

Approved: 3-26-96  
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 22, 1996 in Room 519-S of the Capitol.

All members were present except: Rep. Ed Pugh

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

Conferees appearing before the committee:

Rep. Phyllis Gilmore  
Rep. Tim Carmody  
Ann Koci, SRS  
Teresa Sittenbauer, Health Insurance Assn. of America  
Linda DeCoursey, Kansas Insurance Department  
Gerry Ray, Johnson County  
Vern Osborne, St. George (Pottawatomie County resident)  
Willie Martin, Sedgwick County  
Shelby Smith, Rural Kansas Taxpayers Assn.  
Eileen King, Kansas County Treasurers Assn.

Others attending: See attached list

Chair announced appointment of a subcommittee to study **HB 2999 - Sales tax payment responsibilities**. Members - Chair Rep. Shore, Rep. Aurand, Rep. Pugh, Rep. Goodwin, Rep. McKinney.

Chair opened hearing on

**HB 2942 - Income tax deduction for long-term care insurance premium costs**

Proponents:

Rep. Phyllis Gilmore (Attachment 1)  
Rep. Tim Carmody  
Ann Koci, SRS (Attachment 2)  
Teresa Sittenauer, Health Insurance Assn. of America (Attachment 3)  
Linda DeCoursey, Kansas Insurance Department (Attachment 4)

Written testimony from:

Rep. John Edmonds (Attachment 5)  
Tony Adair (Attachment 6)

Closed hearing on **HB 2942**.

Chair opened hearing on:

**HB 2596 - Property tax payment amounts when appraised valuation amounts appealed or protested (re Proposal No. 9)**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m.  
February 22, 1996.

Proponents:

Gerry Ray, Johnson County (Attachment 7)  
Vern Osborne, St. George (Attachment 8)  
Willie Martin, Sedgwick County (Attachment 9)

Written testimony

Pottawatomie County Commission (Attachment 10)

Opponents:

Shelby Smith, Rural Kansas Taxpayers Assn. (Attachment 11)  
Eileen King, Kansas County Treasurers Assn. (Attachment 12)

Written testimony

Larry Tucker, Reno County Treasurer (Attachment 13)  
Julius Novak, Wyandotte County Commission (Attachment 14)

Due to lack of time, all conferees were not able to testify. Opponents to **HB 2596** who did not get to testify were Larry Tucker, Reno County Treasurer, Julius Novak, Wyandotte County Commission, Vic Miller, Shawnee County Commissioner and Larry Peterson, Property Tax Services, Inc. Hearing will be rescheduled to a later date.

The next meeting is scheduled for February 23, 1996.

Adjournment at 10:02 a.m.

Attachments - 14

# TAXATION COMMITTEE GUEST LIST

DATE:           FEBRUARY 22, 1996          

NAME	REPRESENTING
Anne Spiess	Ks. Assoc. of Counties
Danna Shelite	Pratt Co Treas + KCTA
Nancy Weeks	Haskell Co. Treas + KCTA
Nancy L. Hempen	Douglas Co. Treas
Edna King	Reynolds Co Treas + KCTA
Denise Menaue	HIWA
Melissa Wangemann	Hein, Ebert + Weir
Jo Ann Raaf	Coffey Co Treasurer
Pat Robertson	Elk Co Treasurer
Dee L. Walter	Elk Co. Register of Deeds
Pete Cline	Shawnee County Treasurer
Shiley J. Tate	Leavenworth County Treasurer
Kathy Osborne	Tax payer
Linda de Nevery	KS Insurance Dept.
Shelly Kreter	KCAD
Basil Covey	KRTA
Donna Satchan	Western Resource
Jayne Bynum	Shawnee County Council on Aging
Chris McKezi	League of Ks. Women

# TAXATION COMMITTEE GUEST LIST

DATE: FEBRUARY 22, 1996

NAME	REPRESENTING
Ouelus Moore	K.O.K.
Sherry Ray	Jaco Board of Commissioners
Shirley Rodylush	Su Co
M. Mauri	Sedgewick County
Jane Kirk	Kans Hosp Assn.
Bob McBride	KDOR.
Paul Johnson	KS Taxpayers Network
Jim Kennedy	KS TAXPAYERS NETWORK

State of Kansas  
House of Representatives

HOME ADDRESS: 10365 WEST 159TH STREET  
OLATHE, KANSAS 66062  
(913) 897-3494  
FAX: (913) 897-6676  
OFFICE: SUITE 303-N STATEHOUSE  
TOPEKA, KANSAS 66612-1504  
(913) 296-7500



TOPEKA

PHYLLIS GILMORE

Representative, Twenty-Seventh District

COMMITTEE ASSIGNMENTS  
GOVERNMENTAL ORGANIZATION AND  
ELECTIONS  
HEALTH AND HUMAN SERVICES  
JOINT COMMITTEE ON CHILDREN AND  
FAMILIES  
SELECT COMMITTEE ON DEVELOPMENTAL  
DISABILITIES

## TESTIMONY FOR HB 2942

Mr. Chairman and members of the committee: Thank you for the opportunity to testify before you today on behalf of HB 2942.

