

Approved February 25, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 9:10 a.m. on Tuesday, February 11, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. Grotewiel, excused; Rep. Crowell, excused.

Committee staff present:

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

Conferees appearing before the committee:

Rep. Anthony Hensley testified in favor of HB 2866 (Attachment 1). Hensley said HB 2866 would replace the current vehicle personal property tax system with an annual fee schedule. He said a coalition of different organizations, private citizens and public officials had worked together on HB 2866. He said the system proposed in HB 2866 made for simplicity, stability and therefore predictability. He said car dealers would be able to easily show buyers what they would have to pay in annual fees. Kansas currently has one of the highest vehicle personal property tax systems in the nation. He said the plan was revenue neutral statewide, but that there would be some shifts in individual counties income.

In response to a question, Rep. Hensley stated that the current system's determination of vehicle class determination by price would be used in the proposed fee system. Rep. Hensley also stated that individual counties would not be held harmless. Shawnee County would lose approximately \$4 million.

Rep. Shore said one of the counties in his district would see a large increase in vehicle taxes. Rep. Shore asked if the revenue shifts would adversely affect real estate property taxes. Rep. Hensley said making up lost income would be the responsibility of individual counties.

Rep. Lowther said the bill would shift the tax burden from car owners to home owners.

Rep. Hensley said the proposed statewide mill levy would counteract the ill effects of HB 2866 and that local option sales taxes could also be used by counties to make up lost revenue.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Tuesday, February 11, 1992.

Chris Courtwright said in response to a question that the plan was revenue neutral give or take \$1 or \$2 million.

Rep. Snowbarger asked a question regarding the ability of taxpayers to utilize the proposed fee system for a federal tax exemption.

Darrell Groves, representing the Citizens Against Vehicular Extortion, testified in favor of HB 2866 (Attachment 2).

Pam Somerville, Governmental Affairs Director for the Kansas Motor Car Dealers Association, testified in favor of HB 2866 (Attachment 3).

Tommy McGeeney, President of the Kansas Independent Automobile Dealers Association, testified in favor of HB 2866 (Attachment 4).

Don Christman, President of the RV Council, testified in favor of including Recreational Vehicles in HB 2866 (Attachment 5).

There were several questions regarding personal property taxes on other recreational vehicles such as boats and towed RVs.

Dale Collie, Topeka resident, testified in favor of including RVs in HB 2866 (Attachment 6).

Written testimony was submitted from the following:

Michael Nebel, President of Peterson Industries (Attachment 7).

Bill Stockton, District Sales Manager for King of the Road (Attachment 8).

William A. Jones, General Manager of the Kit Manufacturing Company (Attachment 9).

Yolanda Marshall, Topeka resident, testified in favor of HB 2866 (Attachment 10). She described her current financial difficulties, as the result of a health problem, that had prevented her from being able to pay the registration fee on her car so that as a result she was involuntarily out of compliance with the law.

A written statement regarding the effects of HB 2866 and a proposal for a different fee schedule was submitted from Rita Cline, Shawnee County Treasurer (Attachment 11).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Tuesday, February 11, 1992.

Fred Kiliam, Wamego resident, testified against HB 2866 (Attachment 12).

Cedric Moege, representing the Kansas Equal Property and Personal Tax Association, testified against HB 2866 (Attachment 13).

Ernie Mosher, representing the Kansas League of Municipalities, testified against HB 2866 (Attachment 14).

Bev Bradley, Kansas Association of Counties, testified in regard to the specifics of HB 2866 (Attachment 15). She noted the testimony she distributed to the committee was written prior to receiving the specific annual fee schedule contained in HB 2866.

Franklin Williams testified against HB 2866.

Hearings were closed on HB 2866.

The committee minutes for January 28, 29 and 30 were approved by the committee.

The committee adjourned at 10:40 a.m. The next meeting will be February 12.

GUEST LIST

COMMITTEE: Delegation

DATE: 2/11/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Don CHRISTMAN	TOPEKA	RV. Council
DALE COLLIE	"	RETIRED
HAROLD PITTS	"	AARP-CCTF
Glen Freel	Topeka	John Noffer
Judy Watton	TOPEKA	C.A.V.E.
Darrell Groves	"	C.A.V.E.
Russ Manell	Emporia	Intern
JACK WAGNON	Topeka	Intern
Franklin Dee Williams	TOPEKA.	N/A SELF
Charles J Marshall	TOPEKA.	N/A SELF
Ed Kasper	Top	League of Women Voters
Mark Tallman	Topeka	KASIR
KAREN FRANCE	TOPEKA	KAR
George Goebel	TOPEKA	AARP-SLC-CCTF
Mary Kending	Topeka	League Women Veterans
Ruth Wilken	Topeka	" " "
Judy Smith-Crawford	"	Shawnee Co. Treasurer
Jim Keale	Paola	Boy L. E.
Mike Beam	Topeka	Ks. Book Assn
Shirley Clark	Kansas City	Ks County Commissioners
Doris Bach	Kansas City	City of Kansas City
Fred & Helen Kilian	Wamego, Ks	self.
Juan SOMERS	Topeka	KSCPA
Ann Somerville	TOPEKA	Ks Motor Car Dealers Assn

VHCL AGE (A-E) CMPRE

MDL YR	CLASS A 1 THRU 4 VHCL COUNT	FEE	TAX TOTAL	CLASS B 5 THRU 12 VHCL COUNT	FEE	TAX TOTAL	CLASS C 13 THRU 19 VHCL COUNT	FEE	TAX TOTAL	CLASS D 20 THRU 24 VHCL COUNT	FEE	TAX TOTAL	CLASS E 25 THRU 88 VHCL COUNT	FEE	TAX TOTAL
92 esl	200	\$100	\$20,000	22,563	\$300	\$6,768,900	37,216	\$400	\$14,886,400	4,271	\$500	\$2,135,500	365	\$600	\$219,000
92 act	94	\$100	\$9,400	1,375	\$300	\$412,500	6,351	\$400	\$2,540,400	609	\$500	\$304,500	142	\$600	\$85,200
91	47	\$90	\$4,230	24,244	\$275	\$6,667,100	59,377	\$375	\$22,266,375	5,546	\$475	\$2,634,350	820	\$575	\$471,500
90	57	\$80	\$4,560	28,379	\$250	\$7,094,750	70,767	\$350	\$24,768,450	7,209	\$450	\$3,244,050	665	\$550	\$365,750
89	55	\$70	\$3,850	42,073	\$225	\$9,466,425	70,191	\$325	\$22,812,075	5,842	\$425	\$2,482,850	664	\$525	\$348,600
88	58	\$60	\$3,480	56,662	\$200	\$11,332,400	64,581	\$300	\$19,374,300	5,810	\$400	\$2,324,000	659	\$500	\$329,500
87	70	\$50	\$3,500	63,831	\$175	\$11,170,425	48,549	\$275	\$13,350,975	2,056	\$375	\$771,000	610	\$475	\$289,750
86	118	\$40	\$4,720	92,724	\$150	\$13,908,600	35,692	\$250	\$8,923,000	1,568	\$350	\$548,800	347	\$450	\$156,150
85	104	\$35	\$3,640	98,296	\$125	\$12,287,000	30,158	\$225	\$6,785,550	1,414	\$325	\$459,550	328	\$425	\$139,400
84	99	\$30	\$2,970	106,297	\$100	\$10,629,700	18,014	\$200	\$3,602,800	873	\$300	\$261,900	289	\$400	\$115,600
83	90	\$25	\$2,250	78,603	\$75	\$5,895,225	11,553	\$175	\$2,021,775	696	\$275	\$191,400	269	\$375	\$100,875
82	112	\$20	\$2,240	72,703	\$50	\$3,635,150	8,249	\$150	\$1,237,350	478	\$250	\$119,500	116	\$350	\$40,600
81	114	\$15	\$1,710	75,522	\$25	\$1,888,050	4,868	\$125	\$608,500	289	\$200	\$57,800	83	\$250	\$20,750
80	212	\$10	\$2,120	74,865	\$25	\$1,871,625	2,414	\$75	\$181,050	199	\$150	\$29,850	23	\$200	\$4,600
79	642	\$10	\$6,420	103,834	\$25	\$2,595,850	1,306	\$50	\$65,300	213	\$100	\$21,300	28	\$150	\$4,200
78	3,364	\$10	\$33,640	84,221	\$25	\$2,105,525	453	\$25	\$11,325	131	\$50	\$6,550	17	\$75	\$1,275
77	358,389	\$6	\$2,150,334	50,156	\$12	\$601,872	916	\$12	\$10,992	78	\$12	\$936	62	\$12	\$744
TOTAL	363,825		\$2,259,064	1,076,348		\$108,331,097	470,655		\$143,446,617	37,282		\$15,593,836	5,487		\$2,693,494
GRAND TOTAL ALL CLASSES						\$272,324,108									
<p>Note: New class E includes all classes 25 thru 88. Previous estimates for 92 model vehicles have been used. There is some adjustment of vehicle counts from previous runs.</p>															
KANSAS DEPARTMENT OF REVENUE - RESEARCH & REVENUE ANALYSIS															

House Toration
 Attachment 1
 02-11-92

VEHICLE AGE (A-E) COMPARE

<u>COUNTY</u>	<u>BASELINE</u>	<u>VHCL AGE A-E</u>	<u>Difference</u>	<u>% Change</u>
KANSAS DEPARTMENT OF REVENUE - RESEARCH & REVENUE ANALYSIS				
<u>COUNTY</u>	<u>BASELINE</u>	<u>VHCL AGE A-E</u>	<u>Difference</u>	<u>% Change</u>
ALLEN	\$1,650,053	\$1,465,015	(\$185,038)	(11.21%)
ANDERSON	\$712,456	\$792,038	\$79,582	11.17%
ATCHISON	\$1,703,960	\$1,478,854	(\$225,106)	(13.21%)
BARBER	\$623,677	\$708,163	\$84,486	13.55%
BOURBON	\$1,463,120	\$1,307,653	(\$155,467)	(10.63%)
BROWN	\$1,051,361	\$997,063	(\$54,298)	(5.16%)
BARTON	\$3,555,586	\$3,368,659	(\$186,927)	(5.26%)
BUTLER	\$5,980,086	\$5,816,962	(\$163,124)	(2.73%)
CLARK	\$308,190	\$317,424	\$9,234	3.00%
CLOUD	\$1,362,702	\$1,002,935	(\$359,767)	(26.40%)
COFFEY	\$404,536	\$1,073,149	\$668,613	165.28%
CHEROKEE	\$1,661,045	\$1,994,292	\$333,247	20.06%
COWLEY	\$4,138,735	\$3,454,851	(\$683,884)	(16.52%)
COMANCHE	\$302,243	\$314,810	\$12,567	4.16%
CHEYENNE	\$350,593	\$420,019	\$69,426	19.80%
CHAUTAQUA	\$418,129	\$448,389	\$30,260	7.24%
CRAWFORD	\$3,318,677	\$3,343,455	\$24,778	0.75%
CHASE	\$290,528	\$310,802	\$20,274	6.98%
CLAY	\$930,630	\$894,931	(\$35,699)	(3.84%)
DECATUR	\$405,140	\$426,480	\$21,340	5.27%
DOUGLAS	\$7,722,728	\$8,189,058	\$466,330	6.04%
DICKINSON	\$1,843,916	\$1,850,927	\$7,011	0.38%
DONIPHAN	\$766,822	\$746,179	(\$20,643)	(2.69%)
EDWARDS	\$465,766	\$461,269	(\$4,497)	(0.97%)
ELK	\$319,352	\$329,779	\$10,427	3.27%
ELLIS	\$2,532,261	\$2,839,176	\$306,915	12.12%
ELLSWORTH	\$719,242	\$684,520	(\$34,722)	(4.83%)
FINNEY	\$2,912,411	\$3,300,038	\$387,627	13.31%
FORD	\$3,038,450	\$2,667,218	(\$371,232)	(12.22%)
FRANKLIN	\$2,291,184	\$2,171,551	(\$119,633)	(5.22%)
GEARY	\$1,645,800	\$1,840,002	\$194,202	11.80%
GRAHAM	\$428,787	\$400,271	(\$28,516)	(6.65%)
GREELEY	\$183,074	\$213,012	\$29,938	16.35%
GOVE	\$354,776	\$407,604	\$52,828	14.89%
GRANT	\$463,438	\$1,031,372	\$567,934	122.55%
GREENWOOD	\$894,616	\$763,941	(\$130,675)	(14.61%)
GRAY	\$709,475	\$712,220	\$2,745	0.39%
HODGEMAN	\$332,183	\$284,363	(\$47,820)	(14.40%)
HAMILTON	\$267,030	\$308,706	\$41,676	15.61%
HARPER	\$837,275	\$810,163	(\$27,112)	(3.24%)
HASKELL	\$289,425	\$568,243	\$278,818	96.34%
HARVEY	\$3,594,336	\$2,989,435	(\$604,901)	(16.83%)
JACKSON	\$1,141,151	\$1,092,078	(\$49,073)	(4.30%)
JEFFERSON	\$1,707,441	\$1,851,654	\$144,213	8.45%
JOHNSON	\$52,971,600	\$57,711,522	\$4,739,922	8.95%

