

Approved: March 17, 1995
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on March 8, 1995 in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Martin,
Senator Bond, Senator Clark, Senator Feleciano, Jr.,
Senator Hardenburger, Senator Lee, Senator Ranson,
Senator Sallee and Senator Wisdom.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Secretary to the Committee

Conferees appearing before the committee: Jim Maag, Kansas Bankers Association
Jeff Sonnich, Kansas-Nebraska-Oklahoma League of Savings
Institutions
Nancy Hempen, Kansas County Treasurers Association
David Furnas, Kansas Press Association

Others attending: See attached list

SB 354--EXCLUDING PRIVILEGE TAX FROM ADDITIONS TO ADJUSTED GROSS INCOME

Jim Maag, Kansas Bankers Association, appeared in support of **SB 354**. (Attachment 1) He said in August of 1994, the Department of Revenue issued a notice which stated financial institutions must add back the previous year's privilege tax when calculating net income for the current year's privilege tax. This has not been done for 14 years. The notice was issued without any attempt by the Department to discuss the issue with either the industry or the Legislature. The impact on the banking industry will be at least \$3 million annually. He said they believe if the Department of Revenue insists on their present interpretation, they will have turned the privilege tax into a corporate income tax. Another key point is that insurance companies who also pay a Kansas privilege tax are not required to add back in calculating their present year privilege tax. He called the attention of the committee to four different statutes for clarification. He said they do not believe the interpretation by the Department of Revenue was an appropriate action and for that reason they are requesting passage of **SB 354**. They believe passage of this bill is necessary to maintain a fair and equitable, as well as a constitutional, privilege tax in Kansas.

Senator Martin stated the fiscal impact statement does not show any impact and he asked Mr. Maag if there have been any additional revenues paid in to the state? Mr. Maag said the payments would be based on the net income of 1994 and would be paid in 1995. Senator Langworthy asked if the \$3 million will be collected unless something happens to this bill. Mr. Maag said that is true.

Jeff Sonnich, Kansas-Nebraska-Oklahoma League of Savings Institutions, said **SB 354** would reverse the negative tax impact to Kansas financial institutions privilege tax payers from the interpretation by the Department of Revenue. (Attachment 2) He cited as an example the instructions for previous years privilege tax forms. He said they question whether the "add back" provision required by the Department of Revenue converts the privilege tax into an income tax in violation of the constitution. He said they are also concerned if this add back is being required uniformly of all privilege tax payers. They have a problem with the tax impact this notice will have on Kansas financial institutions.

John LaFaver, Secretary, Department of Revenue, appeared in response to a request for information from the Department about this interpretation of the statutes. He said he did not have any issue with what Jim Maag of the Kansas Bankers Association said. It is always a point of discomfort if a tax law is reinterpreted and it causes a tax increase. If it has not been taken to the Legislature, there is an issue of protocol. The Attorney General issued an opinion, 94-156, which looked at each of the issues that have been raised here. The opinion said this add back should occur, the Department has read the law wrong for years and the add back was law. Failure of the Department to correct the law in the past does not preclude the Department from interpreting and administering it correctly. He views it that the privilege tax is not an income tax but it acts like an income tax but if it is viewed as an insurance tax there is not an add back. It is not exactly like either one of them. It is a policy call as to what is the appropriate way to administer the tax in Kansas. He feels the Legislature should take a look at this and see if this should be the policy.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 8, 1995.

Senator Langworthy asked who made the request to the Attorney General's office? Mr. LaFaver said the opinion is addressed to Vern Jarboe, General Counsel of the Department, so he assumes the Department asked for it.

Senator Feleciano asked is it the policy of your administration to go back into the statutes and review them to see if they are being correctly enforced? Secretary LaFaver said the basic function of the audit staff is to do that. There are issues that arise so there will always be ongoing examinations. However, he thinks there is an obligation to come back to the legislature to get a reading of it and what the policy should be if a law is reinterpreted. He thinks this is a legitimate legislative issue. Secretary LaFaver said when the law is as complex as it is, this is not the first time something like this has happened.

Senator Ranson said she appreciates the comment about bringing this to the legislature because they get all the complaints from the constituents, particularly when the law has not been enforced and a change has been made. The constituents feel they are being harassed by the government. Senator Ranson asked if this is being litigated?

Secretary LaFaver said he was not aware that it is. Mr. Maag said he has had inquiries from banks if any banks are going into litigation on this, but at this time nothing has been done.

Senator Bond asked if Secretary LaFaver feels he has adequately reviewed the procedure and is he staying with that interpretation. He replied that he thinks it is the correct interpretation and the only relief would be from new legislation.

The hearing on **SB 354** was closed.

SB 340--PROPERTY SUBJECT TO DELINQUENT PROPERTY TAXES; PUBLICATION OF NOTICE

Proponents

Nancy Hempen, Kansas County Treasurers Association, stated **SB 340** would reduce the number of times required to publish the delinquent real estate and personal property tax lists from 3 times to "at least once each week for two consecutive weeks..." (Attachment 3) The option to print three times would still be available to the County Treasurer. She said from surveys of counties, the greatest impact in getting taxes paid is the initial threat of publication, not continued printing. The cost to the counties is not recouped through the 2nd and 3rd publications; therefore, the counties are losing money. If the tax remains delinquent, the publication fee is never collected. The main goal in sponsoring the legislation is to reduce the cost to county government.

Senator Martin asked if this bill was introduced last year and Ms. Hempen said it was introduced in the Local Government Committee.

Ms. Hempen passed to the committee written testimony from Eileen King, Riley County Treasurer. (Attachment 4)

Opponent

David Furnas, Kansas Press Association, Inc., said his association represents the 250 weekly and daily newspapers in Kansas. (Attachment 5) Numerous publishers oppose this bill because of the financial impact it will have on their newspapers. He said far more newspapers have gone out of business than counties since this issue was first brought to the Legislature. He said he would like to offer an amendment to the bill. He proposed eliminating the names of those who pay in each subsequent publication. By doing so, the cost of total publication can be reduced. He recommended after the word "costs" page one, line 26, the sentence "The name of each delinquent who pays may be deleted from subsequent publications" be inserted. He recommends line 20 remain the same.

