

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on March 14, 2002 in Room 519-S of the Capitol.

All members were present except: Representative Wilson, excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor
Winnie Crapson, Secretary

Conferrees appearing before the Committee: Steve Richards, Secretary of Revenue
Shirley Sicilian, Department of Revenue

Others Attending: See attached list

By unanimous consent bill will be introduced at the request of the Chairman to place a limitation on property tax by political subdivisions. [HB 3025 - Political subdivision property tax limitation]

Representative Larkin moved, Representative Gatewood seconded, to approve Minutes for January 16, January 23, February 5 and February 6. Motion was adopted.

The Chairman welcomed Shirley Sicilian, General Counsel, of the Department of Revenue to brief the Committee on the Panhandle Eastern Pipeline litigation (*In the matter of the Appeal of Panhandle Eastern Pipeline Company and National Helium Corporation, et al*, 39 P.3rd 21). Ms. Sicilian presented a report covering Substantive Issues, Policy Implications, Fiscal Implications, and Procedural History of the case. (Attachment #1). When asked if it was typical for the Kansas Supreme Court to pull such cases from the Court of Appeals, she responded that it was provided in the statute and that the Supreme Court does occasionally exercise this option on appeals of major cases involving significant policy issues.

Ms. Sicilian was asked who was responsible for the decision or strategy in connection with continuing with the litigation. She said she could speak only with respect to decisions since she came to the Department as General Counsel. As General Counsel she provides input and makes recommendations. She said while there was no formal rule, in the recent history of the Department, the Secretaries had not been attorneys. Decisions about proceeding with litigation are made by the Secretary on advice of the General Counsel. She said in this instance the only issue was whether the decision should be appealed, a settlement should be attempted, or the money paid. There were attempts at settlement which did not work out and the only alternative was to continue to litigate.

In response to questions from committee members Secretary Richards said he understands some of the frustrations. He said he did not have knowledge of settlement negotiations that may have occurred in the late 1980s and early 1990s. He said that as a member of BOTA when it made the decision on Panhandle Eastern he had voted with the majority. When he became Secretary the case was already on appeal and the discussion was whether to proceed with this case. Among matters considered in evaluating whether or not to proceed with the case were the merits of the case and the size of the case, and the importance of a decision by the Court on a matter that was significant from both policy and fiscal standpoints. The Secretary agreed one of the issues was the necessity of having clarity as to the rule of law in the case and its implications for future cases that would come before the Department.

When asked if as Secretary, given his participation in the BOTA decision, he had considered recusing himself when considering continuing the litigation, he said he tried to set aside his personal opinion in this particular case because he believes there were significant policy issues on which there needed to be judicial ruling to give clarity.

CONTINUATION SHEET

Responding to a question about the decision to pay the \$25 million in two payments resulting in interest of approximately \$300,000 Ms. Sicilian said contributing to the decision were recommendations of budget committees because it would reduce the impact.

Secretary Richards was asked the effect of this change in policy on corporate tax receipts and responded that the Department was going through a process of making decisions on appropriate criteria through internal discussions and consultation with interested parties, basically corporate taxpayers. There is ongoing auditing of corporate income taxes and has been for some time. The purpose of bringing these parties together is to develop a test so there is clear guidance.

The Chairman thanked Secretary Richards and Ms. Sicilian for meeting with the committee.

**Hearing was opened continuing hearings from February 13 and March 7 on
HB 2706 - Taxpayer Fairness Act of 2002**

Secretary Richards referred to questions presented to him by Committee members when he appeared on March 7 concerning the automated phone system of the Department. He distributed a chart showing Phone Call History for Fiscal Years 1998, 1999, 2000, 2001 and 2002 (Attachment #2). The chart identified calls received and indicated the increase in percentage of those calls answered since the automated phone system was put in place in March 2000.

With reference to questions on March 7 he presented a chart of taxes in collection (Attachment #3). He was asked about results from extra positions authorized for collections and said they were added in July and trained toward the end of the last calendar year and started in earnest the beginning of this year. They are on track to achieve the \$48 million collections and monitor the goals and collection activity almost daily. When asked whether these were instances where they just did not pay, he said there were a variety of things. In some instances returns were filed and the payment was not included.

Secretary Richards said he believes some of the frustration expressed by taxpayers is in response to receipt of letters concerning adjustments when they have not had such letters for several years.

The Committee asked Secretary Richards to explain the reference to employing "acceptable statistical sampling." He explained that individual accounts with a balance in excess of \$1,000 are individually reviewed before a billing goes out. The account is researched to ensure all of payments or adjustments that apply to that account are valid. Accounts under this \$1,000 threshold are put in batches and a statistical sample is done to check validity. As a statistical random sample ten percent of each batch is selected and if the error rate of selection is in excess of fifteen percent, the indication is that there is something wrong and no billing is done until each return in the batch is checked. The batches are divided into those under \$50; from \$50 to \$100, from \$100 to \$250, etc. up to \$1,000. The same methodology is applied to business accounts stratifying them down from \$5,000.

