

Approved: 3-31-95
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 15, 1995 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee: Listed after each bill.

Others attending: See attached list

Chair opened hearings on
SB 132 - Taxation of the business of banking; prohibiting

Proponents:

Greg Musel, MidContinent Investors, KC (Attachment 1)
John Holtmann, General Counsel, Metmor Financial Inc., KC (Attachment 2)
Mike Gulinson, CFO, Corinthian Mortgage Corporation, Overland Park (Attachment 3)
Jennifer Unruh, Overland Park Chamber of Commerce (Attachment 4)

Hearing closed on **SB 132.**

Chair opened hearing on:
SB 197 - Land devoted to agricultural use inclusive of land designated as controlled shooting area

Proponents:

Whitney Damron, Pete McGill & Associates for Flint Oak Ranch (Attachment 5)
included written testimony from Board of Tax Appeals (Attachment 6)
and Robert Henderson, Hamilton (Attachment 7)
Ken Corbet, Ravenwood Hunting Preserve (Attachment 8)

Interested Party:

James Eby, retired businessman, Howard (Attachment 9)

Opponents:

Senator Bill Wisdom
Conrad Miller, Attorney for Elk County
Leland Stevens, Elk County Appraiser (Attachment 10)
Maurice Marion, Elk County Commissioner

Senator Wisdom testified as opposed to **SB 197** as the income from the agricultural land at Flint Oak Ranch is less than 1%. This is a commercial venture - a premiere hunting club. In equity and fairness to the other citizens of Elk County, this bill should not be passed.

Attorney Conrad Miller briefed the committee on the various law suits involving Flint Oak Ranch and voiced strong opposition to **SB 197.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on March 15, 1995.

Committee questioned Ron Swisher, Property Valuation Division, on definition of use value and predominate use in regard to agricultural land.

Closed hearing on **SB 197**.

Chair opened hearing on:

HB 2232 - Amending job expansion and investment credit act.

Proponents:

Mark Russell, president, LaSiesta Foods, Topeka (Attachment 11)

Closed hearing on **HB 2232**.

Chair opened hearing on:

HB 2401 - Funding source for corporation for change

Proponents:

Julie Sargent, Project Coordinator, Support Program, Lawrence (Attachment 12)

Eadie Jorns, Riley County Youth Task Force

Due to lack of time Rep. Pat Pettey and Gary Brunk, Corporation for Change will appear as proponents to **HB 2401** at the Taxation Committee meeting on March 16.

Chair closed hearing on **HB 2401**.

Introduction of Committee bill

Moved by Mays, seconded by Aurand, bill be introduced concerning bonded indebtedness limitations when sales tax revenues pledged for Douglas County. Motion carried.

Additional written information presented to the committee;

SB 324 - Joe Lieber, Kansas Cooperative Council (Attachment 13)

SB 41 -- Hentzen Consulting Service (Attachment 14)

Adjournment.

The next meeting is scheduled for March 16, 1995.

TAXATION COMMITTEE GUEST LIST

DATE: MARCH 15-1995

NAME	REPRESENTING
Kenneth L Corbet	Ravenwood Hunting Preserve
Lawrence D Fontana	Elk County
James C Rader	Elk County Comm
Zeland Stevens	Elk County
Maurice Morrison	Elk County Commissioner
Pat Robertson	Elk County Treasurer
Morris Haddie	Elk County Clerk
Neva L. Walter	Elk County Register of Deeds
CONRAD MILLER, JR	ATTY FOR ELK COUNTY, KS.
Mark Barcellina	KDOFF
MARK RUSSELL	LA SIESTA FOODS, INC.
Christy Young	La Poplar Charley of Com.
Betty M. Eley	Visitor, Elk Co.
James W Eley	Elk Co Taxpayer
DONALD SNOODERASS	Ks FOOD DEALERS ASSN.
Frances Kastner	Ks Food Dealers Assn.
Louis Cashner	City of Hays
Judy Miller	Corporate for Change
Edie Johnson	Marathon Youth Council

2150383

SENATE BILL NO. 132

Senate Bill No. 132 repeals K.S.A. 79-1103 and 79-1105a. These two sections impose a tax on the capital of any person or entity engaged in the "business of banking." The "business of banking" is defined to include anyone who tries to make a profit by lending money or buying or selling bills of exchange, notes, bonds, stocks or other evidence of debt. The tax amount of 5 mills is applied against the total capital of the business. Although originally targeted toward "banking", today banks, savings and loans, and trust companies do not pay this tax.

K.S.A. 79-1103 was adopted in 1930. In 1973, the Legislature separated the taxation of residents from nonresidents by enacting K.S.A. 79-1105a. K.S.A. 79-1103 now applies only to residents. K.S.A. 79-1105a applies only to nonresidents. Although not identical in language, the two sections are being enforced in the same manner.

The history of 79-1103 and 79-1105a reaches back to the 1860s, when Congress allowed the states to tax national banks on the value of the shares in the hands of the bank's shareholders. At the same time, Congress prohibited states from discriminating in their tax policies against nationally chartered banks and in favor of state chartered banks. Each and every bank, savings and loan, trust company or other individual competing with national banks had to be taxed by the state in the same manner as the state taxed national banks. Kansas reacted by passing the predecessors to K.S.A. 79-1103. Versions of what would eventually become K.S.A. 79-1103 appear in the General Statutes of Kansas in 1876 and 1891. See First National Bank of Junction City v. Geary County, 102 Kan. 334, 339-341 (1918).

In a law passed in 1926, Congress allowed the states the option of taxing national banks on their income instead of taxing their capital. In 1963, Kansas adopted this congressionally authorized alternative method to tax banks by enacting K.S.A. 79-1107. Because banks were now taxed on their income, the historical reasons supporting 79-1103 and 79-1105 were effectively eliminated. Since 1963 banks in Kansas, whether nationally or state chartered, have been taxed based on a percentage of their net income, a calculation similar to an income tax. However, unlike Metmor, banks are not subject to Kansas income tax.

Although the Legislature carved out a new taxation system for the traditional lenders who had originally been affected by K.S.A. 79-1103, it failed to repeal those sections. However, between 1963 and 1993, there is no record of any County enforcing these statutes or collecting any tax under them. Since 1963, there is no record of any substantive discussion regarding the validity of, need for, or purpose of these statutes.

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For at least twenty years, these sections lay virtually ignored. In 1993, Johnson County dusted off these statutes and began to enforce this old tax against visible financial services companies like Metmor, gradually broadening its sweep to include more businesses each year. Without any legislative mandate or history, and with no guidelines or instructions from the Kansas Property Valuation Division, the Johnson County Appraiser began requiring certain businesses which arguably fit within the definitions of the sections to pay the tax in lieu of a tangible personal property tax. As of 1994, approximately 80 Johnson County businesses have been required to pay this tax.

The individuals and businesses subject to this tax are already subject to Kansas income, sales, and real property tax. In addition, but for the application of 79-1103 or 79-1105a beginning in 1993, they would pay Kansas tangible personal property tax. Passage of Senate Bill 132 will not provide any special benefits to these individuals and businesses. It simply places them in the same position they were in in 1993 and ensures they receive the equal treatment with others Kansas taxpayers.

The taxes imposed by K.S.A. 79-1103 and 79-110a are antiquated, ambiguous, unequally enforced and discriminatory. They discourage economic development in Kansas by imposing a unique and higher tax on businesses who locate in Kansas than those businesses would pay in other surrounding states. Passage of Senate Bill 132, and repeal of these relics from the past, will result in sensible tax policy and a productive economic development climate for Kansas.

Section by Section Analysis

- Section 1:** Prohibits levy of taxes under K.S.A. 79-1103 and 79-1105a for tax years 1995 and beyond. Also prohibits any county appraiser from initiating any audits, investigations, or examinations of taxes under these sections for prior years. Also prohibits any county appraiser from adjusting or altering any taxes assessed for prior years. Finally, preserves the rights of those taxpayers who have properly filed protests of taxes assessed under these sections to proceed with their appeals and the rights of the counties to respond to those appeals.
- Section 2:** Technical amendment repealing subsection (m) of K.S.A. 12-1,109. Subsection (m) provided an exemption from any local intangibles tax for those persons and entities subject to taxation under 79-1103 or 79-1105a.
- Section 3:** Repeals K.S.A. 12-1,109, 79-1103, 79-1104, 79-1105, 79-1105a and 79-1105b.
- Section 4:** Act to take effect and be in force from and after its publication in the Kansas register.

TESTIMONY OF JOHN HOLTSMANN
IN SUPPORT OF SENATE BILL NO. 132

before the

House Committee on Taxation
Representative Phill Kline, Chair

March 15, 1995

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Testimony of John Holtmann
Metmor Financial Inc.
In Support of Senate Bill No. 132

March 15, 1995

Mr. Chairman, thank you for the opportunity to appear before this Committee today in support of Senate Bill No. 132. My name is John Holtmann and I am the General Counsel of Metmor Financial Inc. I know your time is short and your plate is full, so I will outline as briefly as I can why this legislation is so important to Metmor and, I believe, to the State of Kansas.