VEHICLE AGE (A-E) COMPARE

<u>COUNTY</u>	<u>BASELINE</u>	<u>VHCL AGE A-E</u>	<u>Difference</u>	<u>% Change</u>
JEWELL	\$482,615	\$444,117	(\$38,498)	(7.98%)
KEARNY	\$223,972	\$560,273	\$336,301	150.15%
KINGMAN	\$923,118	\$1,010,290	\$87,172	9.44%
KIOWA	\$386,209	\$473,559	\$87,350	22.62%
LABETTE	\$2,474,012	\$2,076,010	(\$398,002)	(16.09%)
LINCOLN	\$415,875	\$364,183	(\$51,692)	(12.43%)
LANE	\$357,154	\$318,932	(\$38,222)	(10.70%)
LOGAN	\$339,033	\$365,211	\$26,178	7.72%
LINN	\$535,924	\$940,730	\$404,806	75.53%
LEAVENWORTH	\$5,280,232	\$5,395,703	\$115,471	2.19%
LYON	\$3,657,869	\$3,121,694	(\$536,175)	(14.66%)
MITCHELL	\$861,780	\$791,820	(\$69,960)	(8.12%)
MEADE	\$417,759	\$554,438	\$136,679	32.72%
MONTGOMERY	\$4,174,879	\$3,473,634	(\$701,245)	(16.80%)
MIAMI	\$2,768,833	\$2,722,742	(\$46,091)	(1.66%)
MARION	\$1,171,593	\$1,294,120	\$122,527	10.46%
MCPHERSON	\$3,033,285	\$2,947,612	(\$85,673)	(2.82%)
MORRIS	\$660,720	\$678,625	\$17,905	2.71%
MARSHALL	\$1,330,609	\$1,199,787	(\$130,822)	(9.83%)
MORTON	\$310,092	\$531,034	\$220,942	71.25%
NEMAHA	\$1,014,046	\$1,160,930	\$146,884	14.48%
NEOSHO	\$2,219,572	\$1,667,060	(\$552,512)	(24.89%)
NESS	\$487,523	\$515,151	\$27,628	5.67%
NORTON	\$623,512	\$560,923	(\$62,589)	(10.04%)
OSBORNE	\$531,215	\$511,846	(\$19,369)	(3.65%)
OSAGE	\$1,475,686	\$1,666,664	\$190,978	12.94%
OTTAWA	\$651,363	\$608,403	(\$42,960)	(6.60%)
PHILLIPS	\$704,202	\$667,598	(\$36,604)	(5.20%)
PAWNEE	\$780,395	\$811,731	\$31,336	4.02%
PRATT	\$1,216,122	\$1,144,248	(\$71,874)	(5.91%)
POTTAWATOMIE	\$1,087,483	\$1,867,417	\$779,934	71.72%
RAWLINS	\$423,207	\$358,547	(\$64,660)	(15.28%)
RICE	\$1,090,551	\$1,125,358	\$34,807	3.19%
RUSH	\$391,215	\$416,605	\$25,390	6.49%
RILEY	\$4,294,150	\$4,032,577	(\$261,573)	(6.09%)
RENO	\$7,322,978	\$6,250,447	(\$1,072,531)	(14.65%)
ROOKS	\$686,380	\$724,900	\$38,520	5.61%
REPUBLIC	\$784,846	\$702,306	(\$82,540)	(10.52%)
RUSSELL	\$859,695	\$965,592	\$105,897	12.32%
SALINE	\$5,514,600	\$5,470,612	(\$43,988)	(0.80%)
SCOTT	\$723,065	\$718,986	(\$4,079)	(0.56%)
SHERIDAN	\$363,243	\$361,316	(\$1,927)	(0.53%)
STAFFORD	\$548,582	\$594,922	\$46,340	8.45%
SEDGWICK	\$46,660,345	\$44,283,431	(\$2,376,914)	(5.09%)
SHERMAN	\$725,844	\$742,132	\$16,288	2.24%
SMITH	\$612,570	\$526,364	(\$86,206)	(14.07%)
SHAWNEE	\$21,068,025	\$17,139,357	(\$3,928,668)	(18.65%)
STANTON	\$254,128	\$397,684	\$143,556	56.49%

VEHICLE AGE (A-E) COMPARE

<u>COUNTY</u>	<u>BASELINE</u>	<u>VHCL AGE A-E</u>	<u>Difference</u>	<u>% Change</u>
SUMNER	\$2,774,880	\$2,413,653	(\$361,227)	(13.02%)
STEVENS	\$236,247	\$766,031	\$529,784	224.25%
SEWARD	\$1,767,486	\$2,035,467	\$267,981	15.16%
THOMAS	\$895,481	\$918,822	\$23,341	2.61%
TREGO	\$375,753	\$383,652	\$7,899	2.10%
WALLACE	\$216,688	\$238,391	\$21,703	10.02%
WABAUNSEE	\$619,657	\$710,308	\$90,651	14.63%
WICHITA	\$347,958	\$320,736	(\$27,222)	(7.82%)
WILSON	\$959,645	\$946,943	(\$12,702)	(1.32%)
WOODSON	\$377,708	\$408,799	\$31,091	8.23%
WASHINGTON	\$679,935	\$655,887	(\$24,048)	(3.54%)
WYANDOTTE	\$16,668,306	\$13,107,357	(\$3,560,949)	(21.36%)
TOTAL	\$277,903,836	\$272,323,912	(\$5,579,924)	(2.01%)

	<u>Mfg Sugg Retail Price</u>	<u>Orig Val for KS Car Tax</u>	<u>1993 Val for KS Car Tax</u>	<u>1993 Taxable Value</u>	<u>1993 Tax Shawnee County 166.47</u>	<u>1993 Tax Stevens County 39.89</u>	<u>1993 Tax Johnson County 118.31</u>	<u>1993 Tax Coffey County 47.31</u>	<u>1993 Tax Saline County 127.73</u>	<u>1993 Tax HB 2866 ALL COUNTIES</u>
1992 Mercury Grand Marquis Sedan 4D LS	\$20,644	\$17,000	\$14,280	\$4,284	\$713.16	\$170.89	\$506.84	\$202.68	\$547.20	\$375
1993 (92) Toyota Tercel Sedan 2D	\$6,998	\$5,625	\$5,625	\$1,688	\$280.92	\$67.31	\$199.65	\$79.84	\$215.54	\$300
1989 Ford Ranger Pickup 5-speed Half-Ton	\$7,693	\$7,500	\$3,734	\$1,120	\$186.48	\$44.69	\$132.53	\$53.00	\$143.08	\$200
1984 Chevrolet Pickup El Camino	\$8,522	\$7,500	\$1,562	\$468	\$77.99	\$18.69	\$55.43	\$22.16	\$59.84	\$75

CITIZENS AGAINST VEHICULAR EXTORTION (C.A.V.E.)

The Citizens Against Vehicular Extortion support the Wagon-Hensley alternative to the current system of vehicle taxation for the following reasons:

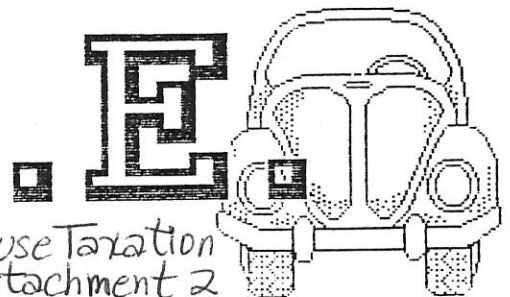
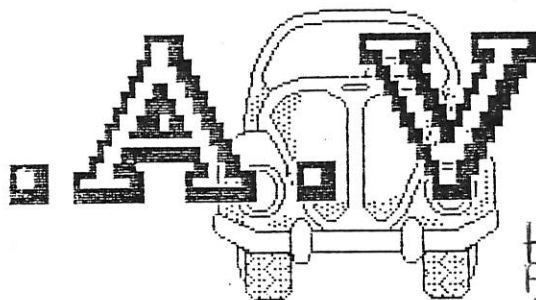
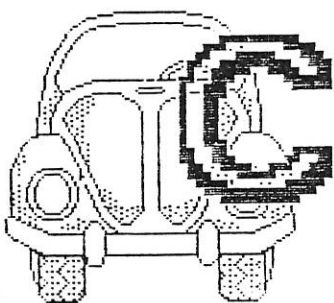
The current system produces the highest rate of vehicle taxation in the nation. On a \$16,000 car, Kansas exceeds the national average by 456%. (\$700 vs \$152)

Unlike previous attempts made by the Legislature to eliminate or reduce vehicle taxes, the Wagon-Hensley bill will reduce vehicle taxes so that they are no longer the highest in the nation and, at the same time, will provide a dollar-for-dollar replacement of revenues.

Since 1977, new automobile sales within the state have declined by 50%. This contrasts with a national trend where more new cars are sold today than in 1977 -- even with the current recession. Many citizens refuse to purchase a car because of the high taxes. Demonstrating this is the fact that there are 603,668 cars within the State that are 1979 model year or older. The current tax structure promotes and subsidizes continued ownership of these vehicles. Many of these cars are unsafe, emit excessive pollution, and use more gasoline and other resources than newer models. Many are owned by citizens who can afford newer vehicles, but choose not to buy because of the punitive nature of the existing vehicle tax levy.

Lower taxes will encourage vehicle sales that will add to sales tax receipts, increase the compensation and employment of workers, and expand business activity associated with the banking and insurance, railroad and trucking industries.

The Wagon-Hensley bill is not a panacea. Kansas vehicle taxes will remain in the top 5 when compared to the rest of the nation. (A \$16,000 car will cost \$427 vs \$152.) However, this is a good initial step that will provide some tax relief while generating the same revenue as the existing system. Because it is revenue-neutral, any subsequent action by the legislature to enhance sales tax or income tax revenues can and should be used to provide relief for real estate taxes. Under this scenario, citizens will obtain relief from both personal and real property taxation.



House Taxation
Attachment 2
02-11-92

VEHICLE RENEWAL FEES - BY STATE (COST OF THE ANNUAL STICKER)

1990 FORD TAURUS LX 4 DOOR SEDAN, 6 CYLINDER (\$16,000 VALUE)
REGISTRATION TAX AND FEES EXCLUDING SALES TAXES

Rank	State	1990 Amount	Rank	State	1990 Amount
1	KANSAS	\$691.20	27	MICHIGAN	\$47.00
2	MISSISSIPPI	\$506.00	28	ALABAMA	\$43.00
3	MAINE	\$406.00	29	NEW MEXICO	\$42.00
4	ARIZONA	\$384.00	30	VERMONT	\$42.00
5	MASSACHUSETTS	\$380.00	31	MARYLAND	\$40.50
6	WASHINGTON	\$352.00	32	SOUTH DAKOTA	\$40.00
7	SOUTH CAROLINA	\$345.00	33	IDAHO	\$36.48
8	CALIFORNIA	\$342.50	34	W VIRGINIA	\$36.00
9	MONTANA	\$336.41	35	ALASKA	\$35.00
10	COLORADO	\$336.00	36	OHIO	\$35.00
11	NEBRASKA	\$295.00	37	CONNECTICUT	\$31.00
12	INDIANA	\$289.00	38	ARKANSAS	\$30.00
13	WYOMING	\$288.00	39	RHODE ISLAND	\$30.00
14	GEORGIA	\$271.94	40	FLORIDA	\$29.00
15	VIRGINIA	\$250.00	41	HAWAII	\$27.50
16	NEW HAMPSHIRE	\$248.36	42	WISCONSIN	\$25.00
17	NEVADA	\$224.00	43	PENNSYLVANIA	\$24.00
18	OKLAHOMA	\$215.00	44	NEW YORK	\$23.40
19	MINNESOTA	\$210.00	45	DELAWARE	\$20.00
20	MISSOURI	\$179.00	46	NORTH CAROLINA	\$20.00
21	IOWA	\$172.40	47	TENNESSEE	\$18.75
22	NORTH DAKOTA	\$118.00	48	LOUISIANA	\$16.00
23	D.C.	\$78.00	49	OREGON	\$15.00
24	TEXAS	\$58.50	50	KENTUCKY	\$11.50
25	NEW JERSEY	\$50.00	51	UTAH	\$10.00
26	ILLINOIS	\$48.00			

Average for all 50 states \$152.99

Source: Commerce Clearing House 1991 State Tax Guide

**CITIZENS AGAINST
VEHICULAR EXTORTION
(C.A.V.E.)**



KANSAS MOTOR CAR DEALERS ASSOCIATION

800 Jackson, Suite 808 • Topeka, Kansas 66612 • (913) 233-6456 • (800) 748-8201 (KS only) • FAX (913) 233-1462

February 11, 1992

TO: THE HONORABLE JOAN WAGNON, CHAIR
HOUSE TAXATION COMMITTEE
HOUSE TAXATION COMMITTEE MEMBERS

FROM: PAM SOMERVILLE, GOVERNMENT AFFAIRS DIRECTOR

RE: HOUSE BILL 2866
ANNUAL FEES FOR MOTOR VEHICLES

Good morning Madam Chair and members of the committee. On behalf of the 321 franchised new car dealers in the state of Kansas, we commend the committee for addressing a serious problem in our state. There has long been discrepancies within the state in the manner in which motor vehicle taxes are assessed. More importantly, HB 2866 addresses the high cost of those taxes that citizens of the state pay for the privilege of owning a motor vehicle.

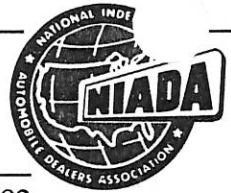
There is one area of concern for our members in the bill. On page 2, line 31, the language states the department of revenue shall annually adopt a schedule for determining the value of all motor vehicles. The language goes on to state that if the secretary of revenue is unable to ascertain values then the responsibility would be placed with the county appraiser. It appears this language could once again create discrepancies statewide. The Kansas Motor Car Dealers believe the department of revenue should simply adopt a schedule for determining the value period. We believe it would be appropriate to amend the bill and eliminate annually from the language as well as granting authority to county appraisers.

Thank you for the opportunity to appear before you this morning.

House Taxation
Attachment 3
02-11-92



KANSAS INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION



Citizens Bank & Trust Building • 6th & Humboldt • Manhattan, Kansas 66502
Phone: 913-776-0044 FAX: 913-776-7085

February 11, 1992

TO: HOUSE COMMITTEE ON TAXATION

SUBJECT: HB 2866--AN ACT RELATING TO THE TAXATION OF
CERTAIN MOTOR VEHICLES

FROM: KANSAS INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION

Madam Chairperson and Members of the Committee:

I am Tommy McGeeney, President, of the Kansas Independent Automobile Dealers Association, representing over 200 used car dealers.

