

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 4, 1998 in Room 519-S of the Capitol.

All members were present except: Rep. Ruff
Rep. Presta

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

Conferees appearing before the committee:

Rep. Gerald Geringer
Fred Hepler, City Manager, Junction City
Judy Moler, Association of Counties
Mike Billinger, Treasurer, Ellis County
Don Schnacke, KIOGA
Rep. Jim Morrison
Mike Irvin, Sherman County Counselor
Chris McKenzie, League of Municipalities
Bob Corkins, Kansas Chamber of Commerce & Industry
Rod Broberg, Saline County Appraisers Assn.
Michelle Miller, Johnson County Local Government

Others attending: See attached list

Chair opened hearing on:

HB 2584 - Apportionment of revenue from Geary county sales tax

Proponents:

Rep. Gerald Geringer (Attachment 1)
Fred Hepler, City Manager, Junction City (Attachment 2)
Written testimony from John Sajó, Geary County Commissioner (Attachment 3)

Closed hearing on **HB 2584.**

Moved by Representative Kline, seconded by Representative Larkin, committee pass this bill favorably and ask for placement on the consent calendar. Motion carried.

Chair opened hearing on:

HB 2599 - Collection of delinquent personal property tax

Proponents:

Judy Moler, Association of Counties (Attachment 4)
Mike Billinger, Treasurer, Ellis County (Attachment 5)
Written testimony from Pete Johnson, Ellis County Commissioner (Attachment 6)

Opponents:

Don Schnacke, KIOGA (Attachment 7)

Closed hearing on HB 2599.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on February 4, 1998.

HB 2644 - Sherman County highway sales tax

Proponents:

Rep. Jim Morrison
Mike Irvin, Sherman County Counselor (Attachment 8)

Closed hearing on **HB 2644**.

HB 2600 - Property tax exemption request administration

Proponents:

Chris McKenzie, League of Municipalities (Attachment 9)
Bob Corkins, Kansas Chamber of Commerce & Industry (Attachment 10)
Written testimony from Don Siefert, Olathe (Attachment 11)

Opponents:

Rod Broberg, Saline County Appraisers Assn. (Attachment 12)
Michelle Miller, Johnson County Local Government (Attachment 13)

BOTA Chairman Gus Bogina was called to the podium to respond to the comments regarding extending time for approval of an exemption request from 30 to 60 days. He noted if this were limited to IRBs and economic development exemptions it would impact approximately 100 cases rather than 4,000 if allowed to include all exemptions. Currently BOTA is scheduling 120 days out. He also questioned the language regarding publishing of denials as to where, how, when,. He suggested including language to clarify this and suggested publication should be in the newspaper of the county where the exemptions are made.

Closed hearing on **HB 2600**.

The next meeting is scheduled for February 9, 1998.

Adjournment

Attachments - 13

TAXATION COMMITTEE GUEST LIST

DATE: **FEBRUARY 4, 1998**

NAME	REPRESENTING
Dan Schnack	KCOGA
FRED HERLER	Junction City
MIKE BILLINGER	ELLIS COUNTY
Judy Melan	Ks. Assn of Counties
Rod Broberg	Kansas County Appraisers
Ken PETERSON	KS Petroleum Council
Ashley Shevard	Overland Park Chamber
James Johnson	KCOK
Tony Folsom	BOTA
Guy Bozinger	BOTA
Henry Heninger	Reg #65
Harold Lang	KAB
Mack Barakman	KCOGA
Enka Uuschaer	Self -
Josie Stramberg	JOCO
Blaine Finch	Intern / Rep. Ralph Tanner
Kelly Kuntala	City of Overland Park
Jim Williams	Riley County - Comm.

TAXATION COMMITTEE GUEST LIST

DATE: FEBRUARY 4, 1998

NAME	REPRESENTING
Special Miller	Johnson City
Mad	
J. Brown	via Mrs. Lumberman

STATE OF KANSAS

GERALD G. GERINGER
REPRESENTATIVE, SIXTY-FIFTH DISTRICT
720 ROCKLEDGE
JUNCTION CITY, KANSAS 66441-3974
(913) 238-1032

STATE CAPITOL
ROOM 112-S
TOPEKA, KANSAS 66612-1504
(913) 296-7672



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
BUSINESS, COMMERCE & LABOR
FINANCIAL INSTITUTIONS
HEALTH AND HUMAN SERVICES

February 3, 1998

Dear Mr. Chairman:

THE CHANGE IN KANSAS STATUTE REQUESTED IN HB 2584 IS LIMITED TO
GEARY COUNTY AND JUNCTION CITY ONLY.

THE REQUESTED CHANGE DOES NOT AFFECT THE REST OF KANSAS CITIES
AND COUNTIES AND THERE IS NO NET FISCAL IMPACT TO THE STATE OF KANSAS
(SEE FISCAL NOTE FROM GLORIA TIMMER).

I RECOMMEND THAT YOUR COMMITTEE PASS HB 2584 AND PUT IT ON THE
CONSENT CALENDAR.

Thank you.

A handwritten signature in cursive script that reads "Gerry".

Gerry Geringer
State Representative

GGG:mr

House Taxation
2-4-98
Attachment 1-1



DIVISION OF THE BUDGET
Room 152-E
State Capitol Building
Topeka, Kansas 66612-1575
(913) 296-2436
FAX (913) 296-0231

Bill Graves
Governor

Gloria M. Timmer
Director

January 15, 1998

The Honorable Phill Kline, Chairperson
House Committee on Taxation
Statehouse, Room 170-W
Topeka, Kansas 66612

Dear Representative Kline:

SUBJECT: Fiscal Note for HB 2584 by Representative Geringer

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2584 is respectfully submitted to your committee.

HB 2584 amends the general provisions for apportioning county sales tax revenues in Geary County. Current statute requires that Geary County apportion county sales tax revenues on a population basis. The basis excludes population that resides on post at Fort Riley. This bill would remove the population-based apportioning procedure and require Geary County to use a procedure based on total tangible property tax levies. The property tax basis is consistent with the procedure in all other Kansas counties except Riley, Johnson, and Montgomery Counties.

There is no net fiscal impact associated with this bill. The total amount of county sales tax would not be affected by this bill; however, it is likely that the revenue would be apportioned differently.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Timmer".

Gloria M. Timmer
Director of the Budget

cc: Randy Allen, Association of Counties
Don Moler, League of Municipalities

1-2

A.J. (JOHN) SAJO
FLORENCE C. WHITEBREAD
GEORGE R. JOHNSON

OFFICE OF COUNTY COMMISSIONERS
GEARY COUNTY
JUNCTION CITY, KANSAS 66441
913-238-4300



COUNTY CLERK
REBECCA BOSSEMEYER

September 22, 1997

The Honorable Gerald Geringer
720 Rockledge Dr
Junction City KS 66441

Dear Representative Geringer,

Thank you very much for introducing proposed legislation to amend K.S.A. 1997, Supp. 12-192.

The existing legislation came about partly as a result of conflicts between the Board of County commissioners and the city government of Junction City. Those bad days are now behind us. The city and county now simply wish to be treated the same as all the other cities and counties in Kansas.

Your assistance is appreciated.

Sincerely,

A.J. Sajo
District 1

George Johnson
District 2

Florence Whitebread
District 3

rab

1-3

**BILL LEVINSON
MAYOR**



P.O. Box 287
Municipal Building
Junction City, KS 66441

OFFICE OF THE MAYOR

September 15, 1997

State Representative Gerald Geringer
720 Rockledge Drive
Junction City, Kansas 66441

Re: "Disputed Sales Tax"

Dear Mr. Geringer:

As you have been made aware by Geary County Commissioner Sajo, the City of Junction City and Geary County have come to accord on a long standing disagreement concerning funding of certain joint City/County agencies. The two governing bodies are now budgeting for these agencies without regard to the source of the sales tax revenues used for such funding. Therefore, we believe paragraph (3)(a)K.S.A. 12-192 is no longer necessary or appropriate. The City Commissioners have authorized me to join with the County Commission in requesting that legislation be introduced in the Senate and House repealing that subsection.

We appreciate your assistance on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Levinson", written over a horizontal line.

