Approved __April 11, 2002__
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on March 22, 2002 in Room 519-S of the Capitol.

All members were present except:	Representative Mays, excused Representative T. Powell, excused Representative Powers, excused Representative Sharp, 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:	Representative Merrick Representative Bethell
Others Attending:	See attached list.

By unanimous consent bill will be introduced as requested by Representative Holmes to amend K.S.A. 55-102 to allow the Kansas Corporation Commission to regulate by order, rule or regulation the venting of coal methane gas. [**HB 3031** - Authorizing venting, flaring or other use of certain natural gas]

The Committee considered **HB 2878** - Blue Valley recreation system.

Representative Merrick presented an amendment to address concerns raised at the hearing March 20 (Attachment #1). The amendment would add the following language as Section 2:

> "In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed by the petition language for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such recreation commission is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist."

Representative Gatewood moved, Representative L. Powell seconded, that the proposed amendment be adopted. Motion was adopted.

Representative L. Powell moved, Representative Palmer seconded, that HB 2878 be reported favorable for passage as amended. Motion was adopted.

The Committee considered **HB 2653** - Certificate of title for antique automobiles.

Chairman Edmonds explained **HB 2653**, introduced in this Committee, was referred to the Transportation Committee for hearing and reported bill favorable for passage. On the House floor problems not adequately addressed were identified. It would have been rereferred to Transportation Committee, but because many members serve on both committees, Chairman Hayzlett acquiesced in reference to the Tax Committee.

Representative Bethell reported for the informal task force which studied changes needed (Representatives Bethell, Levinson and Osborne) recommended **Substitute for HB 2653** (Attachment #2). He described problems securing titles for antique vehicles if parts combined into one vehicle and there was no match between engine number, frame number or other identification for which title had been issued. Presently examination by Motor Vehicle and Highway Patrol is required to establish title. He described various identifying numbers used for titles. When identified by frame number, it is sometimes necessary that the vehicle be in a state of disrepair with the body removed for that number to be visible.

If the title has been lost, a title search is done within the state of Kansas. If none is found, the owner would present a bill of sale and application. Under proposed **Substitute HB 2653** there would be a vehicle check by the Highway Patrol or designee and a more intensive inspection if there is any doubt. The Highway Patrol

CONTINUATION SHEET

checks numbers for stolen items and does a nationwide title. Representative Osborne explained the proposed bill covers inspections when there are problems with numbers not checking and allows the Highway Patrol to designate someone to do these inspections if they do not have the manpower. An increased fee makes it appropriate for it to be done by such a contractor.

Moved by Representative Osborne, seconded by Representative Owens, that proposed Substitute HB 2653 be accepted. Motion adopted.

Moved by Representative Osborne, seconded by Representative Owens, that Substitute HB 2653 be reported favorable for passage. Motion adopted.

Consideration was opened on **HB 2948** - Income tax credit of historic structure rehabilitation expense on which hearing was held on March 21. Representative Hutchins presented proposed amendment to **HB 2948** (Attachment #3) recommended by Subcommittee (Representatives Hutchins, Chair, Osborne and Flora). Although Fiscal Note last year estimated $300,000 in loss of revenue through tax credits, the subcommittee believed it would be neutral, taking into account increase in income tax on jobs which would be created and sales tax on materials.

Representative Hutchins moved, Representative Tafanelli seconded, to amend HB 2948 as proposed. Motion was adopted.

Representative Hutchins moved, Representative Osborne seconded, to report HB 2948 favorable for passage as amended. Motion was adopted.

Consideration was opened on HB 2706 - Taxpayer Fairness Act of 2002.

Rep Edmonds presented balloon amendment (Attachment #4) to deal with some concerns of the Secretary of Revenue.

Representative Palmer moved, Representative Gatewood seconded, that the HB 2706 be amended and indicated by balloon. Motion was adopted.

Representative Edmonds referred to three bills: HB 2649 - Rule and regulation authority of secretary of revenue; HB 2650 - Timing of taxpayer appeals; and HB 2651 - Sales tax direct fund procedures.

Revisor Hayward said Attorney General suggested HB 2649 be amended by inserting in line 14 "as provided by law" and striking: "and not inconsistent with the provisions of chapters 41 and 79 of the Kansas Statutes Annotated".