We would like you to know that anything that can be done to get the property tax reduced on automobiles will have our backing.

One result of these high property taxes on vehicles has been the withdrawal of a lot of potential buyers from the marketplace. Many feel it is too big a price to pay for the privilege of owning a newer vehicle. So, the only people that are reaping the benefits are the mechanics. Rather than replacing the car and paying the exorbitant property tax, they are fixing up their older car. This has caused a malaise in the consumer marketplace.

Consequently, this attitude of the potential buyer has caused a shortage of those cars in the \$2,000 to \$5,000 price range, and this has had another negative impact on the marketplace by forcing the price up on these cars.

The adverse perception of the public toward these property taxes is our biggest enemy. If you can do anything to lower these outlandish property taxes on vehicles, you will see a drastic change in the attitude of the potential buyer. It will adjust itself accordingly. You may recall what happened when the manufacturers first came out with rebates. It brought thousands of people into the dealerships. It is my opinion that if you get something done--if someone will bite the bullet and say "yes, we are going to do it"--then you will see buyers back in the marketplace once again.

Thank you for your time and your positive consideration of HB 2866.

Individually we struggle to be heard—Collectively we cannot be ignored.

House Taxation
Attachment 4
02-11-92

Recreational Vehicle Council

Member of Kansas Manufactured Housing Association

112 SW 6th Street * Suite 204 * Topeka * Kansas * 66603 * 913-357-5256

TESTIMONY BEFORE THE HOUSE

TAXATION COMMITTEE

TO: Representative Joan Wagnon, Chairwoman and
Members of the Committee

FROM: Don Christman, President
Wilcox Homes and R.V. Center, Inc.

DATE: February 11, 1992

RE: HB 2866

I appreciate the opportunity to appear this morning on behalf of the Recreational Vehicle Industry in Kansas. My Name is Don Christman. I own Wilcox R.V. and Boat Center in Topeka and serve as Chairman of the Recreational Vehicle Council of the Kansas Manufactured Housing Association.

HB 2866 accurately recognizes in an official way, what anyone who owns and pays taxes on a vehicle in Kansas has known for some time, vehicle taxes in Kansas are:

1. Excessive
2. Significantly higher than surrounding states
3. Causing our citizens to violate the law or more seriously move from the State.

Having said that, I don't think anyone would argue with number 1 or number 2, so let me address number 3 briefly.

Homer Gifford moved to Topeka in 1969, raised his family here, retired here and wanted to stay here. Homer's personal property consisted of two cars, one motorhome and a manufactured home that served as summer quarters in Topeka. One car and the motorhome were registered in Texas for two reasons:

1. He wintered in Texas six or more months a year and the motorhome and car were his residence and transportation respectively.
2. He sought relief from the excessive tax on his motorhome and car.

House Taxation
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The Shawnee County Treasurer threatened the Giffords with a lawsuit trying to force Kansas registration of the vehicles that were registered in Texas. While Homer initially bucked under and registered his car and motorhome in Kansas, he vowed never to pay Kansas Personal Property Taxes again, and he won't. Homer Gifford is retired, has a comfortable income, is mobile and has cast his vote on taxation. Homer and his wife now reside in Grand Island, Nebraska.

The above scenario is real and unfortunately happening more and more. My typical customer is 55 years and older, mobile, and financially comfortable yet not rich. These people are made criminals for registering their vehicles out of state so they often give up on Kansas, and move to any one of the four surrounding states and find tax relief. Instead of fixing the problem two years ago we made these people even bigger criminals, if you will, by increasing the fine from \$500 to \$2,500 for not registering in Kansas.

How high is the personal property tax on a motorhome in Kansas? A medium price Class A motorhome would sell for around \$50,000 using a base price of \$41,000 times 30%, times the 1991 mill levy of 152.807 for Topeka, Shawnee County, yields a tax of \$1,879 or over \$156 per month. By comparison a conventional home would have to have an appraised value of \$86,078 to produce \$1,879 in real estate taxes.

Now lets look at the property tax on a towable recreational vehicle and you will see an even more exorbitant tax. Take a 1991 NuWa Champagne with a taxable value of \$31,800 times 30%, times the Topeka USD 501 mill levy of 181.91 and it yields a tax bill of \$1,736. By comparison a conventional home would have to have an appraised value of \$79,520 to provide a \$1,736 real estate tax.

Furthermore, the tax figure we just calculated does not take into account that there is a \$15,000 to \$20,000 truck that is used to pull the unit where as the motorhome is self contained.

A \$15,000 truck would yield a tax of approximately \$687 for a total tax on this families toy of \$2,423. Is it any wonder our citizens refuse to register in Kansas? I might also point out that the 5th wheel in the example is built by NuWa Industries of Chanute, Kansas, a respected national manufacturer of towable R.V.'s.

How high is the personal property tax in Kansas? It is high enough that I regularly have customers tell me they can not buy my product because the personal property tax is too high. It is high enough that Kansas residents are registering their vehicles out of state. It is high enough that the Recreational Vehicle Council has been

formed. A Council of R.V. dealers and manufacturers from across this state, to seek relief from the exorbitant and unfair personal property taxes levied against recreational personal property in this state.

I believe HB 2866 identifies a class of property whose taxes are disproportionate to the use they receive or the value that they have. That class is vehicles to include all classes of recreational vehicles.

Imagine if you will that you are one of our Kansas citizens nearing retirement. Looking forward to having the time to travel, see the sights that you have read about, visit the kids, the lakes and in short, kick back and enjoy life. The lifestyle of choice, the R.V. lifestyle. Into the shopping mode, full of enthusiasm, you pick out a vehicle and are ready to make a deal.

You ask: "How much is the property tax on this \$50,000 vehicle?"

"A mere \$1,879 per year" the sales person replies.

You question: "So that's \$1,879 property tax payable up front at registration and we're paying how much in sales tax?"

"Only \$2,625" comes the reply.

You quickly figure: "Lets see \$2,625 plus \$1,879 equals \$4,504 That's nearly 9% of the cost of the vehicle! And the property tax goes on year in and out for 15-20 years.

End of conversation...end of shopping..end of dream...end of opportunity for any Kansas retailer. End of the whole process unless, of course, our fictitious customer has done his homework:

1. They buy in Missouri (no sales tax collected by retailer on vehicles.)
2. They drive to Oregon and register without sales or property tax: or they move from Kansas, such as Homer Gifford did.

The Kansas Recreational Vehicle Council urges you to support and vote favorably on HB 2866 to provide the property tax relief so desperately needed on motor vehicles in Kansas. Unfortunately HB2866 does not address the towable R.V.'s that I mentioned earlier because the bill only deals with motorized vehicles. None the less, the exorbitant personal property tax on towable R.V.'s is just as serious and needs to be remedied. Therefore, I respectfully request that the Taxation Committee and Staff research this issue so it can be considered in the near future.

Please don't let these extreme taxes go on any longer. The message today is one of urgency. My business and the thousands of other people employed by the Kansas R.V. industry are depending on you to correct this very serious situation. We believe HB 2866 will provide the needed relief for the motorized segment of our industry.

FIVE YEAR ILLUSTRATION
(Using Actual Sales/Millage Figures)

1985 Southwind 29V Motorhome
Sold new 2/16/85 for \$48,984
Re-sold used 2/15/90 for \$28,000

Assume Straight Line Depreciation:
 $\$48,984 - \$28,000 = \$20,984$ Depreciation
 $\$20,984 / 5 = \4196 per year

Assume a constant mill levy of 152.807 the current Topeka, Shawnee County, USD 501 Mill Levy, which is lower than the actual mill levy over the period in question.

Assume a base price of 75% of retail value as a book value for this propose.

	TAX PAID	
Sales tax 2/16/85		\$2,571.66
1st Year Taxes		
$\$48,984 (.75)(.30)$	$= \$11,021.40 (.152807)$	$= \$1,684.15$
2nd Year Taxes		
$\$48,984 - \$4,196 (.75)(.30)$	$= \$10,077.30 (.152807)$	$= \$1,539.88$
3rd Year Taxes		
$\$48,984 - \$8,392 (.75)(.30)$	$= \$9,133.20 (.152807)$	$= \$1,395.62$
4th Year Taxes		
$\$48,984 - \$12,588 (.75)(.30)$	$= \$8,189.10 (.152807)$	$= \$1,251.35$
5th Year Taxes		
$\$48,984 - \$16,784 (.75)(.30)$	$= \$7,245.00 (.152807)$	$= \$1,107.09$
TOTAL TAXES PAID OVER 5 YEARS		= \$9,549.75

Percentage of total taxes to original purchase price:
 $\$9,549.75 / \$48,984 = 19\%$

Vehicle driven 21,000 miles...cost per mile in taxes:
 $\$9,549.75 / 21,000 = \$.45$ cost per mile for taxes

Questions:

1. Can you see the taxes paid in the above illustration are in excess of what they should be?
2. Do you believe the State is:
 - A. Robbing our citizens of their choice of leisure time activity through taxation?
 - B. Affecting the sale of recreational vehicle products as a result of the exorbitant taxes they command?

GOOD MORNING LADIES & GENTLEMEN

DALE COLLIE RETIRED 2326 HIGH,
TOPEKA, KAN.

1-23-1989 I PURCHASED A 1986
SOUTHWIND CLASS-A MOTOR HOME

PROPERTY TAX PAID FROM 1-23-1982 TO
3-31-89 \$232 A TOTAL OF 67 DAYS

PROPERTY TAX PAID	4-1-89	\$1262
" " "	4-10-90	\$825
" " "	4-11-91	\$530

WHEN I PURCHASED MY MOTOR HOME
THE OWNER LIVED IN LEBON, KAN. AREA
& HAD A TEXAS TITLE STATING ADDRESS
AS ARANSAS PASS, TEXAS. (SHOW FOREIGN TITLE
AFFIDAVIT) I TITLED IT IN TOPEKA
KAN.

A FRIEND OF MINE INHERITED PROPERTY
IN A COUNTY NORTH OF SHAWNEE & HAS
HIS MOTOR HOME TAGGED ^{IN} NEMAHA COUNTY

ANOTHER FRIEND OF MINE HAS A BROTHER
LIVING IN A COUNTY N.W. OF SHAWNEE
SO HE HAD HIS BROTHERS NAME ALSO
PUT ON THE TITLE & HAS HIS MOTOR HOME
TAGGED IN JACKSON COUNTY

MY BROTHER IN LAW LIVES IN TOPEKA AND
HAS HIS MOTOR HOME TAGGED IN ALAMO, TEXAS

House Taxation
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02-11-92

MYSELF, MY TWO FRIENDS & MY BROTHER-IN-LAW ALL LIVE & OWN HOMES IN TOPICKA, KANSAS.

I AM NOW RETIRED. I WAS ON THE TOPICKA POLICE DEPARTMENT FOR 30 YEARS. UNDER-SHERIFF OF SHAWNEE COUNTY 7 YEARS. I WILL NOT VIOLATE OR CIRCUMVENT THE LAW TO AVOID THE HIGH TAX & PAY.

PLEASE — — BE FAIR ABOUT THE PROPERTY TAX AND VOTE YES FOR ~~SENATE BILL H. B. 2866~~ PERSONAL PROPERTY TAX RELIEF H. B. 2866

ONE MORE POINT I WOULD LIKE TO MAKE — I HAVE NEVER SLEPT IN MY MOTORHOME IN SHAWNEE COUNTY, DON'T YOU AGREE I AM PAYING A HIGH PARKING FEE.

THANK YOU FOR LISTENING TO MY STORY. IF YOU HAVE ANY QUESTIONS I WILL BE HAPPY TO ANSWER THEM.

TO: Representative Joan Wagnon, and members of the Taxation Committee

FROM: Michael W. Nebel, President
Peterson Industries, Inc.
Smith Center, Kansas
Manufacturers of EXCEL, KNOBLE ESQUIRE & LEGACY RECREATIONAL VEHICLES

January 9, 1992

Chairman & Members:

I wish to voice our concern about unfair and excessive property and sales tax on RV's in Kansas. Our sales in Kansas for the last four years have been on a steady decline, while sales in Iowa, Nebraska and Missouri have grown about ten percent per year. We see more and more people shopping at dealerships and R. V. Shows, but not buying in Kansas. They see what they want then call up dealers in Missouri, Iowa and Nebraska and buy. Then they register the units in Texas.

Our manufacturing plant is in Smith Center, Kansas. It is a town of about 2500 people. We employ 150 workers. We have been in the R. V. business for 26 years. It concerns us greatly to see people from our own community moving to Texas or registering their units in other states because Kansas Property Tax and Sales Tax laws have run them off. I know of ten couples that tag their units and trucks in Texas, or they have sold them and purchased a mobile home down there because the Kansas Taxes are more than enough to pay for rent the year around for the mobile home. We have enough trouble keeping population in North Central Kansas. We shouldn't be running them off because of excessive and unfair taxes. Every one in business in our community depend on these people..

Kansas, Smith County and Smith Center not only lose the sales and property taxes for these units, all other businesses lose.

Don't run off the people that are financially sound in our communities. Change the laws and make our taxes affordable. Help our Kansas dealers stay in business and don't force law-abiding people to become criminals to survive.

Trailside R. V. Center is a perfect example. They have a lot in Grain Valley, Missouri and one in Olathe, Kansas. They sell the same products at both stores. They are both located on four-lane highways and use the same personnel at both stores. The Grain Valley store sells 92% more than the Olathe store.

The units range from \$3,000 to \$60,000 at both stores. If we don't get something changed in Kansas taxes the Olathe store won't be in business by the end of the year. That building will be empty again. Trailside is the fourth occupant for a ten year old building.

I as a lifetime resident of Kansas and as a Manufacturer of 26 years wish you would be fair with Kansas Taxes and add towable R.V. to our tax relief bills. Then pass them !!


Michael W. Nebel

House Taxation
Attachment 7
02-11-92

TESTIMONY BEFORE THE HOUSE

COMMITTEE ON TAXATION

TO: Representative Joan Wagnon, Chairman

FROM: Bill Stockton, District Sales Manager, King of the Road.