Senate Bill 132 would repeal an antiquated, ambiguous, unequal, unfair, and almost totally unenforced tax on Metmor and other similarly situated companies. I believe the tax is unfair and, if not repealed, will discourage companies like Metmor from staying in or moving to Kansas. Additionally, Metmor's lawyers believe the tax is unconstitutional and illegal. Today I intend to focus on the practical and economic reasons for repealing K.S.A. 79-1103 and 79-1105a. I will leave the legalities to another time and place.

As an introduction, Metmor is in the business of servicing and, to a much smaller extent, originating mortgage loans. Servicing of a mortgage loan consists primarily of the collection of the monthly mortgage payments, payment of property taxes and insurance for the borrower, and payment of principal and interest to the mortgage loan to the owner of the note. At December 31, 1994, we serviced approximately \$9.3 billion in residential

mortgages and approximately \$3 billion of commercial mortgages. Currently, Metmor employs over 400 people in the state of Kansas.

Our servicing operations have not always been located in Kansas. In 1986, Metropolitan Life Insurance Company owned two large mortgage companies; one located in Oklahoma City, Oklahoma, and the other located in Los Angeles, California. In August of that year, it was decided to move the Oklahoma City operation in its entirety to Kansas. This decision was made after carefully evaluating eight different cities across the country and considering a variety of business and quality of life factors such as transportation availability, mail service, public schools, institutions of higher education, banking environment, and tax burdens. After careful consideration of all of these factors, the decision was made to relocate to Kansas. In connection with this relocation, 72 employees were transferred from Oklahoma City and 90 employees were hired from the Kansas City area to service these loans on the day we opened our business in Overland Park and additional hirings were made as the servicing operation continued to grow.

In 1989, after evaluating the success of our company's operations in Kansas, MetLife decided to consolidate all of its operations in Overland Park. This resulted in the creation of 350 additional jobs in Overland Park, thereby adding to the tax base of the state. We believed in 1989, as we believe now, that Kansas has a productive and progressive attitude towards businesses and people. We want to maintain our jobs and our homes in Kansas.

Since moving to Kansas, Metmor has been subject to Kansas income taxes, tangible personal property taxes, and real property taxes on any property it owns. Its employees pay Kansas income taxes on income earned in Kansas and sales taxes on purchases made in Kansas. The employees that live in Kansas pay personal and real property taxes. We like to think that we are a good corporate citizen which provides good jobs, a good tax base, and good people to Overland Park and to Kansas.

So why are we here today? In 1993, for the first time ever, the Johnson County Appraiser demanded that Metmor pay a new tax in place of its personal property tax. The appriaser had set about enforcing two obscure provisions in the Kansas tax statutes--K.S.A. 79-1103 and 79-1105a. You have heard the history of these taxes. Let's talk about their impact on Metmor.

Before 1993, Metmor willingly paid Kansas property tax on all of its tangible personal property. In 1993, the County Appraiser demanded that Metmor pay its tax under 79-1105a, eventually resulting in additional tax payments by Metmor of approximately \$262,900 over and above what would have been paid in tangible personal property tax. In 1994, the County Appraiser again demanded Metmor pay its tax under 79-1105a, resulting in additional taxes of approximately \$217,400 over and above what would have been paid in tangible personal property tax.

Metmor is not alone as a victim of this outdated tax. So far about 80 business in Johnson County have been deemed subject to

1103 or 1105a. The appraiser is, of course, looking for more. The broad scope of the statutes threatens to tax every business, large or small, which offers credit terms to customers, which buys stocks, bonds, or promissory notes, or which participates in any way in documents evidencing debt. Without repeal, every mom and pop shop which gives its customers 30 days to pay is potentially "engaged in the business of banking" and subject to the tax.

I have no doubt that the counties relish this new source of untapped revenues. As local governments search for more money, why not dust off these old taxes? Metmor, and other taxpayers, however, see it as an unfair bolt out of the blue. No prior notice. No prior enforcement--or at least no enforcement that was consistent, fair or uniform. No interpretation of the definitions other than what each individual county appraiser considers reasonable. And an additional, annual tax bill for Metmor in the hundreds of thousands of dollars.

This new enforcement of antiquated and ambiguous statutes arguably represents administrative taxation. No legislative action took place, but the administrators of our property tax system have decided now this tax must be collected. The alternatives for a business are to fight the appraiser in court about the interpretation and application of a statute passed 60 years ago or to throw up its hands and move on.

No one has been able to explain why, from a tax policy standpoint, this type of tax is necessary, how it can be

interpreted and applied uniformly, or how it can be enforced fairly. Nor can anyone explain how this tax on the people in the financial services industry benefits economic development in Kansas. Metmor's corporate parent, Metropolitan Life Insurance Company, has asked Metmor hard questions about the unbudgeted payments Metmor has authorized to Kansas to satisfy this "new" tax. How do I explain to them that the county has only recently discovered a new tax and that it is being applied first to visible companies like Metmor. How do I explain that the benefits to Metmor of being located in Kansas are now significantly less than they were in 1992?

The economic and tax climate in Kansas is the subject of much discussion in this legislative session. As you hear the testimony this morning, I know you will recognize the damaging impact, on businesses large and small, of this "newly discovered" tax. You will also recognize the discouraging impact this tax can have on economic development prospects throughout Kansas.

Metmor and its employees, and 80 other businesses in Johnson County, have already felt the impact of this tax. Other counties are not far behind Johnson County, with the larger, urban counties leading the way. Metmor is weighing right now its options to avoid these large taxes in the future. Obviously these options include relocating outside of Kansas. Pass Senate Bill 132, repeal these sections, and those negative effects on a large number of Kansas residents and business can be avoided.

2.6

Thank you for your time. If you have more detailed questions about the history or legal issues surrounding these sections, I will be happy to try and answer them.

2-7

Mike Gulinson
Chief Financial Officer
Corinthian Mortgage Corporation
Overland Park, Kansas

I. CORINTHIAN MORTGAGE CORPORATION

Corinthian Mortgage Corporation has been in existence and headquartered in Overland Park for nearly ten years. We employ approximately 190 people, of which 145 are located in Johnson County. We are strictly a lender, purchaser, and servicer of single family residential mortgages. As a servicer, we collect house payments from customers and insure that their insurance and property taxes are paid. We are an active participant as originator and servicer in affordable housing initiatives in the State of Kansas. We originate over one billion dollars in mortgages each year and service nearly two billion dollars for 28,000 customers. About ten percent of the mortgages we service are located in Kansas.

Approximately one half of our employees are engaged in servicing, and over sixty percent of our revenue is derived from that aspect of our operation.

II. TAXATION OF CORINTHIAN

When we organized and located in Overland Park, we considered a number of factors. We, like every business, depend greatly on our employees. We find the citizens of our area to be well educated and highly motivated. We have enjoyed our location and convenience of travel. We considered that we would be paying state income taxes, personal property taxes, and, through our rents, real property taxes. We did pay these taxes for eight years. Approximately two years ago, however, we were notified by the Johnson County Appraiser that he deemed that we should be taxed under Kansas Statute 79-1105a in lieu of personal property taxes. For the first year so computed, we would owe an additional \$25,000 in taxes. As our capitalization has grown through profits, that differential is now more like \$50,000 - \$60,000 annually.

III. REPEAL OF 79-1105a

We are joining in the effort to repeal 79-1103 and 79-1105a, primarily for three reasons.

A. Vague Language Creates Unfairness

To my knowledge, this statute has not been enforced for years. We were not considered under it until two years ago. Will it be enforced only in Johnson County? Only against mortgage companies? What about automobile and consumer finance companies? What about retailers who provide credit? If we cannot readily determine what types of business are covered by the statute, how can we have any assurance that it will be fairly and equitably applied?

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B. Resources and Revenues Outside the State and County, and Other Than Lending Operations, are Taxed

Apparently, it is the fact that we originate and purchase loans that has caused us to be brought under this statute. As I mentioned, however, only about 40% of our revenue is derived from this source, with the remainder coming from the servicing of loans. Only about ten percent of our loans are on property located in Kansas, and fewer than that in Johnson County. Nevertheless, the Johnson County Appraiser is seeking to tax our entire capital, and the vagueness of the statute allows him to take that position.

C. We Now Have a Disproportionate Tax Burden

As I mentioned, by falling under this statute, we will pay in the first year \$25,000 more in total taxes than if we were a "regular" service company. The disparity is even greater compared to entities against which we partially compete - those taxed as regular financial institutions. For that same year, we would pay \$50,000 more than these companies.

IV. CONCLUSION

We have been, and wish to continue to be, good corporate citizens of this state and county. We expect to pay our fair share of taxes, which last year included nearly \$400,000 in state income taxes. We must also, however, consider the best interests of our shareholders and be able to justify the tax burden where we are located as compared to moving just a few miles east.