Bill Levinson
Mayor

CF: City Attorney

1-4

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 2584

BY

JOHN F. HEPLER

CITY MANAGER, JUNCTION CITY

ON BEHALF OF THE CITY COMMISSION OF JUNCTION CITY I AM TESTIFYING IN SUPPORT OF HOUSE BILL NO 2584. THIS BILL WILL REPLACE AN AWKWARD DISTRIBUTION FORMULA APPLICABLE ONLY TO GEARY COUNTY. THE GOVERNING BODIES OF GEARY COUNTY AND JUNCTION CITY HAVE MOVED PAST THE DISAGREEMENTS THAT CAUSED THE ORIGINAL LEGISLATION. THE COUNTY AND THE CITY HAVE BUILT A COOPERATIVE RELATIONSHIP WITH THE EFFECTIVE AND EFFICIENT GOVERNANCE OF ITS CITIZENRY AS THEIR OVERRIDING PRINCIPAL.

THE CHANGES PROPOSED IN HB NO 2584 WILL PROVIDE FOR THE EFFICIENT DISTRIBUTION OF RETAILERS' SALES TAX REVENUES IN THE SAME MANNER AS MOST OTHER COUNTIES IN KANSAS. THIS IS GOOD LEGISLATION AND THE CITY OF JUNCTION CITY ENCOURAGE ITS ADOPTION.

JUNCTION CITY - GEARY COUNTY

Comments on House Bill 2584

Both Junction City and Geary County strongly support House Bill 2584. In fact, the governing bodies jointly requested it.

The purpose of this legislation is to remove provisions regarding the so called "disputed sales tax" from consideration in distribution of sales tax collections to the city and county, and, in effect to treat Junction City and Geary County the same as almost every other city and county in the State of Kansas. (The term "disputed sales tax" means that portion of sales tax revenue distributed to Junction City attributed to persons residing on that part of the Fort Riley Military Reservation within Geary County.)

This special treatment of Junction City and Geary County came about in the early 1980's when the city and county were at odds regarding almost everything, especially sales tax revenue attributable to persons residing on Fort Riley. Simply stated, conditions have changed, and Junction City and Geary County now co-operate in many areas. Thus, the special treatment of sales tax is not necessary.

We urge favorable action on House Bill 2584.



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
Before the House Taxation Committee
on HB 2599
February 4, 1998

Representative Kline, Members of the Committee, thank you for allowing me to appear before you today. I am Judy Moler, Legislative Services Director and General Counsel for the Kansas Association of Counties.

The Kansas Association of Counties is appearing today in support of HB 2599. The KAC has as one of its top priorities the passage of this bill. Many counties have worked diligently for years for legislative relief in collecting personal property taxes. The bill you have before you would reduce from 30 to 14 the number of days that the county treasurer would wait after mailing a notice of delinquency before issuing a warrant for payment of unpaid property taxes. County treasurers could then send notices of property tax delinquency that are unpaid as of January 1. Currently the treasurer must wait until February 15 before the tax is considered delinquent.

HB 2599 extends to 24 months the amount of time the county sheriff has to collect delinquent taxes on oil and gas property. Current law provides the warrants be returned by October which limits the time for collection to 45 days to four months depending upon the date the warrants were issued.

There are several county officials here today who wish to speak in support of this bill and will answer specific questions regarding the usefulness of this legislation in collecting delinquent property taxes.

The Kansas Association of Counties urges your favorable passage of this bill.

700 SW Jackson
Suite 805
Topeka KS 66603
785•233•2271
Fax 785•233•4830
email kac@ink.org

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ELLIS COUNTY TREASURY

Mike "Mickey" Billinger

Treasurer
Jerry Schmidtberger
Administrative Assistant

1204 Fort * Box 520 * Hays, Kansas 67601-0520

Phone 913-628-9465
FAX 913-628-9467

February 4, 1998

To: Members of the House Assessment & Taxation Committee
From: Mike Billinger, Ellis County Treasurer
RE: House Bill 2599

I am Mike Billinger, Ellis County Treasurer. I would like to express my appreciation to this committee for allowing me this time to present my position on HB 2599.

Ellis County takes great pride in knowing its taxpayers are given every opportunity to redeem their tax liabilities. If taxpayers are unable to pay taxes by the designated due dates they are offered several options of assistance. Consequently Ellis County has taken a "zero tolerance" approach when dealing with habitually delinquent taxpayers.

Taxpayers who are late making a tax remittance are mailed a courtesy notice as a reminder. After receiving the courtesy notice, taxpayers who are unable to pay are offered the option of entering into a payment contract. A payment contract permits taxpayers to payoff delinquent taxes on a monthly basis. Taxpayers

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decide when to make the monthly payment and the amount to pay. Ellis County also has a prepayment program. Taxpayers make a monthly payment into their prepayment accounts, so that when taxes are due in December and June the money is available. This service is also available to motor vehicle owners when renewing their registrations and paying motor vehicle taxes. Currently Ellis County has several hundred combined prepayment contracts and delinquent tax payment contracts. These payment options are in addition to the mandated statutes required of county treasurers. On numerous occasions I have said Ellis County is the most taxpayer friendly county in the State and yet the least tolerant of delinquent taxes. As of today, no other county has challenged this claim. Hopefully this taxpayer friendly policy dispels any thoughts that this legislation is heavy handed, as some might think.

With the assistance of HB 2599 county Sheriffs and Treasurers can expeditiously pursue delinquent taxes owed by the habitually delinquent taxpayers, "zero tolerance". This bill helps prevent personal property taxes from escapement. With the assistance of computers, tax warrants can now be issued sooner than the current system of waiting several months. Those taxpayers with unpaid taxes on January 1 or July 1 can be notified on or before February 20 or July 10. If these taxes remain unpaid fourteen days after the notice a warrant shall be issued for the collection of unpaid taxes, interest, and all fees related to the collection process.

This shortened timetable allows Sheriffs and Treasurers additional time to use various different collection options. One such option involves the sheriff and treasurer and the delivery of the warrant by registered mail to the purchaser of the oil and gas from a lease, charging the amount of delinquent taxes to the decimal interest against whom they were assessed. From and after the receipt

of this notice the purchaser shall not pay to the person owing the taxes or any holder of a working interest in this lease any of the proceeds of the sale of any oil or gas from this lease, but shall pay the proceeds to the sheriff or treasurer until the full amount of delinquent taxes and costs are paid after which time the purchaser may resume the original payment process for the oil or gas. Often times when pursuing delinquent oil taxes in this manner it takes two to three months of investigative research to contact the purchasing oil company of record and then an additional month to collect the delinquent taxes. Assistance from purchasing oil companies and ownership changes after the assessment date can often times require multiple requests. Lack of time is the problem and is even more apparent when attempting to collect delinquent second half taxes.

I would like to recommend that County Treasurers and Sheriffs be given the additional authority to include in the warrant costs direct expenses associated with the execution of these warrants. Oftentimes, delinquent taxpayers will force the county to spend additional tax dollars on collection efforts in order to delay paying the delinquent taxes until the last possible opportunity. This tactic increases the costs to the county which under present law can not be charged back to the delinquent taxpayer. Attached you will find an example of this situation (*attachment #1*). The delinquent taxpayer redeemed the delinquent taxes the day before the tax sale. Ellis County had incurred and had to pass back to all taxpayers the \$575.00 of additional costs. Somehow this just doesn't seem fair to pass these costs back to taxpayers who pay taxes on a timely basis. It should be noted that Kelly Baxter has not paid the 1997 Oil Tax and did not file a timely rendition with the county appraiser and therefore was assessed a late filing penalty. Also attached you will find additional detailed information supporting my recommendations (*attachment #2*). If time allows and you so desire I would consider reviewing this information.

In summation I feel the implementation of HB 2599 would enhance the chances of collecting delinquent taxes. Therefore I respectfully encourage your support of HB 2599 as presented and invite any questions you might have at this time. Thank you for your time and considerations.