This bill will provide an income tax credit for persons paying premiums for long term care insurance. By providing this tax incentive for purchase of long term care insurance, they will be more likely to obtain long term care insurance, and pay for most, if not all, of their own long term care, thus relieving the state of this expense.

I would like to dispel the myth that most of MEDICAID payments go for women and children. Last year, only 19% of the MEDICAID money went for medical care for children. Last year the MEDICAID program spent \$367,138,969 on long term care. This is 44.7%, almost HALF of the total expenditures. If people needing MEDICAID assistance for long term care had previously purchased premiums for such care, this would SAVE the tax payers a great deal of money. A 1990 study by John Hancock Mutual Life Insurance Company found that 41.4% of nursing home residents are paying their bills through MEDICAID, again, almost HALF are using taxpayers' money. Less than 2% of nursing home residents have long term health care insurance. By incentivizing the purchase of long term care insurance, the state of Kansas is making a statement that we believe are committed to reducing the financial load on public assistance and ultimately the taxpayer.

Thank you for your time. I will be available for questions.

**Kansas Department of Social and Rehabilitation Services  
Rochelle Chronister, Secretary**

**House Committee on Taxation  
Testimony on H.B. 2942  
February 22, 1996**

Good Morning Mr. Chairman and members of the committee. My name is Ann Koci, and I am the Commissioner of Adult and Medical Services in the Kansas Department of Social and Rehabilitation Services. I am here on the behalf of Secretary Chronister to testify in favor of H.B. 2942.

The department has publicly supported efforts that reduce the public's reliance upon the Medicaid program to finance long term care. **H.B. 2982 is a measure that will create an incentive for Kansans to protect their finances by purchasing long term care insurance.**

Currently, individuals have few options for protecting themselves against catastrophic long-term care expenses. Medicare, which was designed as an insurance program, primarily provides coverage for physician and other individual provider services and hospital expenses. Medicare has very limited coverage for nursing facility and community based long-term care. Medicaid covers many of the nursing facility and other long-term care expenses for the elderly, but only for those who qualify as eligible for Medicaid. **The escalating costs of the long-term component of Medicaid has risen approximately 400 percent in the last five years and now constitutes the fastest growing part of the agency budget. This is a major concern to the agency.**

By the mid 1980's private long-term care insurance was actively being marketed as a means by which individuals can guard against the catastrophic costs associated with long-term. **Many states are becoming interested in how to encourage the purchase of long-term care insurance as an alternative to middle-class dependence on Medicaid.** It is known that by 1993, 119 companies were marketing some form of long-term care policies, in Kansas. A little over 59,000 persons in Kansas purchased policies, making Kansas 23rd among the states in the total number of long-term care policies sold in 1993.

We would like to see that number increase in order to reduce the number of individuals that currently rely on Medicaid to pay for long term care. **Currently, we have an average of 13, 717 monthly consumers in Adult Care Homes. The total FY 1995 actual expenditure was \$264,960,190.**

Again, the agency is in support of this measure. We feel it would reduce the reliance on Medicaid by providing the incentive to purchase long term care insurance. Thank you for the opportunity to testify and I would be happy to respond to any questions.

## MEMORANDUM

TO: The Honorable Phill Kline, Chairman  
House Taxation Committee

FROM: Teresa L. Sittenauer  
Health Insurance Association of America

DATE: February 22, 1996

RE: HB 2942

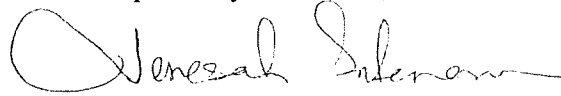
Mr. Chairman and Members of the Committee: My name is Teresa Sittenauer and I represent the Health Insurance Association of America ("HIAA"). HIAA is a group of approximately 300 companies which write more than 80% of the private health insurance coverage in the United States today, including long-term care insurance. We appreciate this opportunity to present testimony in favor of HB 2942.

HB 2942 amends current law to allow an individual to deduct from the Kansas adjusted gross income 50% of the amount paid for long-term care insurance premiums, or \$1,000, whichever is less. HIAA supports this incentive for Kansans who plan for the future by purchasing long-term care insurance. We must note, however, that recent events, including regulations and a bulletin issued by the Kansas Insurance Department, have created concerns regarding the long-term care insurance market in Kansas. SB 656, legislation designed to address the problems with regulation of long-term care insurance in this state, was recently introduced and heard in the Senate Financial Institutions and Insurance Committee. Further, the long-term care industry is currently discussing these issues with the Kansas Insurance Department. The fate of SB 656 may determine to what extent Kansans may take advantage of the incentive set out in HB 2942, should it pass.