Secretary Richards responded to questions about received dates assigned on receipt of returns and payments. He explained that dates are manually changed every day in the equipment that encodes the checks as well as the receipt of the voucher so it records the current date that check is processed.

He said when an individual taxpayer or preparer requests a closure letter it is generated within our system and typically mailed within one or two days.

A Committee member asked about the virtual taxpayer assistance system the Secretary had suggested during the hearing on March 7, Secretary Richards said funding has not been requested from the Appropriations Committee for that project and it was hoped it could be accomplished as funding becomes available. He said Virtual Taxpayer Assistance was not part of the original project design as had been assumed by some members of the Committee.

The Chairman asked Secretary Richards to comment specifically on the objections to **HB 2706** he had outlined in his testimony on March 7. Secretary Richards responded that with respect to his concern that it would micromanage, it would dictate how the Department communicated with the taxpayer, when they have hearings. He expressed concern that the CPA community has not approached the Department to discuss their concerns and how they can be collectively solved. He believes the language in Section 1

CONTINUATION SHEET

would lead one to believe you can file a report at any point in time and it is up to the Director to accept or reject. There are no parameters defining when the Director can reject a return and to Secretary Richards's knowledge they have never rejected a return a taxpayer chose to file with them.

Referring to his belief that it provides a redundant hearing process, he said it is important for the taxpayer and for the Department to have a final determination so they may take the appeal to the next level.

He noted the bill referred to "detailed, clear and accurate explanation of tax penalty and interest" and said he believes that is provided today with a line-by-line explanation of how the tax return was filed and what changes they have made to it.

The Secretary was asked about the Fiscal Note indicating 36 additional people would be needed at a cost of \$1.5 million. He said that was the requirement to raise the threshold so that every individual account below \$500 can be examined. They do not have the volume of staff to comply with that and would need 36 additional individuals and that there are some other incidental operating costs.

He was asked how the estimate of \$5.1 million was arrived at for in-house programming and said he could go over the details with the staff that does that analysis. There are standards they apply when they have to make programming changes with in-house resources or with outside resources. The Chairman requested that staff provide that information.

Secretary Richards expressed concern about the implementation date if the bill is to be effective upon date of publication.

Chairman Edmonds provided the Secretary with a letter (Attachment #4) which he regarded as difficult to understand and that although there was an adjustment schedule he was not convinced there was clear communication.

Hearing was closed on **HB 2706**.

Consideration was opened on HB 2804 - School district finance; teacher benefit and classroom enhancement budget.

Representative Cook moved proposed amendment, Representative Hutchins seconded, (Attachment #5).

Representative Powers moved, Representative Kirk seconded, to table bill. Motion failed..

Motion by Representative Cook failed.

Representative T Powell moved, Representative Pyle seconded, proposed language in the amendment offered by Representative Cook relating to use of school district funds for promotion. Motion was adopted.

Representative Powers moved that HB 2804 be reported adversely. Motion was not seconded.

Representative Huff moved, seconded by Representative Vickrey, to report HB 2804 favorable for passage as amended. Motion was adopted. Representative Kirk and Representative Powers recorded as voting no.

Meeting adjourned at 11:02 a.m. Next meeting is March 15 in the lobby of the Docking Building for an informational tour of the Department of Revenue.

GUEST LIST

DATE March 14

NAME	REPRESENTING
George Peterson	Ks Taxpayers Network
T.O. ANDERSON	KSCOPA
LARRY R BASH	LKM
Deann Williams	KS MOTOR CARRIERS ASSOC
Michelle Peterson	Ks Governmental Consulting
Bernie Koch	Wichita Area Chamber of
Tony Folsom	BOTA
Kern Brand	Ken law firm
Tom Bruno	GBBA
Ann Dukes	DAB
Leslie Kaufman	Ks Farm Bureau
John J. ...	Daim
Bob Kuhlert	KIOGA
Brenda Schumacher	
Elaine Salmons	
Steven Kohle	Overland Park Ks
Bill Henry	KCUA

Shirley K. Sicilian, General Counsel
Legal Services Bureau
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66612-1588



(785) 296-2381
FAX (785) 296-5213
Hearing Impaired TTY (785) 296-3909
Internet Address: www.ksrevenue.org

Legal Services

TESTIMONY

To: Chairman John Edmonds
House Taxation Committee

From: Shirley Klenda Sicilian *Shirley Sicilian*

Re: Kansas Supreme Court Decision in *Panhandle Eastern Pipeline*

Date: March 14, 2002

Chairman Edmonds and members of the Committee, thank you for the opportunity to testify today regarding the Kansas Supreme Court's decision in the *Panhandle Eastern Pipeline* case. I understand the committee would like some background on the case. I'll review the substantive issue, some policy implications of the decision, the fiscal implications, and an outline of the procedural history.