KELLY BAXTER EXPENSES

<u>LEASE NAME</u>	<u>TAX YEAR</u>	<u>TAX AMOUNT</u>	<u>INTEREST</u>	<u>FEES</u>	<u>TOTAL DUE</u>
Gottschalk SWD	1995	\$ 40.72	\$ 8.84	\$25.00	\$ 74.56
Boos	1995	\$ 320.86	\$ 52.04	\$25.00	\$ 397.90
Gottschalk	1995	\$ 194.48	\$ 32.54	\$25.00	\$ 252.02
Hertel	1995	\$ 273.76	\$ 44.78	\$25.00	\$ 343.54
Gottschalk SWD	1996	\$ 27.24	\$.92	\$ 3.00	\$ 31.16
Boos	1996	\$ 167.36	\$ 5.66	\$ 3.00	\$ 176.02
Gottschalk	1996	\$ 124.16	\$ 4.20	\$ 3.00	\$ 131.36
Hertel	1996	\$ 124.16	\$ 4.20	\$ 3.00	\$ 131.36
<u>TOTALS</u>		\$1,272.74	\$153.18	\$112.00	\$1,537.92

EXPENSES

Publication					\$ 250.00
Estimated attorney fees					\$ 200.00
Estimated cost of phone calls & postage					\$ 25.00
4 trips to leases @ \$25.00 per trip					\$ 100.00

TOTAL EXPENSES

\$ 575.00

Outstanding Tax and Expense Totals

\$2,112.92

Amount collected from Kelly Baxter

\$1,537.92

UNRECOVERED COSTS

\$575.00

House Bill No. 2599

Reference to
Original Bill
H.B. 2599

Current Law

Proposed Law

Benefits

Page 1 Lines 16-23

Dates for taking action on delinquent personal property are February 20 and July 10. Mailed to delinquent taxpayer.

Move dates up for taking action on delinquent personal property to before February 20 and before July 10

Computers can generate delinquent tax information in a short period of time. As a result delinquent taxpayers can be notified sooner and the collection process started sooner.

Page 1 Lines 26-27

The County Clerk currently provides addresses for delinquent taxpayers.

Treasurer would have access to use updated names and addresses in Treasury files

This change would save research time because shared names and addresses would be available in the Treasury files.

Page 1 Line 35

Warrants are issued 30 days after courtesy notices are mailed.

Shorten the period between mailing the courtesy notices and the issuance of the tax warrant to 14 days.

Allow counties to begin the delinquent tax collection process sooner and minimize property escapement.

Page 1 Lines 38-39
& Page 3 Lines 3-4

Delinquent taxpayers are assessed interest and penalties for miscellaneous expenses.

Allow the Treasurer to assess the delinquent taxpayer for expenses directly incurred in collecting delinquent taxes through an execution and other legal processes.

Would require the delinquent taxpayer to pay all direct expenses incurred in collecting the delinquent tax, executing a sale and other related legal costs.

Page 2 Lines 4-15

Delinquent oil tax can be presented to the purchasing oil company for collection. This is a nonjudicial garnishment. However when oil ownership changes this process does not work.

New language would require purchasing oil companies to honor the garnishment requests of counties even if ownership has changed

Presently, purchasing oil companies do not honor garnishment requests made by counties if there has been a change of ownership. County counselors are then required to file a judicial garnishment adding substantial costs to the collection of delinquent taxes. In many cases this makes the collection costs prohibitive. The proposed law would allow this to be done internally and help to minimize the external costs.

Page 2 Lines 15-23

Tax warrants are required to be processed before October 1 of the following year they become delinquent. They are then filed in District Court and not actively pursued by anyone.

Tax warrants would be filed in District Court on October 1, as currently required by law. Additional authority would be given Treasurers and Sheriffs to be able to act on these warrants 24 months after issuance.

This change would allow Treasurers and Sheriffs additional time to execute on tax warrants. Giving additional time for garnishments as well as research time for discovery of delinquent taxpayers personal property.

OFFICE OF
ELLIS COUNTY COMMISSION

PHONE 913-628-9410

COMMISSIONER 1ST DISTRICT
PETER D. JOHNSON, ELLIS
PHONE 913-726-3254

1204 Fort Street
P.O. BOX 720
HAYS, KANSAS 67601

COMMISSIONER 2ND DISTRICT
KEITH KINGSLEY, HAYS
PHONE 913-625-5776

FAX-913-628-9413

COMMISSIONER 3RD DISTRICT
VERNON L. BERENS, VICTORIA
PHONE 913-735-9364

February 4, 1998

To: Members of the House Assessment & Taxation Committee
From: Pete Johnson, Ellis County Commissioner
RE: House Bill 2599

I am Pete Johnson, Ellis County Commissioner; and I am appearing on behalf of the citizens of Ellis County.

I would like to thank you for your time and considerations for our concerns. Your time is valuable and therefore I shall be direct.

With all due respect, ladies and gentlemen, the action taken by the legislature you represent, passes rules and regulations that effect everyone in our great State. The responsibility to collect the personal property taxes to support these regulations falls on the local commissions via the County Treasurer's office.

With the fluidity of today's society, present laws do little to help us act quickly in the collection of delinquent taxes. If with the use of computers, our Treasurer is able to tell within minutes who is delinquent in paying their tax, should not the law reflect the savings of time, allowing the collection process to be sped up?

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The burden of delinquent taxes is passed on to everyone who is paying on time. The estimated tax delinquencies in 1995 was \$5,100,000.00 (see attachment map-Exhibit "A"). These dollars were lost in part to each local taxing authority, including our schools, cities, counties and state. With more strength in the collection process, this figure could be reduced significantly, thereby helping each and every person that we represent as elected officials.

A concern of greater magnitude and lasting consequence is that of abandoned oil leases. If I may direct your attention to attachment Exhibit "B", you can readily see a small representation of the many abandoned oil wells in Ellis County and surrounding counties. These holes provide an unabated funnel of contamination to the precious underground water aquifers in my part of the state.

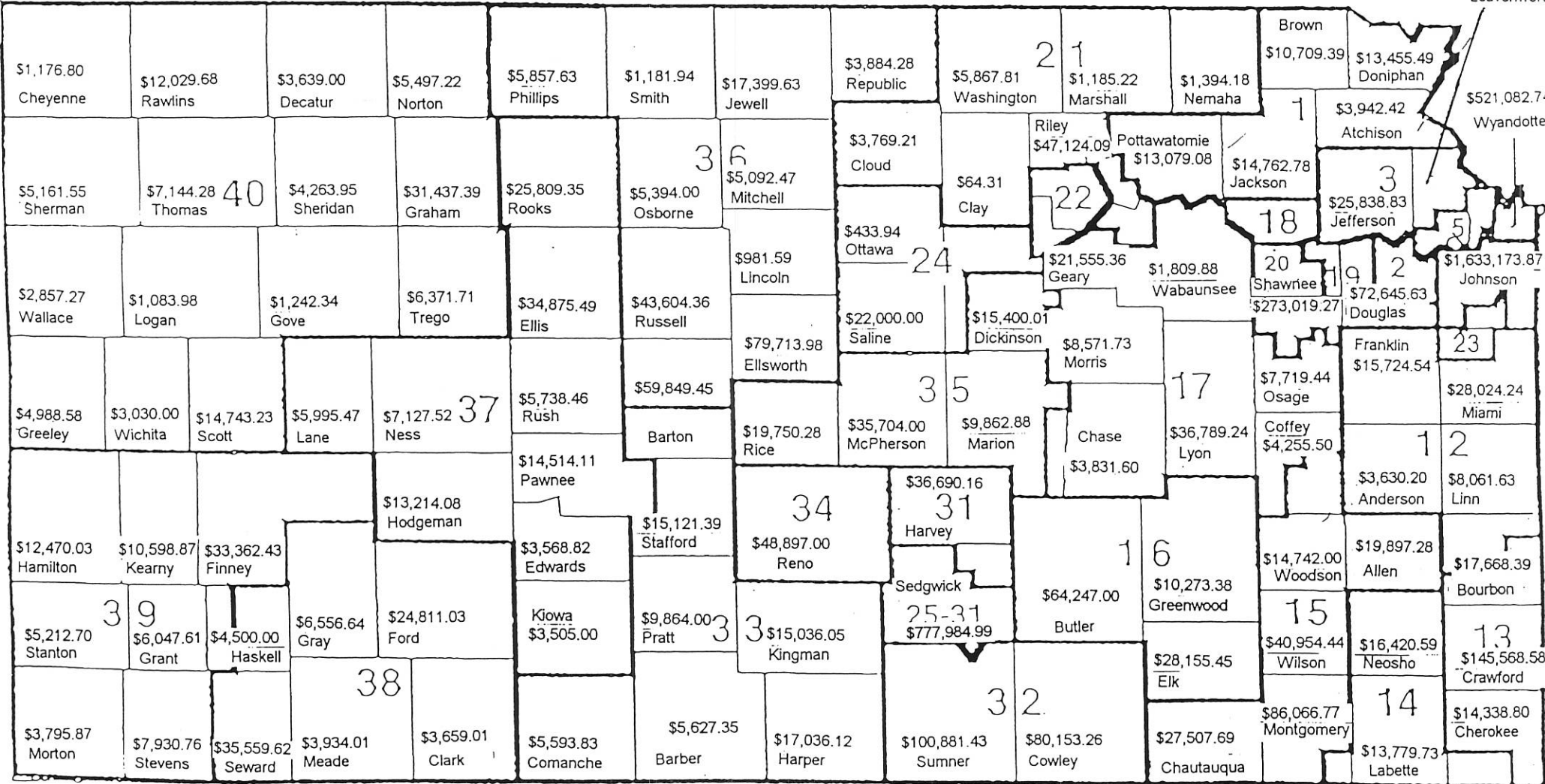
Delinquent taxes and the people they represent, have the potential of becoming the "last straw". Whether the delinquency be one dollar or fifty thousand dollars, the taxpayers who do not pay use the same services as those that do. The free ride must stop. With your support of HB 2599, Treasurers and Sheriffs across the state will be allowed to expeditiously collect all that is due.