Representative Hutchins moved, Representative Vickery seconded, that HB 2649 with suggested amendment be amended into HB 2706. Motion was adopted.

Representative L. Powell moved, Repiresentative Palmer seconded, that contents of HB 2650 be amended into HB 2706. Motion adopted.

Representative Hutchins moved, Representative Owens seconded, to adopt amendment to HB 2651 removing the words "refused or" in line 16, page 1, and amend it into HB 2706. Motion was adopted.

Representative Huff moved, Representative Gilbert seconded, to report HB 2706 favorable for passage as amended. Motion adopted.

Representative Vickery presented report of Subcommittee reviewing BOTA. The Subcommittee recommends the matter be addressed by an interim committee.

Representative Palmer moved, Representative Huff seconded, that the report of the Subcommittee on BOTA be adopted. Motion carried.

Meeting adjourned at 9:50 a.m. Next meeting scheduled March 26.

HOUSE TAXATION COMMITTEE

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GUEST LIST

DATE Mar. 22, 2002

NAME	REPRESENTING
J.P. Anderson	KSCPA
Katrina Klingaman	Kansas State Historical Society
Larry R Baer	LKM
Bret Glendening	LKM
Lance Kelly	KRPA
George Petersen	KTW
Sheila Frahm	KACCT
GARY DAVENPORT	KS MOTOR CARRIERS ASSN
Christi Stewart	K M C A
Marlee Carpenter	KCCI
Lonnie McCammon	Blue Valley Com Coalition
Myrna Powell	
John Joerger	Murray Cook
Michelle Peterson	Ks. Governmental Consulting
Bob Bethell	House
Janet McPherson	KS Farm Bureau
Bill Yanek	KS Assn of REALTORS
Ed O'Malley	Oz Club

treasurer to the ex officio treasurer of the recreation commission.

~~(d)~~ *(c)* The tax levy provided in this section shall not be considered a levy of such city or school district under any of the statutes of this state, but shall be in addition to all other levies authorized by law and, with respect to any such levy made for the first time in 1989, shall not be subject to the provisions of K.S.A. 79-5021 *et seq.*, and amendments thereto.

~~(e)~~ *(d) (1)* At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(c)~~ *(b)*. The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities~~, other than the recreation commission appointed by the Blue Valley unified school district No. 229,~~ may be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(c)~~ *(b)*. If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall be dissolved.

(2) In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed in this section for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such recreation commission is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.

(3) If the recreation district whose authority is revoked owns any real property at the time of such revocation, title to such real property shall revert to the taxing authority.

~~(f)~~ *(e)* All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city or school district, or both, in the case of a jointly established recreation system. A copy of such audit also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The cost of each

In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed by the petition language for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such recreation commission is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.

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PROPOSED AMENDMENT to HOUSE BILL NO. 2653

Sec. 1. K.S.A. 8-116a is hereby amended to read as follows: 8-116a. (a) <u>Except as provided in K.S.A. 8-170, and amendments thereto,</u> when an application is made for a vehicle which has been assembled, reconstructed, reconstituted or restored from one or more vehicles, or the proper identification number of a vehicle is in doubt, the procedure in this section shall be followed. The owner of the vehicle shall request the Kansas highway patrol to check the vehicle. At the time of such check the owner shall supply the highway patrol with information concerning the history of the various parts of the vehicle. Such information shall be supplied by affidavit of the owner, if so requested by the highway patrol. If the highway patrol is satisfied that the vehicle contains no stolen parts, it shall assign an existing or new identification number to the vehicle and direct the places and manner in which the identification number is to be located and affixed or implanted. A charge of ~~$10~~ <u>$25</u> per hour or part thereof, with a minimum charge of ~~$10~~ <u>$25</u>, shall be made to the owner of a vehicle requesting check under this subsection, and such charge shall be paid prior to the check under this section. When a check has been made under subsection (b), not more than 60 days prior to a check of the same vehicle identification number, requested by the owner of the vehicle to obtain a regular certificate of title in lieu of a nonhighway certificate of title or obtain a rebuilt salvage title in lieu of a salvage title, no charge shall be made for such second check.