DATE: February 10, 1992

RE: HB2866

Madam Chair and members of the committee, my name is Bill Stockton. I am a representative for King of the Road, a Russell, Kansas manufacturer of towable recreational vehicles. My area of responsibility includes Kansas and several plains, southern and southeast states. I am also a member of the board of directors of the recreational vehicle council of the Kansas Manufactured Housing Association.

King of the Road employs over 100 people with a substantial payroll and we are probably the largest employer between Salina and Hays. We enjoy an excellent work force and nationally we are in the top few manufacturers of luxury travel trailers and fifth wheel trailers.

We would like to say that we are doing well in our home state; we are not, and main reason is excessive vehicle taxes. In my travels to major shows in surrounding states, I meet many Kansans who travel extensively in recreational vehicles but will not buy in Kansas or register their vehicles in Kansas. These folks are retired, and as devotees to the RV lifestyle, have opted to become ex-Kansans for purely monetary reasons.

I am aware that HB2866 addresses only motorized vehicles, which is definitely a step in the right direction. As Kansas manufacturers and as Kansans, we at King of the Road and the Kansas RV council urge you to introduce a companion bill or separate bill to address the inequities of property taxes on non-motorized towable recreation vehicles. One method would be to exempt these vehicles from property tax and collect an appropriate registration fee. This would allow our Kansas dealers to become competitive with other states in this industry and keep Kansas retirees buying and maintaining their home base in Kansas.

There are five major RV manufacturers in Kansas. There are dozens of RV dealers and related businesses throughout the state. Please don't allow this extreme tax to handicap your fellow Kansans anylonger.

Thank You,



Bill Stockton

House Taxation
Attachment 8
02-11-92

**KIT****MANUFACTURING COMPANY**

RECREATIONAL VEHICLE DIVISION

1000 KIT Boulevard, P.O. Box 586, McPherson, Kansas 67460-0586

Telephone (316) 241-4320
FAX (316) 241-6689TESTIMONY BEFORE THE HOUSE
COMMITTEE ON TAXATION

TO: REPRESENTATIVE JOAN WATNON, CHAIRMAN
AND MEMBERS OF THE COMMITTEE

FROM: WILLIAM A. JONES

DATE: FEBRUARY 7, 1992

RE: HB2866

MADAM CHAIR AND MEMBERS OF THE COMMITTEE,

AS GENERAL MANAGER OF A MAJOR RV MANUFACTURER IN THE STATE OF KANSAS I WOULD LIKE TO EXPRESS MY CONCERNS ON THE EXCESSIVE TAXES ON RECREATIONAL VEHICLES IN THE STATE OF KANSAS. WITH THE EXCESS IN TAXES WE ARE PREVENTING A LOT OF YOUNG FAMILIES FROM THE ENJOYMENT OF CAMPING AS A FAMILY TOGETHER. WE MUST REDUCE THE TAXES ON MOTOR HOMES BUT ALSO MUST INCLUDE ALL TOWABLE VEHICLES AS THIS IS WHAT MOST YOUNG FAMILIES BUY.

KIT MANUFACTURING COMPANY OF MCPHERSON, KANSAS HAS BEEN IN BUSINESS SINCE 1972 AND EMPLOYS AN AVERAGE OF 150 PEOPLE YEAR-AROUND FOR AN ANNUAL PAYROLL OF \$2,500,000.00. WE BUILD AN AVERAGE OF 1,200 TOWABLE RECREATIONAL VEHICLES PER YEAR WITH A RETAIL SALES VALUE OF \$19,500,000.

THERE ARE THREE OTHER LARGE R.V. TOWABLE MANUFACTURERS AND ONE MANUFACTURER OF MOTOR HOMES IN THE STATE THAT ARE DEPENDING ON YOU TO MAKE IT HAPPEN.

SINCERELY,

WILLIAM A. JONES
GENERAL MANAGER
KIT MANUFACTURING COMPANY
RV DIVISION

House Taxation
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02-11-92

AMENDMENT 14 (Civil Rights)

(Proclaimed July 28, 1868)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

House Taxation
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02-11-92

UNIFORM NOTICE TO APPEAR AND COMPLAINT
Kansas Highway Patrol

1466655

Case No. _____ Station No. _____

State of Kansas SHAWNEE ss. 1 of 1
County of _____ Number Charges

In the District Court of SHAWNEE County

the Undersigned, Being Duly Sworn, Upon Their Oath, Deposits and Says:

on the 10 day of DEC, 1991 at 1547
(Time)

Name MARSHALL
(Last)

YOLANDA (First) J. (Initial)

Street Address 554 SE RICE RD

City TOPEKA State KS Zip 66607

Birth Date 06/17/58 Race W Sex F Ht 53 Wt 135

Driv. Lic. State KS No. A9C3N9

Did Upon Public Highway No. T At Milepost 1FR

(or other location) ET TOLL Co. of _____

Unlawfully Operate a Yr. FD Make MAZDA Type A

Year 91 State KS License No. CZR011

And did then and there commit the following:

Speeding Alleged Speed _____	Radar — Stopwatch — Pace M.P.H. Legal Speed _____	Aircraft — ID M.P.H.
<input type="checkbox"/> Fail to Yield Right of Way	<input type="checkbox"/> Drove Left of Center	<input type="checkbox"/> Log Book Violation
<input checked="" type="checkbox"/> Illegal Registration	<input type="checkbox"/> Driver's License Violation	<input type="checkbox"/> Equipment to wit: _____
<input type="checkbox"/> Operate a Vehicle While Under the Influence of Alcohol and/or Drugs		
Other Violations: <u>Expired TAG</u>		
<input type="checkbox"/> Comm. Veh.	<input type="checkbox"/> Haz. Mat.	<input type="checkbox"/> Infraction
<input type="checkbox"/> Section No. <u>F-14201</u>	<input checked="" type="checkbox"/> Misdemeanor	<input type="checkbox"/> Felony
<input type="checkbox"/> K.A.R. No. _____	<input type="checkbox"/> Accident	

Name MARSHALL
(Last) YOLANDA
(First) J.
(Initial)

1466655

Officer's Signature Jerry Smith No. 30789 Co. _____

Appear before District Court At TOPEKA (City)

on 9th day of JAN, 1992 at 150A (Time)

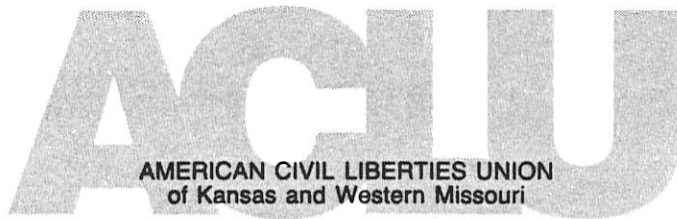
I promise to appear in said court at said time and place above for arraignment.

Signature X Yolanda Marshall

Bond Posted Cash D.L. Bond Card No. _____

Amount \$ _____ Location _____

I, the above officer, served a copy of the infraction citation upon the defendant.



201 Wyandotte, Suite 209
Kansas City, MO 64105
Phone: (816) 421-4449
Fax: (816) 421-4860
(call first)

Sandy Krigel
PRESIDENT - WMO

Jim Lawing
PRESIDENT - KS

David Waxse
GENERAL COUNSEL

Dick Kurtenbach
EXECUTIVE DIRECTOR

Carla Dugger
ASSOCIATE DIRECTOR

January 7, 1992
Yolanda Marshall
884 SE Rice Road
Topeka, KS 66607

Dear Ms. Marshall:

We have received and reviewed all materials submitted to this office to date concerning your complaint. From what we can gather, the ACLU will not be in a position to take your case.

This is not meant to be a legal judgment that your complaint lacks merit; in fact, you may wish still to pursue it through other channels, such as a private attorney. However, due to several factors, the ACLU of Kansas and Western Missouri directly litigates only a very small percentage of the proposed cases brought to our attention.

First among these factors is the absence of a substantial civil liberties issue even though the complaint may have legal merit otherwise. A second key factor is the very limited human and monetary resources available to the ACLU.

Sincerely,

ACLU of Kansas and
Western Missouri

by: Carla Dugger

10-3

We have more than 1.5 million people in prison today. That's more than 10 states.

Jonathan Turley
Professor of Law
George Washington University Law Center

To American Civil Liberties Union
of Kansas and Western Missouri
201 Wyandotte, Suite 209
Kansas City, MO 64105

November 17, 1991

Attn. Jim Lawing and Gordon Risk:

Hello, I would like to share a scenario with you. I have shared this with a private taxation lawyer and the Director of the Wasburn Law Clinic in Topeka Ks., and I was directed to the ACLU by both attorneys, it seemed to them that I had a good theory, I would challenge this theory personally but it would be a very expensive task, which I myself could not afford. Let me explain in detail, please.

The subject is taxes, automobile taxes and auto insurance to be exact. First, let me quote from an article that made front page of the Topeka Capitol Journal, Sat., November 16, 1991. Title: It's Hard To Get Up When You're Down," when one is poor, molehills do become mountains. Little negative events can grow quickly into traumatic, life-altering episodes that can keep you down forever." when this letter is complete you will see how this quote can verify my complaint and my theory that taxes and the penalty of not being able to pay your taxes can be deemed as unconstitutional. In fact, the California Supreme Court has indeed found it to be unconstitutional. Main reason being, California had incarcerated hundreds and hundreds of citizens as a result of being fined for not having auto insurance, and not having a proper (updated) registration or current (un-expired) license plate. The latter two is a result of the Kansas State Law, which states you must pay your taxes on date which is due, no A B C's about it. I have contacted my Shawnee County Commissioner, Rita Cline, to see if there could be some other way for a person to be able to pay their taxes, like monthly payments, prior to the due date. She said "No, there is not, and if you fail to pay your auto insurance on the due date there will be a 1.5% (a day) interest added to the amount."

In recent days Shawnee County has been facing hardships to the point that they were concerned with the problem of the payroll for their employees. In fact they had "no monies" in existence. They ended up legally manipulating other funds so they could see to the payroll. I'm including this information, to inform you that now, Ms. Cline is trying to implement a law that will enforce all new automobile purchasers pay 10 years of taxes on the auto at the time of purchase. The boat is being rocked over the issue, and the way it is now Kansas auto taxes are standing at having some of the highest rates in the Union.

My questions are, what about the middle-class, which is slowly becoming obsolete and the lower class, which a majority of people are riding the fine line of becoming the poverty class? We must have the right to drive our vehicles, we must have the right to our lifeline, which has been stated in California. The state then released the incarcerated and set up payment plans and sliding scales to help the less fortunate, or one who has a molehill which as a result of the law has become a mountain. a mountain that could decimate a man, woman and child's home life. And does Kansas have the right to fine and or incarcerate a citizen for not being able to meet the criteria that the state has set for having a vehicle, and if you are not able or don't, your vehicle will have the status of, involving, or being a crime (illegal)?

These are questions that I have asked myself many times. And now much to my despair my family and I are "breaking the law". It is something we had no control of...This is a law that we are in contempt of because of our financial status, not because we choose to...This is a law that can incarcerate us because of lack of being able to pay these taxes...

I hope that you will address this unconstitutional law. Like I stated earlier the State of California has declared it to be so.

Thank you very much, and I do hope to hear from you soon.

Sincerely Yours

Yolanda Marshall

KS79-2102 POVERTY AFFIDAVIT; WARRANT NOT ISSUED OR EXECUTED.

(Personal Property Only--cars, mobile homes.) If anyone to whom such fact is known, or if the person against whom such unpaid tax is charged, shall make and file with the treasurer an affidavit that such person is unable, by reason of poverty or infirmity, to contribute to the public charge, such warrant shall not be issued or executed. The treasurer shall note such fact on the tax roll opposite such

not more than seven letters of the alphabet or numerals or a combination of such letters and numerals. The combinations of such letters and numerals shall be at the direction of the director of vehicles, except that any person owning an antique vehicle, other than an antique motorcycle, may make application for a special combination of letters and numerals not exceeding seven. Antique motorcycle license plates shall be the same as other antique vehicle license plates, except the numbering system shall consist of not more than five letters of the alphabet or numerals or a combination of letters and numerals. Such application shall be made in a manner prescribed by the director of vehicles and shall be accompanied by a special combination fee of \$40. Unless the combination of letters or numerals designated by the applicant have been assigned to another antique vehicle registered in this state, or unless the combination of letters or numerals designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director, the division shall assign such combination of letters to the applicant's vehicle.

(b) The registration fee for any antique vehicle shall be \$40 and once paid shall not be required to be renewed.

History: L. 1955, ch. 62, § 7; L. 1972, ch. 23, § 1; L. 1980, ch. 35, § 1; L. 1983, ch. 30, § 1; L. 1984, ch. 34, § 1; L. 1985, ch. 43, § 11; L. 1989, ch. 209, § 24; Jan. 1, 1990.

Research and Practice Aids:

Automobiles — 41.

C.J.S. Motor Vehicles § 106 et seq.

8-173. Registration of vehicles; proof of payment of personal property taxes or evidence of assessment; registration not accepted if personal property taxes delinquent. (a) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

(1) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before June 21 such receipt need show payment of only one-half the preceding year's tax; or

(2) evidence that such vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or

manufacturer or was exempt from taxation under the laws of this state.

(b) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated shall not be accepted if the records of the county treasurer show that the applicant is delinquent and owes personal property taxes levied against the applicant for any preceding year.

History: L. 1957, ch. 56, § 1; L. 1960, ch. 45, § 1; L. 1970, ch. 49, § 1; L. 1985, ch. 46, § 1; L. 1989, ch. 37, § 3; July 1.

Research and Practice Aids:

Automobiles — 39.

C.J.S. Motor Vehicles § 101.

Attorney General's Opinions:

Payment of all personal property taxes as condition precedent to motor vehicle registration. 82-59.

Payment of personal property taxes for preceding year as condition precedent to vehicle registration. 82-198.

Requirements for acceptance of vehicle registration application. 86-97.