I respectfully encourage you to support House Bill 2599 and invite any questions you might have at this time. Once again thank you for your time and considerations.

Kansas Senate Districts

6-3

\$95,539.31
Leavenworth



**LOST REVENUE DUE TO
DELINQUENT PERSONAL PROPERTY
\$5,192,696.97**

EXHIBIT "B"
TOTAL ABANDONED OR DELINQUENT LEASES
BY OPERATORS IN SURVEYED COUNTIES

ELLIS COUNTY

OIL OPERATOR	AMOUNT DUE	NUMBER OF LEASES	COST TO PLUG
COL-KAN DEVELOPMENT	\$7,460.40	5	\$20,000.00
LRC DEVELOPMENT	\$4,893.00	4	\$16,000.00
LEAVELL RESOURCES	\$296.74	1	\$4,000.00
MARMAC PETROLEUM	\$2,530.33	3	\$12,000.00
NOIR-BLANC	\$3,648.70	3	\$12,000.00
GREGORY LOVELADY	\$3,388.08	3	\$12,000.00
PROVECHO PARTNERS	\$554.34	1	\$4,000.00
	\$22,771.59	20	\$80,000.00

RUSSELL COUNTY

OIL OPERATOR	AMOUNT DUE	NUMBER OF LEASES	COST TO PLUG
COL-KAN DEVELOPMENT	\$4,509.23	16	\$64,000.00
LRC DEVELOPMENT	\$177.62	2	\$8,000.00
LEAVELL RESOURCES	\$384.03	1	\$4,000.00
MARMAC PETROLEUM	\$8,454.94	11	\$44,000.00
NOIR-BLANC	\$4,878.13	4	\$16,000.00
PROVECHO PARTNERS	\$246.90	1	\$4,000.00
	\$18,650.85	35	\$140,000.00

ROOKS COUNTY

OIL OPERATOR	AMOUNT DUE	NUMBER OF LEASES	COST TO PLUG
COL-KAN DEVELOPMENT	\$171.00	2	\$8,000.00
LRC DEVELOPMENT	\$1,306.29	5	\$20,000.00
LEAVELL RESOURCES	\$1,062.70	2	\$8,000.00
MARMAC PETROLEUM	\$26,046.93	10	\$40,000.00
NOIR-BLANC	\$3,116.78	1	\$4,000.00
GREGORY LOVELADY	\$213.14	1	\$4,000.00
	\$31,916.84	21	\$84,000.00

6-4

TREGO COUNTY

OIL OPERATOR	AMOUNT DUE	NUMBER OF LEASES	COST TO PLUG
MARMAC PETROLEUM	\$4,104.78	3	\$12,000.00
	<u>\$4,104.78</u>	<u>3</u>	<u>\$12,000.00</u>

GRAHAM COUNTY

OIL OPERATOR	AMOUNT DUE	NUMBER OF LEASES	COST TO PLUG
LRC DEVELOPMENT	\$2,069.40	3	\$12,000.00
LEAVELL RESOURCES	\$4,256.22	6	\$24,000.00
MARMAC PETROLEUM	\$2,657.08	3	\$12,000.00
GREGORY LOVELADY	\$835.61	1	\$4,000.00
	<u>\$9,818.31</u>	<u>13</u>	<u>\$52,000.00</u>

STAFFORD COUNTY

OIL OPERATOR	AMOUNT DUE	NUMBER OF LEASES	COST TO PLUG
PROVECHO PARTNERS	\$382.86	2	\$8,000.00
	<u>\$382.86</u>	<u>2</u>	<u>\$8,000.00</u>

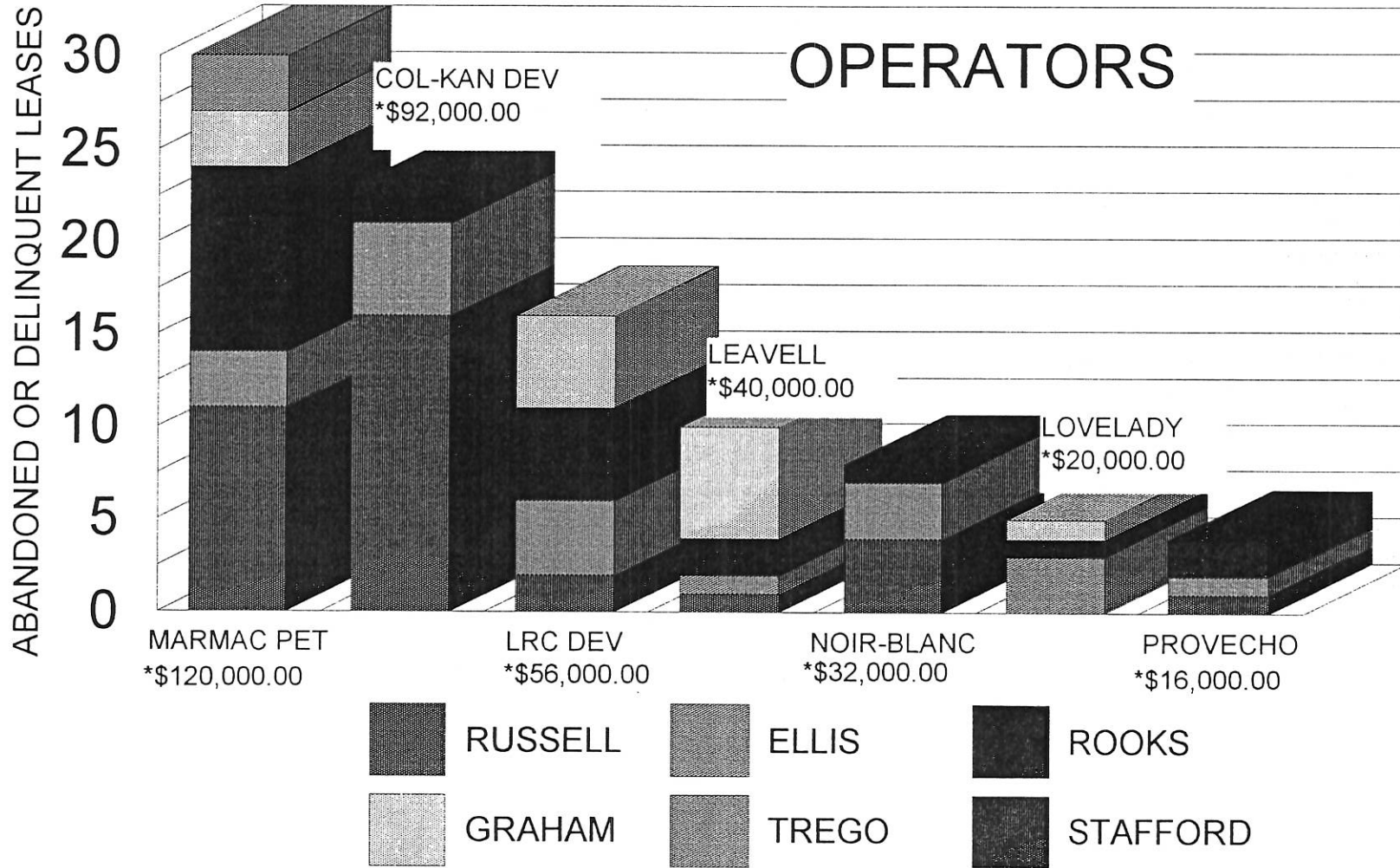
GRAND TOTALS	AMOUNT DUE	NUMBER OF LEASES	COST TO PLUG
	<u>\$87,645.23</u>	<u>94</u>	<u>\$376,000.00</u>

ESTIMATED COST TO PLUG 1 ABANDONED WELL IS \$4,000.00

ALL INFORMATION SUPPLIED BY COUNTY APPRAISERS AND TREASURERS.
ELLIS COUNTY NOT RESPONSIBLE FOR ACCURACY OF INFORMATION.