House Taxation  
2-22-96  
Attachment 3-1

Again, HIAA is pleased to present testimony in favor of HB 2942, and we urge your favorable action on the bill. Please feel free to contact me if you have any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Teresa L. Sittenauer". The signature is fluid and cursive, with a large initial 'T'.

Teresa L. Sittenauer





Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: House Taxation Committee

From: Tom Wilder, Director of  
Government and Public Affairs

Re: H.B. 2942 (Tax Exemption/Long Term Care Insurance)

Date: February 22, 1996

The Kansas Department of Insurance supports House Bill 2942 which allows Kansas taxpayers a credit against their taxable income for premiums paid under a long term care insurance policy. This reduction in federal adjusted gross income would equal 50% of the premium costs of the insurance policy up to a total of \$1,000.

The United States Department of Health and Human Services estimates that 43% of those persons in this country over age 65 will require nursing home care at some point during their lifetimes. The Department also indicates there will be a 132% increase in the number of nursing home residents in the United States by the year 2030. Kansas is one of the states with a high percentage of elderly citizens. The state has seen the impact of the need for nursing home care in the growth of the Medicaid budget over the past few years.

Private long term care insurance offers a viable alternative to elderly Kansans who do not want to "spend-down" their assets and then rely on government assistance for nursing home care. In 1994 there were 70,697 long term care insurance policies in force in Kansas with total earned premiums of \$104,361, 715. The provisions of H.B. 2942 will assist these policyholders as well as other Kansans who want to purchase long term care insurance.

The Kansas Insurance Department urges your support of H.B. 2942.





JOHN T. EDMONDS

REPRESENTATIVE, ONE HUNDRED TWELFTH DISTRICT  
1010 TAFT, P.O. BOX 1805  
GREAT BEND, KANSAS 67530  
(316) 792-6552

STATE CAPITOL  
ROOM 182-W  
TOPEKA, KANSAS 66612  
(913) 296-7668

COMMITTEE ASSIGNMENTS

APPROPRIATIONS  
APPROPRIATIONS SUBCOMMITTEE ON EDUCATION  
AND LEGISLATIVE OPERATIONS  
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

HOUSE OF  
REPRESENTATIVES

Testimony before  
House Committee on Taxation  
on behalf of  
House Bill 2942  
by  
Rep. John Edmonds  
112th District

February 22, 1996

Chairman Kline, members of the committee, thank you for the opportunity to present testimony in support of HB 2942.

HB 2942 provides a deduction from federal adjusted gross income for the purpose of calculation of Kansas individual income tax. It would create a maximum annual tax benefit of \$77.50. The exact amount of the tax benefit would depend upon the tax bracket of the individual taxpayer.

It is clearly good public policy to encourage citizens to provide for themselves against the possibility of the need for long-term care. HB 2942 provides a modest incentive. I strongly encourage your positive consideration.

19840 Floyd  
Stilwell, Ks, 66085  
ph: 913-897-2742

Attn: Phyllis Gilmore

Subject: Tax deduction for persons acquiring insurance for long term care.

I have just reached the age of 65. Less than 4 months ago, I signed up for insurance for long term care. The cost per month was quite large for a person 64 years old. It would have been less if I would have taken the insurance out earlier in life. This brings me to one of the most important reasons to allow tax deductions for this type of insurance. A tax deduction for insurance would encourage younger persons to take out the insurance in their "earning" years.

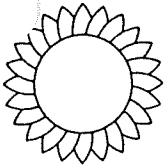
I checked with my sister who runs a nursing home. Some of the statistics of her nursing home are quite astounding. The "average" pay per person for room, bed, and meals is about \$75 (day). Any bandages or medication is extra. Also, her particular home has 74% of the patients on medicaid, 12% of the patients on medicare, and 7% were veterans, 3% were insured patients and 3% were wealthy to pay for themselves. Her nursing home has about 250 beds.

If, by encouraging people to take out insurance, the 3% figure of insured patients could be tripled, this one 250 bed nursing home would save nearly \$500,000 yearly in tax drain. I do not know how many nursing homes there are in Kansas, but if we assume there are 100, this would be a savings of about 50 million dollars (yearly). I do not think it would take very many tax incentives to convince 6 more people out of 100 to take out insurance. This may be especially advantageous if block grants to states ever become popular to cover medicaid.

I would like to say that tax incentives would have encouraged me to take out long term care insurance sooner. It would seem that since our taxes pay for these people to have nursing care anyway, would it not be much wiser to encourage each person to carry their own insurance by offering tax incentives?

Thank you  
Tony Adair

House Taxation  
2-22-96  
Attachment 6



Johnson County  
Kansas

---

FEBRUARY 22, 1996

HOUSE TAXATION COMMITTEE

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

HEARING ON HOUSE BILL NO. 2596

Mr. Chairman, members of the Committee, my name is Gerry Ray representing the Johnson County Board of Commissioners. I am appearing today to offer the Commissioners support for HB 2596.