Senator Langworthy asked if he intended to make the statement permissive rather than mandatory and he said he did. He was also asked about his view of printing 3 times and he said there is no magical number about 3 but it is used many places in the statutes.

The hearing was closed on **SB 340**.

The meeting adjourned at 11:50 a.m.

The next meeting is scheduled for Thursday, March 9, 1995.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: March 8, 1995

NAME	REPRESENTING
Chuck Stokes	KBA
Kathy Taylor	"
JEFF SONNICH	KNOLS/
JOHN H. WACHTER	KBA - Atty
Nancy Hempen	Ks. Co. Treas. Assn.
Williamson	Ks Governmental Counseling
Jim Mac	KBA
Wm. E. O'BRIEN	JOHNSON CURRY TRKTS
David Proger, III	REV
Donna B. Sheels	Polk Co. Treasurer
Diana Harvett	Self
JOHN WATFOVER	KDOR
DAVID TURNAS	Ks PRESS
John Enslly	Ks. Press Assn.
Anne Spiess	Ks. Assoc of Counties



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 8, 1995

TO: The Senate Committee on Assessment and Taxation
RE: SB 354 - Kansas privilege tax

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of SB 354 which is a bill involving significant economic impact to the banking industry in Kansas. The bill would clarify that financial institutions are not required to "add back" the previous year's privilege tax when calculating net income for the current year's privilege tax.

The Kansas Department of Revenue issued in August of 1994 a Revenue Notice (94-08) which stated that financial institutions must add back the previous year's privilege tax when calculating net income for the current year's privilege tax. From 1980 to 1994 the Department had not required such an add back. The Notice was issued without any attempt by the Department to discuss the issue with either the industry or the Legislature.

The impact of the Notice on the banking industry is very significant. It means that Kansas banks will have an increase in their privilege tax liability this year which ranges from 5% to 20% with the statewide average probably in the range of 7.5%. We are estimating that the total dollar impact will be at least \$3 million annually.

The Department's Notice was not based on any legislative action or directive. We strongly believe that such a significant change in how financial institutions are required to calculate their privilege tax liability is a legislative matter and should be addressed as such. The Department has been before legislative committees at least seven times in the past 14 years requesting amendments to the statute in question, but not once did they ever ask for a clarification of this issue.

In addition, it was the Department which requested the specific language of K.S.A. 79-32,117(b) in 1980 and from the very first year of its implementation and for the next 13 years they interpreted that subsection to mean that banks did not have to add back the previous year's privilege tax. We believe that given the length of time involved the only logical manner in which to contemplate a change was to come to the Legislature with suggested statutory language.

Senate Assess + Tax

3-8-95

Office of Executive Vice President • 1500 Merchants National Building
Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444
FAX (913) 232-3484

attach 1-1



More importantly, we believe that if the Department insists on their present interpretation of the privilege tax statute they have turned the privilege tax into a corporate income tax thus creating serious constitutional problems. We know from the long history of how national banks can be taxed that there is a very fine line between what is an acceptable method for states to tax national banks if they want to be able to impose a tax on all of the U. S. Treasury obligations and other federal government securities held by a national bank. By requiring banks to add back their prior year's privilege tax it means that they would be taxed in the same manner as corporations thus turning the privilege tax, which is now an allowable franchise tax for national banks, into an income tax.

Another key point is that insurance companies which also pay a Kansas privilege tax are not required to add back in calculating their present year privilege tax liability (see pp. 5-6 of attachment). This creates an additional problem as it relates to the taxation of national banks as federal requires that national banks cannot be taxed in a manner which is significantly different than the way other "moneyed interests" are taxed by the states.


To understand the proposed amendment in SB 354 it is necessary to look at four different statutes in this sequence:

- (1) Note that K.S.A. 79-1107 on page one of the attachments says the bank privilege tax shall be based on "net income" and shall be a tax levied "in lieu of ad valorem taxes which might otherwise be imposed" [emphasis added]
- (2) Also on p. 1 K.S.A. 79-1109 defines what is to be included in "net income" . It states that it shall be the same as the definition for taxable income for a corporation as defined in K.S.A. 79-32, 138.
- (3) On p. 2 in K.S.A. 79-32,138(b) it states that certain items must be added to the federal taxable income of the corporation as set forth in the income tax statute for residents.
- (4) On p. 3 is K.S.A. 79-32,117(b) indicates what items an individual must add to his or her adjusted gross income. Subsection (ii) states that taxes measured by income or fees in lieu of income taxes must be included, but there is no reference to any tax which is levied in lieu of an ad valorem tax such as the privilege tax.

So if you tie the requirements of K.S.A. 79-32,117(b) back to the requirements of K.S.A. 79-32,138(b) and then tie those requirements back to the requirements of K.S.A. 79-1109 and then tie those requirements back to K.S.A. 79-1107 you have

the department's rationale for including the previous year's privilege tax in the calculation of this year's privilege tax.

For all of the reasons stated above, we do not believe that Revenue Notice 94-08 was an appropriate action and that is why we are requesting the passage of SB 354. It is definitely the Legislature's right and responsibility to establish tax policy for this state and the Department's reinterpretation of a law which has been in effect for 14 years is an infringement upon that legislative prerogative. We believe the passage of SB 354 is necessary to maintain a fair and equitable as well as a constitutional privilege tax in Kansas.


James S. Maag
Senior Vice President

Research and Practice Aids:
Taxation 980, 1061.
C.J.S. Taxation §§ 1096, 1101.

79-1103a.