6-5

TOTAL ABANDONED OR DELINQUENT LEASES BY OPERATORS IN SURVEYED COUNTIES



ALL INFORMATION SUPPLIED BY COUNTY APPRAISERS AND TREASURERS.
ELLIS COUNTY NOT RESPONSIBLE FOR ACCURACY OF INFORMATION.

*ESTIMATED COST FOR PLUGGING WELLS



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 S. BROADWAY • SUITE 500 • WICHITA, KANSAS 67202-4262
(316) 263-7297 • FAX (316) 263-3021

800 S.W. JACKSON • SUITE 1400 • TOPEKA, KANSAS 66612-1216
(913) 232-7772 • FAX (913) 232-0917
2/4/98

Before the House Committee on Taxation HB 2599

KIOGA supports the proposition that all Kansas taxpayers should pay, when due, all lawful ad valorem taxes assessed against their property. KIOGA also supports all laws which are designed to collect delinquent ad valorem taxes in a lawful, reasonable and effective manner.

In these regards, KIOGA notes that Kansas has a very detailed statutory scheme governing collection of taxes. I have included pages 1313 and 1314 of the K.S.A. General Index which will give you some idea of the detail that has been given to collecting taxes in Kansas.

Additionally, the Kansas Department of Revenue Division of Property Valuation, when issuing its annual oil and gas appraisal guide, cites K.S.A. 79-332a for penalties for late filing and K.S.A. 79-2017 for the collection of delinquent taxes by the County sheriff.

The vast majority of oil and gas operators, many of whom are KIOGA members, pay their ad valorem taxes on a timely basis. Testimony this summer indicated that oil and gas leaseholds were second from the top in tax collection from statewide personal property tax collections in 1996. This class of property had \$1.2 billion in annual valuation and the total County tax collections were \$106.4 million. Certainly, it cannot be asserted that oil and gas operators are not doing their share when it comes to the payment of ad valorem taxes.

Nonetheless, the collection of delinquent ad valorem taxes on oil and gas equipment was the subject of a bill introduced during the 1997 session. It was known as SB 108. A hearing was held. There were many questions raised by the Senate Committee on Assessment and Taxation.

H.B. 2599 likewise, raises several questions which KIOGA believes require an answer before K.S.A. 79-2101 is amended. For example, we do not know how much ad valorem tax on a statewide basis is delinquent at the present time. We do not have an aging by year of when this total past due balance originated. We do not know how much is on properties that have oil and gas production that would have revenues on which the county could levy, or the preponderance of the tax on abandoned properties.

P. 2 - Donald P. Schnacke Statement

In short, KIOGA believes that it is incumbent to determine the extent and nature of delinquent ad valorem taxes on personal property before changes are made in Kansas statutes to address those delinquencies. We do not know of any such information that is available.

Based upon the information available, KIOGA questions the need and effectiveness of the proposed amendments to K.S.A. 79-2101. KIOGA does not believe the proponent counties have presented sufficient circumstances to warrant the far-reaching nature of their proposed amendments. In their study of five counties, they identified seven operators owing \$85,000 in taxes. Putting that into perspective of the total collection in 1996 of \$106 million, KIOGA feels that this was not reason enough to amend K.S.A. 79-2101 as proposed.

It should be noted that the proposed amendments change the nature of collection of ad valorem taxes assessed against personal property. Under Kansas law currently, delinquent ad valorem taxes become a lien upon the real estate of the taxpayer, rather than the personal property against which the tax was assessed. There is a good reason why.

As the Kansas Supreme Court noted in the case of Robbins-Leavenworth Floor Covering, Inc., v. Leavenworth National Bank & Trust Co., 229 Kan. 511, 513, 625 P. 2d 494 (1981):

“Personal property is transitory. The expense and impracticability of looking to each article of personal property for the taxes assessed thereon necessitates a different taxing scheme.”

Thus K.S.A. 79-2101 provides the manner in which delinquent ad valorem taxes, which were assessed against personal property, can effectively and reasonably be collected. K. S. A. 79-2101 does work. The amount of taxes assessed against and collected from oil and gas operators attests to that fact.

P. 3 - Donald P. Schnacke

Moreover, Kansas statutes already provide a means of addressing the type of circumstances urged to warrant HB 2599 by the proponent counties: An oil and gas operator sells the equipment off of a lease after taxes have been assessed, but before those taxes are paid, leaving no equipment on the lease to be seized through legal process. To see one means of how current statutes address these circumstances, consider K.S.A. 79-2109. That statute provides that if the owner of personal property sells the property after it is assessed for ad valorem tax purposes, but before the ad valorem taxes are paid, the tax shall be a lien on the property so sold, and the property so sold shall become liable in the hands of the purchaser for such tax.

Filing the warrant in the Register of Deed's office would not appear to add sufficient added strength to a county's collection efforts to outweigh the possible title and other problems which may result from the amendments. While KIOGA questions the effectiveness of this amendment, it has no objection to this procedure, if desired, except the County should be required to immediately release the lien when the tax delinquency is satisfied.

What is most troubling in HB 2599, and I think was why the bill met resistance in 1997, is that it sets up a new procedure whereby the purchaser of oil and/ or gas from a lease shall not pay proceeds from the oil and gas production to the owners of the working interest in that lease, but shall pay it directly to the Sheriff. Those amendment appears to violate the due process clause of the Constitution. The Kansas Supreme Court has held:

“The basic elements of procedural due process of law are notice and an opportunity to be heard at a meaningful time in a meaningful manner.” Joe Self Chevrolet, Inc. v. Board of Sedgwick County Commissioner, 247 Kan. 625, 630, 802 P.2d 1231 (1990).

HB 2599 requires the purchaser to deprive working interest owners of their property without notice or hearing. The proponent counties admit the fact that the oil or gas proceeds may be owed by a working interest owner other than the taxpayer. I am sure that no one would advocate a tax collection system which seizes one person's property to pay the taxes owed by another person. I think the proponent counties have overlooked the legal effect of this amendment to K.S.A. 79-2101.

P. 4 - Donald P. Schnacke

It is also interesting to note that nothing is said in the amendment with regard to the royalty interest owners of a lease. These royalty interest owners also pay ad valorem taxes in Kansas. In short, KIOGA believes that the existing procedure of the Treasurer's warrant enforced by the Sheriff is a normal and effective way of getting the tax proceeds from the purchaser.

Additionally, the proponents advocating the warrants have a 24- month life. KIOGA believes that this conflicts with the normal lien release of October 1st, as normally followed by Kansas law. Moreover, warrants having a 24-month life may lengthen the time a tax bill is delinquent, making it actually harder to collect. It is a maxim of business that the longer a bill remains unpaid, the more likely it will not be collectable. K.S.A. 79-2101 intentionally provides a mechanism for counties to collect delinquent ad valorem taxes in a prompt manner. Adding a potential cause for delay may be detrimental to the process.

One additional note: The proponent counties have expressed some concern that some operators abandon their leases leaving unplugged wells. The Kansas Corporation has ample authority to address this issue. If a responsible operator cannot be found to restore the lease to a neat and clean condition, including plugging all wells on the lease, the conservation fee fund can be used. In addition, these matters can be handled through a civil action.