The proposal requiring counties to pay interest on protested tax refunds, has been debated for at least three years. In 1994 there was a bill that compelled the counties to pay 8% interest on refunds from the date of payment, plus the Board of Tax Appeals could award attorney fees to the plaintiff. In 1995 a bill was introduced to pay 12% interest from the date of payment. The bill passed the Senate and was referred to an Interim Committee by this Committee.

Several counties brought together an informal group consisting of representatives of the clerks, treasurers, appraisers, commissioners and administrative staff. The group held a number of meetings in which they included the chief proponent of the bill to work out an agreeable compromise. Although the proponent was rather unclear on the acceptability of the compromise, it was presented to the Interim Committee where it was modified into the bill you have before you today.

The history of this proposal is presented to you to illustrate that HB 2596 is an proposal that has been through a lengthy process to the point that it is feasible.

Johnson County has recognized for sometime the fairness issue of government collecting interest on delinquent tax while not compensating the taxpayer who pays under protest, wins the case and is eligible for a refund. Until now the obstacle has always been, trying to carry out the intent of the law to offer the right of protest while protecting the other taxpayers from bearing the expense of interest covering a time when the county has no control over the duration of the case.

HB 2596 offers a solution by allowing the protesting taxpayer to pay only the unprotested amount. In this way if a refund is due the taxpayer has not been deprived of full access to his/her money. On the other side if the protest fails the taxpayer will be required to pay the full tax bill plus 10% interest. The reason for this provision is to reduce the occasions of frivolous protests.

House Taxation  
2-22-96  
Attachment 7-1

The Johnson County Commission views HB 2596 as a solution to a problem that, at one time, appeared not to have an answer. It is conceded that it will cause some loss of interest to the county, however this is much more acceptable than having to pay interest due to circumstances outside the control of the county.

It is acknowledged that some members of the Treasurers' Association feel strongly that the responsibilities placed on the county treasurer are not acceptable under existing procedures. Bill O'Brien, Johnson County Treasurer has stated that "The wonder of computer software is that it is capable of being modified to fit changing times and conditions". Therefore, our Commissioners believe by converting software, to process the collections and refunds, this approach will work. With a procedure involving treasurers, clerks and appraisers those three offices will presumably need to collaborate to handle the changes.

For informational purposes the attachment shows the number of protests filed in Johnson County in 1995 and the total amount of money refunded due to protests. The refunds issued in 1995 included tax years 1985 through 1995. We did not compute the cost of paying interest on the refunds because it would have entailed figuring each individual refund based on the period of time required to process the case.

The Johnson County Commission and the County Treasurer urges the Committee to recommend HB 2596 for passage as a way to resolve a long existing problem.

**Johnson County Treasurer's Office  
21-Feb-96**

**Payment Under Protests Received in Calendar Year 1995**

Real Estate for first half 1995	1,024
Real Estate for second half 1994	144
Personal Property	<u>164</u>
<b>TOTAL</b>	<b>1,332</b>

**Refunds made (due to Protests) in Calendar Year 1995 from the Johnson County Treasurer's Office to taxpayers (1)**

	<u># of Refunds Issued</u>	<u>Total \$'s Refunded</u>	<u>Avg Refund</u>
Real Estate	608	\$2,342,573	\$3,853
Personal Property	249	\$705,615	\$2,834
<b>TOTAL</b>	<b>857</b>	<b>\$3,048,187</b>	<b>\$3,557</b>

(1) Refunds issued in 1995 included tax years 1985 through 1995

cah p:\files\cashflow\project\protests  
21-Feb-96

7-3

To The Honorable Phil Kline, Chairman  
Assessment and Taxation Committee

Reference: HB2596

Ladies & Gentlemen:

I have been forced to get involved in the taxation process due to the reappraisal of my property in 1989 which resulted in a tax increase from \$4,900.00 to \$19,500.00. I tried to follow all of the protest procedures required of a taxpayer and wound up protesting years 1989, 1991, and 1992. Due to a technicality in timing, I was not able to protest 1990. Although we won our case, we had to borrow over \$15,000.00 to pay all the cost plus the tax increase. This last year we finally paid the bank loan off. This loan resulted in a considerable amount of interest paid. The major appraisal issue causing the tax increase was the county placing a value of \$2.75 per foot on my property verses an average value of \$1.08 per foot on like properties in Manhattan.

That's briefly why I am here today to speak out for taxpayer rights. These hard working citizens are not asking for any handouts, they just want a level playing field when a dispute in property taxes occurs. This bill would allow a person to function during the protest process. The taxpayer is confronted with accountant costs, attorney fees, and private appraisers when trying to defend his position and shouldn't be asked to pay

this unresolved increase in taxes. You know as well as I that the State, with its unlimited resources has a tremendous advantage over the individual.