I. Substantive Issue.

The main question in this case was whether two corporations, Panhandle Eastern and National Helium, should be allowed to file a combined report for tax purposes. A combined report would allow Panhandle Eastern to offset its profits with National Helium's losses.

K.S.A. 79-32,141 provides a two-pronged test for combination. Under the statute, the department "may" combine taxpayers if (1) they are "owned or controlled ...by the same interests," and (2) the "director determines [combination] is necessary to prevent evasion of taxes or to clearly reflect income..." The department consistently interpreted the word "control" in the statute to require more than 50% ownership of one corporation by the other. This interpretation is consistent with the rule in the majority of states. Because Panhandle did not own or control more than 50% of National Helium, it did not meet the first test, and the department denied its request to combine with National Helium.

Panhandle appealed to the Board of Tax Appeals, which found in its favor. The Department appealed that ruling to the Kansas Court of Appeals. The Kansas Supreme Court took jurisdiction of the case before the Court of Appeals proceedings began. The Supreme Court, giving deference to BOTA, ruled that the statute by itself did not require a strict "more than 50%" ownership criteria. The Court thereby diluted the department's first test sufficiently to hold it was met by Panhandle. Although the department also argued that the second test (necessary to properly reflect income) was not met, the Court disagreed, and combination was allowed.

II. Policy Implications

- ***BOTA, not the department, given deference on tax appeals.***

Administrative agencies traditionally have two main policy-making tools at their disposal: 1) development of regulations, and 2) determination on appeal. Courts recognize these policy tools by acknowledging that regulations have the force and effect of law, and by granting deference to agency determinations on appeal. However, in *Panhandle* the Supreme Court diverged from previous statutory interpretations by the Court of Appeals and established that BOTA's determination, not the department's, was entitled to deference. With this decision, the Court may have limited the department's main policy-making tool to the development of regulations.

- ***Courts have clarified that more than 50% ownership is not required for combination.***

We now have judicial clarification that the statute's "owned or controlled" language does not strictly require more than 50% ownership in order to combine corporations for tax purposes. Because no alternative rule was articulated, this decision may support a case-by-case approach to combination. Case-by-case treatments do not provide much guidance for either taxpayers or the department, however. Therefore, the department will formulate a new interpretation of the statute that comports with parameters the Court has identified in this case. We will codify the new interpretation either by statute or regulation, after receiving input from all interested parties.

III. Fiscal Implications

- ***Direct Effect: Payment of \$25 million to Panhandle Eastern in two installments.***

The fiscal implication of the decision is that the State must pay Panhandle Eastern \$24.7 million from the state general fund. The reduction in tax liability is \$7.8 million for tax years 1981 to 1984. The remainder is interest and reflects the length of time it took to resolve the case under the pre-1997 statutory appeals process. Panhandle was willing to accept the payment in two installments. The first installment of \$12.35 million was paid on February 15, 2002 and the second installment of \$12.65 million will be made on or before July 15, 2002. \$300,000 of the second installment is interest at an annual rate of slightly less than 6%.

- ***Overall Effect: Corporate tax receipts could increase.***

The *Panhandle* decision essentially expanded the department's authority to combine taxpayers. As applied to all Kansas corporate taxpayers, increased authority to combine could tend to raise, rather than lower, total corporate tax receipts. Some corporate taxpayers will certainly review their filing situation to determine if an amended return based on combination might lower their tax liability, as it did for Panhandle Eastern. But by the same token, the department will incorporate this expanded authority into its audit guidelines. It is not possible to say today how the issue will balance out in the long run, and whether the decision will ultimately result in lower or higher corporate income tax receipts. Much will depend on the specifics of the new policy the department adopts in accordance with the decision.