History: L. 1968, ch. 142, § 3; L. 1972, ch. 342, § 89; Repealed, L. 1987, ch. 374, § 4; July 1.

79-1109. "Net income" defined; deductions. As used in this act "net income" shall mean the Kansas taxable income of corporations as defined in K.S.A. 79-32-138, and amendments thereto, plus income received from obligations or securities of the United States or any authority, commission or instrumentality of the United States and its possessions to the extent not included in Kansas taxable income of a corporation and income received from obligations of this state or a political subdivision thereof which is exempt from income tax under the laws of this state; less dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest paid on time deposits or borrowed money and dividends paid on withdrawable shares of savings and loan associations to the extent not deducted in arriving at Kansas taxable income of a corporation.

Savings and loan associations shall be allowed as a deduction from net income, as hereinbefore defined, a reserve established for the sole purpose of meeting or absorbing losses, in the amount of 5% of such net income determined without benefit of such deduction, but no further deduction shall be allowed for losses when actually sustained and charged against such reserve, unless such reserve shall have been fully absorbed thereby; or, in the alternative, a reasonable addition to a reserve for losses based on past experience, under such rules and regulations as the secretary of revenue may prescribe.

History: L. 1963, ch. 463, § 4; L. 1967, ch. 488, § 1; L. 1972, ch. 359, § 3; L. 1979, ch. 314, § 2; L. 1986, ch. 332, § 7; L. 1987, ch. 374, § 3; July 1.

Gross References to Related Sections:

Investment in Kansas Venture Capital, Inc., see 74-8203.

Research and Practice Aids:
Taxation 980, 1031, 1047.
C.J.S. Taxation §§ 1096, 1098, 1099.

79-1109a. Application of 79-1107 and 79-1109. The provisions of K.S.A. 79-1107 and 79-1109 shall be applicable to all taxable years commencing after December 31, 1979.

79-1107. National banking associations and state banks; tax imposed; rate. Every national banking association and state bank located or doing business within the state shall pay to the state for the privilege of doing business within the state a tax according to or measured by its net income for the next preceding taxable year to be computed as provided in this act. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(a) The normal tax shall be an amount equal to 4 1/4% of such net income; and

(b) the surtax shall be an amount equal to 2 1/8% of such net income in excess of \$25,000.

The tax levied shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivisions thereof upon shares of capital stock or the intangible assets of national banking associations and state banks. The state of Kansas hereby adopts the method numbered (4) authorized by the act of March 25, 1926, amending section 5219 of the revised statutes of the United States (12 U.S.C.A. 548), relating to the manner and place of taxing national banking associations located within its limits.

History: L. 1963, ch. 463, § 2; L. 1968, ch. 142, § 1; L. 1970, ch. 382, § 1; L. 1972, ch. 359, § 1; L. 1979, ch. 314, § 1; L. 1987, ch. 374, § 1; July 1.

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CASE ANNOTATIONS

1. Net operating loss sustained by bank in year bank ceased operation may be carried back to redetermine privilege tax liability for prior years. In re Tax Appeal of Federal Deposit Ins. Corp., 249 K. 752, 758, 765, 822 P.2d 627 (1991).

79-32,115.

Research and Practice Aids:
Taxation ¶ 1014.
C.J.S. Taxation § 1092.

79-32,116.

CASE ANNOTATIONS

3. Constitutionality of the taxing of federal military retirement benefits examined and upheld. *Barker v. State*, 249 K. 186, 190, 815 P.2d 46 (1991); Rev'd, 112 S.Ct 1619 (1992).

79-32,117. Kansas adjusted gross income of an individual. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable

year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital

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Sandra Craig
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KANSAS PRIVILEGE TAX

1989

For the year beginning _____, 1988, ending _____, 19____

Do not write in this space except to write your file number if known.

Name ██████████		A. Federal Identification Number ██████████		F- ██████████ File Number	
Number and Street of Principal Office ██████████		B. State and Date of Incorporation KANSAS ██████			
City ██████████	State KS	Zip Code ██████████	C. State or Commercial Domicile KANSAS		
D. Type of Return Filed Kansas Federal (1) (<input checked="" type="checkbox"/>) Separate () Separate (2) () Consolidated (<input checked="" type="checkbox"/>) Consolidated		E. Business Code Number ██████████ 1 2 3 4	F. Date Business Began in Kansas ██████████	G. Check if: 1. () Initial Kansas return 2. () Final Kansas return	
H. Did the corporation file a Kansas privilege tax return under the same name for the preceding year? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO. If "NO", name previously filed under _____					
I. Has your federal taxable income been redetermined this year for any prior years? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO. If "YES", Kansas amended returns must be submitted under separate cover and copy of the RAR and/or 1120X attached to same. Date submitted to Kansas: _____					

PLEASE PRINT OR TYPE

- 1A. Federal taxable income per federal 1120 (No pro formas)
(If box D(1) is checked under "Federal", enter amount from line 1A on line 1C)
- 1B. Less corporations included in 1A, not subject to privilege tax, (gain) or loss
- 1C. Federal taxable income for Kansas purposes (Subtract line 1B from line 1A)
2. Total state and municipal interest income
3. Federal net operating loss deduction
4. Savings and Loan Assn. bad debt deduction included in federal deductions
5. Other additions to federal taxable income (Schedule required)
6. Total additions to federal taxable income (Add lines 2, 3, 4, & 5)
7. Total (Add lines 1C & 6)
8. Other subtractions from federal taxable income (Schedule required) [291 (E) ADJ]
9. Kansas net operating loss deduction (Schedule required)
10. Total subtractions from federal taxable income before Savings and Loan Assn. bad debt (Add lines 8 & 9)
11. Net income (Subtract line 10 from line 7)
12. Savings and Loan Assn. bad debt deduction (Schedule required)
13. Kansas taxable income (Subtract line 12 from line 11)
14. Normal Tax: A. Banks (4 1/4% of line 13)
B. Savings and loans and trust companies (4 1/2% of line 13)
15. Surtax: A. Banks (2 1/8% of amount on line 13 in excess of \$25,000)
B. Savings and loans and trust companies (2 1/4% of amount on line 13 in excess of \$25,000)
16. Total Tax (Line 14A plus 15A or line 14B plus line 15B)
17. Venture capital credit (Attach schedule K-55)
18. Interest reduction credit (Attach schedule K-51's and K-52)
19. Handicapped accessibility credit (Attach schedule K-37)
20. Total nonrefundable credits (Add lines 17, 18, & 19)
21. Balance (Subtract line 20 from line 16) (Cannot be less than zero)
22. Other tax payments (Attach schedule)
23. Balance due (Subtract line 22 from line 21)
24. Interest (If applicable)
25. Penalty (If applicable)
26. Total tax, interest, & penalty due (Add lines 23, 24, & 25)
27. Refund (Subtract line 21 from line 22)