(b) Any person making application for any original Kansas title for a used vehicle which, at the time of making application, is titled in another jurisdiction, as a condition precedent to obtaining any Kansas title, shall have such vehicle checked by the Kansas highway patrol for verification that the vehicle identification number shown on the foreign title is genuine and agrees with the identification number on the vehicle. Checks under this section may include inspection for possible violation of K.S.A. 21-3757, and amendments thereto, or other evidence of possible fraud. The verification shall be made upon forms prescribed by the division of vehicles which shall contain such information as the secretary of revenue shall require by rules and regulations. A charge of $10 per hour or part thereof, with a minimum charge of $10, shall be made for checks under this subsection. When a vehicle is registered in another state, but is financed by a Kansas financial institution and is repossessed in another state and such vehicle will not be returned to Kansas, the check required by this subsection (b) shall not be required to obtain a valid Kansas title or registration.

(c) As used in this act, "identification number" or "vehicle identification number" means an identifying number, serial number, engine number, transmission number or other distinguishing number or mark, placed on a vehicle, engine, transmission or other essential part by its manufacturer or by authority of the division of vehicles or the Kansas highway patrol or in accordance with the laws of another state or country.

(d) <u>(1)</u> The checks made under subsection <u>(a) or</u> (b) may be made by~~:~~

~~(1)~~ a designee of the superintendent of the Kansas highway patrol; or

(2) <u>the checks made under subsection (b) may be made by</u> an employee of a new vehicle dealer, as defined in subsection (b) of K.S.A. 8-2401, and amendments thereto, for the purposes provided for in subsection (f).

For checks made by a designee, $1 of each charge shall be remitted to the Kansas highway patrol and the balance of such charges shall be retained by such designee. When a check is made under either subsection (a) or (b) by personnel of the Kansas highway patrol or when a check is made under subsection (b) by an employee of a new vehicle dealer, the entire amount of the charge therefor shall be paid to the highway patrol.

(e) There is hereby created the vehicle identification number fee fund. The Kansas highway patrol shall remit all moneys received by the Kansas highway patrol from fees collected under subsection (d) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle identification number fee fund. All expenditures from the vehicle identification number fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the Kansas highway patrol or by a person or persons designated by the superintendent.

(f) An employee of a new vehicle dealer, who has received initial training and certification from the highway patrol, and has met continuing certification requirements, in accordance with rules and regulations adopted by the superintendent of the highway patrol, may provide the checks under subsection (b), in accordance with rules and regulations adopted by the superintendent of the highway patrol, on motor vehicles repurchased or reacquired by a manufacturer, distributor or financing subsidiary of such manufacturer and which are purchased by the new vehicle dealer. At any time, after a hearing in accordance with the provisions of the Kansas administrative procedure act, the superintendent of the highway patrol may revoke, suspend, decline to renew or decline to issue certification for failure to comply with the provisions of this subsection, including any rules and regulations.

Sec. 2. K.S.A. 8-170 is hereby amended to read as follows: 8-170. (a) Upon the transfer of ownership of any vehicle registered under the foregoing provisions of this act, its registration and right to use the license plates thereon shall expire and thereafter there shall be no transfer of any registration, and the license plates shall be removed by the owner thereof and it shall be unlawful for any person other than the person to whom such license plates were originally issued to have the same in possession. In case of a transfer of ownership of a registered vehicle the original owner of the license plates may register another antique vehicle under the same license plate designation, upon application therefor and the payment of a fee of $1.50. On and after January 1, 2000, any model year license plate transferred shall comply with the provisions of subsection (c) of K.S.A. 8-172, and amendments thereto.

(b) Upon the transfer and sale of a registered vehicle by any person, the new owner thereof, before using a vehicle on the highways of this state, shall make application to the division for registration of the vehicle.