Passage of this bill would not be an extreme hardship on any government agency. In talking with my local commissioner, only two or three tax protest cases would be affected by this legislation. That in no way would cause an undo work load on any government entity.

In closing, this taxpayer friendly bill, if passed, would suggest to the property owner that this legislative body is trying to help with their tax problem. Another judge of how tax friendly this bill is is how many government entities will testify against it.

February 22, 1996  
Verlyn D. Osborne  
6950 Flush Road  
St. George, KS 66535





**SEDGWICK COUNTY, KANSAS**

**INTERGOVERNMENTAL RELATIONS**

**WILLIE MARTIN**

COUNTY COURTHOUSE • 525 N. MAIN • SUITE 315 • WICHITA, KANSAS 67203 • TELEPHONE (316)383-7552

TO: HOUSE TAXATION  
FROM: WILLIE MARTIN, SEDGWICK COUNTY  
REF: HOUSE BILL 2596  
DATE: FEBRUARY 22, 1996

Chairman Kline and members of the Committee, I am Willie Martin representing the Sedgwick County Board of Commissioners. I appreciate the opportunity to comment on House Bill 2596.

Sedgwick County sets values on over 175,000 parcels. The percentage of taxpayers filing appeals in the last five years has never been more than 4% of the properties valued. In 1990 there were 5,099 appeals or 2.77%. There were only 2.20% of the total properties valued which appealed in 1993. The percentage of appeals continues to hold near these percentages. We believe these figures are a strong indicator that Sedgwick County is diligently striving to assign proper and accurate values to the parcels in our county.

The proposal in House Bill 2596 is a reasonable compromise in the long list of attempts to provide taxpayers timely and equitable treatment in the tax appeal process. This alternative allows the taxpayer to pay only the amount of taxes not disputed at the time of filing the protest. The taxpayer does not have money held during the protest and the county is not required to pay interest on that money. Sedgwick County supports the provisions of House Bill 2596

House Taxation  
2-22-96  
Attachment 9

February 22, 1996

To: House Taxation Committee  
Representative Phill Kline, Chairman

From: Pottawatomie County Commission  
Westmoreland, KS.

To the Committee,

The Pottawatomie County Commission wish to offer support for HB 2596. Having been involved with the appraisal and hearing process we believe that this proposed legislation is very fair to those constituents who feel they must protest their property values, classification, or mill levies.

The length of time between the first appeal at the county level and final decision from the Board of Tax Appeals has always been of concern as government has the ability to use the taxpayers moneys without interest or damages, and has only to repay the amount of tax found to be in error. We believe that by paying an amount equal to the previous years tax and only protesting the amount of increase is a fair way to treat our constituents. We believe this legislation will have less impact on the budget process, than paying the amount ordered plus interest.

Lets not forget just who pays the bills and who we are working for. With the perception of government today, it is a must that our constituents are treated with consideration and respect in all matters, especially in taxation of property.

We understand that their are anticipated problems with administration by County Treasurers and hope that the committee will listen carefully to their valid concerns and come up with a workable solution.

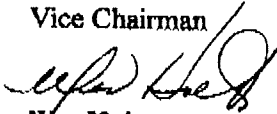
Sincerely,



Richard Carlson,  
Chairman, Pottawatomie County Commission



Bob Rawson  
Vice Chairman



Wes Holt  
Member

TESTIMONY  
House Bill No. 2596  
Property Tax Payments - Property Tax Refund Interest  
February 22, 1996

Mr. Chairman and members of the House Assessment and Taxation Committee:

We oppose HB 2596. It sounds good, makes you feel good, but what do you have? A 12% interest rate on the delinquent property taxpayer, a 10% interest rate on their underpayment of taxes, and zero interest on refunds of overpayments to the beleaguered taxpayer. Not fair!

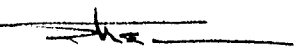
If this bill is not an administrative nightmare, then an amendment providing 10% interest to the taxpayer on refunds would make it more acceptable.

The Senate passed a property tax refund interest bill in 1994 on 39 to 1 vote. Original 1995 SB 41 passed the Senate 40-0. We believe a clean bill on the public policy, property tax refund interest, would pass with a sizable majority in the House of Representatives.

The concept of HB 2596 was distributed to Johnson County State Representatives on March 21, 1995. On a floor amendment, General Orders, March 29th it replaced original SB 41 (67 - 45). This action was later reversed with original SB 41 being amended into SB 475, on a 53 - 47 vote. It rests in your committee.

Several other floor amendments were proposed: Rep. Petty's amendment for no accrual of interest after an appeal goes to BOTA, failed 43 - 60; Rep. Reardon's amendment to reduce the rate from 12% to 8%, failed 47 - 56; and then Rep. Wempe's floor amendment for Senator Moran's school finance proposal passed, 77 yeas, 42 nays. Reconsidered March 30th. Final passage March 31st, yeas 69, nays 56.