1A	161,646	
1B	< 27,000 >	
1C	188,646	
2	203,822	
3		
4		
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6	203,822	
7	392,468	
8	12,941	
9		
10	12,941	
11	379,527	
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13	379,527	
14A	16,130	
14B		
15A	7,534	
15B		
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(2) Promptly upon the filing of the foreign decree and the affidavit, the clerk of such court shall mail notice of the filing of the foreign decree to the defendant at the address stated therein and to the commissioner of insurance of this state, and shall make a note of the mailing in the docket. In addition, the attorney general may mail a notice of the filing of the foreign decree to the defendant and to the commissioner of insurance of this state and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the attorney general has been filed.

(3) No execution or other process for enforcement of a foreign decree filed hereunder shall issue until thirty (30) days after the date the decree is filed.

(c) (1) If the defendant shows the court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.

(2) If the defendant shows the court any ground upon which enforcement of a decree of any court of competent jurisdiction in this state would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which is required in this state.

(f) Any person filing a foreign decree shall pay the required fee to the clerk of the court where said decree is filed. Fees for docketing, transcription or other enforcement proceedings shall be as provided for decrees of such court.

History: L. 1969, ch. 240, § 6; April 19.

40-2707. Penalties. Any unauthorized insurer who transacts any unauthorized act of insurance business as set forth in this act may, upon conviction thereof, be fined not more than ten thousand dollars (\$10,000).

History: L. 1969, ch. 240, § 7; April 19.

40-2708. Title of act. This act shall be known and may be cited as the uniform unauthorized insurers act.

History: L. 1969, ch. 240, § 8; April 19.

40-2709. Invalidity of part. If any provision of this act or the application thereof to

any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

History: L. 1969, ch. 240, § 9; April 19.

Article 28.—TAXATION OF COMPANIES

Cross References to Related Sections:

Annual fees and taxes, see 40-252.

Exemption of insurance companies from income tax law, see 79-32,113.

Tax credit for investment in stock of Kansas Venture Capital, Inc., see 74-8205.

40-2301. Taxation of insurance companies; rate. Every life, fire and casualty, hail and county mutual fire insurance company organized under the laws of this state, shall annually pay to the state for the privilege of doing business within this state, a tax according to or measured by its net income for the next preceding calendar year. Such tax shall be an amount equal to five percent (5%) of such net income.

History: L. 1970, ch. 184, § 1; Jan. 1, 1971.

Research and Practice Aids:

Insurance ☞ 7.

C.J.S. Insurance § 71.

40-2302. Same; tax in lieu of ad valorem levies. The tax levied under the provisions of this act shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivisions thereof upon shares of capital stock and other intangible assets owned by such company.

History: L. 1970, ch. 184, § 2; Jan. 1, 1971.

40-2303. Same; net income defined for computing tax on life insurance companies. For the purpose of computing the tax imposed upon life insurance companies under the provisions of this act the term "net income" shall mean the net taxable income for the preceding calendar year of such company as determined under the provisions of section 802 of the internal revenue code of 1954, as heretofore or hereafter amended. The term "net income" shall not include dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest income on obligations of this state or a political subdivision thereof which is specifically exempt

from income tax under the laws of this state authorizing the issuance of such obligations. In case the entire business of such company is not transacted within this state, the net income for the purposes of this act shall be determined by multiplying such net income by a fraction, the numerator of which shall be the premiums received from business transacted within this state and the denominator of which is the amount of premiums received by such company from all its business. Insurance companies connected through stock ownership, which operate under common control and management are hereby authorized to make a consolidated return for the purpose of determining "net income" under the provisions of this section and intercompany transactions shall not be considered or included for the purpose of such determination.

History: L. 1970, ch. 184, § 3; L. 1973, ch. 197, § 1; L. 1986, ch. 332, § 5; May 22.

Cross References to Related Sections:

Investment in Kansas Venture Capital, Inc., see 74-8203.

40-2804. Same; net income for purpose of computing tax on other companies. For the purpose of computing the tax imposed under the provisions of this act the term "net income" as applied to a domestic fire and casualty insurance company shall mean the amount required to be reported as "net income" in the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto; as applied to a domestic mutual hail insurance company the term "net income" shall mean the amount required to be reported as "net income," annual increase in reserve fund in section VII of the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto; and as applied to a domestic county mutual fire insurance company the term "net income" shall mean the amount required to be reported as "net income," annual net gain in its combined reserve and general funds in section VII of the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto. If any such domestic fire and casualty insurance company, domestic mutual hail insurance company, or domestic county mutual fire insurance com-

pany does business in states other than Kansas its "net income" shall be determined by the proportion of net premiums (gross premiums less cancellations) received from business written in Kansas compared to total net premiums received from all its business. Insurance companies connected through stock ownership with a common parent corporation, which operate under common control and management are hereby authorized to make a consolidated return for the purpose of determining "net income" under the provisions of this section and intercompany transactions shall not be considered or included for the purpose of such determination. If a domestic insurance company is exempt for any reason from filing an annual statement with the Kansas insurance department, its net income shall be determined in the same manner as herein provided. For the purposes of this section, the term "net income" shall not include dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest income on obligations of this state or a political subdivision thereof which is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations.