We have consistently been appearing against this legislation, last year and this past summer and now HB 2599.

Donald P. Schnacke

DPS:sm

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**KANSAS DEPARTMENT OF REVENUE
DIVISION OF PROPERTY VALUATION
OIL AND GAS APPRAISAL GUIDE**

**1997
OIL & GAS
APPRAISAL GUIDE**

PV-PP-18
(Rev. 12 / 96)

FOREWORD

1. KSA 79-329: For the purpose of valuation and taxation, all oil and gas leases and all oil and gas wells, producing or capable of producing oil or gas in paying quantities, together with all casing, tubing or other material therein, and all other equipment and material, used in operating the oil or gas wells are hereby declared to be personal property and shall be assessed and taxed as such.

2. KSA 75-5105a provides for the director of the division of property valuation (a division of the Kansas Department of Revenue) to prescribe guides to assist the county appraiser in establishing market value for personal property and to confer with representatives of the county appraisers and seek counsel from official representatives of organized groups interested in and familiar with the value of classes of property with which they are concerned. The oil and gas guide is prepared per authority of this statute.

3. KSA 79-332a provides for penalties for late filing or failure to file, and for extension of time to file. The lease operator may request an extension of the filing time, but it must be in writing and it must be filed prior to the APRIL 1 deadline. Any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas who fails to make and file the oil/gas tax statement rendition on or before APRIL 1 in the office of the county appraiser in and for the county which has jurisdiction of the lease, shall be subject to penalties for failure to file and/or for late filing. Penalties are assessed to the operator based on the total value of the royalty interest plus the working interest. The Kansas State Board of Tax Appeals is the sole authority for relief of the assessed penalty. KSA 79-2017 provides for collection of delinquent taxes by the county sheriff.

4. KSA 79-1456 requires the county appraiser to follow the policies, procedures, and guidelines issued by the director of the division of property valuation. The county appraiser may deviate from such guidelines on individual properties for just cause and in a manner consistent with establishing market value in accordance with the state statutes.

5. The oil and gas guide prescribed by the director must be used by the county appraiser. If the valuation derived by use of the oil and gas guide is defective (in the judgment of the appraiser or the taxpayer), the appraiser has the duty to review the valuation, and for just cause and with proper documentation, adjust the valuation to reflect the market value of the lease. Any change made in the appraisal must be supported by proper documentation and a copy of the valuation change must be furnished to the taxpayer in a timely manner sufficient to allow the taxpayer the right to appeal the valuation.

6. Section VI, Column A: Schedule Value, oil / gas rendition, is to be completed by using the oil/gas guide, without departure, adjustment or change. Column B (Owner) is reserved for the taxpayer/operator's use for requested adjustments to Column A. Column C (Appraiser) is reserved for use by the county appraiser.

7. The County Appraiser may adjust the valuation in Column A, Section VI of the oil/gas rendition, if an adjustment is necessary for the appraiser to comply with the constitutional law of equality and the statutory requirement of market value. If an adjustment is made by the county appraiser, the appraiser is to use the column entitled "Appraiser" on the rendition form. The county appraiser must notify the taxpayer of the adjusted valuation in time for the taxpayer to appeal and, on request of the taxpayer, provide the reasons for the change in Column A valuation prior to the appeal.

8. The taxpayer may request an adjustment to the valuation produced by the application of the state guide (Column A). All such requests are to be fully supported and explained in writing. The taxpayer may use the column entitled "Owner" (Section VI, oil/gas rendition) after supporting and explaining in writing the reasons for the adjustment.

9. KSA 79-201t: Property exempt from taxation: Oil Leases.
The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a.) All oil leases, other than royalty interests therein, the average daily production from which is two barrels or less per producing well, or three barrels or less per producing well which has a completion depth of 2,000 feet or more.

(b.) The provisions of this section shall apply to all taxable years commencing after December 31, 1991.

This exemption must be considered and granted by the State Board of Tax Appeals (BOTA) to be effective (KSA 79-213). However, in conjunction with his authority under KSA 75-5105a and 79-506, the Director is providing the following guidelines for exemption of low producing wells:

The royalty interest and the production equipment do not qualify for the exemption. The statute is specific as to production and no consideration may be given to well shut down, pumping unit or transportation problems. The annual production is to be used to determine the exemption. Lease production which began during the year will not be annualized, but will be calculated from the date the lease went into production.

To compute average daily well production, the daily production is divided by the number of producing wells. Abandoned or shut-in wells are not included in the calculation. Leases with more than one producing well will require the completion depth of all wells to ascertain the average depth to determine whether the lease qualifies for exemption of 2,000 feet and deeper. The equipment is not exempt and will be appraised per Table I or Table II according to depth.

Request for exemption is made by the operator on forms provided by the county appraiser and filed with the State Board of Tax Appeals. After the initial exemption is granted, the exemption remains in effect for as long as the lease qualifies for the exemption which is reviewed annually by the county appraiser for determination.

10. To promote uniform and equal assessments, the Director is providing the following guidelines for classification that the county is required to follow: The assessment rate for mineral leasehold interests is 30% except oil leasehold interests (working interest) that average five barrels or less per day and natural gas leasehold interests that average 100 mcf or less per day, each of which is assessed at 25%, including production equipment, per Kansas constitutional amendment of November 3, 1992. The assessment rate is determined on a lease basis by dividing the annual production by 365 days to calculate the average daily lease production. For new leases that produced only a part of the year, divide the production by the number of days produced. Shut-in leases with no production qualify for the 25% assessment rate. The royalty interest is assessed on the basis of 30%. **ALL ITEMIZED EQUIPMENT IS ASSESSED AT 30%.**

11. The administration of the ad valorem property tax is the jurisdiction of the county appraiser's office, in and for the county, in which the oil or gas lease is located. The Kansas Department of Revenue, Division of Property Valuation, prescribes the oil and gas guide and the oil and gas rendition forms. For copies, please contact the county appraiser's office for the county in which the property is located. PVD does not maintain a supply of these materials.

7-9

TO: KANSAS LEGISLATURE

FROM: SHERMAN COUNTY

RE: HOUSE BILL 2644

DATE: FEBRUARY 5, 1998

The Sherman County Commissioners appreciate the opportunity to comment regarding House Bill 2644, which would authorize Sherman County to impose a sales tax for the old Highway 24/Road 64 improvement.

In the early 1970's the State of Kansas abandoned Highway 24, which forced Sherman County to take over the maintenance of this road. The road is now known as Road 64. Road 64 is approximately thirty-four miles which runs east and west across Sherman County. This road consists of asphalt.

~~In order to preserve and restore this road, the Sherman County~~ Commissioners are currently reviewing their options that may be available to them. The first option is to restore the road. This option, while the most desirable, is the most expensive, since the road in areas has deteriorated so severely that a full-depth reclamation may be the only hope to salvage the road.

The second option is to resurface the road with an overlay. However, our consultants and the Department of Transportation have cautioned the county from this avenue, since the reflections (cracks) are so severe that an overlay would quickly deteriorate. Therefore, it would not be very cost effective.

The third option is to patch the holes and reflections with patching materials. This option, which is the least expensive option concerning materials, would still require many hours of labor. Further, the longevity of this option has to be considered.

The final option is for Road 64 to be returned to a dirt/sand road. This option will still cost the Sherman County residents approximately twenty thousand dollars a mile to accomplish this task. In addition, most of the residents do not seem to favor this option.

With these options in mind, the Sherman County Commissioners have the dilemma of choosing the course of action which would best serve their community. The option to restore and salvage Road 64, after consulting with the contractors, has been estimated to range from 1.5 million to six million. Obviously, the county is under-budgeted to handle the extreme cost of financing this endeavor. The county would like to salvage the road, if at all possible. However, there are only a few ways for the county to raise funding for this project, which include: levy against the property owners; raise the local sales tax; issue bonds; or receive funding through the government, such as KDOT.

The Sherman County Commissioners have spoken with the KDOT official concerning this issue. Under their current funding with project assistance, they can provide over five years at approximately \$270,000 for a bridge project located on Road 64, and \$107,000 for a road project. This calculates to approximately \$21,400 per year for a road project.

The Sherman County Commissioners feel one of the fairest ways to raise funding is through a sales tax increase. In this method, nonresidents who use the road system would also share in the funding of the project. Then the landowner would not be burdened with the total cost of this project.