We have, in fact, recently contracted to lease 35,000 square feet of space in Johnson County. Our lease is a long term lease, but, because of the uncertainty of this legislation, we have reserved to ourselves the right to terminate the lease within a much shorter period of time, due to our concerns.

We ask only that the playing fields upon which we compete with our fellow bankers, savings and loans, credit unions and the like, be a relatively level playing field, and that we all contribute as equally as possible to meet our respective obligations to support state and local government.



S.B. 132

TESTIMONY

HOUSE TAXATION COMMITTEE

3/15/95

Thank you mister chairman and committee members. My name is Jenny Unruh, Government Relations Manager for the Overland Park Chamber of Commerce. I am here today to express the Chamber's support for S.B. 132.

The Chamber's mission is to promote a positive and competitive business climate and continued economic development for Kansas.

Reasons for support:

1. 25% of the Johnson County economy is the business of growth.
2. Impact to existing and future mortgage banking companies.
 - Currently, 53 firms in Johnson County employ over 1,000 people.
 - Many of these firms are basic because they export their services regionally/nationally and bring income to Kansas.
 - The 5 mills of property tax has recently been discovered. This tax is not paid by others and is in essence a new and different tax.
 - This tax is not imposed in Missouri.
 - Real Estate cycles have small firms coming and going...future choice may be Missouri.

-over, please-

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3. Property Tax Sensitivity.

- Johnson County commercial real estate taxes are \$3.50-\$4.50/square foot...and according to experts are on their way to \$5.00.
- Since classification, local governments will attest to the fact that we are sensitive to even .1 of a mill. Therefore, 5 mills is significant.
- This tax is kept local and therefore the state does not lose current revenues by the passage of this bill. However, the potential for loss is present should this bill not be passed.

Thank you for your time and consideration.

TESTIMONY PRESENTED
TO THE
HOUSE TAXATION COMMITTEE
BY
WHITNEY DAMRON
OF
PETE MCGILL & ASSOCIATES
ON BEHALF OF
FLINT OAK RANCH
ON
SB 197

MARCH 15, 1995

Mr. Chairman and members of the House Taxation Committee,

I am Whitney Damron of Pete McGill & Associates and I appear before you today on behalf of our client, Flint Oak Ranch, located in south-central Kansas in Elk County in support of SB 197. Flint Oak Ranch is a 2,800 acre hunting preserve established and licensed as a controlled shooting area by the Kansas Department of Wildlife and Parks.

The intent of SB 197 is to clarify legislative intent that land established as a controlled shooting area pursuant to K.S.A. 32-943 be deemed "land devoted to agriculture use." There are presently 128 controlled shooting areas licensed in the state according to the Kansas Department of Wildlife and Parks. Distributed with my testimony is a list of those preserves obtained from the Department.

A hunting preserve typically involves developing agriculture land in a manner to attract and support game birds and wild animals. Feed crops are planted and wooded areas are maintained for the benefit of wildlife. Some commercial harvesting of crops typically occurs. However, in many cases, the primary usage of crops is as feed and cover for wildlife and therefore not harvested. Land may also be used for livestock grazing purposes, particularly during times hunting is not allowed. In essence, the principal agriculture purpose is the harvesting and support of game birds and wildlife.

SB 197 was introduced to correct an unfair and unequal tax situation in Elk County. The majority of land owned by Flint Oak is presently being classified as "Other" by the county appraiser, which is at a 30 percent classification rate. Based upon our discussions with county appraisers, preserve owners and people in the Division of Property Valuation (PVD), Flint Oak is the only shooting preserve in Kansas being assessed at any rate other than as an "Agriculture Use" which is "Use Value". The land in question comprises approximately 1,800 acres and does not include the lodge, buildings or the sporting clays course. They are presently classified as "Other" and would not be affected by this bill.

By way of background, SB 197 is virtually identical to a bill sponsored by Senator Leroy Hayden of Satanta, Kansas in 1990 to address a similar problem encountered by a constituent in southwestern Kansas. In that case, the county appraiser notified an operator of a controlled shooting area of his intent to reclassify his operation as commercial land rather than land devoted to an agriculture use. SB 551 was introduced in 1990 and passed the Senate by a vote of 39-1. By the time the bill reached the House Taxation Committee, the Property Valuation Director had issued a Directive to clarify the Department's position on such property and the county appraiser abandoned his efforts to reclassify the preserve. The only difference in SB 551 from 1990 and SB 197 from 1995 is found in the effective dates.

That PVD Directive was ultimately rescinded pursuant to a general court order rescinding all such Directives. However, in November of 1992, a similar Directive was promulgated by PVD to address the same issue. Copies of both of those Directives are attached to my testimony. Based upon our reading of those Directives, we believe the land in question should be classified as "land devoted to agriculture use."

Opponents to the bill will argue that this matter is the subject of litigation. This bill will not settle a lawsuit nor was it ever intended to do so. It is true that Flint Oak has appealed their classification change to the Kansas Court of Appeals. However, SB 197 is prospective from December 31, 1994 and has no effect on those years.

You may hear that Flint Oak is a fancy hunting lodge visited by people of substantial wealth from all over the United States. Make no mistake about it, Flint Oak is among the finest hunting preserves in the country. However, it is contrary to our State Constitution to discriminate against a property owner based upon their clientele and we would submit that such issues and statements have nothing to do with this legislation. Flint Oak is a first class operation that is seasonally open to the public and has raised hundreds of thousands of dollars for worthy charities over the years.

Several legislators told us they had not heard from owners of shooting preserves located in their districts and therefore did not believe there was a problem or the bill was unnecessary. We would submit there may not be a problem in 104 counties at this time. However, there is a problem in Elk County and the ultimate disposition of that matter could have a devastating impact upon all hunting preserves in Kansas. Under the "Uniform and Equal" doctrine of the Kansas Constitution, we would submit that county appraisers may be required to classify shooting preserve land in this manner in the event of an adverse decision by the Court absent the clarification of SB 197. Furthermore, if legislative intent is not clarified with SB 197, farmers and ranchers who lease their land out to hunters and other sportsmen could also see the classification rate of their land changed from "Agriculture Use" to "Commercial" or "Other" based upon such lease agreements being determined to be "non-agriculture related."

We do not believe this bill changes legislative intent or PVD/Revenue policy. SB 197 simply corrects the classification rate being incorrectly applied in Elk County and protects all other such operations in Kansas from similar treatment by their county appraisers. The cultivation of land for the production of wildlife is deemed to be an agricultural pursuit in 104 out of 105 counties in Kansas. Even Flint Oak's land in Elk County was also initially so classified.

We would respectfully suggest that the change in the classification rate by Elk County in 1990 and 1991 is contrary to legislative intent and the property tax classification rate for controlled shooting areas in all of Kansas should be clarified by this Legislature rather than allowing Elk County to do that for you.

On a closing note, I would call your attention to the memorandum submitted to the Committee by the Chairman of the Kansas Board of Tax Appeals in support of SB 197.

On behalf of Flint Oak Ranch, we thank you for the opportunity to present these comments in support of SB 197 and would respectfully request your favorable consideration of the bill.

I would be pleased to stand for questions at the appropriate time.

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-020

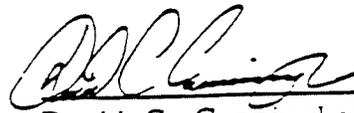
TO: County Appraisers
SUBJECT: Controlled Shooting Areas

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

Controlled shooting areas shall be valued as follows:

1. The establishment of a controlled shooting area pursuant to K.S.A. 32-943, *et seq.*, does not automatically preclude classifying said parcel(s) as "land devoted to agricultural use" (Class 1, B).
2. A parcel established as a controlled shooting area should be classified, as any other parcel, on the basis of its current predominate use.
3. Any building/structure used to support said controlled shooting area, shall be classified as "Commerical/Industrial" (Class 1, D) and shall be assessed to 25% of its value.

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

Directive



KANSAS DEPARTMENT OF REVENUE
Division of Property Valuation
 Robert B. Docking State Office Building
 Topeka, Kansas 66612-1585

DIRECTIVE

TO: County Appraisers, *✓* Clerks, Registers of Deeds, County Commissioners

FROM: John R. Luttjohann, Director of Property Valuation *JR*

DATE: June 29, 1990

RE: Controlled Shooting Areas

In an attempt to eliminate confusion and increase uniformity among the counties in regards to the method of valuation and the rate of assessment to be applied to lands established as a controlled shooting area, pursuant to KSA 32-943, et seq, I hereby direct:

1. That the establishment of a controlled shooting area pursuant to KSA 32-943, et seq, does not automatically preclude classifying said parcel(s) as "land devoted to agricultural use" (Class 1, B).
2. That parcels established as a controlled shooting area should be classified, as any other parcel, on the basis of it's current predominate use.
3. That all buildings/structures used to support said controlled shooting area, be classified as "All Other" (Class 1, D) and be assessed at 30% of its value.

Please feel free to contact my office should you have questions/comments regarding this directive.