(c) Certificate of title:

(1) Application for certificate of title on an antique vehicle shall be made by the owner or the owner's agent upon a blank form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. ~~The~~ For any antique vehicle having a model year prior to 1950, the application together with a bill of sale for ~~the~~ such antique vehicle shall be accepted as prima facie evidence that the applicant is the owner of the vehicle and the certificate of title shall be issued for such vehicle. If the application and bill of sale are used to obtain a certificate of title for any antique vehicle having a model year of 1950 or later, the certificate of title shall not be issued until the vehicle identification number, as defined in K.S.A. 8-116a, and amendments thereto, has been electronically verified. An inspection in accordance with subsection (a) of K.S.A. 8-116a, and amendments thereto, shall be required if after such verification, the vehicle identification number is in doubt, except that the Kansas highway patrol or a designee of the superintendent of the Kansas highway patrol shall make such check

within 30 days from the date such owner of the antique vehicle requests such inspection. If such inspection is not completed within such 30-day period, the application and bill of sale shall be accepted as prima facie evidence that the applicant is the owner of such antique vehicle and the certificate of title shall be issued. The certificate of title shall be delivered to the applicant. The certificate shall contain the words "antique vehicle."

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner before a notary public or some other officer authorized to administer an oath. A certificate of title may be issued under the provisions of this act without an application for registration.

(3) The fee for each original certificate of title so issued shall be $7 until July 1, 2002, $6 until July 1, 2004, and $3.50 thereafter. The certificate of title shall be good for the life of the antique vehicle, so long as the same is owned or held by the original holder of the certificate of title, and shall not have to be renewed. In the event of a sale or transfer of ownership of an antique vehicle for which a certificate of title has been issued under the provisions of this subsection, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in form printed thereon, as prescribed by the director, and the transferor must deliver the same to the buyer at the time of delivery of the vehicle. The buyer shall then present such certificate of title, assigned as aforesaid, to the director or an authorized agent of the director, whereupon a new certificate of title shall be issued to the buyer, the fee therefor being $7 until July 1, 2002, $6 until July 1, 2004, and $3.50 thereafter.

Session of 2002

House Bill No. 2948

By Committee on Taxation

2-14

AN ACT relating to income taxation; concerning the historic structure rehabilitation expenditure credit therefrom; amending K.S.A. 2001 Supp. 79-32,211 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 79-32,211 is hereby amended to read as follows: 79-32,211. (a) For all taxable years commencing after December 31, ~~2000~~ *2001*, there shall be allowed a tax credit against the income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, *the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto,* in an amount equal to 25% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equal $5,000 or more. If the amount of such tax credit exceeds the qualified taxpayer's income tax liability for the year in which such costs and expenses were incurred, such excess amount may be carried over for deduction from such taxpayer's income tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified expenditures were incurred.

, privilege or premium

the qualified rehabilitation plan was placed in service, as defined by section 47(b)(1) of the federal internal revenue code and federal regulation section 1.48-12(f)(2)

qualified rehabilitation plan was placed in service

(b) As used in this section, unless the context clearly indicates otherwise:

(1) "Qualified expenditures" means the costs and expenses incurred by a qualified taxpayer in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan which are defined as a qualified rehabilitation expenditure by section 47 (c)(2) of the federal internal revenue code;

(2) "qualified historic structure" means any building, whether or not income producing, which is defined as a certified historic structure by section 47 (c)(3) of the federal internal revenue code, is individually listed

on the register of Kansas historic places, or is located and contributes to a district listed on the register ~~or~~ *of* Kansas historic places;

(3) "qualified rehabilitation plan" means a project which is approved by the cultural resources division of the state historical society, or by a local government certified by the division to so approve, as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the federal secretary of interior and in effect on the effective date of this act. The society shall adopt rules and regulations providing application and approval procedures necessary to effectively and efficiently provide compliance with this act, and may collect fees in order to defray its approval costs in accordance with rules and regulations adopted therefor; and

(4) "qualified taxpayer" means the owner of the qualified historic structure or any other person who may qualify for the federal rehabilitation credit allowed by section 47 of the federal internal revenue code.

(c) Any person not subject to Kansas income, privilege or premiums tax, hereinafter designated the assignor, may sell, assign, convey or otherwise transfer tax credits allowed and earned pursuant to subsection (a), for an amount not less than 50% of the value of any such credit. Such credits shall be deemed to be allowed and earned by any such person which is only disqualified therefrom by reason of not being subject to such Kansas taxes. The taxpayer acquiring earned credits, hereinafter designated the assignee, may use the amount of the acquired credits to offset up to 100% of its income, privilege or premiums tax liability for the taxable year in which such acquisition was made. Only the full credit amount for any one contribution may be transferred and such credit may be transferred one time. Unused credit amounts claimed by the assignee may be carried forward for up to five years, except that all such amounts shall be claimed within 10 years following the tax year in which the contribution was made. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the cultural resources division of the state historical society in writing within 30 calendar days following the effective date of the transfer and shall provide any information as may be required by such division to administer and carry out the provisions of this section. The amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.