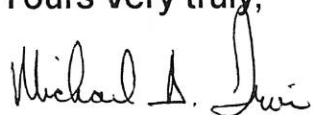
Currently, Sherman County has a sales tax of 6.15%, which is the statutory limit. The Sherman County Commissioners are requesting to have the limit lifted in order to assist in raising funding for this project.

If the Kansas Legislature were to grant the request, the Sherman County Commissioners will place the issue of raising the sales tax limit at the August primary. The voters will then have an opportunity to decide if this method of funding the project is agreeable.

Page 3

The Sherman County Commissioners have also consulted with the City of Goodland and the City of Kanorado concerning the distribution of sales tax that might be collected as a result of the added tax. See attached letters from Hazel Estes, Mayor of the City of Kanorado, and Rick Billinger, Mayor of the City of Goodland.

Yours very truly,

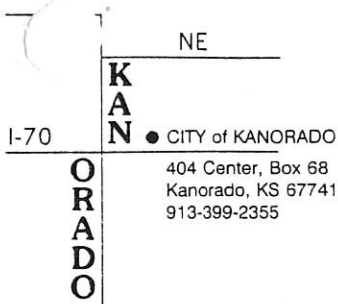
A handwritten signature in cursive script that reads "Michael D. Irvin".

Michael D. Irvin
Sherman County Counselor

MDI:ks

Enclosures

8-3



January 20, 1998

Mr. Michael Irvin
County Attorney
Sherman County Court House
813 Broadway
Goodland, KS 67735

Dear Mr. Irvin:

In the spirit of intergovernmental cooperation, the Governing Body of the City of Kanorado, Kansas, hereby agrees to a request from the County Commission of Sherman County, Kansas in regard to the financing of a proposed improvement of County Rd. 64 (Hwy. 24) within said county.

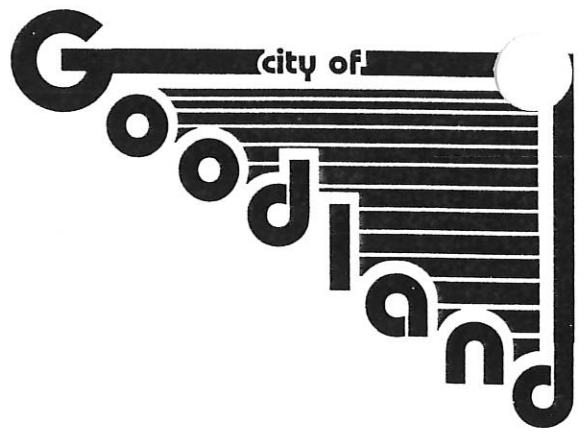
The City of Kanorado agrees to forego the City's apportionment of the proposed additional County wide sales tax. The proceeds of which shall be used to finance the improvement specified herein.

The City understands the receipts from this proposed sales tax, if approved by the electors of Sherman County, would be used only to finance the improvements of County Rd. 64 (Hwy.24). It is further understood the proposed sales tax shall continue in effect only until the specific improvement is paid in full.

Sincerely,

Hazel R. Estes
Mayor

8-4



January 19, 1998

Mr. Michael Irvin
County Attorney
Sherman County Court House
813 Broadway
Goodland, Kansas 67735

Dear Mr. Irvin:

In the spirit of intergovernmental cooperation, the Governing Body of the City of Goodland, Kansas, hereby agrees to a request from the County Commission of Sherman County, Kansas in regard to the financing of a proposed improvement of County Road 64 located within said County.

More specifically, the City agrees to forego the City's apportionment of a proposed additional County wide sales tax imposed in accordance with K.S.A. 12-187 et seq., the proceeds of which shall be used to finance the improvement specified herein.

The City understands the receipts from this proposed sales tax, if approved by the electors of Sherman County, would be used only for the financing of the improvements of County Road 64. It is further understood the proposed sales tax shall continue in effect only for such time as is necessary to pay for this specific improvement.

Sincerely,

A handwritten signature in cursive script that reads "Rick Billinger". The signature is written in black ink and is positioned above the printed name and title.

Rick Billinger
Mayor

204 West 11th
P. O. Box 59

Goodland, Kansas 67735-0059

8-5

(785) 899-4500



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (785) 354-9565 FAX (785) 354-4186

TO: HOUSE TAXATION COMMITTEE
FROM: Chris McKenzie, Executive Director
DATE: February 4, 1997
SUBJECT: Support for HB 2600

I appear today on behalf of the 530 member cities of the League in support of HB 2600. This bill contains the property tax exemption provisions of HB 2602, the bill providing for the restructuring of the Board of Tax Appeals. Both measures were endorsed by the Special Committee on Assessment and Taxation. HB 2600 was introduced separately on Representative McKinney's motion to make sure its provisions received definite consideration.

Last year Charles Warren, the former President of Kansas, Inc., convened an Ad Hoc Task Force on Tax Abatements on which I participated along with representatives of KCCI, the City of Wichita, various chambers of commerce and economic development organizations, and legal counsel who specialize in industrial revenue bond and constitutional economic development exemptions. The purpose of the Task Force was to suggest possible statutory amendments which would address the growing concern that the rules under which proposed exemptions were being judged by BOTAs were undergoing significant change after a period of predictability. That task force developed a final report which was submitted to the Special Committee on Assessment and Taxation as well as the Joint Committee on Economic Development.

The Ad Hoc Task Force recommended a number of changes, including clarifying that when an application for an industrial revenue bond exemption or a constitutional economic development exemption was filed with BOTAs that BOTAs would confine its review to whether the exemption application complied with the procedural requirements found in state law for cost-benefit studies, public hearings, etc. The Task Force further recommended that the procedural requirements be enhanced to require certain additional findings concerning the legal eligibility of the property for an exemption. The intent of the Task Force's recommendation was to make the city or county the final decision maker on the legal eligibility and advisability of the proposed project while preserving BOTAs' role in reviewing the adequacy of the decision process for compatibility with state law. HB 2600 was the Special Committee's response to those recommendations. It incorporates a number of the Task Force's recommendations and changed others.

1. Legal Eligibility and Hearings. Under HB 2600 BOTAs retain the ability to question the legal eligibility of a proposed economic development exemption (and any other exemption for that matter), but in order to do so it must schedule it for hearing within 30 days of the date of the receipt of the exemption request (see p. 1, lines 40-43). Further, if the request is set for hearing and denied, it requires that the decision be published so other applicants can receive notice of the Board's decision and reasoning (p. 2, lines 31-32). This has been one of the greatest areas of frustration for applicants as the rules concerning legal eligibility appear to have undergone change over the last two years.

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2. Additional Local Findings Required. HB 2600 also amends K.S.A. 79-251 by providing that in addition to conducting a cost-benefit study, monitoring compliance by the business with the exemption, and conducting a public hearing, the local governing body shall adopt a resolution containing the following factual findings:

- Legal Eligibility. The property is legally eligible for the constitutional exemption.
- Definition of Manufacturing. If the property is to be used for manufacturing, that it meets the definition in (c)(2), which is drawn directly from K.S.A. 79-201m, defining the manufacturers which are eligible for that section's exemption of merchants and manufacturers inventory from personal property tax. The absence of such a definition has given rise to disputes between BOTA and local governing bodies which can hopefully be avoided by this definition.
- Eligibility of Expanding Existing Businesses. If the property is for the expansion of an existing business, that it will result in the employment of one or more additional full-time employees. Again, this is valuable clarification of what is meant in section 13 of article 11 of the constitution about the availability of exemptions for existing businesses that expand.
- Prevention of Piracy. Finally, in order to prevent piracy of companies from another city or county, that the secretary of commerce and housing has approved the exemption prior to qualifying for the exemption. This would replace the confusing provisions of K.S.A. 79-252 which are repealed with the bill.

3. Rehearing Period Extended. Section 3 of the bill contains an amendment to the administrative procedure act to allow for a 30 day period in which to apply for a rehearing with BOTA if an application for exemption is denied by BOTA. The current 15 day rule is so restrictive that many applications that are denied are not asked to be reconsidered. I would note that BOTA has recently implemented an informal process that allows applicants to supplement application packages that may be missing pieces, and this change has been most welcome and appreciated. This statutory change gives 15 days of additional formal "breathing room."