Post-It* Fax Note 7671		Date	6/2/95	# of pages	1
To	Alco Steppert	From	Ron Swisher		
Co./Dept.		Co.			
Phone #		Phone #	296-2345		
Fax #	233-2206	Fax #			

Phone (913).

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1994-1995 CONTROLLED SHOOTING AREAS

These areas are open from September 1, 1994 through March 31, 1995. No special license is necessary if you have a resident or nonresident hunting license. A nonresident can however purchase a controlled shooting area license if he wishes, the cost is \$13.00. This license may only be used to hunt on controlled shooting areas.

License Number	Operator	Location of area
002	Flying Diamond Ranch James Ralstin 316-478-2697	150 N Main Suite 514 Wichita, KS 67202 Kingman - 1280 acres
003	Hamilton Hunt Club Richard Hamilton 913-272-2231	6002 Stonybrook Ct Topeka, KS 66614 Shawnee - 640 acres
004	Ravenwood Hunting Preserv Kenneth Corbet 913-256-6444	10147 SW 61st Topeka, KS 66610 Shawnee - 160 acres
005	Red Rock Game Farm, Inc. Ernest L. Pugh 913-456-7664	10855 Brodwick Wamago, KS 66547 Pottawatomie - 320 acres
007	K.S. Martin H G Rutherford 316-783-0802	RR 1 Box 175A Augusta, KS 67010 EK - 360 acres
009	Salt Creek Hunt Club # 1 Leon Hart	HCR 1 Box 3A Barnard, KS 67418 Mitchell - 1280 acres
011	Pheasants Galore Vern & Jill Hibbard 316-675-8418	HCR 1 Box 5 Sublette, KS 67877 Haskell - 640 acres
012	Pheasants Galore Vern & Jill Hibbard 316-675-8418	HCR 1 Box 5 Sublette, KS 67877 Haskell - 480 acres
013	Pheasants Galore Vern & Jill Hibbard 316-675-8418	HCR 1 Box 5 Sublette, KS 67877 Haskell - 160 acres
014	Pheasants Galore Vern & Jill Hibbard 316-675-8418	HCR 1 Box 5 Sublette, KS 67877 Haskell - 320 acres
016	Thomas Routh Hunt Thomas Routh 913-948-3477	Box 89 Ellis Rd Havensville, KS 66432 Pottawatomie - 240 acres
017	Ringneck Ranch, Inc. Keith Houghton 913/373/4835	HC 61 Box 7 Tipton, KS 67485 Mitchell - 1220 acres
018	Ringneck Ranch Inc. Keith Houghton 913-373-4835	HC 61 Box 7 Tipton, KS 67485 Mitchell - 1200 acres
019	Midas Touch Hunt Club John C. Mull 316-663-2238	307 W 20th Hutchinson, KS 67502 Rice - 1080 acres
020	Ringneck Ranch, Inc. Keith Houghton 913-373-4835	HC61 Box 7 Tipton, KS 67485 LC/OB - 1280 acres
023	Earl Kelly Preserve Harry G. Rutherford 316-733-0802	RR 1 Box 175A Augusta, KS 67010 Chautauqua - 860 acres

COPY

License Number	Operator	Location of area
024	Blue Stem Hunting Pres. J. Corry Tinsmon 316-943-3377	3915 Walker Wichita, KS 67213 Elk - 1275 acres
025	Quail Valley Farms Myron Stuckey 316-345-8367	16501 NW 72nd Moundridge, KS 67107 Harvey - 320 acres
026	Liebau Preserve J. Corry Tinsmon 316-943-3377	3915 Walker Wichita, KS 67213 Elk - 1040 acres
027	Blue Line Club Bernie Janssen 913-488-3785	RR 1 Box 139 A Solomon, KS 67480 Ottawa - 640 acres
028	Robert Randels 316-294-5470	PO Box 35 Sharon, KS 67138 Barber - 560 acres
029	Shore Preserve Robert Shore 316-438-2383	RR 1 Box 148 Burden, KS 67019 Cowley - 760 acres
030	Lone Pine Shooting Pres. Mike Hammon 316-637-2967	Rt 1 Box 79 Toronto, KS 66777 Woodson - 639 acres
031	Flint Oak-A Limited Pnt. Ray walton 316-658-4401	RR 1 Box 262 Fall River, KS 67047 Elk - 1160 acres
032	Flint Oak-A Limited Ptr. Ray Walton 316-658-4401	Rt 1 Box 262 Fall River, KS 67047 Elk - 1200 acres
033	Hunnewell Hunting Club, I Allan Helsel 316-892-5821	RR 1 Box 9 South Haven, KS 67140 Sumner - 720 acres
034	Lazy J. Hunting Pres. David Holloway 316-675-2339	Box 832 Sublette, KS 67877 Haskell - 840 acres
035	Lazy J. Hunting Pres. David Holloway 316-675-2338	Box 832 Sublette, KS 67877 Haskell - 1260 acres
036	Lazy J. Hunting Pres. David Holloway 316-675-2338	Box 832 Sublette, KS 67877 Haskell - 320 acres
039	Royce Harper Preserve Royce Harper 316-722-3869	909 N. Maize Rd Wichita, KS 67212 Chautauqua - 1280 acres
044	Tinkle Creek Game Farm Rhonda Lindstedt 913-546-2387	RT 1 Box 56 Marquette, KS 67464 Ellsworth/MP - 1280 acre
045	Pheasants Unlimited # 1 Steve Johnson 316-356-3737	7589 South Rd B Ulysses, KS 67880 Grant/Stanton - 1120 acr
046	Pheasants Unlimited, #2 Steve Johnson 316-356-3737	7589 South Rd B Ulysses, KS 67880 Grant - 1280 acres
050	Upland Inc I Stan Boles 316-624-2245	RR 1 Box 209 Liberal, KS 67901 Seward - 1280 acres

License Number	Operator	Location of area
053	Twin Creek Farms Richard L. Larson 913-432-0680	5400 Briar Roeland Park, KS 66205 Linn - 299 acres
054A	Shawnee Creek Preserve Jon Holt 316-429-2315	419 S. Vermont Columbus, KS 66725 Cherokee - 729 acres
059	Spillman Creek Lodge, Inc Merrill Nielsen 913-277-3424	Rt 1 Box 40 Sylvan Grove, KS 67481 Lincoln - 1220 acres
060	R. E. French Preserve R. E. French 316-836-3285	PO Box 203 Gridley, KS 66852 Coffey - 800 acres
061	Spillman Creek Lodge Inc Merrill Nielsen 913-277-3424	RR 1 Box 40 Sylvan Grove, KS 67481 Lincoln - 413.5 acres
065	Broken Bar 7 Hunt Safari Dean O'Brien 913-332-2416	HC 1 Box 19 St. Francis, KS 67756 Cheyenne - 1280 acres
066	S&L Ranch Theodore Swan 316-685-1324	150 N. Oliver Wichita, KS 67208 Chautauqua - 520 acres
067	Twin Mounds Lodge Phillip Hinger 913-434-2488	RR 2 Box 14 B Plainville, KS 67663 Rooks - 1280 acres
068	Twin Mounds Lodge Phillip Hinger 913-434-2488	RR 2 Box 14 B Plainville, KS 67663 Rooks - 1280 acres
069	Upland Inc II Stan Boles 316-624-2245	RR 1 Box 209 Liberal, KS 67901 Seward - 320 acres
070	Cokeley Farms Will Cokeley 913-771-3817	Rt 1 Box 149 Delia, KS 66418 Jackson - 1240 acres
072	Pheasant Creek # 1 Raymond Dienst, Jr. 316-355-7118	PO Box 209 Lakin, KS 67860 Kearny - 320 acres
073	Pheasant Creek # 2 Raymond Dienst, Jr 316-355-7118	PO Box 209 Lakin, KS 67860 Kearny - 480 acres
076	Pheasant Hunters Paradise C. J. Wettstein 316-563-7544	RR 1 Box 96 Kismet, KS 67859 Seward - 880 acres
076A	Lazy J. Hunting Pres. David Holloway 316-675-2338	Box 832 Sublette, KS 67877 Haskell - 320 acres
077	Walnut Ridge Hunt Preserv Michael Duling 316-354-6713	RR 1 Box 35A Walnut, KS 66780 Necsho/Crawford - 760 ac
078	Sporting Chance Shooting William Myers 913-454-6233	PO Box 112 Downs, KS 67437 Osborne - 580 acres
079	Sullivan's Sand & Sage Shane Sullivan 316-356-3924	3019 North Road G Ulysses, KS 67880 Grant - 1260 acres