History: L. 1970, ch. 184, § 4; L. 1973, ch. 197, § 2; L. 1986, ch. 332, § 6; May 22.

Cross References to Related Sections:

Investment in Kansas Venture Capital, Inc., see 74-8203.

40-2805. Same; returns and payment of tax; interest for late return. (a) Every insurance company subject to taxation under the provisions of this act shall pay the tax imposed and make a return thereof under oath to the commissioner of insurance under such rules and regulations and in such form and manner as the commissioner may by regulation prescribe.

(b) The return shall be filed and the tax paid on the same date as the insurance company's federal income tax return is filed with the internal revenue service except that in the event said federal tax return is filed with the internal revenue service subsequent to the fifteenth day of April, the tax, payable under this act, shall bear interest at the rate per annum prescribed by K.S.A. 79-2968(b), calculated from the fifteenth day of April until date of payment. If, subsequent to said filing, a change occurs affecting the amount of any tax previously imposed thereunder, such change shall

6

STATE OF KANSAS

Robert B. Docking State Office Building
916 SW Harrison Street
Topeka, Kansas 66625-0001



Phone: (913) 296-0222
Fax: (913) 296-1279

Department of Revenue
Division of Taxation

NOTICE 94-08

TO: Privilege Taxpayers
FROM: Kansas Department of Revenue
RE: Privilege Tax

The Kansas privilege tax under K.S.A. 79-1106 *et seq.* is a tax for the privilege of doing the business of a financial institution. This tax is measured by income for the next preceding taxable year. Under K.S.A. 79-1109, K.S.A. 79-32,138(b), and K.S.A. 79-32,117(b)(ii), taxes on or measured by income must be added back when computing Kansas privilege tax net income. Because the Kansas privilege tax is a tax measured by income within the meaning of K.S.A. 79-32,117(b)(ii), it must be added back to federal taxable income when computing income for privilege tax purposes.

Privilege taxpayers must add the taxes on or measured by income (which were deducted on the federal return) in arriving at federal taxable income. The Kansas Department of Revenue will implement the addition of taxes for all taxable years beginning after December 31, 1993 (privilege tax years 1995 and thereafter).

Adjustments may need to be made to any remaining 1995 privilege estimated tax payments to provide for this addition to federal taxable income.

If you have questions regarding this notice, write to the Taxpayer Assistance Bureau, Kansas Department of Revenue, Topeka, Kansas, 66625-0001 or call (913) 296-0222.

Dated: August 1994



Jeffrey D. Sonnich, Vice-President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
(913) 232-8215

March 8, 1995

TO: SENATE COMMITTEE ON ASSESSMENT AND TAXATION
FROM: JEFFREY SONNICH
RE: SB 354

Madam Chairperson. Members of the Committee. The Kansas-Nebraska-Oklahoma League of Savings Institutions appreciates the opportunity to appear before the Senate Committee on Assessment and Taxation in support of Senate bill 354.

As already stated, Senate bill 354 would reverse the negative tax impact that the Department of Revenue's Notice 94-08 has had on Kansas financial institution privilege tax payers. Notice 94-08 requires that, subject to K.S.A. 79-32,117(b)(ii), taxes on or measured by income must be added back when computing Kansas privilege tax net income. Since 1980 the Department of Revenue has interpreted the calculation of net income for privilege tax payers to not include an addback of the previous year's privilege tax. We cite as an example that the instructions for previous years' privilege tax forms (K-130) specifically state items to be added to Federal taxable income and they do not indicate that previous privilege tax paid is an addition to income.

This Notice raises a number of issues which cause us concern. Specifically we question whether the "addback" provision required by Notice 94-08 effectively converts the privilege tax into an income tax in violation of 31 U.S.C. §3124. Further, we are concerned that the Revenue Department's reasoning for requiring the addback is not being uniformly applied to all privilege tax payers, since domestic insurance agencies are not required to add back previous taxes paid.

While these issues are great fodder for debate between attorneys and tax consultants they also tend to obscure the obvious and pertinent issue which is: **Notice 94-08 has caused a tax increase for Kansas banks and savings and loans.** Attached to our testimony are simplified versions of privilege and federal tax returns. The resulting impact of Notice 94-08 in this particular scenario would be a 6.41% increase in Kansas privilege tax liability with an overall percentage increase of .75%.

We believe it is good public policy for tax issues, and specifically those that involve tax increases, to be resolved by the legislature. If in fact you concur that is was the legislature's intent in 1980 to require this "addback" provision, so be it. What we do have a problem with is the resulting tax impact this notice has and will have on Kansas financial institutions. Legislative intent takes on a whole new meaning when it is interpreted fourteen years after enactment.

The Kansas-Nebraska-Oklahoma League of Savings Institutions would urge your favorable support of this bill. Absent the passage of S.B. 354 we would respectfully request your consideration of a corresponding rate reduction in K.S.A 79-1107 and 79-1108, so as to render the resulting tax increase "revenue neutral".