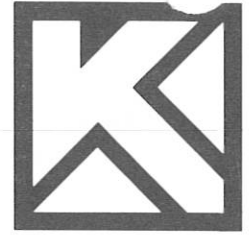
4. Technical Assistance. Finally, the bill directs BOTA to provide sufficient assistance and information to allow a taxpayer to properly prepare a request for exemption. This may be consistent with current BOTA policy, but its restatement is desirable for future reference.

CONCLUSION

The League endorses the policy changes in HB 2600, although we would prefer that local elected governing bodies and not an appointed body make decisions concerning the legal eligibility of properties for economic development exemptions. We feel that HB 2600 represents an improvement over current policy since it should lead to more consistent tax exemption decision making at the state level.

Thank you.

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

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HB 2600

February 4, 1998

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Taxation Committee

by

Bob Corkins
Director of Taxation

Honorable Chair and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry. I am pleased to have this opportunity to express our members' support for the tax exemption procedural changes included in HB 2600.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

It is difficult to fully explain the justification for these changes in isolation. The problems economic developers have experienced in the area of tax exemption applications are largely systemic and justify a broader overhaul of the process. That is why the changes proposed in this bill

identical to a part of the changes proposed in HB 2602 (which KCCI also supports) -- they are a component of the comprehensive reforms set forth for the State Board of Tax Appeals (BOTA). Nevertheless, HB 2600 could stand alone as a positive change even if no other reforms are enacted this year.

These provisions are the product of negotiations that took place this summer between the Governor's office, BOTA, the League of Municipalities, KCCI and other development associations. The recommended improvements are aimed at expediting the non-local stage of exemption approval proceedings, creating a stronger state respect for local tax abatement decisions, encouraging more consistent BOTA rulings in this field, and raising the comfort level of local governments with respect to tax consequences of potential intra-state relocations of Kansas businesses.

We view this bill as an important step toward creating better coordination between local interests and state proceedings in this regard. Our goal is to foster better communication between BOTA and local officials in order to preclude technical flaws in exemption applications that delay the local economic growth that everyone desires.

KCCI believes that HB 2600 would make progress toward this end and we encourage your favorable consideration of it. We also encourage your support for these changes within the broader context of HB 2602 and look forward to speaking with you in the near future on that proposal.

Thank you for your time and consideration.

MEMORANDUM

TO: Members of the House Taxation Committee

FROM: Donald R. Seifert, Management Services Director *DRS*

SUBJECT: **HB 2600**; Property Tax Exemption Request Administration

DATE: February 4, 1998

On behalf of the city of Olathe, thank you for the opportunity to present written comments in support of this bill. Among other things, **HB 2600** would clarify the process by which local governments grant economic development property tax exemptions and the Board of Tax Appeals acts on those exemption requests. This bill would implement several recommendations from a task force on tax abatements convened last year by Kansas, Inc. The city believes these amendments to the tax abatement review process will help clarify roles and actions for both cities and BOTAs.

The city of Olathe has experience in using both the constitutional and industrial revenue bond methods for considering property tax abatements. The city believes tax abatement is a tool to be used sparingly and responsibly. Tax abatement is viewed as a key element in local decision making to help implement the community's economic development goals.

In the last ten years, the city has granted property tax abatement to twelve business projects resulting in an investment of approximately \$182 million in the community. Based on this experience, the city believes these amendments will enhance procedural requirements in current law that are basically sound.

The city would encourage this committee to further improve **HB 2600** by adopting a recommendation of the 1997 interim committee on economic development. In its final report on **HB 2600**, the interim committee recommended that "consideration be given to further amending the bill to require BOTAs to confine its review of economic development property tax exemptions and industrial revenue bond exemptions to determinations of a city's or county's compliance with statutorily prescribed procedural requirements". The city believes this language would further clarify the Legislature's intent that tax abatement decisions are best made by local governing bodies.

Thank you again for the opportunity to comment.

TO: House Assessment and Taxation Committee
FROM: Rod Broberg
RE: House Bill 2600
DATE: February 4, 1998

My name is Rod Broberg and I represent the Kansas County Appraisers Association. I appreciate the opportunity to address you today on a provision of HB 2600.

The provision that I would like to comment on is the new language in 79-213, paragraph g. This new language would make exemption claims automatically granted if the Board of Tax Appeals failed to set a hearing within 30 days of receipt of an exemption claim. County Appraisers feel that this proposal could allow truly undeserving properties to gain exemption, and move us away from the age old tenet of property taxation where taxation is the rule and exemption is the exception.

Each year literally thousands of taxpayers apply for exemption on real and personal property that may qualify under literally hundreds of exemption statutes. Many, if not most of these exemption claims are legitimate and are granted as a matter of course. Some however, are not deserving of exemption and the Board of Tax Appeals comments on every case so that there is no question in anyones mind as to the status of each exemption claim. Under this proposal a County Appraiser may have clear reasons that a particular piece of property should not gain exempt status, but these reasons would never be discussed if the claim form were lost or misfiled. If the Board of Tax Appeals reviewed each application and concluded that a particular application merited exemption even if the County Appraiser recommended otherwise, how would the County Appraiser know, (a) the Board actually intended for the property to be exempt, and (b) exactly what date the property achieved exempt status. Would the date be the date of application by the taxpayer, or would the taxpayer specify the date of first exempt use on the application? What recourse would the County have if they feel strongly that the property does not deserve exemption. This language would appear to allow the County no recourse at least until the next tax year. These are just a few of the procedural uncertainties that this language would create.

Aside from these more technical considerations, our system of property taxation is still based on the premise that a tax spread over all properties (with certain exceptions) is a good way to fund certain functions of state and local governments. To that end the idea that taxation is the rule and exemption is the exception has guided more than a hundred legislatures in deciding what items or classes of property to exempt. To allow exemption to happen automatically with no review, as this language provides, is a dangerous first step away from this basic idea.

TESTIMONY ON HB 2600 BEFORE THE HOUSE TAX COMMITTEE

Presented by Michelle Miller, Johnson County Intergovernmental Relations Coordinator

February 4, 1998

Chairman Kline, members of the committee, thank you for allowing me to appear before you today to testify on HB 2600. The Johnson County Appraiser asked that I bring to you his concerns about this bill, and therefore Johnson County testifies today in opposition to HB 2600.

We understand the intent of the bill is to make the exemption process more user-friendly, and we support any reasonable effort to assist the property owner in that effort. However, first and foremost is our concern that this bill will promote the regular practice among property owners to request exemptions from property taxes. It is our belief that Kansas law establishes taxation as the rule and exemption from taxation as the exception. This bill has a facial tendency to violate that premise, and may lead to an overall increase in the number of exemptions requested.

Secondly, this bill may put the County Appraiser in the untenable position of being statutorily required to make a recommendation to the property owner as to how to file a request for an exemption; a recommendation which may or may not be ultimately supported by the Appraiser. It is not good policy to require the County Appraiser to give advice on how to file for an exemption when it is the County Appraiser who will be called upon to oppose that very same action, given the Kansas preference for taxation, not exemption.

Additionally, the taxpayer is put in a difficult position. Depending on how the property owner's questions are framed, the County Appraiser could be called upon to render legal advice, (for which he is not qualified), regarding the exemption process and qualifications specific to that property. Consequently, the property owner may, to his detriment, rely on that advice, and a plethora of problems for both parties are then created. For these reasons, we believe that the County Appraiser should not be placed in the position of coaching the property owner on how to remove his or her property from the tax rolls.

Finally, we foresee a problem with amendment to Sec. 1, K.S.A. 79-213, subsection (g). This portion of the bill deals with a presumption of approval of a technically proper exemption request unless a hearing is scheduled within 30 days. We believe that this provision cuts against the grain of due process, if the favorable presumption is based solely on a technically sufficient application without regard to the merits of the evidence and/or arguments presented by the opposing party; particularly since, in our experience, the majority of exemption requests take much longer than 30 days to process. Therefore, we are concerned that under this provision, many unjustified exemption requests may be automatically approved, and so respectfully request that Section 1, lines 40-43, subsection (g) be struck from the bill.

For the foregoing reasons, Johnson County respectfully opposes HB 2600. Thank you for taking my testimony, I would be happy to stand for any questions or comments.

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