It was our view at that time, and it is our view now, the intent (excluding Wempe's amendment) was to cripple or kill original SB 41, Property Tax Refund Interest. Obviously, House democrats were giving this measure limited support. Hopefully, you can regain focus on this legislation.

  
Shelby Smith, Lobbyist  
Rural Kansas Taxpayer's Association

Enclosure: Executive Summary - Original SB 41

House Taxation  
2-22-96  
Attachment 11-1

132 South Fountain  
Wichita, Kansas 67218  
316-684-1371

820 Quincy, Suite 310  
Topeka, Kansas 66612  
913-235-9034  
FAX 913-235-8676

December 11, 1995

the SHELBY  
SMITH  
group

Executive Summary  
Property Tax Refund Interest

Background

Original 1995 SB41 passed the Senate on a vote of 40-0. It was recommended by the House Assessment and Taxation Committee. The Bill was changed on the floor of the House of Representatives to Senator Moran's school finance proposal.

Provisions of Original SB41: payment of interest to taxpayers on refunds of protested taxes from the date taxes are paid or when due, whichever is later; an interest rate of 12% per annum (the delinquent statutory rate); the County Treasurer shall refund the taxes with interest within 30 days after the final order; and the refund interest is paid from the County General Fund tax monies collected but not distributed to other local governments.

Rationale

- \* It is **UNFAIR** for government to charge taxpayers interest on delinquent and underpayment of property taxes, and to not pay taxpayers interest on overpayment of property taxes illegally applied, collected and then refunded.
- \* County liability is justified in view of the facts: they collect, distribute, and invest the money; and counties have three opportunities to place correct values on property - the appraiser's valuation on the Notice to Taxpayer; the appraiser's hearing, the first step in the appeal process; and the county Hearing Officer Panel (HOP) review. Additionally, at the county's option, they have a fourth opportunity to get it resolved at a BOTA pre-conference hearing.
- \* The statutory interest rate should be the same for both parties when they hold the other person's money. It is also an incentive for county officials (appraisers, counselors, commissioners, and treasurers) to settle the case at the local level.

Conclusions

1. All classes of taxpayer's property would be treated equally and fairly -- large/small, urban/rural, commercial, industrial, oil and gas, agricultural, and residential. The playing field is leveled.
2. **ORIGINAL SB41 IS GOOD PUBLIC POLICY**, and the number of appeals filed with BOTA will decrease.

Shelby Smith, RKTA

132 South Fountain  
Wichita, Kansas 67218  
316-684-1371

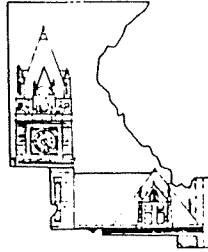
820 Quincy, Suite 310  
Topeka, Kansas 66612  
913-235-9034  
FAX 913-235-8676

11-2

PUBLIC AFFAIRS CONSULTANTS

# RILEY COUNTY TREASURER

Eileen King  
Riley County Treasurer



110 Courthouse 2a  
Manhattan, Kansas 66502-0108  
913/537-6320  
Fax 913-537-6326

TO: House Taxation Committee

FROM: Eileen King, Riley County Treasurer  
Vice-President Kansas County Treasurer's Association  
Legislative Chair for Kansas County Treasurer's Association

DATE: February 22, 1996

RE: HB2596

Chairman and members of the Taxation committee. Thank you for the opportunity to speak on HB2596. I am Eileen King, Riley County Treasurer, Vice President of KCTA and Legislative Chair for KCTA. Our association is in opposition to HB 2596 because we do not feel that it is addressing the real problem and it is creating more problems than it is solving. I would like to address a few of the problems.

After reappraisal in 1989, there were numerous protests, and there was a backlog of appeals at the State Board of Tax Appeals, which created a long delay. With the recent changing in administration at the Board, I understand that the backlog has been greatly reduced. Also we are not seeing protests from the large taxpayers that would create a cumbersome liability for the counties. The real problem lies within the Mass Appraisal System in Kansas and the inherent inaccurate appraisals. The Property Valuation Department (PVD) compels the counties to follow their guidelines. Using these guidelines, the County Appraisers value the property. Then when the taxpayer appeals the valuation to the State Board of Tax Appeals, they do not use the same guidelines as PVD. This causes everyone in the system to look inept (i.e. The left hand doesn't know what the right hand is doing.)

This bill would affect each taxpayer differently, since everyone's tax liability is different. It would make an already complicated taxing system even more complicated for the taxpayer. Now the taxpayer must decide whether to pay the tax in full or in half, with this bill the taxpayer would have four options; pay in half; pay in full; pay an amount equal to half of last years; or pay the amount of the unprotested tax. This is further complicated if the taxpayers loses the appeal and we are required to <sup>have</sup> them ~~to~~ pay the disputed tax plus interest. This type of procedure will only agitate the taxpayer more and alienate them more from the system.