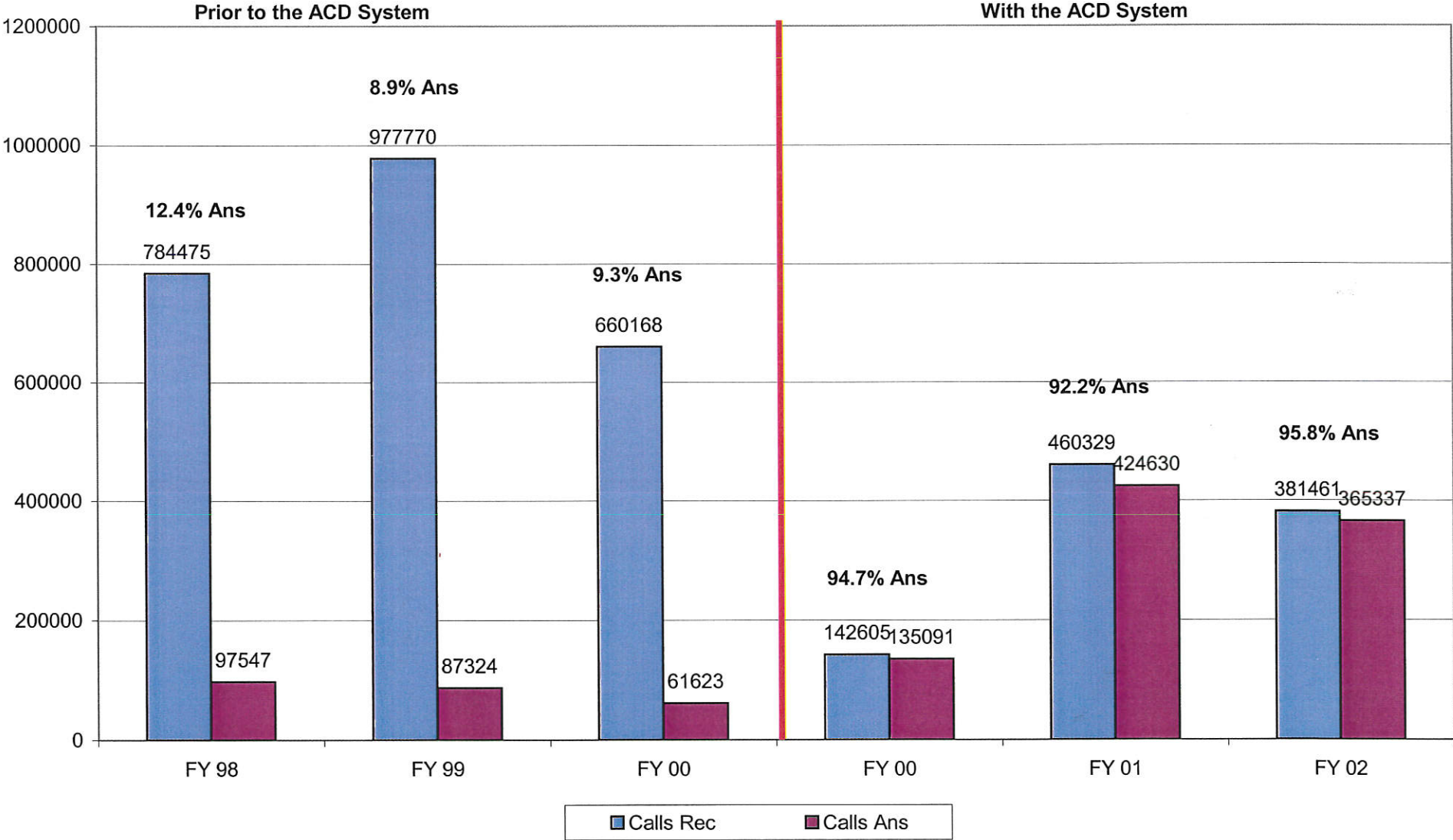
IV. Procedural History

- **July, 1986** - Panhandle files amended returns claiming refund of \$7.8 million for tax years 1981 to 1984, including 1979 and 1980 carrybacks.
- **September, 1987** –Department denies claim for refund based on “more than 50%” rule. Taxpayer requests hearing with Administrative Law Judge (ALJ).
- **February, 1994** – ALJ orders Department to file motion for summary judgement on “more than 50%” rule.
- **December, 1994** –ALJ reviews motion for summary judgement on “more than 50%” rule, finds in favor of Panhandle, and sets matter for further evidentiary hearing regarding factual support for unity and combination.
- **October, 1995** – Director’s designee determines, on petition for interlocutory review, that order on summary judgement should be vacated and the matter should proceed to formal department hearing on all issues, including “more than 50%” rule.
- **September, 1998** – Secretary issues final determination supporting “more than 50%” rule and denying refund. Panhandle files appeal with Board of Tax Appeals (BOTA).
- **November, 2000** – BOTA issues final order finding Panhandle and National Helium are unitary, and granting refund.
- **December, 2000** – Department docket appeal with Kansas Court of Appeals.
- **January, 2002** – Kansas Supreme Court issues opinion rejecting “more than 50%” rule, finding Panhandle and National Helium are unitary, and granting refund. (Kansas Supreme Court transferred the case on its own motion, prior to completion of proceedings at the Court of Appeals.)