Personal property tax on motor vehicles. 86-147.

Requirements for acceptance of motor vehicle registration application. 87-27.

Collection and cancellation of personal property taxes; transfer before tax payment. 88-40.

Registration of vehicles; proof of assessment; unpaid personal property tax. 90-105.

Collection of delinquent taxes in certain counties; release or waiver of tax lien by Sedgwick county. 91-5.

Delinquent tax collection; poverty affidavit limiting issuance or execution of tax warrant. 91-34.

CASE ANNOTATIONS

1. Purpose discussed; generally strictly construed; contra where 8-135 applied as lien perfection statute; construed in harmony with UCC. In re Littlejohn, 519 F.2d 356, 357, 358.

2. Requiring payment of all personal property taxes before registering motor vehicle not unconstitutionally offensive. State v. Raulston, 9 K.A.2d 714, 717, 687 P.2d 37 (1984).

8-174. Same; duty of county clerk; receipt by county treasurer. The county clerk shall show on the tax rolls or by separate listing which he or she delivers to the county treasurer each year the make, model and year of each vehicle assessed in the county. Upon the payment of personal property taxes by any person including personal property taxes upon a vehicle, the county treasurer shall issue a receipt showing the foregoing information concerning the vehicle upon which taxes are being paid.

History: L. 1957, ch. 56, § 2; Jan. 1, 1958.

CASE ANNOTATIONS

1. Requiring payment of all personal property taxes before registering motor vehicle under 8-173 is constitutional. State v. Raulston, 9 K.A.2d 714, 716, 687 P.2d 37 (1984).



STATE OF KANSAS

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April 5, 1991

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ATTORNEY GENERAL OPINION NO. 91- 34

Elaine Esparza
Harper County Attorney
John M. Gaffney
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705 E. Main
Box 216
Harper, Kansas 67058

Re: Taxation -- Sale of Personal Property for Taxes --
Collection of Delinquent Taxes; Poverty Affidavit;
Warrant Not Issued or Executed; Effect on Tax Owed

Automobiles and Other Vehicles -- General
Provisions; Registration of Vehicles --
Registration of Vehicles; Proof of Payment of
Personal Property Taxes; Poverty Affidavit Limiting
Issuance or Execution of Tax Warrant

Synopsis: K.S.A. 79-2102 does not authorize the county to
release, discharge, remit or abate taxes owed on
personal property. Rather, it permits impoverished
or infirm taxpayers to temporarily avoid issuance
or execution of a warrant otherwise available
pursuant to K.S.A. 79-2101 et seq. As this
act provides no criteria or guidelines for
determining the existence of poverty or infirmity
in a specific situation, the county treasurer must
accept affidavits sworn to in accordance with that
statute. A court may examine the veracity of or
factual basis for such a sworn statement and may
determine whether perjury, false writing, or false
oath penalties should be imposed, but the treasurer
has no discretion in accepting the statement.
K.S.A. 1990 Supp. 8-173 requires the county
treasurer to decline acceptance of vehicle

registration applications if personal property tax remains unpaid. K.S.A. 79-2102 does not extinguish the obligation to pay personal property tax, and thus, vehicle registration applicants may not rely upon K.S.A. 79-2102 to escape the collection procedures imposed by K.S.A. 1990 Supp. 8-173. The portion of Attorney General Opinion No. 78-391 that conflicts with the opinion expressed herein is hereby withdrawn. Cited herein: K.S.A. 1990 Supp. 8-173; K.S.A. 19-503; 19-515; 21-702; 21-3711; 39-702; K.S.A. 1990 Supp. 60-2001; K.S.A. 61-2501; 77-201; 79-201; 79-1703; K.S.A. 1990 Supp. 79-2004a; 79-2101; K.S.A. 79-2102; 79-2107.

* * *

Dear Ms. Esparza and Mr. Gaffney:

As legal counsel for Harper county, you ask that we address the following questions:

"Whether an affidavit, filed with the county treasurer pursuant to K.S.A. 79-2102, releases or discharges an indigent taxpayer's obligation to the county for delinquent personal property taxes?;

"What duty or action, if any, is required of the county treasurer and/or the county commissioners when 'such affidavits' are submitted?;

"What inquiry, if any, should the county treasurer make to verify the affiant's indigency, and what should be the form of the affidavit?; and

"If an indigent taxpayer files a K.S.A. 79-2102 affidavit and the county treasurer verifies the taxpayer's indigency, and if the indigent taxpayer seeks to register a personal vehicle, how does the county treasurer resolve the conflict between K.S.A. 79-2102 and K.S.A. 8-173 (which prohibits the county treasurer from accepting a vehicle registration application, if any prior year's taxes are unpaid)?"

Article 21 of chapter 79 in the Kansas statutes discusses sale of personal property for taxes. K.S.A. 79-2102 provides:

"If any one to whom such fact is known, or if the person against whom such unpaid tax is charged, shall make and file with the treasurer an affidavit that such person is

unable, by reason of poverty or infirmity, to contribute to the public charge, such warrant shall not be issued or executed. The treasurer shall note such fact on the tax roll opposite such tax, and shall preserve all such affidavits, and shall submit them together with uncollected taxes to the county commissioners. For the purpose specified in this section the county treasurer is authorized to administer oaths."

We note that 1991 House Bill No. 2403 would repeal K.S.A. 79-2102. However, as of yet, this bill has not been enacted.

As you note in your opinion request letter, case law offers no assistance concerning K.S.A. 79-2102. It appears that this statute has been little utilized. It was enacted in 1866 and has not been amended since that time. However, two previously issued Attorney General Opinions discuss K.S.A. 79-2102 and, in part, address the issues you raise.

Attorney General Opinion No. 61-116, III Opinions of the Attorney General 680, examined three issues involving K.S.A. 79-2102: (1) whether the county treasurer has discretion concerning the filing of a poverty affidavit; (2) what constitutes poverty or infirmity for the purposes of the statute; and (3) whether the motor vehicle registration application procedure is affected by filing such a poverty affidavit. Attorney General Opinion No. 78-391 primarily focused upon the motor vehicle registration issue and does not contain a reference to the prior opinion. Attorney General Opinion No. 78-391 directly conflicts with Opinion No. 61-116 with regard to the motor vehicle registration issue. Because of the age of these opinions and the conflict between them, we will address your opinion request without total reliance upon either. However, we enclose copies of these opinions for your information.

K.S.A. 79-2101 et seq. provide for issuance and execution of tax warrants. This warrant procedure is used to collect money otherwise owed pursuant to a properly levied and chargeable tax. Tax debtors who do not pay personal property tax are subject to the warrant procedure set forth at K.S.A. 79-2101 et seq.

K.S.A. 79-2102, while providing a procedure to avoid the warrant procedure, specifically contemplates the procedures utilized to levy or charge personal property taxes by using the language "[a]gainst whom such unpaid tax is

charged. . . ." K.S.A. 79-2102 does not appear to negate the tax procedures prior to execution or issuance of a warrant nor grant the debtor a complete reprieve, exemption, pardon or abatement of the tax otherwise owed. See also K.S.A. 1990 Supp. 79-2004a, interest on unpaid tax. Rather, K.S.A. 79-2102 affects the collection process of raising revenues through taxation. See 84 C.J.S. Taxation, § 640 (1954).

Some states specifically permit complete abatement of unpaid tax pursuant to poverty exemption statutes. See Guzman v. The Board of Assessors Oxford, 506 N.E.2d 1168 (Mass. 1987); Macaro v. Town of Windham, 468 A.2d 604 (Me. 1983). The purpose of poverty or infirmity tax exemptions appears to be a legislative effort to avoid creating public burdens out of persons who are unable to pay tax. See Annot. 123 A.L.R. 597 (1939); Annot. 65 A.L.R.2d 552 (1959); City of Bridgeport v. First National Bank and Trust Company, 7 A.2d 839 (Conn. 1929). Thus, some states allow impoverished or infirm persons a complete exemption from taxation. See also 84 C.J.S. Taxation, § 215 (1954). However, as evidenced by K.S.A. 79-1703, Kansas does not authorize release of a tax due and owing. See Attorney General Opinions No. 91-6, 91-5, 87-21, 85-100, 78-325, 76-158, 76-87 and 74-98. See also K.S.A. 79-201 et seq., tax exceptions or exemptions. K.S.A. 79-2102 merely defers an otherwise available enforcement mechanism, the warrant, which is normally available to assist with collection of unpaid personal property tax.

Thus, in answer to your first question, we concur with your analysis and it is our opinion that K.S.A. 79-2102 does not release, discharge, remit or commute personal property tax. Rather, that statute permits impoverished or infirm taxpayers to temporarily avoid issuance or execution of a warrant otherwise available pursuant to K.S.A. 79-2101 et seq.

Your second and third questions concern procedures and authorities utilized by county officials when presented with an affidavit pursuant to K.S.A. 79-2102. The statutes set forth at K.S.A. 79-2101 et seq. generally direct and concern activities by the county treasurer, the county sheriff and the county attorney. The only references to the board of county commissioners in this act are set forth at K.S.A. 79-2102 and 79-2107. K.S.A. 79-2107 directs the board of county county commissioners to take certain actions with regard to the county sheriff's salary. K.S.A. 79-2102 directs the county treasurer to submit affidavits to the county commissioners together with a tax roll showing the status of tax collections. With the exception of K.S.A. 79-2107, K.S.A. 79-2101 et seq. does not permit or require the county

commissioners to take any positive role or actions with regard to these specific tax collection procedures.

Conversely, K.S.A. 79-2101 et seq. assign many duties to the county treasurer. K.S.A. 79-2102 permits the county treasurer to administer an oath for purposes specified in that statute. A person taking such an oath should be cognizant of possible penalties for making a false writing, statement or oath. See K.S.A. 21-702, 21-3711, 54-104, and 54-105. However, K.S.A. 79-2101 et seq. do not establish any guidelines or criteria for determining the existence of poverty or infirmity. Moreover, we have found no all inclusive statutory authority which defines these terms for purposes of Kansas law.

K.S.A. 77-201 sets forth general statutory construction rules and provides in pertinent part that "words and phrases shall be construed according to the context and approved usage of the language, but technical words and phrases, and other words and phrases that have acquired a peculiar and appropriate meaning in law, shall be construed according to their peculiar and appropriate meanings." K.S.A. 77-201 Second. Poverty is defined as "the state or condition of being poor." Blacks Law Dictionary 1053 (5th ed. 1979). Infirm is defined as "weak, feeble, lacking moral character or weak of health. . . ." Id. at 700. As you note, certain Kansas statutes discuss poverty or infirmity. See K.S.A. 1990 Supp. 60-2001, K.S.A. 61-2501, K.S.A. 39-702 and K.S.A. 1990 Supp. 39-709. Attorney General Opinion No. 61-116 considered the issue of what constitutes poverty or infirmity and stated "there is no concrete yardstick available by which a person can be labeled poverty stricken and thereby unable to contribute to the public charge." Thus, this opinion concluded that "each case would, therefore, be a separate factual situation which in the final instance would have to be decided by a court." We concur with this opinion.

While general legal principles and specific statutes may assist in determining whether an individual suffers from poverty or infirmity, it is unclear from K.S.A. 79-2102 whether the county treasurer is vested with authority to apply such standards to an affiant. You indicate that it is your opinion that K.S.A. 19-515 vests inherent authority in the county treasurer permitting that official to inquire into and verify the affiant's indigency or infirmity. Attorney General Opinion No. 61-116 also examined whether the county treasurer had discretion to allow or decline a filing pursuant to K.S.A. 79-2102. In holding that the county treasurer did not have such authority, then Attorney General William Ferguson examined general legal principles concerning the

difference between the discretionary and ministerial duties of a public officer. Attorney General Opinion No. 61-116 concluded that K.S.A. 79-2102 gave the county treasurer a ministerial duty and thus did not permit an exercise of discretion. See 67 C.J.S. Officers, §§ 199 and 200 (1978).

K.S.A. 79-2101 et seq. and 19-503 et seq. empower the treasurer to collect tax. These duties are not discretionary. It is our opinion that K.S.A. 79-2102 requires the county treasurer to accept a poverty affidavit sworn to in accordance with that statute. If the affiant is not impoverished or infirm, false writing, perjury, and false oath penalties may possibly be imposed by a court. However, it is our opinion that neither K.S.A. 79-2102 nor K.S.A. 19-503 et seq. authorize or require a county treasurer to exercise discretion with regard to making a legal judgment concerning the sufficiency of the grounds for relief permitted by K.S.A. 79-2102. Rather, the county treasurer should accept sworn statements presented pursuant to K.S.A. 79-2102, and, if concerned that the affiant is not entitled to such relief, contact the county attorney concerning the possibility of criminal sanctions for filing a false document or making a fraudulent oath. As no form is suggested by K.S.A. 79-2102, the sworn statement may be drafted by legal counsel to reflect the language set forth in that statute.

The fourth and final issue you raise concerns the relationship between K.S.A. 79-2102 and K.S.A. 1990 Supp. 8-173. As you note, K.S.A. 79-2102 was enacted prior to the existence of motor vehicles, and thus, prior to motor vehicle registration procedures. As previously discussed herein, Attorney General Opinions No. 61-116 and 78-391 directly conflict on the issue of whether K.S.A. 79-2102 allows an individual to register a vehicle without payment of outstanding personal property tax debts. We agree with the conclusions contained in Attorney General Opinion No. 61-116 and hereby withdraw the conflicting portions of Attorney General Opinion No. 78-391.

K.S.A. 1990 Supp. 8-173 provides:

"(a) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

"(1) A receipt showing that such person has paid all personal property taxes

levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before June 21 such receipt need show payment of only one-half the preceding year's tax; or

"(2) evidence that such vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer or was exempt from taxation under the laws of this state.

"(3) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated shall not be accepted if the records of the county treasurer show that the applicant is delinquent and owes personal property taxes levied against the applicant for any preceding year."
(Emphasis added).