HB 2596 is not following the "uniform and equal" provisions of our taxation process. If a taxpayer gambles and pays only the undisputed amount, they will only be charged interest if they lose the appeal. What about the taxpayer that protests and pays the tax in half or full, and

House Taxation  
2-22-96  
Attachment 12-1

they win their appeal? If the taxpayer loses and has to pay interest, wouldn't it make sense for the winning taxpayer to be paid interest?

Many times when taxpayers come into the Treasurer's office to protest their taxes, they are protesting the tax dollars rather than the valuation. When they realized they can only protest based on value, they are at a loss. Numerous times I have heard, "I don't care how much you increase the value of my house, just don't raise my taxes." The number of protests that we receive is directly related to whether the mill levy goes up or down. The more the total levy goes up in a year, the more people, protest their taxes. The last couple of years the mill levy in Riley County has been consistent, and we have had minimal protests.

Our association has done a survey of County Treasurer's with regard to this bill. Over 60% of the counties responded to our survey, with 21% favoring HB 2596 for the protest tax procedure, 45% preferring to pay interest and the other 34% wanting to put the protested tax in a separate fund until resolved.

What happens when property that has been paid under protest sells before it is settled and then the ruling is against the taxpayer? Does the new owner pay the disputed taxes plus the interest penalty?

As Treasurer's we are not as concerned with the additional work load for us, as we are the complexity and problems caused for the taxpayers. We feel that this bill will alienate the taxpayers and work against the same people that it is designed to help. We feel that we are hurting the taxpayers more than helping them.

Thank you for your time and I will be glad to stand for questions.

TO : PHILL KLINE, CHAIRMAN AND MEMBERS  
OF THE HOUSE TAXATION COMMITTEE

FROM : LARRY TUCKER, RENO COUNTY TREASURER

RE : H.B. 2596

Thank you Mr. Chairman, and members of the House taxation committee. Today, on behalf of the Kansas County Treasurer's Association and as Reno County Treasurer, I come to speak in opposition against House Bill No. 2596. Such opposition is not based solely upon the concerns as it affects the County Treasurer offices across Kansas, but more importantly, the need to collectively seek common sense alternatives in addressing the problem of the fair assessment and collection of property tax.

1. Cost to counties.

The cost of implementing this change under House Bill 2596 would be expensive for most counties. Besides the purchase of new accounting software, additional costs would be incurred for the supplies, postage, labor and other expenses necessary to keep track of partial tax payments.

This would vary from county to county, but in Reno County this could cost from \$ 8,000 to \$ 10,000 for us to implement the first year. In addition, this would create on going expenses required to continue the record keeping and correspondence needed to keep track of disputed tax amounts, which in some cases go on for many years. In my county, we still have unresolved tax protests dating back to 1989.

These costs are another example of unfunded mandates that are being forced upon counties that are already being penalized under the current tax lid formula.

2. Confusion to taxpayers.

The process of paying taxes under protest is confusing to many taxpayers. Many require assistance in completing the necessary forms, plus in many instances file incomplete information. Under this proposal, the taxpayer will need even more information, including how much was paid in the previous year and/or the information needed to recompute what they believe the correct tax should be. The end result will be more confusion for taxpayers.

In addition, the taxpayer who chooses not to pay the current tax due, will be at the risk of paying a penalty, should they lose their protest. Should they take a gamble, knowing that if unsuccessful, they will have to pay the County Treasurer more than the original tax ?

All this decision making, will create even more confusion and frustration for taxpayers.

### 3. Unfairness.

The current system of notifying the taxpayer in the spring of their new assessed value for the tax year, allows them the option to request an equalization hearing to dispute their valuation, before they get a tax bill. If they ask for a hearing and lose, they are not subject to any additional penalty.

However, under the proposal in this bill, those who pay their taxes under protest, will be at risk of paying a penalty if they lose, while they would have been under no risk if they had appealed through the equalization process.

This creates an inequity in the appeal process. And which elected official will receive the brunt of the unhappy taxpayers complaints when they receive a another bill from the County Treasurer for additional taxes due, plus penalties ? May I suggest, it will not be any one of you on this committee.

### 4. Alternatives.

Before creating another unfunded mandate for counties, creating more confusion for taxpayers and creating new inequities in the tax collection process, I suggest we collectively look at other alternatives.

Three Part Payment - The Kansas County Treasurer's Association has endorsed Senate Bill 602 to allow taxpayers to pay their property taxes in one-third installments, by adding a March date for the third of the three payments. This would allow the taxpayer to pay a lesser amount than under current law, while still allowing them to protest their taxes. No additional costs to keep track and collect disputed tax amounts would be required.