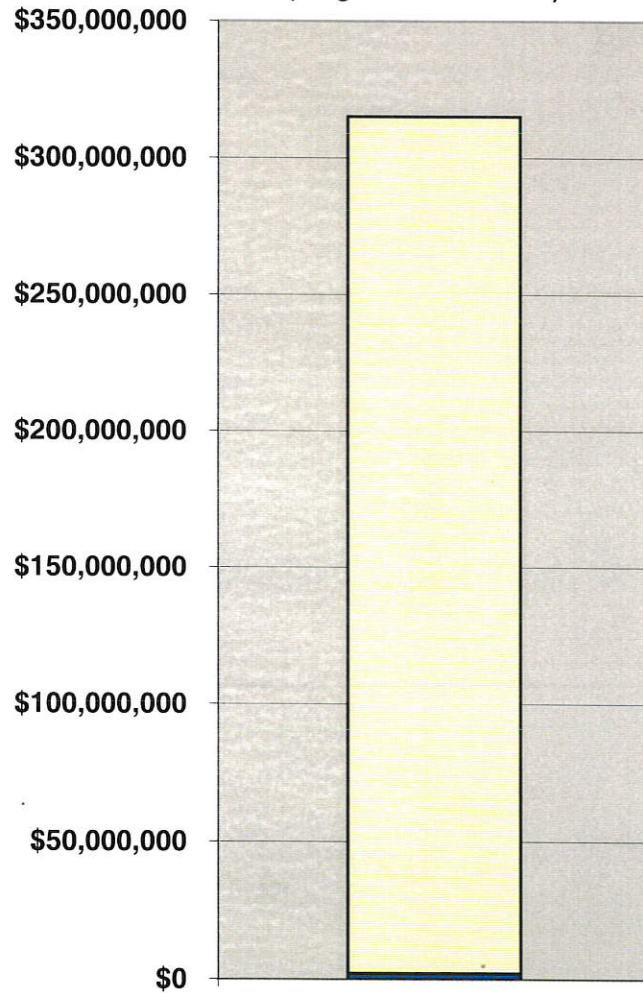
Department of Revenue
Division of Taxation
Toll Free Numbers

- 877-526-7738 Taxpayer Assistance (ACD System)
- 800-259-2829 Tel-Assist for frequently asked questions
- 800-894-0318 Refund Information Line (for current year refunds)
- 800-815-3563 Customer Account Resolution
- 800-810-5011 Fed/State Compare

Phone Call History



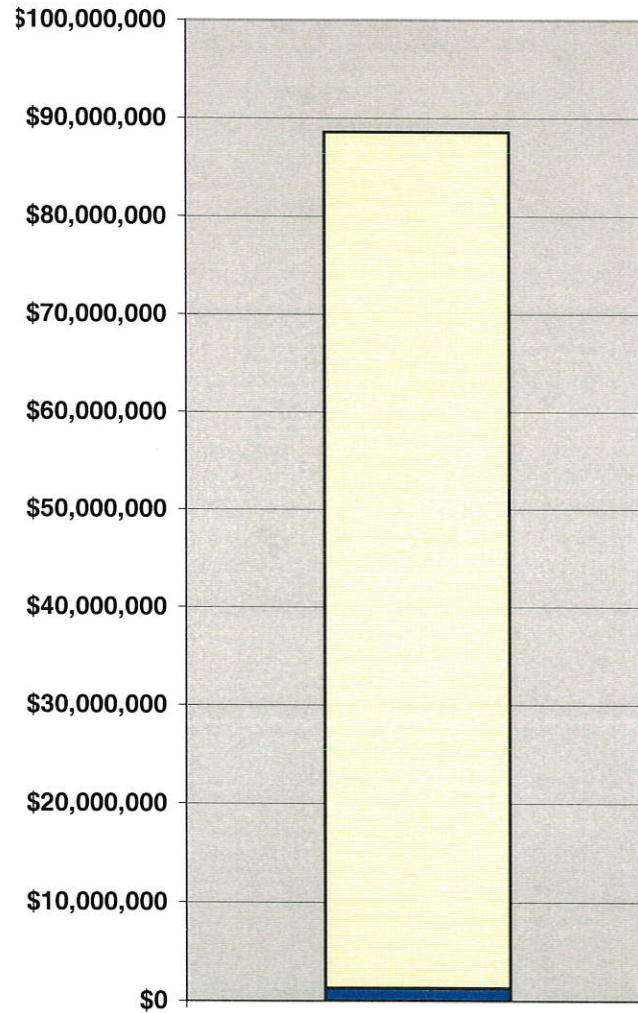
**All Taxes in Collection
(Drug Tax Not Included)**



Balance

- All Tax- 786,275 Periods = \$312,975,872
- All Tax <75- 66,625 Periods = \$2,123,135

Individual Taxes



Balance

- ITAX- 156,612 Periods = \$87,309,443
- ITAX<75- 37,974 Periods = \$1,274,838

Business Taxes



Balance

- BTAX - 629,663 Periods = \$225,666,430
- BTAX<75- 28,651 Periods = \$848,297

DEPARTMENT OF REVENUE

915 SW Harrison St.
Topeka, KS 66625-2007
Internet Address: www.ink.org/public/kdor



STATE OF KANSAS

Toll Free: 877-526-7738
Topeka Area Phone: 785-368-8222
FAX: 785-296-8989
Hearing Impaired TTY: 785-296-6461

November 12, 2001

0000615 01 AB **AUTO TO 0 1194 67437-152107 0002751 2332



DOWNS KS 67437-1521

RE: Social Security Number [REDACTED]
Joint Filer Social Security Number [REDACTED]
Tax Account Period 2000

We adjusted your income tax return as shown on the enclosed schedule for the following reason or reasons.