Jeffrey D. Sonnich
Vice President

Senate Assess + Tax
3-8-95
attach 2-1

EXA. INSTITUTION
 KANSAS PRIVILEGE TAX
 IMPACT OF NOTICE 94-08

*Tax Computation
 Under Notice 94-08*

*Tax Computation
 Prior to Notice 94-08*

	<u>Kansas Priv Tax</u>	<u>Kansas Priv Tax</u>	<u>Difference</u>
Federal taxable income	2,488,385	2,476,535	(10,150)
Federal bad debt deduction	214,468	215,351	(883)
Kansas privilege tax addback	183,087	0	183,087
KP taxable income before BDD	2,863,940	2,891,886	172,054
KPT bad debt deduction @ 5%	(143,197)	(134,594)	(8,603)
KPT taxable income	2,720,743	2,557,292	163,451
Statutory rate	6.750%	6.750%	6.750%
	183,650	172,617	11,033
Surtax adj (25,000 x 2.25%)	(563)	(563)	0
Kansas Privilege Tax	<u>183,087</u>	<u>172,054</u>	<u>11,033</u>
Percentage increase to Kansas privilege tax liability			<u><u>6.41%</u></u>

EXAMPLE INSTITUTION
 FEDERAL INCOME TAX
 IMPACT OF NOTICE 94-08

	<i>Tax Computation Under Notice 94-08</i>	<i>Tax Computation Prior to Notice 94-08</i>	Difference
	Federal Return	Federal Return	
BOOK INCOME BEFORE TAXES	3,000,000	3,000,000	0
Tax adjustments to book income:			
Deductions for tax not for books	(85,560)	(85,560)	0
Income for tax not for books	25,000	25,000	0
Deductions for books not for tax	201,000	201,000	0
Income for books not for tax	(276,500)	(276,500)	0
Subtotal	2,863,940	2,863,940	0
Kansas Privilege Tax	(183,087)	(172,054)	(11,033)
Subtotal	2,680,853	2,691,886	(11,033)
Federal bad debt deduction @ 8%	(214,468)	(215,351)	883
Federal Taxable Income	2,466,385	2,476,535	(10,150)
Statutory rate	34.00%	34.00%	34.00%
Federal Income Tax	838,571	842,022	(3,451)
Consolidated Federal Income Tax	838,571	842,022	(3,451)
Kansas Privilege Tax	183,087	172,054	11,033
Total Tax Liability	1,021,658	1,014,076	7,582
Percentage increase to total tax liability			<u>0.75%</u>



Douglas County Treasurer

DOUGLAS COUNTY COURTHOUSE

1100 Massachusetts, P.O. Box 884

Lawrence, Kansas 66044

March 6, 1995

TO: Senate Assessment and Taxation Committee Members

FROM: Nancy Hempen, Douglas County Treasurer

RE: SB 340

On behalf of the Kansas County Treasurer's Association, we would like your consideration of Senate Bill 340 which reduces the number of times required to publish the delinquent real estate and personal property tax lists from 3 times to "at least once each week for two consecutive weeks....". The option to print 3 times, if the Treasurer feels it would be effective in that county would still be available.

As you can see by the attached survey of counties, the greatest impact in getting the taxes paid is the initial threat of publication, not the subsequent publications. By the time the delinquent lists are published, the Treasurer in that county has made, at the very least, 4 attempts to notify and collect the tax due. This supports the theory that the publication is an enforcement mechanism rather than a notification method.

The cost to counties is not recouped through the 2nd and 3rd publications; therefore, counties are losing money. The \$15. publication fee is only collected when the delinquent tax is paid. If the tax remains delinquent, the publication fee is never collected. It is the honest nondelinquent taxpayers that are paying for the additional publication costs. Our main goal in sponsoring this legislation, is to reduce the cost of County Government without reducing services or effectiveness.

I thank you for the opportunity to appear. Your support and passage of Senate Bill 340 will be appreciated.

I would be happy to address any questions.

Senate Assess + Tax

Nancy L. Hempen, County Treasurer 3-8-95
Courthouse

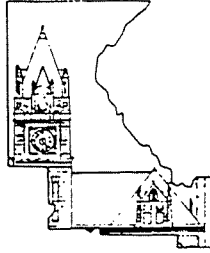
Lawrence, Kansas 66044 / (913) 841-7700

attach 3-1

F. Eileen King
Riley County Treasurer

RILEY COUNTY TREASURER

110 Courthouse Plaza
Manhattan, Kansas 66502-0108
913/537-6320
Fax 913-537-6326



TO: Senate Assessment and Taxation Committee Members
FROM: R. Eileen King *REK*
RE: Senate Bill 340

Thank you for considering SB340 regarding the publication of delinquent tax lists and the mill levy. I am Eileen King and I have been the Riley County Treasurer for 10 years. I am representing the Kansas County Treasurer's Association. I appreciate the opportunity to present this information to you. The present law states that the delinquent real estate tax list, the delinquent personal property tax list and the mill levy sheet are to be published three consecutive weeks in the county newspaper. SB340 would change this requirement to two consecutive weeks. By reducing the number of required publications by one-third, we could reduce the publication costs paid by the counties by one-third. This would be a small way of helping the taxpayers of Kansas by reducing the cost of government without reducing service or effectiveness.

By the time the delinquent lists are published in the newspaper, it is at least the third notification they have received that the taxes are due. Very few people see their name in the paper and come in to pay their taxes. The publication is more of an incentive for people to get their taxes paid before publication. Once a person's name has been published once, the effectiveness is over. As I have said, I have been Treasurer of Riley County for 10

*Senate Assess + Tax
3-8-95
attach 4-1*

years and I feel that the first publication is necessary and effective, but each subsequent publication is redundant and less effective. Most taxes that have become delinquent from oversight are paid prior to the first publication. After doing a survey of County Treasurers, I found that on average 50% of delinquent taxes are paid before publication and only an additional 10% collected immediately after publication. Any others that are paid are from subsequent collection procedures.

The publication of delinquent taxes is not a source of revenue for the counties that I have surveyed. The cost for the publications increases by 5% each year and only 20% of the publication costs are recouped each year from fees collected. Our county is very transient and many people move away and the taxes are never collected.

Our purpose of supporting this legislation is to allow counties an opportunity to save a few tax dollars each year by reducing the number of publications that are required. (This is very important now that it appears that the Motor Vehicle taxes are going to be reduced.) The reduction of the number of publications would not reduce the service provided nor the effectiveness of our office. Each publication that is no longer required would reduce our costs to the taxpayers by one-third, in Riley county this means a savings of \$2,500 for each publication not printed. The Kansas County Treasurer's Association would appreciate your favorable passage of this bill. Thank you for your time and consideration.