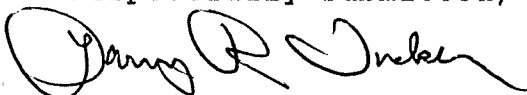
Reasonable Interest on Refunds - Taxpayers frustrated by having to pay the disputed tax amount in advance, could be paid a reasonable interest return on top of the tax refund. Such a rate, currently around 5%, could be determined by the Federal treasury bill rate established semi-annually by the Kansas Division of Accounts and Reports office. In Reno County, the amount of disputed assessed valuation reduced from 1994 tax protests was just over \$ 430,000 or about \$ 55,000 in tax refunds. Using an interest rate of 5% this would have resulted in refunded interest of less than \$ 1,500. In 1995, Reno County earned over \$ 900,000 in interest from idle funds.

Focus On Valuation Process - Changing or making the tax protest process easier, will not correct the problem of poor valuations. Those counties that do a poor job of determining values will continue, unless efforts are made to correct the problem from the state level through enforcement, penalties and education.

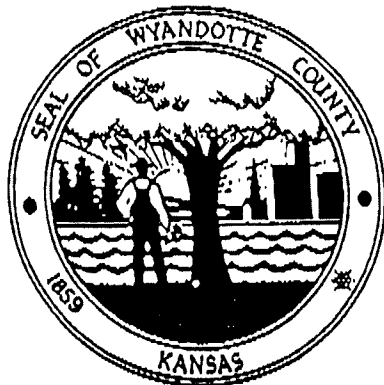
These are but a few alternatives that should be considered in the fair assessment and collection of the property tax in Kansas. I challenge the legislature to work with all state, county and local officials to collectively address this issue.

Thank you Mr. Chairman for this time to speak in opposition to House Bill 2596. I would be happy to answer any questions at this time.

Respectfully submitted,



Larry R. Tucker  
Reno County Treasurer



OFFICE OF  
BOARD OF COUNTY COMMISSIONERS  
WYANDOTTE COUNTY COURT HOUSE  
710 N. 7TH STREET  
KANSAS CITY, KANSAS 66101  
PHONE (913) 573-2827  
FAX (913) 321-0237

**NANCY W. BURNS**  
COMMISSIONER 1ST DISTRICT  
**VERDIS J. ROBINSON**  
COMMISSIONER 2ND DISTRICT  
**RICHARD J. KAMINSKI**  
COMMISSIONER 3RD DISTRICT

February 22, 1996

Committee Members, Special Committee on Assessment and Taxation  
Kansas State Capitol Building  
Topeka, Kansas

**RE: HOUSE BILL NO. 2596**

Dear Committee Members:

My name is Julius Novak, Legislative Liaison for Wyandotte County. I want to thank you for allowing me time to represent the views of Wyandotte County in opposition to House Bill No. 2596, an act concerning property tax payments. I have discussed this specific bill with the Wyandotte County Commissioners, Treasurer, Clerk, and Appraiser, and they all agree that HB 2596 would create an undo hardship on County resources without creating a benefit to the taxpayers.

The major concern of Wyandotte County is that HB 2596 will cause more confusion and be less "user-friendly" to the taxpayers as to which options of payment are available when paying/protesting real estate taxes. The language of the proposed bills allows a taxpayer several options, whereas in the past, the first half of the taxes had to be paid. Taxpayers often find paying under protest a daunting challenge, but with the proposed bill, they will find even more confusion and frustration.

Traditionally, "payment-under-protests" occur during the busy tax seasons (December 20th and June 20th). County Treasurer offices are inundated with taxpayers, often lessening the time specific rules and procedures can be explained thoroughly. During these peak times, a taxpayer paying under the proposed legislation of HB 2596 might not have the adequate assistance they may need and then would miss the opportunity afforded to them under state law.

House Taxation  
2-22-96  
Attachment 14-1

An additional concern Wyandotte County has is the specific language addressing the charge of interest at a rate of *10% per annum*. The bill's language states that this is an **INTEREST CHARGE**, but is to be reflected as an **ADDED TAX**. Existing legislation states that any interest charged and duly collected shall be retained by the County. Reflecting the interest charge proposed by HB 2596 as an added tax would cause the County to distribute it as other general taxes, a loss of a source of revenue Counties rely on annually.

There is also confusion regarding the specific language in *Section 1 (2)* concerning the 10% per annum interest charge. The language read, "Such amount shall be reflected on the books of the county treasurer as an *added tax* ..." (emphasis added). Existing legislation clearly states that only the appraised value of a property can determine a tax amount. Since the appraised value of a property is not being changed, but merely an interest charge is being applied, then the actual tax amount is also not being changed. The additional amount received, an interest charge, should be reflected as an interest charge, not an added tax.

Wyandotte County believes the taxpayer should be afforded every opportunity to protest an unfair valuation and/or tax. Existing legislation provides for these opportunities in a fair and consistent manner. The proposed legislation of HB 2596 would severely effect the taxpayer's ability to protest by creating additional confusion and expenses (in the form of an interest charge to the taxpayer and a loss of revenue to the County). Upon a careful review of this bill, I urge this Committee to vote in opposition of HB 2596.