License Number	Operator	Location of area
081	Jayhawk Outfitting Steve Lewis 913-674-2284	PO Box 117 Hill City, KS 67642 Graham - 1220 acres
082	Jayhawk Outfitting Steve Lewis 913-674-2284	PO Box 117 Hill City, KS 67642 Graham - 320 acres
083	Flying W Pheasant Ranch Leon Winfrey 316-563-7679	6199 4 Rd. Plains, KS 67869 Haskell - 1280 acres
084	Flying W Pheasant Ranch Leon Winfrey 316-563-7679	6199 4 Rd Plains, KS 67869 Meade - 160 acres
085	Shannon Lifetime Trust #1 Bruce Shannon 316-626-6017	PO Box 6026 Liberal, KS 67901 Haskell - 480 acres
086	Shannon Lifetime Trust #2 Bruce L. Shannon 316-626-6017	PO Box 6026 Liberal, KS 67901 Haskell - 320 acres
087	Jayhawk Outfitting Steve Lewis 913-674-2844	PO Box 117 Hill City, KS 67642 Graham - 1200 acres
088	Flying W Pheasant Ranch, Leon Winfrey 316-563-7679	6199 4 Rd Plains, KS 67869 Meade - 640 acres
092	Jayhawk Outfitting Steve Lewis 913-674-2284	PO Box 117 Hill City, KS 67642 Graham - 640 acres
093	Jayhawk Outfitting Steve Lewis 913-674-2284	PO Box 117 Hill City, KS 67642 Graham - 480 acres
098	Gunsmoke Hunting Walt Salmans 316-623-4212	PO Box 128 Hanston, KS 67849 Hodgeman - 800 acres
099	Gunsmoke Hunting Walt Salmans 316-623-4212	PO Box 128 Hanston, KS 67849 Hodgeman - 1280 acres
101	Lost Creek Game Farm Errol Baumann 913-476-2244	Rt 1 Box 38 Franklin, NE 68939 Smith - 1280 acres
102	Lost Creek Game Farm Errol Baumann 913-476-2244	Rt 1 Box 38 Franklin, NE 68939 Smith - 240 acres
109	Golden Prairie Hunting Se Jeff White 316-675-8490	PO Box 119 Sublette, KS 67877 Haskell - 320 acres
110	Flint Oak- A Limited Prt Ray Walton 316-658-401	RR 1 Box 262 Fall River, KS 67047 Elk - 360 acres
111	Golden Prairie Hunt Serv Jeff White 316-675-8490	PO Box 119 Sublette, KS 67877 Haskell - 160 acres
112	Golden Prairie Hunt Serv Jeff White 316-675-8490	PO Box 119 Sublette, KS 67877 Haskell/Seward - 1280 ac

5-12

License Number	Operator	Location of area
113	Golden Prairie Hunt Serv Jeff White 316-675-8490	PO Box 119 Sublette, KS 67877 Haskell - 640 acres
114	Golden Prairie Hunt Serv. Jeff White 316-675-8490	PO Box 119 Sublette, KS 67877 Haskell - 160 acres
115	Lil Toledo Lodge Ronald L. King 316-431-1389	RR 4 Box 117 Chanute, KS 66720 Neosho - 700 acres
116	T & C Wildlife Area Terry Kunstel 316-638-4300	RR 1 Box 765 Arcadia, KS 66711 Bourbon - 220 acres
117	T & C Wildlife Area Terry Kunstel/Greg Kubler 316-638-4300	RR 1 Box 765 Arcadia, KS 66711 Bourbon - 240 acres
118	T & C Wildlife Area Terry Kunstel 316-638-4300	RR 1 Box 755 Arcadia, KS 66711 Crawford - 480 acres
119	Kansas Outfitters, Inc. Sam Lancaster 316-597-2568	RR 1 Box 13 Hallowell, KS 66725 Cherokee - 280 acres
120	Ravenwood Hunting Preser Kenneth Corbet (913)256-6444	10147 SW 61st Topeka, KS 66610 Shawnee - 160 acres
121	Solomon Valley Farm Bob Saylor 913-346-2570	1894 W 70th Dr. Alton, KS 67623 Osborne - 700 acres
122	L & S Farms, Inc. Terry Nelson 913-854-7611	RR 2 Long Island, KS 67647 Norton - 480 acres
123	Sam Schuetz Sam Schuetz	PO Box 200 Hiawatha, KS 66434 Brown - 240 acres
124	Mill Creek Hunting Preser Charles Penning 913-325-2529	RR 2 Box 78 Washington, KS 66968 Washington - 679 acres
125	Rohrer's Game Farm & Spor Fred Rohrer 913-985-2635	RR 1 Box 45 Troy, KS 66087 DP - 310 acres
126	BeeCreek Bobwhites Robert Kline 316-673-9185	RR 1 Box 122 Havana, KS 67347 CQ - 221 acres
128	Mary Lynn Oliver Mary Lynn Oliver 316-685-7779	8 Lakeside Blvd Wichita, KS 67207 Greenwood - 1016 acres

House Taxation Committee
Room 170-West
State Capitol Building
Topeka, KS 66612

Chairman Phill Kline and Committee Members:

My letter is being sent to you in support of SB 197. In the paragraphs that follow I will advise you of the reasons for this endorsement.

About one month ago, I retired as a Professor at Kansas State University. I had worked there for twenty-seven years. My job was that of a Wildlife Specialist. I've spent nearly forty years in the wildlife management profession. In the 1980's when hard times fell on many Kansas people, especially in agriculture, I began to study ways private landowners engaged in agriculture production, could supplement their income, using wildlife resources.

Under my direction, the KSU Cooperative Extension Service, began an educational program to alert Kansas Farmers and Ranchers about wildlife resources and how extra income could be derived from these resources. We held state-wide telenet courses, nation-wide satellite broadcast. We also produced a video series called "Ag and Wildlife" that contained 10 video tapes. This program continued over 12 years. As recent as December of 1994, a handbook was published, entitled "Private Lands Wildlife Management Manual". There are many Kansas landowners interested in this subject. With each passing year, more and more people are earning supplement income from the uses of wildlife resources.

Whenever people manage the land for wildlife, that act creates good habitats for many different species, songbirds, other non-game species. Over 97% of the land in Kansas is in private ownership, therefore, wildlife in Kansas is depended upon how the land is managed. A long standing definition of "Wildlife Management" is the art of making the land produce wild creatures. The science of wildlife management has its roots with agriculture, because wildlife management is a form of agriculture.

How can we pass a law that says aquaculture is agriculture, a form of aquaculture being stocking fish in a lake, selling permits to fish in the lake, for the harvest of the fish. But yet, we say that rearing pheasants, the releasing the pheasants for someone to harvest is not the same thing. It is my opinion, that it is wrong to say that both are not agriculture, because they are the same, both are forms of agriculture.

I would hope that your committee will look at the question from a different angle. I am concerned about the well-being of farmers and ranchers, and also about wildlife resources. Even though some farmers and ranchers own land, they really do not make alot of money that ends up for their families at the end of each year. In general, it is my belief that most landowners are interested in wild creatures, but since no income value is general associated with wildlife, then landowners put forth very little effort to manage for wildlife. This will change, when a value is associated with some species.

Flint Oaks Ranch is a wonderful establishment to have in Kansas, it is the very best, of all Controlled Shooting Areas, not only in Kansas but in the United States. People from all over the world travel to southeast Kansas, down dusty roads, seemly to most of the travelers "a very remote area". Really, the term Controlled Shooting Area is wrong. These areas should be called "Hunting Preserves". Because, on these areas, the sport of hunting is being preserved on managed lands that produce crops, not soybeans, corn, rather, pheasants and quail. The term "Controlled Shooting Area", was in the original legislation, at a time when there was much controversy about the need for these areas. Today, there are about 100 of these areas in Kansas, and I understand the taxes on Flint Oaks is different from the rest. Why?

Not many private landowners are going to be able to develop areas as nice as Flint Oaks, however, very few people will consider wildlife management on their land if that stands the remotes chance of increasing their taxes. For most, the income will be only supplemental at best, but the real winners will be the diverse wildlife populations that inhabitat Kansas. We'll be able to put more people to work. It is like saving pennies, they will turn into dollars. Money to be made by ranchers and farmers through wildlife resources looms very large collectively. Very much depends on your vote on SB 197 in 1995.

Sincerely, F. Robert Henderson Professor Emeritus March 14, 1995 IIC 1, Box 30 Hamilton KS

House Taxation
3-15-95
Attachment 7-1

March 14, 1995
House Taxation Committee
Rep. Phil Kline, Chairman

My name is Kenneth L. Corbet. My family has lived in Shawnee County and have been land owners since 1866. I am the owner of Ravenwood Hunting Preserve. I come before this House Taxation Committee in support of SB197. This is a brief of why I support SB197. We farm four farms in Shawnee County. We grow your basic row crops of corn, milo, soybeans, and wheat. We spend a good deal of time and money developing parts of our acreage as wildlife habitat, including the provision of food, water and ground cover way beyond that which naturally occurs. However back in 1987 I decided to deversify my family farming operation and open our farm up to fee hunting, fishing, clay target shooting and dog training. We were challenged by the Topeka-Shawnee County Metropolitan Planning Agency. Their position was that a "Hunting Preserve" operation on our farm was "commercial recreation and amusement". We did not agree!