AMOUNT

COST OF DELINQUENT PUBLICATIONS
1991

COUNTY

3367.00
1735.
2637.60
4349.25
2015.00

4403.28
6400.00
1121.74
2571.20
8697.78

910.12
1600.00
1323.24
1215.00
645.40
8709.00
9741.27
1857.00
2396.82
729.78
8654.58
3588.64
1519.74
1449.36
850.86
4223.16
12765.41

587.82
1103.55
770.97
1734.22
792.75
3014.85
241.20
3761.25

1297.00
506.61
2327.16
7242.48
1058.15
53995.56
938.28
2564.98

7856.06
4083.57
8466.28
811.74

Allen
 Anderson
 Atchison
 Barber
 Barton
 Bourbon
 Brown
 Butler
 Chase
 Chautauqua
 Cherokee
 Cheyenne
 Clark
 Clay
 Cloud
 Coffey
 Comanche
 Cowley
 Crawford
 Decatur
 Dickinson
 Doniphan
 Douglas
 Edwards
 Elk
 Ellis
 Ellsworth
 Finney
 Ford
 Franklin
 Geary
 Gove
 Graham
 Grant
 Gray
 Greeley
 Greenwood
 Hamilton
 Harper
 Harvey
 Haskell
 Hodgeman
 Jackson
 Jefferson
 Jewell
 Johnson
 Kearney
 Kingman
 Kiowa
 Labette
 Lane
 Leavenworth
 Lincoln

AMOUNT
2843.00
1852.92
5603.76
1976.00
2465.20
2380.00
2164.38
4142.36
1029.48
19161.45

655.76

701.70
1065.60
2846.84
384.00
1250.00

960.00
1881.87
5444.66
728.70
17264.76
1121.91
3542.10
7978.95
1071.53
1899.24
7737.11
10400.00
818.82
57024.66
10721.70
55364.98
263.82
1893.12

651.00
1086.60
652.50
6262.96
2003.20
5338.37
4692.00
854.07

4305.00

Linn
 Logan
 Lyon
 Marion
 Marshall
 McPherson
 Meade
 Miami
 Mitchell
 Montgomery
 Morris
 Morton
 Nemaha
 Neosho
 Ness
 Norton
 Osage
 Osborne
 Ottawa
 Pawnee
 Phillips
 Pottawatomie
 Pratt
 Rawlins
 Reno
 Republic
 Rice
 Riley
 Rooks
 Rush
 Russell
 Saline
 Scott
 Sedgwick
 Seward
 Shawnee
 Sheridan
 Sherman
 Smith
 Stafford
 Stanton
 Stevens
 Sumner
 Thomas
 Trego
 Wabaunsee
 Wallace
 Washington
 Wichita
 Wilson
 Woodson
 Wyandotte

TOTAL \$495,118.56

COUNTY	93 PUBLICATION LIST COST	APPROX. 93 PUB. FEES COLLECTED
ALLEN	2751.65	795.00
ANDERSON		
ATCHISON	3251.14	1500.00
BARBER	4125.96	975.00
BARTON	6567.25	N/A
BOURBON	2885.88	N/A
BROWN	1333.89	630.00
BUTLER	9209.25	N/A
CHASE	1326.45	15.00
CHAUTAUQUA		
CHEROKEE	7170.48	705.00
CHEYENNE	1921.50	N/A
CLARK	829.44	N/A
CLAY	1398.40	375.00
CLOUD	1857.62	510.00
COFFEY	958.77	390.00
COMANCHE	636.30	30.00
COWLEY	8286.30	1590.00
CRAWFORD		
DECATUR	1982.00	675.00
DICKINSON	2160.18	930.00
DONIPHAN	1300.20	645.00
DOUGLAS	8592.65	1770.00
EDWARDS	2106.80	180.00
ELK	1077.72	15.00
ELLIS	1417.80	480.00
ELLSWORTH	1898.88	210.00
FINNEY		
FORD	7578.10	1350.00
FRANKLIN	3332.54	N/A
GEARY	5618.85	1005.00
GOVE	477.25	60.00
GRAHAM	837.60	690.00
GRANT	873.72	0.00
GRAY	3074.48	1140.00
BREELEY	815.15	795.00
GREENWOOD	2512.35	980.00
HAMILTON	1261.20	525.00
HARPER	2183.13	270.00
HARVEY	2310.25	945.00
HASKELL	1708.00	N/A
HODGEMAN	561.75	210.00
JACKSON	1828.69	570.00
JEFFERSON	7163.20	675.00
JEWELL	1189.77	675.00
JOHNSON		
KEARNY	1147.53	75.00
KINGMAN	1234.60	540.00
KIOWA		
LABETTE	7086.90	375.00
LANE		
LEAVENWORTH		
LINCOLN		