Attorney General Opinion No. 78-391, perhaps in response to a specific situation, gave a charitable interpretation to K.S.A. 79-2102 and concluded that an affidavit accepted pursuant to K.S.A. 79-2102 was evidence that the property was exempt from taxation under the laws of the state. Thus, Attorney General Opinion No. 78-391 read K.S.A. 79-2102 and the motor vehicle registration statute to permit registration because the vehicle assessed was exempt from taxation under the laws of the state. We do not believe this is a correct reading of K.S.A. 79-2102 or the vehicle registration statute, nor can we find other authority exempting from taxation the property or vehicles owned by impoverished persons.

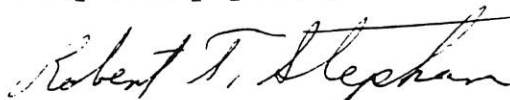
As discussed with regard to the first issue raised herein, K.S.A. 79-2102 permits relief from issuance or execution of a tax warrant. The warrant procedure assists in collection of tax debts. K.S.A. 1990 Supp. 8-173 also gives local tax authorities a collection mechanism. Relief from a specific collection procedure following the levy and assessment of that tax does not discharge or otherwise negate the fact that the tax is due and owing. Rather, it allows the impoverished taxpayer to stay the warrant process and thus protect against loss of personal property. Other collection procedures are not necessarily affected by utilization of K.S.A. 79-2102.

K.S.A. 1990 Supp. 8-173 clearly requires the county treasurer to refuse acceptance of vehicle registration when the records of the county treasurer show that the applicant is delinquent and owes personal property tax. K.S.A. 79-2102 directs the county treasurer to note that a person is unable to pay the tax and stays the warrant procedure. However, it does not allow the county treasurer or other officials to declare that the tax is no longer owing. While some states provide poverty exemptions, we have found no Kansas statute exempting impoverished persons from personal property tax. K.S.A. 79-2102 limits one collection procedure otherwise available to counties. It does not exempt the property from the tax or limit utilization of other tax collection procedures.

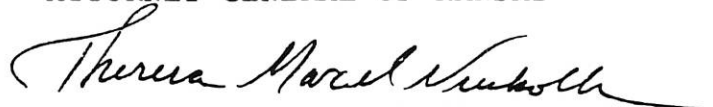
We recognize that our interpretation of the relationship between K.S.A. 1990 Supp. 8-173 and 79-2102 permits an impoverished tax debtor to retain possession of a vehicle while prohibiting legal use of that vehicle. The legislature may want to consider the public policy involved in such a situation. However, unless or until a change is made, K.S.A. 79-2102 and K.S.A. 1990 Supp. 8-173 may be read in harmony and, therefore, both must be followed by local authorities.

Thus, it is our opinion that K.S.A. 1990 Supp. 8-173 requires a county treasurer to decline an application for vehicle registration despite the proper utilization of K.S.A. 79-2102 by a tax debtor.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Theresa Marcel Nuckolls
Assistant Attorney General

RTS:JLM:TMN:bas

State v. Raulston

(687 P.2d 37)

No. 55,853

STATE OF KANSAS and CITY OF OBERLIN, KANSAS, *Appellees*, v. RUSSELL RAULSTON, *Appellant*.

SYLLABUS BY THE COURT

1. **TAXATION—Personal Property Taxes—Payment of Taxes Condition Precedent to Receive Motor Vehicle Registration.** K.S.A. 8-173(a) embodies the general rule that payment of all personal property taxes levied against a person for the preceding year is a condition precedent to receipt of a motor vehicle registration.
2. **STATUTES—Constitutionality—General Principles.** Basic principles to be applied in determining the constitutionality of a statute are reviewed and applied.
3. **CONSTITUTIONAL LAW—Equal Protection—Reasonable Basis Test.** The yardstick for measuring equal protection arguments is the "reasonable basis" test. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective.
4. **MOTOR VEHICLES—Registration—Statutory Requirements—Constitutionality of Statute.** The provisions of K.S.A. 8-173 are examined, and it is held: K.S.A. 8-173(a) does not offend the equal protection clause of the Fourteenth Amendment.

Appeal from Decatur District Court; CHARLES E. WORDEN, judge. Opinion filed September 20, 1984. Affirmed.

William L. Winkley, of Salina, for the appellant.

John E. Bremer, county attorney, and Robert T. Stephan, attorney general, for the appellee State of Kansas.

Terry L. Rogers, of Oberlin, for the appellee City of Oberlin, Kansas.

Before PARKS, P.J., REES and SWINEHART, JJ.

SWINEHART, J.: Russell Raulston, defendant, appeals from a jury verdict which found him guilty of operating an unregistered motor vehicle.

During a two-month period, defendant received three tickets from officers of the Kansas Highway Patrol, and four tickets from officers of the Oberlin Police Department for operating an unregistered vehicle in violation of K.S.A. 8-142 and Oberlin city ordinances. Defendant's trial on the tickets issued by the city police ended in a conviction in the municipal court of the City of Oberlin. Defendant appealed the municipal court conviction to the District Court of Decatur County, where the four city charges and the three state charges were then consolidated for the jury trial with the defendant appearing pro se.

Defendant was given an opportunity to challenge the jury panel for cause,

State v. Raulston

defendant stated: "I think there is a lot of people around here that knows why I'm here. It's a tax issue, it's not a traffic issue." The court removed the jury to allow Mr. Raulston to present his argument that he had not been allowed to register his vehicle because of his refusal to pay "unjust taxes." The court stated that issues of tax were not proper jury questions and cautioned defendant not to raise such issues in front of the jury. At trial defendant neither performed cross-examination nor presented evidence in his own behalf, and was convicted on all seven charges.

Defendant, still acting pro se, filed motions for a new trial suggesting that the court had erred in failing to consider the constitutionality of K.S.A. 8-173. The court considered and denied defendant's motions. Defendant then retained counsel and now appeals to this court.

Defendant clearly raised at trial the issue of the constitutionality of K.S.A. 8-173. The court dismissed the prospective jurors, listened to arguments of defendant and the State, and properly ruled that the issue presented a question of law for the court and not a question of fact for the jury. See *State ex rel. Stephan v. Board of Lyon County Comm'rs*, 234 Kan. 732, 738, 676 P.2d 134 (1984). By proceeding to the merits of the case against defendant, the court tacitly upheld the constitutionality of the statute in question.

The issue on appeal is whether K.S.A. 8-173 violates the equal protection clause of the Fourteenth Amendment by requiring proof of payment of all personal property taxes levied against a person for the preceding year before that person may register a motor vehicle.

K.S.A. 8-173 provides:

"A county treasurer shall not accept an application for registration of a vehicle as provided in chapter 8, article 1, of the Kansas statutes annotated and amendments thereto, unless the person making such application shall exhibit to such county treasurer:

"(a) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle: *Provided*, If such application is made before June 21 such receipt need show payment of only one-half the preceding year's tax; or

"(b) Evidence that such vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer, or was otherwise assessed and taxed, or was exempt from taxation under the laws of this state." (Emphasis supplied.)

10-16

Defendant exhibited no evidence that his vehicle was exempt from taxation or had already been "assessed and taxed" so as to fall within subsection (b), and was therefore required to show evidence of payment of all personal property taxes levied against him for the preceding year (*i.e.*, delinquent taxes) as a condition precedent to registration of his vehicle. See K.S.A. 1983 Supp. 79-2004a; K.S.A. 1983 Supp. 79-5106(a); K.S.A. 8-174; 8-175. Accord K.S.A. 8-136(c).

Although K.S.A. 8-173 does not levy a tax or set a rate, it is adjunctive to enforcing the collection of taxes on personal property. As such, we view it as a revenue measure, rather than a regulatory measure designed to promote the general health, safety, welfare or morals of the community. See *Schoo v. Rose*, 270 S.W.2d 940 (Ky. 1954); 7A Am. Jur. 2d, Automobiles and Highway Traffic § 53. See generally 60 C.J.S., Motor Vehicles § 109; 71 Am. Jur. 2d, State and Local Taxation § 69.

Defendant claims that K.S.A. 8-173(a) results in inequality because a person owing taxes only on his motor vehicle can receive a vehicle registration by paying the tax on that vehicle, while a person owing taxes on other personal property cannot receive a vehicle registration by paying tax on the motor vehicle.

The basic principles which this court must apply in determining the constitutionality of a statute were stated in *City of Baxter Springs v. Bryant*, 226 Kan. 383, Syl. ¶¶ 1-4, 598 P.2d 1051 (1979), as follows:

"The constitutionality of a statute is presumed, all doubts must be resolved in favor of its validity, and before the statute may be stricken down, it must clearly appear the statute violates the constitution."

"In determining constitutionality, it is the court's duty to uphold a statute under attack rather than defeat it and, if there is any reasonable way to construe the statute as constitutionally valid, that should be done."

"Statutes are not stricken down unless the infringement of the superior law is clear beyond substantial doubt."

"The propriety, wisdom, necessity and expedience of legislation are exclusively matters for legislative determination and courts will not invalidate laws, otherwise constitutional, because the members of the court do not consider the statute in the public interest of the state, since, necessarily, what the views of members of the court may be upon the subject is wholly immaterial and it is not the province nor the right of courts to determine the wisdom of legislation touching the public interest as that is a legislative function with which courts cannot interfere."

See *State v. Cantrell*, 234 Kan. 426, Syl. ¶ 10, 673 P.2d 1147

(1983); *Sheppard v. Sheppard*, 230 Kan. 146, 149, 630 P.2d 1121 (1981); *Leiker v. Employment Security Bd. of Review*, 8 Kan. App. 2d 379, 659 P.2d 236 (1983).

The proper test for determining whether a statute offends the equal protection clause was reviewed in *State ex rel. Schneider v. Liggett*, 223 Kan. 610, 616, 576 P.2d 221 (1978).

"Traditionally, the yardstick for measuring equal protection arguments has been the 'reasonable basis' test. The standard was set forth in *McGowan v. Maryland*, 366 U.S. 420, 425-26, 6 L.Ed.2d 393, 81 S.Ct. 1101:

"... The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective. State legislatures are presumed to have acted within their constitutional power despite the fact that, in practice, their laws result in some inequality. A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it. . . ."

"In *Dandridge v. Williams*, 397 U.S. 471, 25 L.Ed.2d 491, 90 S.Ct. 1153, reh. denied 398 U.S. 914, 26 L.Ed.2d 80, 90 S.Ct. 1684; it was stated:

"... If the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification 'is not made with mathematical nicety or because in practice it results in some inequality.'" *Lindsley v. Natural Carbonic Gas Co.*, 220 U.S. 61, 78. . . . (p. 485.)"

See *Manhattan Buildings, Inc. v. Hurley*, 231 Kan. 20, 30, 643 P.2d 87 (1982); *Von Ruden v. Miller*, 231 Kan. 1, 642 P.2d 91 (1982).

K.S.A. 8-173(a) does not on its face or in its application create any classification which could give rise to an equal protection challenge. The statute requires that each person pay all personal property taxes levied against that person for the preceding year before he or she may receive a vehicle registration for any of his or her vehicles. The statute draws no distinctions between different groups of individuals, and is not discriminatory. Defendant does not claim that the statute has been selectively enforced. Because the statute creates no classifications we need not examine whether such alleged classifications are reasonable. However, even if we viewed the statute as creating a classification between those who owe personal property taxes and those who do not, we would find that the classification was reasonable in light of the statute's purpose of assisting in collection of delinquent personal property taxes.

We hold that K.S.A. 8-173 does not violate the equal protection clause of the Fourteenth Amendment.

Affirmed.

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REES, J.: Concurring and dissenting.

I concur in the decision to affirm, but my view of this case varies from that of the majority.

According to the majority, the single issue raised on appeal is whether K.S.A. 8-173 violates the equal protection clause of the Fourteenth Amendment by requiring proof of payment of all personal property taxes levied against a person for the preceding year before that person may register a motor vehicle. They undertake resolution of that question. Since the constitutionality of governmental action can only be challenged by a person directly affected and such challenge cannot be made by invoking rights of others (Manzanares v. Bell, 214 Kan. 589, 616, 522 P.2d 1291 [1974]), the majority therefore assumes that this defendant is or has been directly and adversely affected by K.S.A. 8-173, that is, that the defendant is a person who could not register his motor vehicles by paying only the tax on those motor vehicles because he owed taxes on other personal property owned by him. This assumption excuses any fault to be found in failure of the defendant to have produced evidence concerning his taxes on other personal property.

I.

This is a direct appeal by the defendant from his conviction by a jury on seven counts of operating a motor vehicle not currently registered. The offenses occurred in December, 1982, and January and February, 1983. Three of the counts were prosecuted as statutory violations (K.S.A. 8-142 [First]) and four of the counts were prosecuted as Oberlin City Ordinance violations (Oberlin City Code 16-101 [1980]; Standard Traffic Ordinance for Kansas Cities, League of Kansas Municipalities, Sec. 195 [a] [1983]). The offenses are misdemeanors. K.S.A. 8-149; Oberlin City Code 16-206 (1980). For present purposes, the proscriptions are identical. The statute provides:

"It shall be unlawful for any person . . .
". . . To operate . . . upon a highway . . . any vehicle . . . which is not registered . . . or which does not have attached thereto and displayed thereon the number plate . . . assigned thereto . . . for the current registration year, including [the annual] registration decal required to be affixed . . ." K.S.A. 8-142 (First).

Similarly, the ordinance provides:

"No person shall operate or drive any motor vehicle . . . upon a street or highway within [the] city unless such vehicle carries the currently effective license plate . . . including any registration decal required by the laws of Kansas . . ." Standard Traffic Ordinance for Kansas Cities, League of Kansas Municipalities, Sec. 195 (a) (1983).