We counter sued the Shawnee County Commission and the Shawnee County Zoning Board. We won our case K.S.A. 19-2921 on the District Court level. The judge ruled that the operation of a Wildlife Hunting Preserve was to be an "Agriculture Purpose" and is exempt from County Zoning Regulations. However, the Shawnee County Commission and the Shawnee County Zoning Board appealed the the District Court ruling and we were headed to the Kansas Court of Appeals. We also won this Case No. 63,398.

The decisions of four judges and two courts in the State of Kansas ruled that a Hunting Preserve is an agricultural us of the land and not "commercial recreation".

Respectfully Submitted

Kenneth L. Corbet

House Taxation
3-15-95
Attachment 8

December 19, 1994

Re: Real Estate Tax Protest: James W. Eby, 450 E. Elk, Howard,
Kansas - 1st Half 1994

Par 8:

My property has been continually erroneously appraised since 1988. BOTA and Court have stipulated that the property has not been appraised as other similar properties. My land was valued at \$90.00 per lot in 1988 which was increased to \$184.00 per lot or 130% in value (\$1,840.00). Purchases of other land with comparable topography are valued as follows:

Land - 12 lots sold for \$5,000.00. It had been valued at \$1,200 or \$100.00 per lot. Parcel is adjacent to 6 lots and now the 18 lots are valued at \$1,460.00 or \$81.00 per lot. Other lots within the same block and the other lots surrounding this tract are valued in excess of \$100 to \$150.00 per lot. These tracts were owned and now owned by the former County Chairwoman and the Chairman of the Republican Party. This sale was omitted from COVs' as listed in the Appraiser's record of COV's. However the sale is listed in the Register of Deeds and in the Treasurer's offices.

Another purchase-in 1992 was for a tract of land in Howard for approximately \$4,000 or \$4,200. The old residence was demolished--a new residence was built in 1994. The land is valued at \$1,480.00. The co-owner was a defeated Republican county candidate. It is reported there is another similar valuation.

In 1988, the Appraiser purchased 2 acres of land next to the city limits of Howard or close to the boundary of the city for \$2,500.00 then laid a water line for approximately \$813.00, totalling \$3,300.00. He appraised the value at \$900.00. I protested this value in 1989, and the County Commission increased the value to \$1,200.00

The Deputy-Appraiser had one of the County Commissioners construct a storm shelter and a car port in 1994 at her farm residence. I can only assumed the cost of that transaction, but the valuation was lowered by \$1,190.00.

Another sale in November 1994 was a 154 acres farm with

a watershed 56.6 acre lake costing \$170,003.13; land cost approximately \$400.00 per acre The owner, who is deceased, told me in the middle 1980's that he had over \$325,000.00 invested in his residence, this totals approximately \$500,000.00. The valuation from 1988 thru 1992 as I recall was \$95,000 to \$101,000.00 In 1993 valuation was \$142,470.00 and the 1994 is \$142,360 or a decrease valuation of \$110.00. The COV, dated November 21, 1994, the selling price was \$335,000.00.

My residence is still being valued with 25 or 29 corners with fireplace. Don't know how the odd numbers of corners are arrived at. There are no other residences with such a notation or appraised in this matter. BOTA and my attorney has informed me that some of the corners are not considered corners.

Since 1988, the Appraiser has furnished me with over 20 to 25 comparables to my property. Of the last 5 comparables, I financed three and probably was involved, in the 4th. They are in no way comparables. As to grades of residences only 2 are appraised as B+; 6 valued as B; and 6 valued B- within the County. None of the comparables are similar to the other comparables. The grades are not consistent with other properties. Comparable residences to my property are still graded C. For reasons unknown to me none of the residences graded B+ thru B- are ~~not~~ comparable with each other.

With the 1994 increase in valuation of 12+% for Howard and to more or less percentage for other communities I submit this is a political valuation not based on true property values this year. Early 1994 Commissioners attempted to raise the mill levy which was successfully protested. It was reported that a Commissioner at a party made the statement that he wasn't concerned, but would have the Appraiser increase the valuation. It was increased 12+% on my residence and for the city of Howard, other communities and areas, as I recall, were raised as high as 17%.

This being the case, it appears to me that the Appraiser has not performed, nor his office, the duties as prescribed by the law and regulations of the State. In either case he has not followed the advise given him by the County Consultants or they are not performing their duties as required.

Sales to date ~~do~~ not warrant this sizable increase in county valuations.

My property has been valued as follows:

1989 Original valuation:	Land	Residence	Total
	800	39,700	40,500
was increased	800	63,300	63,100

A \$22,600 valuation error due to an alleged error in measurement of approximately 130 or 160 square feet or \$174.00 to \$141.00 per square foot. I don't believe there is a house in this county that was constructed by this amount. Also my "B" grade residence was so graded because I had 25 to 29 corners. In my checking other properties I have found some as having in excess of 180 corners. Many houses have in excess of 20 to 30 corners, are graded C and lower.

1990	1,840	61,960	63,800
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Again my land value was increased 130% while other properties were decreased 50 to 75% or valuation has been reduced as low as approximately \$49.00 lot.

1991	1,840.00	61,960	63,800
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1992	1,840	61960	63,800
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1993	1,840	61,360	63,200
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A decrease of \$600 on residence

1994	1,840	68,960	70,800
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There has been no improvement on my property since it was built in 1978. In addition the Appraiser with County Commissioners's approval has overcharged on producing records. I believe I have paid in excess of \$2,000.00 for photo-copies of appraiser's records. Other offices either has furnished me with copies or charged .25 or .50 cents. On some occasions, the Appraiser has deliberately ~~has~~ run the cost up.

I for one, other taxpayers included, would like our properties to be fairly appraised and valued in accordance

with the laws & regulations of the State of Kansas. This Appraiser and the old County Commissioners make a mockery of the law.

Independence Daily Reporter

Friday
March 3, 1995

35 cents
24 pages — 2 sections

Independence, Kansas 67301

Volume 114, No. 148

Elk County officials concerned over Flint Oak appraisal bill

By HAROLD CAMPBELL
Staff Writer

Corbin, R-Towanda, vice chairman of the Senate Taxation Committee, was unavailable for comment this morning.

"It's bad when legislation is intended only for the benefit of one business," Leland Stevens, Elk County appraiser, said today.

He said only six-tenths of 1 percent of the total gross income of the 2,800-acre ranch, which primarily operates as a commercial hunting preserve, is devoted each year to agriculture. The rest comes from hunters, some of whom he said arrive at the ranch in jets and private planes.

The appraiser said he did not know

how much tax money the county and the Fredonia school district, which the ranch is part of, would lose if the operation was appraised at the lower agricultural rate.

"It's going to have a little wider effect than just that one business," Stevens said.

The bill reopens a debate between Flint Oak and the county that dates back at least five years.

Ray Walton, Flint Oak owner, said this morning that he did not understand why he thought the county was opposing the change.

"I've never seen a county government attack a business operation

that is operating within the parameters of the law in this way," Walton said. "They must be awfully afraid that they are going to lose something."

Walton said the case first went before the Board of Tax Appeals in 1989, then went to district court. Currently, the case is awaiting a hearing date before the state Court of Appeals.

He said the ranch paid more than \$50,000 in county property taxes last year, almost five times the \$12,000 that the business paid in 1989. In addition, he said the operation returned more than \$20,000 in sales tax re-

venues to the county last year.

State Rep. Ray Luthi, D-Lamont, whose district includes Elk County, said he was unaware of the bill until it was approved in a Senate committee. In addition, Stevens said no Elk County officials had been contacted before the bill was discussed.

Walton said he thought there was no conspiracy to keep the bill a secret.

"It's all public record," he said.

A hearing on the legislation is expected in the House Taxation Committee, although no date has been set. Luthi said a number of Elk County residents had already signed

up to testify to the committee against the bill.

Luthi, who opposes the bill, said he thought earlier tax appeals board and district court decisions had determined the property was commercial instead of agricultural.

Walton, however, said out of the 127 hunting operations in the state similar to his, Flint Oak is the only one to be appraised commercial.

Rep. Cindy Empson, R-Independence, a member of the House Taxation Committee that will consider the bill, was unavailable for comment this morning.

① HOWARD — Elk County officials are concerned that the county could lose \$300,000 in appraised valuation if a bill approved in the state Senate last month passes the House.

The bill, Senate Bill 197, would change the appraisal of Flint Oak Ranch near Fall River from commercial to the lower agricultural rate by requiring land established as a controlled shooting area to be classified as "land devoted to agricultural use."