127841.57

COUNTY	93 PUBLICATION LIST COST	APPROX. 93 PUB. FEES COLLECTED
LINN	3155.63	990.00
LOGAN	2101.80	N/A
LYON	5028.75	1260.00
MARION	4885.00	N/A
MARSHALL	2134.98	840.00
MCPHERSON	1747.32	405.00
MEADE		
MIAMI	8020.84	N/A
MITCHELL	1028.38	480.00
MONTGOMERY	8918.70	N/A
MORRIS		
MORTON		
NEMAHA		
NEOSHO	3852.33	630.00
NESS	800.82	630.00
NORTON	1437.45	2115.00
OSAGE	2883.24	495.00
OSBORNE	1235.73	465.00
OTTAWA		
PAWNEE		
PHILLIPS		
POTTAWATOMIE	2256.29	510.00
PRATT	4397.85	N/A
RAWLINS	617.15	480.00
RENO	12443.27	1500.00
REPUBLIC	1255.28	495.00
RICE		
RILEY	8147.46	1260.00
ROOKS	1130.40	795.00
RUSH	1850.25	105.00
RUSSELL	5694.44	585.00
SALINE	8423.49	1875.00
SCOTT	1028.07	855.00
SEDGWICK		
SEWARD		
SHAWNEE	17546.76	300.00
SHERIDAN		
SHERMAN	2680.56	525.00
SMITH	937.20	N/A
STAFFORD		
STANTON		
STEVENS	664.00	N/A
SUMNER	3904.32	120.00
THOMAS	1286.59	495.00
TREGG	449.12	0.00
WABAUNSEE		
WALLACE	845.25	N/A
WASHINGTON	1512.00	N/A
WICHITA	1192.20	420.00
WILSON	2592.00	480.00
WOODSON	1371.59	150.00
WYANDOTTE		

129456.51
TOTAL 257298.08

COUNTY	# PAID AFTER PUBLICATION	# PAID BEFORE PUBLICATION	COUNTY	# PAID AFTER PUBLICATION	# PAID BEFORE PUBLICATION
ALLEN	53	800	LINN	66	1269
ANDERSON			LOGAN	-	SEVERAL
ATCHISON	100	50%	LYON	15%	50%
BARBER	65	386	MARION	-	N/A
BARTON	-	N/A	MARSHALL	56	1061
BOURBON	0	ALL	MCPHERSON	27	474
BROWN	42	383	MEADE		
BUTLER	-	-	MIAMI		148
CHASE	3	8	MITCHELL	32	60%
CHAUTAUQUA			MONTGOMERY	SMALL %	N/A
CHEROKEE	47	NUMEROUS	MORRIS		
CHEYENNE	1/3	90%	MORTON		
CLARK	VERY FEW	QUITE A FEW	NEMAHA		
CLAY	25	75%	NEOSHO	42	550
CLOUD	34	428	NESS	42	220
COFFEY	13%	346	NORTON	141	?
COMANCHE	2	18	OSAGE	33	208
COWLEY	106	888	OSBORNE	31	352
CRAWFORD			OTTAWA		
DECATUR	45	70	PAWNEE		
DICKINSON	50-75	75	PHILLIPS		
DONIPHAN	43	382	POTTAWATOMIE	34	743
DOUGLAS	118	47%	PRATT	15%	40%
EDWARDS	12	85	RAWLINS	32	265
ELK	1	3	RENO	100	49
ELLIS	32	1679	REPUBLIC	22%	324
ELLSWORTH	14	50	RICE		
FINNEY			RILEY	98	921
FORD	90	690	ROOKS	53	N/A
FRANKLIN	?	10%	RUSH	7	339
GEARY	67	641	RUSSELL	9%	38%
GOVE	4	60%	SALINE	125	-
GRAHAM	46	68%	SCOTT	57	473
GRANT	0	180	SEDGWICK		
GRAY	38%	50%	SEWARD		
GREELEY	18%	75%	SHAWNEE	20	A LOT
GREENWOOD	62	371	SHERIDAN		
HAMILTON	35	?	SHERMAN	35	419
HARPER	18	MOST	SMITH	VERY FEW	60-75%
HARVEY	63	55%	STAFFORD		
HASKELL	40%	90%	STANTON		
HODGEMAN	14	70%	STEVENS	-	1/3
JACKSON	38	506	SUMNER	8	245
JEFFERSON	45	650	THOMAS	33	356
JEWELL	45	18	TREGO	0	190
JOHNSON			WABAUNSEE		
KEARNY	5	MOST	WALLACE	VERY FEW	75%
KINGMAN	36	98	WASHINGTON	40%	95%
KIOWA			WICHITA	28	90
LABETTE	25	A LOT	WILSON	32	657
LANE			WOODSON	10	N/A
LEAVENWORTH			WYANDOTTE		
LINCOLN					
	1335	8755		1142	9293

Kansas Press Association, Inc.

5423 SW 7th Street, Topeka, KS 66606 Phone 913-271-5304, Fax 913-271-7341

Testimony on Senate Bill 340 before Senate Committee on Assessment and Taxation Wednesday, March 8, 1995

Madam chairman and members of the committee, my name is David Furnas and I am the executive director of the Kansas Press Association, a trade association representing the 250 weekly and daily newspapers in Kansas.

I make no apologies for the fact that I am representing numerous publishers who oppose this bill because of the financial impact it will have on their newspapers. For some small newspapers, publication of the delinquent tax list is not only a well-read item but a financial boost to their ability to continue to serve small communities. Far more newspapers than counties have gone out of business since this issue was first brought to the Legislature.

There are other publishers, who in addition to recognizing the financial impact, believe strongly that the publication of the delinquent tax list three times motivates some taxpayers to pay their overdue tax bill.

Once their name has been published, the taxpayer does not want to face the community scorn a second time and definitely not a third time.

The proposal to reduce publication has been presented to the Legislature for several years now. I would like to offer an amendment to this bill that perhaps will put this issue to bed.

Rather than simply eliminating the third publication of the delinquent tax list, I would propose eliminating the names of those who pay in each subsequent publication. With the advent of computer typesetting equipment, newspapers can easily remove the names of those who pay after the first publication. The names of those who pay after the second publication can be removed from the list before the third publication.

By doing so, the cost of total publication can be reduced and yet a motivation continues for delinquent taxpayers to remit payment. Such a proposal would also eliminate the embarrassment to those taxpayers who do pay but must see their name reprinted again and again.

As such, I would recommend that in line 26, after "taxes, penalties and costs." the sentence "The name of each delinquent who pays may be deleted from subsequent publications." be added. I would recommend line 20 remain the same.

I appreciate the opportunity to appear and am available for any questions.

*Senate Assess + Tax
3-8-95
attach 5*