An adjustment was made to your return based on additional information submitted.

If you have any questions, please call toll-free 877-526-7738 between 7:00 a.m. and 5:45 p.m., Monday through Friday.

If you agree with this tax determination, and have a balance due, please pay the total amount promptly to avoid additional charges. Penalty and interest are automatically updated on the 16th of each month. Mail your check and a copy of this notice to:

Kansas Department of Revenue
915 SW Harrison St.
Topeka KS 66699-1000

A balance due of less than \$5.00 need not be paid. A refund of less than \$5.00 will not be paid but may be applied to a future period.

If you disagree, you must, within 60 days from the date of this notice, make a written request to the Secretary of Revenue for an informal conference to review and reconsider all facts and issues underlying your tax determination. Please state your objections in your written request for a conference and mail it, with a copy of this notice, to:

Office of Administrative Appeals
Kansas Department of Revenue
915 SW Harrison St.
Topeka KS 66625-0001

House Tax 3-14-02
Attach. No. 4
Page 1 of 6 120100

[REDACTED]
SOCIAL SECURITY NUMBER [REDACTED]

PAGE 2

To request an informal conference, please send a written request, stating the reasons for your objection along with a copy of this notice. In order to preserve your rights of appeal, you must request a conference within 60 days. Send your request to: Office of Administrative Appeals, Kansas Department of Revenue, 915 SW Harrison St., Topeka KS 66625-0001.

Once we review your request, we will contact you to schedule the informal conference. If possible, the conference will be held over the telephone to save you time and travel expenses.

If you do not request a conference, enclose a copy of this notice with your check and mail to: Kansas Department of Revenue, PO Box 12001, Topeka KS 66612-2001.

Sincerely,

Bob Ryder
Customer Representative

House Tax 3-14-02
Attach. No. 4
Page 2 of 6

090299

ADJUSTMENT SCHEDULE

Line #		Return as Filed by Customer	Adjustment Made by KDOR	Corrected Return Based on Adjustment
1	Federal adjusted gross income	61,727.00	0.00	61,727.00
2	Modifications to federal adjusted gross income	0.00	0.00	0.00
3	Kansas adjusted gross income	61,727.00	0.00	61,727.00
4	Standard deduction or itemized deductions	6,000.00	0.00	6,000.00
5	Exemption allowance	6,750.00	0.00	6,750.00
6	Total Deductions	12,750.00	0.00	12,750.00
7	Taxable income	48,977.00	0.00	48,977.00
8	Tax	2,236.00	0.00	2,236.00
9	Nonresident allocation percentage	0.00%	0.00%	0.00%
10	Nonresident tax	0.00	0.00	0.00
11	Kansas tax on lump sum distributions	0.00	0.00	0.00
12	Total Kansas Tax	2,236.00	0.00	2,236.00
13	Credit for taxes paid to other states	0.00	0.00	0.00
14	Credit for child & dependent care expenses	600.00	-480.00 ✓	120.00 ✓
15	Other nonrefundable credits	0.00	0.00	0.00
16	Total Nonrefundable Credits	600.00	-480.00	120.00
17	Balance	1,636.00	480.00	2,116.00
18	Kansas income tax withheld	1,570.00	0.00	1,570.00
19	Estimated tax paid	0.00	0.00	0.00
20	Amount paid with Kansas extension	0.00	0.00	0.00
21	Earned income credit	0.00	0.00	0.00
22	Other refundable credits	0.00	0.00	0.00
23	Food Sales Tax Refund	0.00	0.00	0.00
24	Total Refundable Credits	1,570.00	0.00	1,570.00
25	Underpayment	66.00	480.00	546.00
	Payment received			66.00
26	Interest	0.00	28.00	28.00
27	Penalty	0.00	120.00	120.00
28	Estimated tax penalty	0.00	20.12	20.12
29	Total Balance Due	66.00	582.12	648.12
30	Overpayment	0.00	0.00	0.00
31	Credit Forward	0.00	0.00	0.00
32	Chickadee Checkoff	0.00	0.00	0.00
33	World War II Memorial Fund	0.00	0.00	0.00
34	Total Refund	0.00	0.00	0.00