The bill's sponsor, state Sen. David

① 300,000 decrease @ 1994 mill levy would cost approximately \$11,500 (Mill Levy 128.673). The Appraiser's "so called appraisals" has cost the County approximately \$284,400 by his ~~endeavors~~ endeavours to reduce property tax on his certain friends & buddies

② in the County.
② - There are no jets able to use short air strips, so what's new

④ - who is out of step? - Elk Co Appraiser or the other 127 in Kansas

Page 3 of 3

ELK COUNTY APPRAISER

Box 627 Howard, Ks 67349
316-374-2832

I am opposed to Senate Bill ¹⁹⁷179 as amended. It primarily affects Elk County and only Elk County. It was requested and supported by Flint Oak Ranch which is an elite hunting resort. The clientele of the resort have ranged from British Royalty to Larry Hagaman (J.R. Ewing) of the Dallas TV series. The facility consists of 2800 acres as stated by Ray Walton, the owner. They also lease additional land. The leased land borders the facility and is not part of the primary hunting area. There are 2519 acres in the controlled shooting area of the ranch. Of the acreage in the controlled shooting area, 644 acres is classified as agricultural or ag use and 1875 acres is classed as Other or commercial. The predominant use of the acreage is the determining factor in how the acreage is classified. Any acreage that is harvested for crops, baled for hay or leased out for grazing already has the classification of Agricultural. In 1990 the income derived from agricultural uses was .006 of their total gross income. Flint Oak appealed their classification for the years 1989, 1990, and 1991 to the State Board of Tax Appeals. They appealed parcels even though they already had the classification of Agricultural. They wanted small ponds and lakes reduced to waste value instead of agricultural value. The Board of Tax Appeals ruled in favor of the County and ruled that in the area where the predominant use of the land was for hunting that it should be classified as Other or Commercial. In their ruling the Board changed some of the parcels from Agricultural to Commercial for 1989 and 1990. Flint Oak applied for a rehearing with the Board of Tax Appeals but the request was denied since they did not have any new evidence. They appealed the decision of the Board of Tax Appeals to District Court and again the Court ruled in favor of the County. They appealed that decision back to District Court and lost again. The case is now under appeal to the Court of Appeals and should be heard in the next two or three months. This facility is not just land where you go to hunt birds. As you enter the facility from the north, there is an office building, which is a converted farm house, a laundry building, a bird depot for dressing birds and a nice residence for one of the facility employees. There are some pole buildings that were constructed when they had horses but they have not had the horses since before the inception of reappraisal. There is a kitchen facility in at least one building for a break room for employees. These buildings are still utilized for

House Taxation
3-15-95
Attachment 10-1

storage and housing of equipment.

Between the entrance area and the Hunt Village, the owner, Mr. Ray Walton has a very nice home.

In the Hunt Village which borders the sporting clay facility, there is a very elaborate restaurant and bar known as the Lodge. It also has guest rooms above the restaurant and bar which are equivalent to motel and hotel rooms. The Executive Center, which has rooms equal to hotel and motel rooms was built new in 1992. There is another nice home, some of which can be rented from the facility, at least the basement area, and a pro shop, which is a retail store facility. The sporting clay facility, which they refer to as the Pebble Beach of sporting clays, has an automatic trap inside a silo which releases the traps from the top of the silo and there is also a 152' tower with two automatic trap machines which can release the traps from any height. There are approximately 10 other automatic trap stations which have a bronzed statuette of different kinds of game birds depicting the type of bird and their flight direction. These statuettes are all mounted on a marble base. The facility has its own water tower and water pumping system. In the dog kennel area, there is the kennel, a dog handlers residence and a garage and a metal shed with one side open. The pheasants are kept in a screen covered greenhouse type structure prior to being released.

The membership fee to this facility in 1992 was \$2500.00 per individual membership per year which allows five hunts. Corporate membership was \$5000.00 per year and allows 10 hunts. The membership is limited to 300 members. This is a for profit hunting resort designed for the entertainment of rich people. The idea that this is a game preserve is a fallacy as they purchase from 35 to 40 thousand birds a year. Since this part of the state does not have a natural pheasant population, they all must be placed on the property prior to being hunted. The effect on Elk County with the passage of this bill would amount to approximately \$305,000.00 in appraised value and affect our tax base by lowering it by about \$9162.00 per year. It is also unclear as to what the consequences would be on personal property should it be classified as Ag Use. This would amount to additional tax dollars. The passage of this bill would tend to have a domino effect on their taxes which would be a detriment to Elk County. Elk County is a small County with the lowest Valuation of any County in the State and cannot afford a further

erosion of their tax base.

It has been stated this is the only controlled shooting area in the state that has Commercial classification. This is the only facility of this type in the State of Kansas and probably the United States. Mr. Walton testified at the BOTA hearing that this is the finest hunting resort in the United States and he tells his employees the world. The defeat of this bill would not automatically cause every controlled shooting area to be classified as commercial because classification is determined by the PREDOMINANT USE of the property. Most controlled shooting areas are used as supplemental income with agricultural use being the predominant use much like an oil lease. I urge you to vote against the passage of this bill.


Leland Stevens
Elk County Appraiser

HOUSE BILL 2232

TESTIMONY OF MARK RUSSELL BEFORE THE HOUSE TAXATION COMMITTEE

Chairman Kline and members of the Committee, my name is Mark Russell and I am the president of La Siesta Foods, Inc. in Topeka. I am here to testify in support of H.B. 2232. We have expanded our production facilities four times since 1982, and have found the provisions of business incentive programs extremely important in helping us build facilities and add jobs. We have seen our employment base go from 14 employees in the period just before our first expansion in 1982 to 270 employees currently. A large part of that growth has been provided through the fact that our plant is located in an enterprise zone that has been established by the City of Topeka. Actions by the Department of Revenue have reversed the promises that were made to us and all expanding businesses in the early years of that program.

My father purchased La Siesta in 1978. In 1982, one of our customers asked us to expand our product lines which required us to build a plant to produce flour tortillas. This plant was financed with industrial revenue bonds issued by the City of Topeka. As part of the discussions with the City of Topeka, he was told that the City was establishing an enterprise zone in our area and that this new facility would qualify for tax incentives. We did begin construction on the plant in June, 1982. It was completed and production began in November, 1982. The City of Topeka completed the designation of the enterprise zones and obtained approval by the State of Kansas in October, 1982. Under the provisions available in the incentive legislation, we elected to defer taking the credit for three years until 1985. We were the first business in Kansas to qualify for the credit by remodeling existing facilities, and worked with Department of Revenue employees to develop the method by which the credit was calculated. Our subsequent expansions/remodelings made the credit difficult to calculate because each expansion had its own job base and credit period. Due to the complexity of the credit calculation, we would work with the Department of Revenue each year since to determine the amount of the credit available. We were audited by the Audit Division of the Department of Revenue, and in December of 1993 they disallowed the credit relating to this 1982 expansion much to our amazement.

Their rationale for disallowing the credit was that the enterprise zone did not exist in June, 1982 when we began construction. The enterprise zone was established in October, 1982 when it was approved by the State of Kansas. Since the enterprise zone did not exist, it could not have enticed us to build and therefore we should not have the credit available to us. Their authority is a Board of Tax Appeals case with Budget Rent-A-Car regarding the refund of sales taxes paid on construction of a facility in an enterprise zone. In this case, Budget constructed the building, paid the sales taxes, and then applied for a refund of the sales taxes within the statutory period after the transaction. The refund was generated by one of the tax consulting companies that found businesses qualifying for a refund, processing the refund for them, and then getting 50% of the amount of the refund for their consulting fee. The Department of Revenue and the Legislature were concerned about the practice. The Department of Revenue obtained this ruling from the Board of Tax Appeals and the Legislature passed legislation, both actions effectively stopped the practice. Currently, a business must apply to the State for a project exemption certificate to gain the exemption from sales taxes. The Department of Revenue is now trying to apply a sales tax ruling to an income tax matter.

Our position is that the credit should be determined when the facility is placed in service, and therefore the credit was claimed correctly. We have countered with a number of reasonable arguments which they do not accept. Our arguments are:

- This is an income tax credit, and not a sales tax refund. Sales taxes are assessed when the item is purchased, and there can be some rationale for requiring the asset to be located in an enterprise zone when the tax is assessed. Income taxes are assessed when income is generated, and that is when the assets are placed in service.
- Even though the enterprise zone did not exist when the project was planned, business and city leaders were working on developing the program and encouraging businesses to grow in the area based on the knowledge that enterprise zones would be developed. A business should not be penalized because it proceeded based upon discussions that were held with a city's officials.

- Establishing the start of construction as the time the credit is determined goes contrary to every other position of tax law. Depreciation, depletion, and all other tax items which are based on fixed assets are determined when the asset is placed in service. Under the definition by the Department of Revenue, land could be purchased in 1984 with the intent of future expansion with the expansion being started and completed in 1994. The Department would deny the credit because it is only available for 10 years, and they would consider that construction was started when the land was acquired with the intent to build.
- The Department's position is extremely prejudicial against businesses which already are located within an enterprise zone. It would be extremely difficult for us to argue that the enterprise zone incentives influenced us to expand in an enterprise zone. They could successfully argue that we were already located within an enterprise zone and that is where any future expansion that we had would logically be located. Under their rationale, La Siesta could never qualify for the credit.
- The intent of the law was to add jobs in areas designated as enterprise zones. The effect in 1982 was to add 46 jobs in November after the enterprise zone was established.