Operating a motor vehicle not currently registered is an absolute liability offense. Criminal intent patently is not an element of the offenses for which the defendant has been convicted. See K.S.A. 21-3204. Cf. State v. Baker, 1 Kan. App. 2d 568, 569, 571 P.2d 65 (1977) (speeding); City of Hays v. Schueler, 107 Kan. 635, 193 Pac. 311 (1920) (driving without a taillight); State v. Merrifield, 180 Kan. 267, 269, 303 P.2d 155 (1956) (driving when license suspended); State v. Logan, 198 Kan. 211, 216-17, 424 P.2d 565 (1967) (transportation of liquor not bearing tax stamp). Compare State v. Wall, 206 Kan. 760, 763-65, 482 P.2d 41 (1971) (leaving the scene of an injury accident; knowledge of collision).

Defendant appeared pro se at trial. Without contradiction, the evidence established that on each of the seven occasions when he was stopped and ticketed he was operating a motor vehicle not currently registered. His vehicle bore no current registration decal. He has not claimed it did. He knowingly engaged in the proscribed conduct.

Giving him the benefit of all doubt, defendant sought to claim excuse or justification in defense of the charges. Though somewhat imperfectly, he plainly claimed in the trial court that the Decatur County Treasurer, acting pursuant to K.S.A. 8-173, wrongfully refused annual registration of his motor vehicles. There has been no asserted or suggested claim that in this case the county treasurer acted other than as required of her by K.S.A. 8-173. As the majority does, defendant reads the statute to say that a county treasurer is required to refuse annual motor vehicle registration in the absence of the applicant's payment of taxes levied against him for personal property other than the motor vehicle for which registration application is made. As I will discuss later, I disagree.

Defendant's complaint was and is that the county treasurer's refusal to allow registration was wrongful because K.S.A. 8-173 is unconstitutional. The City aptly states in its brief that defendant's "only defense is that he was wrongly denied a registration decal because of the unconstitutionality of K.S.A. 8-173." This is made clear by defendant's motion for a new trial allegations that:

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"[T]he court erred in its refusal to consider . . . the constitutionality of K.S.A. 8-173 which requires defendant . . . to pay tax upon *other* personal property as a pre-condition to registering and tagging of vehicles . . . K.S.A. 8-173 is unconstitutional in that said statute requires this defendant to perform an act which has no relationship to the registering, tagging and taxing of the vehicle sought to be registered." (Emphasis added.)

The issues on appeal are stated in defendant's brief to be: "Is K.S.A. 8-173 unconstitutional?" and "Did the court err in refusing to consider the constitutionality of K.S.A. 8-173?"

It has never been defendant's contention that either misdemeanor statute, K.S.A. 8-142 (First) or the Oberlin City Ordinance, is unconstitutional. The constitutionality of K.S.A. 8-173 was *the* issue he asked and asks be decided.

If the county treasurer's refusal of defendant's applications for registration of his motor vehicles was mandated because of his nonpayment of taxes on personal property other than those motor vehicles, it remains that his knowing operation of his unregistered motor vehicles was not the product of duress, compulsion or necessity. His operation of the unregistered vehicles undisputedly was of his own volition. It is beyond question that there was no excuse or justification for defendant's commission of the criminal acts with which he was charged. *Cf. State v. Baker*, 1 Kan. App. 2d at 570; *City of Hays v. Schueler*, 107 Kan. at 635; *State v. Merrifield*, 180 Kan. at 269. Under defendant's theory, the unconstitutional action to which he was subjected was the county treasurer's implementation of K.S.A. 8-173, not his prosecution for the charged misdemeanor offenses. If K.S.A. 8-173 is unconstitutional as claimed by defendant, his proper course of action was to seek one of the extraordinary remedies, possibly a mandamus order, compelling the county treasurer's acceptance of his registration applications. Purported unconstitutionality of K.S.A. 8-173 was not an available defense to this prosecution.

In arriving at our decision in this case to affirm, particularly by an opinion the majority directs be published, nothing more need or should be said.

II.

Despite the foregoing conclusion, I will further discuss this case as if the constitutionality question was appropriate for present decision.

Defendant's challenge of the constitutionality of K.S.A. 8-173

State v. Raulston

arises out of a misreading of that statute. K.S.A. 8-173(b) is disregarded. Defendant reads the statute to say the county treasurer is required to refuse an annual motor vehicle registration application in the absence of payment of taxes levied against the applicant for personal property other than the subject motor vehicle. The majority mistakenly agrees.

At a special election held on August 6, 1974, more than three years after K.S.A. 8-173 became effective in its present form, Article 11, § 1 of the Kansas Constitution was amended so as to read in part:

"The legislature shall provide for a uniform and equal rate of assessment and taxation, except that *the legislature may provide for the classification and the taxation uniformly as to class of motor vehicles*, mineral products, money, mortgages, notes and other evidence of debt or *may exempt any of such classes of property from property taxation and impose taxes upon another basis in lieu thereof.*" (Emphasis added.)

Thereafter and by action of the 1979 legislature, K.S.A. 1983 Supp. 79-5101 *et seq.*, our so-called "tax and tags" law (see 1983 General Index to the Kansas Statutes Annotated, p. 620) came into effect January 1, 1980. It explicitly provides that "All motor vehicles . . . shall be valued and taxed under the provisions of this act and shall not be subject to property or ad valorem taxes levied under any other law of the state of Kansas or any resolution or ordinance of any taxing subdivision thereof." K.S.A. 1983 Supp. 79-5102(a). That statutory language and its expression of legislative intent could not be more plain and certain.

K.S.A. 8-173 reads:

"A county treasurer shall not accept an application for registration of a vehicle . . . unless the person making such application shall exhibit to such county treasurer:

"(a) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle . . . or

"(b) Evidence that such vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer, or was otherwise assessed and taxed, or was exempt from taxation under the laws of this state." (Emphasis added.)

K.S.A. 1983 Supp. 79-5101 *et seq.* operates to subject a Kansas motor vehicle owner to payment of tax arising out of that ownership. While this tax is a property or ad valorem tax in nature, it is

appropriate to apply to it a distinctive name. On the annual registration and tax statement form issued by the Kansas Department of Revenue, Division of Vehicles, it is referred to as "automobile property tax" and K.A.R. 1983 Supp. 92-55-1 refers to it too as "motor vehicle tax." To repeat, the motor vehicle is assessed and taxed under K.S.A. 1983 Supp. 79-5101 *et seq.* It is not subject to any other property or ad valorem tax. K.S.A. 1983 Supp. 79-5102(a) and see K.S.A. 1983 Supp. 79-306d.

Following K.S.A. 8-173(a) appears the disjunctive "or" and the presently relevant language of K.S.A. 8-173 is this:

"A county treasurer shall not accept an application for registration of a vehicle . . . unless the person making such application shall exhibit to such county treasurer . . . [e]vidence that such vehicle [1] was assessed for taxation purposes by a state agency, or [2] was assessed as stock in trade of a merchant or manufacturer, or [3] was otherwise assessed and taxed, or [4] was exempt from taxation under the laws of this state." K.S.A. 8-173(b).

To me, it is clear each of defendant's motor vehicles fell within the "otherwise assessed and taxed" category identified in K.S.A. 8-173(b). Each was "otherwise assessed and taxed" under K.S.A. 1983 Supp. 79-5101 *et seq.* For a motor vehicle "otherwise assessed and taxed," K.S.A. 8-173 does not require a receipt showing payment of "personal property taxes," that is, taxes levied against the motor vehicle owner for personal property other than the subject motor vehicle. Such payment and proof of payment is not a prescribed condition precedent to annual motor vehicle registration. This appears from the plain statutory language. Where a statute is plain and unambiguous, an appellate court must give effect to the intention of the legislature as expressed rather than determine what the law should or should not be. *Lakewood Gardens, Inc. v. State, ex rel. Schneider*, 221 Kan. 211, 214, 557 P.2d 1256 (1976); *Amoco Production Co. v. Arnold, Director of Taxation*, 213 Kan. 636, 647, 515 P.2d 453 (1974); *State v. Sleeth*, 8 Kan. App. 2d 652, 655, 664 P.2d 583 (1983). To achieve a perceived beneficial result, it is wrong for us to hold a statute says something it does not.

The foregoing conflicts with Attorney General Opinion No. 82-59, March 8, 1982. "While an opinion of an attorney general may be persuasive it is neither conclusive nor binding." *Wulffkuhle v. Kansas Dept. of Revenue*, 234 Kan. 241, 248, 671 P.2d 547 (1983). The attorney general's opinion is not persuasive. It

reflects no consideration of the disjunctive "or" and K.S.A. 8-173(b).

As I see it, K.S.A. 8-173 did not call for the county treasurer's rejection of defendant's registration of his motor vehicles under the factual circumstances of application rejections we have all assumed in this case. I believe defendant's challenge of the constitutionality of that statute is not a justiciable issue whether asserted in this criminal action or another proceeding.

III.

The majority unnecessarily addresses and undertakes resolution of the question whether K.S.A. 8-173 is constitutional. They do so on the premise that the question was "tacitly" or otherwise decided by the trial judge. That premise is wrong. Because the proffered issue was not decided by the trial judge, we should not. It is not an issue before us for review. Our Supreme Court has said: "We have consistently held, when it does not affirmatively appear that a question raised on appeal was presented to *and determined by the trial court*, this court does not consider it on review." *In re Estate of Jones*, 174 Kan. 506, 514-15, 257 P.2d 116 (1953) (emphasis added).

At trial the defendant sought to have the issue decided by the jury. The trial judge refused to permit that. Quite understandably, defendant's counsel on appeal does not find fault with that action. By statement of the second issue on appeal found in defendant's brief, his counsel clearly complains that the trial judge did not decide the question of the constitutionality of K.S.A. 8-173.

How the majority leapfrogs to the assumed task of passing on the constitutionality of K.S.A. 8-173 escapes my understanding. In my view, the trial judge neither tacitly nor otherwise decided the constitutional question. In this regard, I attach an appendix which is a verbatim statement of the entirety of the record of the trial proceedings material to defendant's assertion of his defense and the issue of the constitutionality of K.S.A. 8-173.

In summary, I agree with the majority opinion to the extent that defendant's convictions should be sustained but in all other material respects I respectfully dissent for the reason that I find the majority opinion substantially is a report of the decision of a case not before us.

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APPENDIX

At the conclusion of the prosecution's voir dire:

"THE COURT: Mr. Raulston, you may inquire as to the jurors qualifications to sit in this matter.

"MR. RAULSTON: I think there is a lot of people around here that knows why I'm here. It's a tax issue, it's not a traffic issue.

"THE COURT: All right. At this point I'm going to ask all of the jurors to please step outside. I think there is a legal issue we need to take up.

("The prospective jurors left the courtroom . . .")

"THE COURT: Mr. Raulston, at this time if you have a legal issue concerning the tax, you may now present it.

"MR. RAULSTON: The jury is not allowed to hear my side of the issue?"

"THE COURT: This is a legal issue and if you wish to present it, we'll determine then whether the jury gets to hear it.

"MR. RAULSTON: . . . There is no justice in a taxing system that says you can't buy a tag for your car without paying unjust taxes, and if a jury can't hear my side of this story, then I'm in the wrong court.

"THE COURT: Well, that issue is not an allowable issue to be presented to the jury. . . . [T]he issues of tax and validity of the tax and issues concerning the validity of the dollars [sic] are [not] allowable jury issues. The questions which will be tried and be submitted to this jury, [are] one, whether or not you were operating a vehicle and whether or not you were operating an unregistered vehicle; and whether this occurred in Decatur County on different dates. That's the issue which the jury will determine. The others are matters of questions of law which shall be presented to the court. . . .

"THE COURT: We're not going to get into a validity of the tax structure in a traffic case. . . ."

At the conclusion of the prosecution's opening statement:

"THE COURT: Any opening statement, Mr. Raulston?"

"MR. RAULSTON: . . . I've been ramrodded into this. Go right ahead."

At the conclusion of the prosecution's direct examination of the Decatur County Treasurer:

"THE COURT: Mr. Raulston, any questions.

"MR. RAULSTON: Yeah, I might. That law that requires you to buy, here's a copy of it, pay these taxes whether you have an income or not, before you can buy a license, there should be no connection between taxes and license plates.

"THE COURT: Do you have any questions you'd like to ask of this witness?"

"MR. RAULSTON: I tried to buy a license and she refused to sell me a license.

"MR. ROGERS: Objection, your Honor.

"THE COURT: Be sustained. You may ask questions, but you may not testify at this point. You'll have an opportunity to testify.

"MR. RAULSTON: No use."

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At the conclusion of the prosecution's direct examination of Trooper Ralph LaSalle:

"THE COURT: Mr. Raulston, you may inquire.

"MR. RAULSTON: No more than I would have any others. The law says I have to pay my taxes before I can have it registered, get my vehicles registered, and I object to these taxes, and that's where it stands.

"THE COURT: Do you have any questions of the witness?"

"MR. RAULSTON: No."

At the conclusion of the prosecution's direct examination of the Oberlin chief of police:

"THE COURT: Mr. Raulston, any questions of this witness?"

"THE COURT: Mr. Raulston, you may ask him questions. You'll have your chance to testify later.

"MR. RAULSTON: Well, I don't think there is any use."

At the close of the prosecution's direct examination of Trooper Steve Myers:

"THE COURT: Mr. Raulston, any questions?"

"MR. RAULSTON: I see no reason to question him."

At the conclusion of the prosecution's direct examination of Oberlin police officer Ken Badsky:

"THE COURT: Mr. Raulston, any questions?"

"MR. RAULSTON: Oh, maybe a little bit here. I was the only criminal in this county, I guess, because the cops had no trouble finding me.

"MR. ROGERS: Your Honor —

"THE COURT: Do you have a question? You need to ask him questions. You'll have an opportunity if you wish to testify later.

"MR. RAULSTON: The questions are loaded. No questions."

Following the prosecution's announcement that it rested:

"THE COURT: Mr. Raulston . . .

". . . Do you wish to present any evidence in your defense?"

"MR. RAULSTON: Well, you'll probably overrule it, so I'd just as well keep still.

"THE COURT: All right. At this time then that would conclude all the evidence to be admitted into the case. . . ."