House Tax 3-14-02
Attach. No. 4
Page 3 of 6



515 SW Harrison St.
Topeka, KS 66625-2007
Internet Address: www.ksrevenue.org

Toll Free: 877-526-7738
Topeka Area Phone: 785-368-8222
FAX: 785-296-8989
Hearing Impaired TTY: 785-296-6461

November 12, 2001

0000614 01 AB **AUTO TO 0 1194 67437-152107 0002747 2332



DOWNS KS 67437-1521

RE: Social Security Number [REDACTED]
Joint Filer Social Security Number [REDACTED]
Tax Account Period 2000

The Kansas Department of Revenue has determined that your estimated tax or withholding tax payments were below the level required by law for the year indicated. Therefore, you are being assessed a penalty for the underpayment of estimated tax because your estimated tax or withholding tax payments were less than 90 percent of your total income tax and the balance due shown on your tax return exceeded \$200.

The amount of the penalty for underpayment of estimated tax is \$20.12.

- Your estimated tax or withholding tax payments are at least 90% of the tax shown on your return;
- Your estimated tax or withholding tax payments equal or exceed 100% of the tax shown on your prior year tax return (the return must cover a 12-month period with a tax liability);
- You were not required to file a return the prior year;
- Your tax liability on your prior year return was less than \$200.
- You are a farmer/fisher and filed your return and fully paid the tax due on or before March 1, or you have 66 2/3% of your tax paid by January 15th. To qualify, 2/3 of your gross income must be from farming or fishing; or
- Your estimated tax or withholding tax payments equaled or exceeded 90% of the tax shown on your annualized income for periods from January 2 to March 31, May 31, August 31 and December 31.

If you have any questions, please call toll-free 877-526-7738 between 7:00 a.m. and 5:45 p.m., Monday through Friday.

House Tax 3-14-02
Attach. No. 4
Page 4 of 6
00290

[REDACTED]
SOCIAL SECURITY NUMBER [REDACTED]
PAGE 2

We will contact you to schedule the informal conference (which may be held by telephone). If you do not file your request within 60 days, then your tax determination is final and cannot be appealed.

Sincerely,

Bob Ryder
Customer Representative

IADJOR00

House Tax 3-14-02
Attach. No. 4
Page 5 of 6 120100

Bgb,

Would you check this one for me, a client came in yesterday with two letters he had received from the State of Kansas. Unfortunately your letters are not user friendly and he needed help in understanding what his problem was. They did their return manually and misread the instructions evidently. They took the same amount of child care credit on the Kansas return that they took on their federal return(\$600.00) instead of the allowed amount of \$120. The state requested a copy of their federal return several months ago for the year 2000 and they did not know why. Jennifer called the Kansas phone # listed on the recent letter dated 11-12-01 to find out what the problem was and that's when they learned that they made a mistake. The person on the phone also told her that their 1999 return was in collection for the same problem. They tell me they have NEVER received a letter concerning their 1999 return. They are willing to pay the additional tax, but believe that the penalty and interest should be at least partially abated as they would have paid the additional tax as soon as they were informed that it was due. The letter dated November 12, 2001 is the only information they have received and would not even know that 1999 was in collection if Jennifer had not called regarding the 11-12-2001 letter.

Their filing was as [REDACTED] and [REDACTED] ea

[REDACTED] Please let me what to do, they are willing to pay the additional tax only at this time IF we know what that tax was. the phone person only told them the total which is now over \$1000.00 How much is penalty and interest?? I am also sending this to Senator Janice Lee.

CPA

House Tax 3-14-02
Attach. No. 4
Page 6 of 6

HOUSE BILL No. 2804

By Representatives Bethell and Huff

2-7

Proposed amendment
Representative Pilcher Cook
March 14, 2001

House Tax 3-14-02
Attach. No. 5
Page 1 of 3

9 AN ACT concerning school district finance; authorizing the adoption of
10 teacher benefit and classroom enhancement budgets by boards of ed-
11 ucation and providing for the financing of such budgets.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) In each school year, the board of any district may adopt
15 a teacher benefit and classroom enhancement budget in an amount not
16 to exceed 5% of the amount of state financial aid determined for the
17 district in the school year, subject to any one or more of the following
18 conditions:

19 (1) Enrollment in the district in the school year has declined from
20 enrollment in the preceding school year; or

21 (2) the board has adopted a local option budget and has budgeted
22 therein the total amount authorized for the school year; or

23 (3) the board has determined that the amounts budgeted for oper-
24 ating expenses in the general fund and the supplemental general fund are
25 insufficient to provide for certified teacher benefits and classroom
26 enhancements.

27 (b) No district may adopt a teacher benefit and classroom enhance-
28 ment budget unless the question of adoption of such a budget has been
29 submitted to and approved by the electors of the district at a general or
30 primary election or at a special election called for the purpose. The elec-
31 tion shall be held in the manner provided by K.S.A. 10-120, and amend-
32 ments thereto, for elections on the question of issuing bonds under the
33 general bond law.

