airport use, proprietary use or not? Mr. Davidson said, yes. He said, a number of airport authorities have applied to exempt property that is used for growing crops, and he said, the Federal Aviation Commission requires "(5) feet of crop space" and generally it is designed to decrease space so you don't have obstacles interfering with traffic in and out of the airport. In the past this property has been exempt, the property in the flight pattern.

Jim Davidson said he did not want to talk about specific cases and facts, but the Boards ruling regarding the Wichita Airport Authority where you have activities which are

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unrelated to the operation of the airport, where there are private businesses, those are not exempt. He said, that was appealed to the Sedgwick County District Court and the District Court overturned that decision, it was also appealed to the Court of Appeals, and the Court of Appeal never ruled on the case.

After committee discussion Madam Chairman recognized Gerry Ray.

Gerry Ray, Intergovernmental Officer, Johnson County Board of Commissioners said they are not looking for what other airports are asking for, and they do not want 100% exemption forever. (ATTACHMENT 2)

Senator Janice McClure said everyone seems to have the airport problem, and she said she thought their's was relative simple, and she said it is the airport royalties that are in question, as they were not taxed by the county until reappraisal and that was picked up and then the county went back retro-active claiming taxes for 1983, plus entities and interest with a total of a little over \$200,000. She said the problem is, 89% of the people in Liberal contribute to the taxes levied for the operation of the airport. She said, if it would help to move this bill out of committee she would be willing to amend the date from January 1993 to January 1992. (ATTACHMENT 3)

Don Hayward said last year the committee passed a bill with regard to the City of Bazine and allowed that County Commission to forgive back penalties and interest.

After committee discussion Madam Chairman adjourned the meeting at 12:04 p.m.





## 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 Dan Thiessen, Chairman  
Senate Committee on Assessment and Taxation

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

Date: April 2, 1991

Subject: House Bill No. 2111

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Thank you for the opportunity to appear in support of H.B. 2111. The bill contains one of the components of Governor Finney's property tax relief package. The bill provides generally for the acceleration of certain tax payments and also establishes a system of estimated tax payments for privilege taxpayers (banks and savings and loan institutions). The individual elements of the bill and their associated fiscal notes are set forth below:

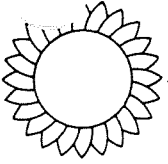
1. Employers with annual withholding over \$8,000 are required to remit the tax four times during each month rather than twice a month. The one-time effect of the accelerated payments is \$8.0 million.
2. The liquor enforcement tax payment date is changed from the last day of the month following date of sale to the 25th day of the following month. The one-time effect of the accelerated payment is \$.8 million.
3. Privilege taxpayers are required to make estimated tax payments in the same manner as corporations for income tax purposes. Estimated tax payments would be made quarterly rather than have a single payment as required under current law. The creation of a system of estimated tax payments for privilege taxpayers has a one-time effect of \$6.5 million. The bill should be amended to provide that the estimated payments would be effective for privilege tax years beginning after December 31, 1991.

The total revenue for the various accelerators would be \$15.3 million. The proposed statutory changes would take effect upon publication in the state register.

I would be happy to respond to any questions you might have.

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H-3-91  
ATT. 1



MARCH 27, 1991

SENATE ASSESSMENT AND TAXATION COMMITTEE

HEARING ON SENATE BILL NO. 399

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL OFFICER  
JOHNSON COUNTY BOARD OF COMMISSIONERS

Mr. Chairman, members of the committee thank you for taking time to consider Senate Bill 399. We realize the bill was introduced late in the session and apologize for that. However it did not become evident until a few weeks ago that a ruling from the Board of Tax Appeals on this issue, would not be forthcoming before the end of the Legislative Session.

It may seem out of character for Johnson County to ask for tax exemptions, considering our opposition over the years to the granting of exemptions. However this is a unique situation that requires unusual actions. The bill does not grant new tax exemptions but rather it clarifies what has existed in the past. It will not cause a loss of revenue or reduction of the tax base, because the properties in question have never been on the rolls.

This is an extremely important bill to Johnson County and the issues will be explained more fully by several people who are here today to offer testimony. I would like to introduce these people and then turn the testimony over to them. Ben Craig, Chairman of the Airport Commission; Lee Metcalfe, Executive Director of Airports; Gary George, Superintendent of the Unified School District 231 and Dan Hosfield, Chairman of the Board of County Commissioners.

Thank you and I will be available for questions anytime during the hearing.

4-3-91  
ATT 2



TOPEKA

SENATE CHAMBER

JANICE LEE MCCLURE

SENATOR, 38TH DISTRICT  
 GRAY, FORD, CLARK, MEADE,  
 SEWARD, AND THE EASTERN  
 TWO-THIRDS OF HASKELL  
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## COMMITTEE ASSIGNMENTS

RANKING MEMBER: AGRICULTURE  
 MEMBER: CONFIRMATIONS  
 ECONOMIC DEVELOPMENT  
 FEDERAL AND STATE AFFAIRS  
 FINANCIAL INSTITUTIONS AND  
 INSURANCE  
 JOINT ARTS AND CULTURAL  
 RESOURCES

# Herrman gives city's side of tax issue

TONY HERRMAN,  
 Liberal City Commissioner

*Southwest Daily Times, 3-17-91*  
**LETTERS**

I, like many of my constituents, have been appalled at the actions taken and the comments made by our county commission chairman, C.J. Wettstein, regarding the airport taxation matter. Commissioner Wettstein has attempted to drive a wedge between the city and rural taxpayers, thus dividing the entire community over this issue. The airport taxation matter is not a rural or city issue, it is a community issue.