Currently, Kansas businesses face a dilemma. One part of State Government works very hard to promote business growth and development. Business is told about all of these incentive programs that are available if they grow or relocate. Then another part of State Government comes in after the business has made a commitment to see how much of that commitment can be avoided. That is not a strong business development program. It is not a consistent message to businesses that are considering the State for a location or expansion. There are only a few companies that could be currently affected by this law. It does not contain any provisions that significantly reduce revenue. It is a significant statement by the Legislature however. It is a statement that you wish to promote business development. It is a statement that you wish to be a willing partner to business growth and development, and not a reluctant bridegroom.

Thank you for the opportunity to address this committee, and for your attention.

SCHOOL-LINKED COMMUNITY SERVICES GRANT

Linking Families, Schools, and Community Services USD #497, Lawrence, Kansas

Long-term goals of the project are to:

- ensure that students will start their school career and continue to start each school day ready to learn.
- promote partnerships which will increase parental and community involvement and participation in promoting the social, emotional, and academic growth of children.

Working with service providers and other community members, the project will:

- increase access to community services,
- increase the quality of relationships between families and service providers,
- ensure equity of services,
- identify gaps and barriers in service delivery, and
- facilitate collaboration between service agencies to address the identified gaps and barriers.

Individual site level goals - New York School

The project will make positive, proactive contact with families in the school. The project will develop Community-School-Neighborhood relationships through the establishment of the school as a neighborhood community center. Which includes:

- Forming collaborative relationships with school and neighborhood groups;
- Working with school personnel to assist with communication with families; and
- Coordinating some school-based services on a trial basis.

The project will coordinate or facilitate mentoring relationships. Which includes:

- Developing working relationships with KU, Haskell Indian Nations University, Senior Center, and neighborhood residents; and
- Facilitating opportunities for people in the community to become involved with students and in the school.

Individual site goals - Cordley School

The project will provide information/assistance to families of children aged 0-5 in the Cordley neighborhood, targeting immunizations, developmental milestones, and information on screening programs. Which includes:

- Locating families with children ages 0-5 in the Cordley neighborhood;
- Home visits to establish a positive relationship with these families;
- Follow-up to address issues which arise during home visits, and;
- Gathering information about parent support activities which could be based at the school and coordinate some of these activities on a trial basis.

The project will actively outreach to parents, neighborhood residents, and community organizations. Which includes:

- Establishing working relationships with school organizations, councils, and other identified neighborhood groups;
- Working with the Parent Educators group to establish and maintain a clearinghouse and resource library of parenting information;
- Outreach to community organizations and develop a flow chart of community services;
- Editing the In Touch Newsletter, which is distributed to all elementary schools and through some community service agencies; and
- Provide support to school families and school personnel as needed.

Testimony on SB 324
House Taxation Committee
March 14, 1995
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperative businesses, in which approximately 140 sell diesel fuel.

The Council would like to take this opportunity to thank the Department of Revenue's staff for their hard work in developing the provisions of SB 324 and including the industry in that development.

The Council supports the concepts of SB 324. We certainly are in support of any legislation that will cut down or prevent tax evasion.

We also support SB 324 because the majority (70 - 75%) of our members feel that having clear diesel fuel taxes at the end user will cut down the paperwork.

I say the majority, because some of our members (25 - 30%) feel that it will not save them paperwork, plus they will have to put in new equipment because currently they are not selling dyed diesel fuel.

We do have some concerns with New Section 4 on page 3. It appears this language increases the employee's liability when it says "personally liable." It is the feeling of our attorney that employees would not be willing to handle fuel receipts and paperwork if they realize they would be financially responsible if they make a mistake. I'm not an attorney, but the committee may want to look at that provision.

As stated before, the Kansas Cooperative Council is in support of SB 324 because it reduces fraud and decreases paperwork. Thank you for your time.

House Taxation
3-15-95
Attachment 13

HENTZEN CONSULTING SERVICE

FAX (316) 263-3136

1623 So. Mead
Wichita, KS 67211
(316) 267-7448

March 13, 1995

Mr. Phil Kline, Chairman
House Taxation Committee
Topeka, Kansas 66612

Dear Mr. Chairman:

During my testimony on March 9, 1995, in favor of Senate Bill No. 41, I requested time to respond to the amendments that were going to be introduced later in the hearing. The amendments were introduced, however the acting chairman ruled that I could not respond. My response would have been that both the amendments were not justified in any manner and would have killed the bill.

It is interesting to note, when the counties collect interest on delinquent taxes, they do not share this interest with other taxing authorities. They put it in their general fund for their purposes.

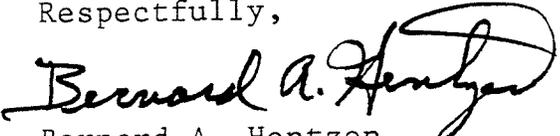
I have looked at Sedgwick County figures (attached) and find they collected \$3,772,509.00 in penalties and interest in 1993, and \$2,819,144.00 in penalties and interest in 1994.

Why should not some of this money be used to pay interest to the individual taxpayers, who have been improperly taxed. It is the fair thing to do.

Another interesting point to consider is that the counties often invest the properly and improperly collected taxes, and wisely earn interest until the money is needed for government operations. It seems only fair that the poor taxpayer be paid interest on the tax money that was taken from him improperly.

I would appreciate your help in passing SB41 in the form passed 40 - 0 by the Senate. Passage of this bill would be good public policy.

Respectfully,


Bernard A. Hentzen

House Taxation
3-15-95
Attachment 14-1

Sedgwick County Budget Dept.

PF1-MENU PF2-BACK PF3-FORW PF4-TRAN PF5-MAST PF8-TOTS PF9-LI JUST PF10-WORKSHT
 FUNCTION: 15 FUNDDEPT: 1100 PGM: 999 OBJ: 3 YR: 93 QTR: 1 03/13/95 BAA
 COUNTY GENERAL YEAR QUARTER

collected

PRJ	COBJ	BUDGET	COMMITTED	AVAIL	ALLOTTED	COMMITTED	AVAIL
999	3	REVENUE	65854183	77878666	-12024483		
999	3010	UNRESTRICTED UNE	0	5143858	-5143858		
999	3015	RESTRICTED UNENC	7962970	7962970	0		
999	3016	RES. FOR MEDICAL	955000	851300	103699		
999	3020	PRIOR YR. ENC. C	0	104685	-104685		
999	3100	AD VALOREM TAXES	17198836	17308554	-109718		
999	3101	INTEREST ON CURR	0	67377	-67377		
999	3102	BACK TAXES	328431	754000	-425569		
999	3103	PENALTIES & INTE	1500000	3772509	-2272509		
999	3106	PAYMENT IN LIEU	40000	89194	-49194		
999	3109	FRANCHISE TAXES	35000	69540	-34540		
999	3112	MOTOR VEHICLE TA	2870795	3341324	-470529		
999	3115	LOCAL RETAIL SAL	15536570	16552206	-1015636		
999	3117	CONTINGENT RETAI	500000	0	500000		
999	3119	MOTOR VEH RENTAL	0	48400	-48400		
999	3120	GRAIN TAXES	0	5	-5		
999	3210	CEREAL MALT BEVE	10962	10175	787		
999	3220	LAKE & PARK FISH	9450	21737	-12287		
999	3225	LAKE & PARK BOAT	5850	11680	-5830		

PF1-MENU PF2-BACK PF3-FORW PF4-TRAN PF5-MAST PF8-TOTS PF9-LI JUST PF10-WORKSHT
 FUNCTION: 15 FUNDDEPT: 1100 PGM: 999 OBJ: 3 YR: 94 QTR: 1 03/13/95 BAA
 COUNTY GENERAL YEAR QUARTER

collected

PRJ	COBJ	BUDGET	COMMITTED	AVAIL	ALLOTTED	COMMITTED	AVAIL
999	3	REVENUE	70441101	86659179	-16218078		
999	3010	UNRESTRICTED UNE	0	10709066	-10709066		
999	3015	RESTRICTED UNENC	5937133	5937133	0		
999	3016	RES. FOR MEDICAL	705000	0	705000		
999	3100	AD VALOREM TAXES	21563303	21901318	-338015		
999	3101	INTEREST ON CURR	0	112571	-112571		
999	3102	BACK TAXES	404068	560826	-156758		
999	3103	PENALTIES & INTE	1600000	2819144	-1219144		
999	3106	PAYMENT IN LIEU	46756	101652	-54896		
999	3109	FRANCHISE TAXES	44181	94457	-50276		
999	3112	MOTOR VEHICLE TA	2921550	3458510	-536960		
999	3115	LOCAL RETAIL SAL	17095255	17501364	-406109		
999	3117	CONTINGENT RETAI	500000	0	500000		
999	3119	MOTOR VEH RENTAL	50102	55572	-5470		
999	3210	CEREAL MALT BEVE	11450	10700	750		
999	3220	LAKE & PARK FISH	10500	20479	-9979		
999	3225	LAKE & PARK BOAT	5400	12922	-7522		
999	3250	DOG LICENSES	43500	41825	1675		
999	3270	MISC. LICENSES &	11500	11595	-95		