Out of the jury's presence and concerning jury instructions:

"THE COURT: . . .

"You have some proposed instructions you'd like to have me consider, Mr. Raulston?"

"MR. RAULSTON: I had a U.S. Constitution here to give each one of those jurors. Really, what you're doing here, you're forcing me to pay taxes to support

un-American activities because the money is being used for that. Before you sell me a tag, I'm not going to support un-American activities or the overthrow of our government by paying taxes to support it.

"THE COURT: Okay. Your requested instruction is the Constitution of the United States, is that correct?

"MR. RAULSTON: Say that again.

"THE COURT: I'm asking you is your only requested instruction the one concerning the, the entire copy of the United States Constitution?

"MR. RAULSTON: That's what I'm defending.

"THE COURT: Okay. What we're at now is at the instruction level, and what the instruction level is where this court gives the jury the law that applies to this particular case. . . . I'm willing to see and consider any instructions that you would like to have submitted to the jury. The only instructions submitted to the jury will be the one that I submit to the jury. I will consider any that you have, and I may or may not give them, but I'd be happy to look at any you have.

"MR. RAULSTON: Well . . . now you're going to instruct the jury, but you're not going to let me instruct the jury.

"THE COURT: I'll let you review the instructions, which we have here, and when the final instructions are in, I'll listen to any proposals you have.

"MR. RAULSTON: Why don't you let the jury hear my side of it?

"THE COURT: Mr. Raulston, we'll proceed in the normal manner, not necessarily the way you wish to proceed, but the way that the law —

"MR. RAULSTON: It ain't normal according to the U.S. Constitution.

"THE COURT: Well, we will take a recess until the balance of the instructions are back. I will complete them, and I will give you an opportunity to review them, and you may state any objections you have to them at that time. The State will have an opportunity to review them at which time they may state any objections.

"THE COURT: . . .

"Any objections to Instructions One through Twelve, Mr. Raulston? Did you have any objection to Instructions One through Twelve, and the verdict forms One through Seven?

"MR. RAULSTON: My only objection would be it tells the jury how to vote.

"THE COURT: Any other objections?

"MR. RAULSTON: It violates my constitutional rights.

"THE COURT: Mr. Raulston, did you have any others?

"MR. RAULSTON: Oh, yeah, I have others; but I don't think it would mean anything here.

"THE COURT: Okay. The court then would approve Instructions One through Twelve. . . ."

At the conclusion of the prosecution's closing argument:

"THE COURT: Mr. Raulston, closing argument?

"MR. RAULSTON: Well, he was talking about state law. What they're asking to do is violate my commitment to supporting the U.S. Constitution.

"THE COURT: Mr. Raulston, you cannot hand those to the jury, they're not instructions. You may argue, but you may not hand those to the jury.

"MR. RAULSTON: I am committed to defending the U.S. Constitution over state law.

"THE COURT: Well, Mr. Raulston, you may argue your case to the jury. You may not hand what you have there to the jury.

"MR. RAULSTON: Here is a copy of the state law that violates the U.S. Constitution.

"THE COURT: Mr. Raulston —

"MR. RAULSTON: Taxation without representation.

"MR. RAULSTON: And under the state law, I was convicted before I even come here.

"MR. ROGERS: Objection, your Honor. . . .

"THE COURT: Be sustained. You should address yourself to the [issues] before the jury.

"MR. RAULSTON: I'm not going to address them to your issues, I'm going to address them to my issues or I'm not going to say anything.

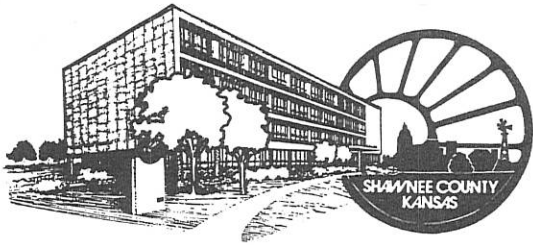
"THE COURT: Well, you may make your closing argument within the bounds which I told you.

"MR. RAULSTON: You've already told the jury to vote me guilty, and I'm not going to say another word."

I wasn't given prosecuting attorneys statements

Zolanda Mashell

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**Shawnee County
Office of County Treasurer**

Room 101, Courthouse, Topeka, Kansas 66603

Phone 291-4080

RITA CLINE
COUNTY TREASURER

February 11, 1992

BEFORE THE KANSAS HOUSE TAX COMMITTEE
(STATEHOUSE, ROOM 519-S)

STATEMENT OF RITA CLINE, SHAWNEE COUNTY TREASURER AND ASSOCIATE JUDY SMITH-CRAWFORD

Madam Chairman, and members of the tax committee:

We appreciate this opportunity to give you our thoughts about the proposed change in personal property taxation on motor vehicles. First of all, we would like to thank you for your hardwork and efforts that you have put forth on this proposal. We appreciated your concern and meetings with us. Your willingness to listen to suggestions and ideas is refreshing and should become more widespread.

As Shawnee County Treasurer and an associate from that office we must tell you our feelings and what we have discovered. We feel your plan is good and that it is very near a final solution. However, after our meeting on Monday, February 3rd, we researched your figures and discovered that under your fee schedule vehicles that are between three years old and approximately six years old would pay more in property tax than what is now being paid in Shawnee County.

After listening to county officials, legislators, senators and attending meetings and reading numerous articles in the newspapers, we are convinced that the only hope of any forthcoming property tax relief this year will be in the motor vehicle area. Therefore, we believe any change in taxation laws should result in either a reduction of taxes or at the very least no overall increase in what is being collected state wide.

We discovered that if the value of the vehicle(s) were tied to NADA values then the amount of the fee or tax would be approximately the same as currently being paid in Shawnee County. It is our recommendation that the fee schedule be in increments of \$5,000.00 using NADA values.

By using NADA values, the State could eradicate the expensive system of class coding vehicles. Numerous hours and dollars are spent using this procedure.

NADA values remain consistent with the economy. Vehicle values and prices are usually the first to respond to a sluggish or good economy. Therefore, this system should never become outdated or antiquated.

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February 11, 1992

STATEMENT OF RITA CLINE & JUDY SMITH-CRAWFORD

Before the Kansas House Tax Committee:

Nobody argues with NADA values. Banks, loan companies, and other financial institutions use these figures for determining loan amounts.

It is for these reasons that we recommend the NADA values be used and not what the vehicle(s) cost new.

MOST IMPORTANTLY, we recommend to curtail government spending that a two (2) year cap be placed on the State's overall collection amount. We are convinced that as long as counties do not lose revenue from a motor vehicle proposal that it will receive the needed support to pass the Kansas House and Senate.

We believe the Counties should collect the moneys, but only retain the same amount that was collected the year preceding implementation.

Should you have any questions or concerns, please feel free to contact us.

Chairperson Joan Waganon Member of the Committee
 Anthony Hensley

The question I believe is what is a fair tax for driving an automobile on our streets and hi-ways. I was aghast when I read Dick Snider's column to find that Kansas was the highest state in the Nation. An average cost of nearly \$700.00. I would like to suggest a figure in the other extreme. If we consider that we are a free people, free to go from one place to another, that it is a right, a privilege of a free society that everyone can go when and where ever he wants not a license granted to a restricted few if you have the money.

The mention of money brings us to the very heart of the problem. I would like for a moment to discuss the Federal Reserve System with you. In 1913 the Congress of the United States created the Federal Reserve System - a private corporation. It consists today, an arm of the International Bankers in the United States. The Federal Reserve Banks, together with the commercial banks create the money, the medium of exchange by a book entry - money out of thin air and they have the audacity to charge as much interest as the times will permit.

A person borrowing \$40,000.00 from a bank at 10% for 30 years will have paid back \$126,432.00. \$86,432.00 more than the cost of the house. Now this \$86,432.00 was never created it is the 4 trillion dollars of National Debt and 9 trillion dollars of Public and Private debt that hangs over our heads today.

Now the Congress of 1913 had no right, what so ever, to pass to a private corporation a prerogative that belongs to a sovereign state to coin money and regulate its value that of issuing the medium of exchange. This can be done by Congress - issuing the money interest free. This money so issued, can be used to build roads, bridges, to pay government employees. The amount of money issued would be that which would maintain a balance with the gross National product.

We are not going to solve our problems of today by shifting taxes. We have to look at the cause of why our taxes ^{are} going through the roof. We have to quit taxing our people off the roads and yes of taking the property from them. If ever there was a cause for a rebellion - We have one here - of you legislators of taking our property by taxation and refusing to correct a fraudulent money system - The Federal Reserve.

Fred Kilian

Fred Kilian

Pt. 1 Box 30

Wamego, Ks. 66547

Phone: (913) 456-9603

House Taxation
 Attachment 12
 02-11-92

Members of House Taxation Committee

The best feature of this bill is that all vehicles would be treated by a uniform statewide vehicle tax and I commend the sponsors of H.B. 2866 for considering the problem of excessive vehicle taxes and attempting to correct the problem, but I rise in opposition to this bill because I feel the problem has not been corrected and no property tax relief is provided by this bill.

This is a NEW CAR bill because taxes on a new car are reduced while taxes in subsequent years are increased.

The Class C Schedule on my 1986 Ford Crown Victoria shows a 6th calendar year tax of \$250⁰⁰ and a 7th yr tax of \$225⁰⁰ while my tax in Aug 1991 was \$202⁰⁰. Isn't this an increase in tax? Is the Class determined by Dealer Sticker price or the purchase price? Example \$21,000 Auto Sticker price purchased for \$19,000 - Class C or D? also would trade-in be considered - Example \$31,000 car - \$15,000 trade in net price \$16,000 - Class C or E?

All motor vehicle tax changes proposed to date offer NO vehicle tax relief but only a redistribution of the same taxes now in effect by providing the same revenues now collected. A Vehicle Fee is not tax deductible for those who itemize deductions and a \$25⁰⁰ yearly tax reduction is not sufficient enough to reflect the true depreciation each year on newer autos. A new car often depreciates 25% the 1st year after purchase, so a \$25⁰⁰ reduction yearly in effect subsidizes the lower tax on a new car purchase.

I propose a Personal Property tax Cap. of 1 $\frac{1}{4}$ % or 1 $\frac{1}{2}$ % of the average or "as is" vehicle value as determined by NADA or other value information manuals. Example - Tax on a 10,000 car value would be \$125⁰⁰ or \$150⁰⁰.

The local mill levy would no longer be a factor, and this formula would also be a uniform statewide vehicle TAX.

Edwin Hoegge K.E.P.P.T. (Kansas for Equal Property and Personal Tax)
Property Tax CAP



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Taxation
FROM: E. A. Mosher, Research Counsel, League of Kansas Municipalities
RE: HB 2866 - Taxation of Motor Vehicles
DATE: February 11, 1992

On behalf of the League and its member cities, I appear in opposition to HB 2866. The League's convention-adopted Statement of Municipal Policy provides that "any changes to the state law levying the special, in lieu tax on motor vehicles should be revenue neutral to avoid shift to the general property tax". While HB 2866 may be substantially revenue neutral on a state-wide basis, the intent of our present convention policy deals with revenue neutrality on a county or intracounty basis, not state-wide.

Our analysis of 1990 average county-wide tax rates (latest available) shows that there were 12 counties, mostly rural, which had an average tax rate of less than 100 mills, the lowest being Stevens County at 34.7 mills. In contrast, there were 43 counties, generally urban, with an average rate of more than 125 mills, the highest being Cloud County at 164.2 mills. With this wide variation in rates - more than 1 to 4 - any state-wide flat fee approach can only result in significant increases in taxes, and local revenue, in some counties, and significant reductions in others.

We are aware of the sentiment of some persons that vehicles ought to be taxed the same no matter where you live in Kansas. The reality is that we are a widely varying state, with different needs, different levels of public services, and differing levels of assessed valuation. We see no public policy reason why taxes on motor vehicles should be the same throughout the state, any more than should the taxes on homes, farms or other real estate.

We are also aware of the concerns expressed by some people as to the amount of motor vehicle taxes they pay, especially by those who do not directly pay real estate taxes. We are not trying to be obstructionists to change, but our position is dictated at least partially by our recognition that the costs of local government, which delivers most of the direct public services in Kansas, has got to come from some place, and tax reductions here must be followed by revenue increases there.

One approach to providing some relief to the motor vehicle owner could be similar to SB 500, which deals with the valuation through depreciation rate changes, supplemented by an increase of the taxes on motorcycles and older vehicles which have not been changed since 1979. Another approach, which we somewhat reluctantly call to your attention, is an adjustment to the motor vehicle tax rate, on a phased-in reduction basis. For example, the rate applied beginning in 1993 might be set at 95% of each county's average rate, then 90%, and so on. This would at least provide local governments with some time to adjust to predictable future

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losses in revenue. At the same time, we ought to recognize that new methods of financing schools could have a major impact on average county tax rates. We note that if a 30 mill rate for school purposes was excluded from calculation of the average county tax rate in 1990, this would have reduced the average statewide property tax rate of 116.09 mills by 25.8%.



"Service to County Government"

To: Representative Joan Wagnon, Chairperson
Members House Taxation Committee

From: Bev Bradley, Deputy Director
Kansas Association of Counties

Re: HB 2866 Taxation of Certain Motor Vehicles

The Kansas Association of Counties appreciates the efforts of the Taxation committee in exploring alternative ways of taxing motor vehicles in Kansas. We know a bill cannot be all things to all groups. We must, however, oppose HB 2866 based only on the loss of revenue. The county treasurers have said they can administer one method of vehicle taxation as easily as another, but revenue loss is very hard to overcome.

We know of no other source of revenue that counties or the other taxing units can use to recover that amount of lost revenue. Local option sales tax has been mentioned. We understand that 61 counties have levied local option sales tax and 52 of those are at 1 percent. We know of others that have had sales tax on the ballot and it has failed. Therefore we believe local option sales tax is not a good alternative.

Kansas Association of Counties opposes HB 2866 because of the loss of revenue. Thank you for the opportunity to appear today.

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