34 Sec. 2. There is hereby established in every district that adopts a
35 teacher benefit and classroom enhancement budget a fund which shall
36 be called the teacher benefit and classroom enhancement fund. The fund
37 shall consist of all amounts deposited therein or credited thereto accord-
38 ing to law. Amounts in the teacher benefit and classroom enhancement
39 fund ~~may~~ be expended for any ~~benefits for certified teachers, including,~~
40 but not limited to, an increase in salary and any funds remaining may be
41 used for classroom enhancement. ~~Any unexpended and unencumbered~~
42 cash balance remaining in the teacher benefit and classroom enhance-
43 ment fund of a district at the conclusion of any school year in which a

Except as provided further, in any election held pursuant to this section, no school district funds shall be expended to promote or reject such budget adoption. The school district may print and distribute a two-page informational document concerning such election 14 days prior to the date of the election.

shall

increased

Moneys in such fund shall not be considered a source of revenue to meet normal certified teachers salary expenditures.

1 teacher benefit and classroom enhancement budget is adopted may be
 2 maintained in such fund until budgeted and expended in a succeeding
 3 school year.

4 Sec. 3. (a) In each school year, the board of every district that has
 5 adopted a teacher benefit and classroom enhancement budget may levy
 6 an ad valorem tax on the taxable tangible property of the district for the
 7 purpose of financing that portion of the district's teacher benefit and
 8 classroom enhancement budget which is not financed from any other
 9 source provided by law.

10 (b) The proceeds from the tax levied by a district under authority of
 11 this section shall be deposited in the teacher benefit and classroom en-
 12 hancement fund of the district.

13 (c) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-
 14 1964b, and amendments thereto.

15 Sec. 4. (a) (1) For the purpose of financing all or a portion of a dis-
 16 trict's teacher benefit and classroom enhancement budget in order to
 17 reduce or eliminate reliance of the district upon revenue received from
 18 property taxation, the board of any district that has adopted a teacher
 19 benefit and classroom enhancement budget may submit the question of
 20 imposing a school district retailers' sales tax to the electors of such district
 21 at an election called and held thereon.

22 (2) The board of any district proposing to adopt a retailers' sales tax
 23 shall give notice of its intention to submit such proposition for approval
 24 by the electors in the manner required by K.S.A. 10-120, and amend-
 25 ments thereto. The notices shall state the time of the election and the
 26 rate and effective date of the proposed tax. If a majority of the electors
 27 voting thereon at such election fail to approve the proposition, such prop-
 28 osition may be resubmitted under the conditions and in the manner pro-
 29 vided in this section for submission of the proposition. If a majority of
 30 the electors voting thereon at such election shall approve the levying of
 31 such tax, the board of such district shall provide by resolution for the levy
 32 of the tax. Any repeal of such tax or any reduction or increase in the rate
 33 thereof, within the limits prescribed by subsection (b) shall be accom-
 34 plished in the manner provided herein for the adoption and approval of
 35 such tax except that the repeal of any such retailers' sales tax may be
 accomplished by the adoption of a resolution so providing. A

38 (b) (1) The rate of any school district retailers' sales tax shall be fixed
 39 in the amount of .125%, .25%, .5%, .75% or 1% which amount shall be
 40 determined by the board of the district.

41 (2) The board of a district levying a retailers' sales tax is hereby pro-
 hibited from administering or collecting such tax locally, but shall utilize
 of revenue to administer, enforce

Except as provided further, in any election held pursuant to this section, no school district funds shall be expended to promote or reject such school district tax. The school district may print and distribute a two-page informational document concerning such election 14 days prior to the date of the election.

1 such retailer are subject to the tax regardless of whether the service is
 2 performed within or outside the boundaries of the district. If there is no
 3 fixed or determinable place of business for any retailer, other than a re-
 4 tailer having its only place or places of business in another state, the place
 5 of business of such retailer shall be deemed to be the place where the
 6 services are performed.

7 (f) All revenue received from a school district retailers' sales tax im-
 8 posed pursuant to this section shall be expended only for the purposes
 9 for which a property tax may be levied pursuant to section 3, and amend-
 10 ments thereto. Any such tax levy imposed by the board of a school district
 11 upon taxable tangible property located within the district shall be reduced
 12 by an amount equivalent to the amount of revenue distributed for use by
 13 the board pursuant to this section.

14 Sec. 5. This act shall take effect and be in force from and after its
 15 publication in the statute book.

Sec. 5. No school district may decrease the amount paid for
 the salaries and benefits for teachers unless the entire budget is
 decreased in the same percentage amount.

b

House Tax 3-14-02
 Attach. No. 5
 Page 3 of 3