Liberal's airport is the only airport in Kansas taxed against its royalty interest. The total tax on its royalty interest due from 1984 to the present amounts to \$121,447, plus penalties and interest in the amount of \$62,880. Thus, the royalty property tax liability totals \$182,927. During the appeal, the values of the royalty income were not added to the local tax base, and therefore did not effect the tax levy. If the abatement of the tax is granted, it would not reduce any local government tax base.

Our airport is the economic lifeblood of our community. The services which our airport must provide to our people and industry cannot be replaced. Although airports are very important to the local economy, airports are not self-supportive.

The City of Liberal taxpayers contribute an equivalent of 2.5 mills, or approximately \$150,000, each year for the support of our municipal airport. This \$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 the funds on hand to pay the tax liability. If the airport is required to pay, funds would be required to be borrowed. The only loser would be the city taxpayer.

Liberal city residents make up 89 percent

of the population of Seward County, according to the 1990 census. It has been calculated that, should the City of Liberal be required to pay the royalty property tax, penalty and interest, the effect of the tax levy for the City of Liberal would require a 2.637 mill increase or approximately \$150,000 increase in property taxes levied by the city government. The effect of the mill rates on 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 taxpayer. The estimates do not include the cost of borrowing to pay the back taxes, or the cost for future taxes which will add to the City's tax bill.

The Liberal City Commission felt that the support and operation of our municipal airport was a very important community issue, our mayor and city manager contacted the units of government affected by the change in airport taxation.

We contacted the Board of Trustees of Seward County Community College. They voted 5-0 to support the City's position on the taxation matter.

We contacted the Board of Education for USD 480. They, by a vote of 7-0, unanimously supported the City's position on the airport taxation matter.

We discussed the matter among the Liberal City Commission and they supported the position by a 5-0 vote.

Finally, we approached the Seward County Board of Commissioners about the airport

taxation matter. During the several weeks of discussion between the county commission, the city commission, and city staff, we worked out a delicate compromise that would allow the city to go forward with the legislation and correct the present and past tax problem at the airport. This compromise did not solve our entire tax problem, but the city felt that the county commission, by its adoption of the proposal, made a good faith effort to assist us in correcting our taxation problem.

Armed with the support of four of our community's governing bodies, which account for 99 percent of the taxes levied for airport properties, our mayor, president of the school board, president of the community college, and the city manager, went to Topeka to pursue the matter. You can imagine their disgust to see that the compromised legislation, which was worked out between the governing bodies, was thrown out the window by C.J.'s opposing testimony. During his testimony before the committee, C.J. told the committee that whatever the legislature would decide on the matter, he would respect their decision. C.J., how can you respect the decision of the legislature when you can't even respect the decision of your colleagues in the community?

Apparently C.J. has failed to take notes in his Sixth-Grade Civics class, about the principal of a representative government. What we teach in our elementary schools and what most elected officials learn very quickly, is that you cannot always win every issue. During the course of debate in a free society, people have different views on matters, but when the majority decides the issue and goes forward, it the responsibility and obligation of the elected officials to put

See LETTER/Pg. 3-A

## Continued from Pg. 4-A

aside their personal beliefs and go forward for the betterment of the community. C.J.'s trip to Topeka, after nineteen of our communities' elected officials decided to work out a compromise on the airport taxation issue, is inexcusable.

The airport taxation issue we are now facing at the Liberal Airport has developed over the years. Liberal has 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 rentals and leases from the property, royalty income generated

by oil and natural gas leases, and by the taxpayer. The consensus of the governing bodies affected by airport taxation, was that if taxes were going to be required to be paid, it would result in minimal tax reduction outside the city and require a substantial increase for the 89 percent of the county's taxpayers who live in the City of Liberal.

4-3-91  
 ATT. 3-1

M E M O R A N D U M

TO: Lee Courtney, Mayor of Liberal  
FROM: Dennis Keough, Director of Development  
DATE: January 16, 1991  
SUBJ: Area Municipal Airport Survey

A sampling was taken over a period of two weeks of a number of cities with municipal airports, to find if any of them are paying taxes on the royalties received from fossil fuel activity. Are municipalities other than Liberal charged by the respective county for taxes associated with the collection of revenues from fossil fuel activity?

<u>City</u>	<u>Response</u>
Abilene	No
Chanute	No
Coffeyville	No
El Dorado	No
Elkhart	No
Garden City	No
Goodland	No
Great Bend	Yes (very small amount)
Hays	No
Neodesha	Yes
Satanta	Yes (very small amount)
Stockton	No

The information I received in this collection process summarizes: revenues received from leasing of farmland for example, is taxes. Most of the parties I spoke to say that revenues received from the petro activity is by law taxable, however, they are not being charged now. They do expect to have to pay in the future.

All in all, I surveyed about three dozen. The people providing me the information all agreed that the rule is counter productive.