Sec. 2. K.S.A. 2001 Supp. 79-32,211 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book

If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company, or as the corporation, partnership or limited liability company mutually agree as provided in the by-laws or other executed agreement. Credits granted to a partnership, a limited liability company taxed as a partnership or other multiple owners of property shall be passed through to the partners, members or owners respectively pro rata or pursuant to an executed agreement among the partners, members or owners documenting any alternate distribution method.

either the taxable year in which the qualified rehabilitation plan was first placed into service or

qualified rehabilitation plan was first placed into service

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Session of 2002

HOUSE BILL No. 2706

By Committee on Taxation

1-25

AN ACT relating to taxation; enacting the Taxpayer Fairness Act of 2002; amending K.S.A. ~~79-3225;~~ 79-3226 ~~and 79-3607 and K.S.A. 2001 Supp. 60-2310~~ and repealing the existing sections.

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

New Section 1. (a) Any correspondence issued by the department of revenue to a taxpayer or the taxpayer's representative demanding payment of an assessment of any tax the imposition and collection of which is administered by the department shall consist of a detailed, clear and accurate explanation of the assessment demand including, but not limited to, the specific tax and tax year to which such assessment applies and penalties and interest which apply thereto.

If the department proposes to change the tax or refund due on a return filed by a taxpayer, correspondence detailing the change shall be sent to the taxpayer. The correspondence shall specifically identify the proposed change and explain in simple and nontechnical terms the reasons for the change.

(b) Any such correspondence demanding the payment of an assessment of tax, penalties and interest in an amount in excess of ~~$500~~ shall be reviewed prior to issuance for accuracy by an employee of the department.

$750 for individual accounts and in excess of $2,000 for business accounts

and the name and contact telephone number of the employee performing such review shall appear on such correspondence.

New Sec. 2. In the event a taxpayer has designated a third party or other representative to discuss an income tax return upon the taxpayer's federal or state return form, the department shall adhere and comply with such designation, and shall ~~only~~ correspond with such designee or representative regarding matters concerning the return.

discuss or

including collection matters.

New Sec. 3. In addition to the authority to waive any civil penalty imposed by law for the violation of any law pertaining to any tax administered by the department of revenue, the secretary or the secretary's designee shall waive any such penalty upon the finding of any circumstance allowing waiver of civil penalties pursuant to the federal internal revenue code, as in effect on January 1, 2002.

New Sec. 4. ~~In the event that the department of revenue agrees to settle~~ any assessment of tax, penalties and interest of any tax the imposition and collection of which is administered by the department, a closing letter evidencing such ~~settlement~~ shall be issued to the affected taxpayer or the taxpayer's representative, as the case may require, within 30 days of the date upon which such ~~settlement~~ is agreed to. The taxpayer shall be entitled to rely on such closing letter, and the department shall not maintain a position against such taxpayer which is inconsistent with such

Upon a resolution of

resolution

resolution

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~~settlement agreement.~~ resolution.

New Sec. 5. Property exempt from levy pursuant to a federal tax lien as described by subsection (a) of section 6334 of the federal internal revenue code, as in effect on January 1, 2002, shall be exempt from levy pursuant to the provisions of K.S.A. 79-3235 and 79-3617, and amendments thereto. In the case of the principal residence of the taxpayer, if a judge of the district court of the county in which such residence is located approves in writing a levy upon such residence, it shall not be exempt.

New Sec. 6. (a) Notwithstanding any provision of K.S.A. 79-3235, and amendments thereto, to the contrary, the procedures set forth by this section shall apply to the issuance of any warrant and the levy upon property pursuant to such provisions.

(b) (1) The secretary or the secretary's designee shall notify in writing the person who is the subject of the warrant of the filing of a warrant under K.S.A. 79-3235, and amendments thereto. The notice required shall be given in person, left at the dwelling or usual place of business of such person or sent by certified or registered mail to such person's last known address, not more than five business days after the day of the filing of the notice of lien. The notice shall include in simple and nontechnical terms the amount of unpaid taxes, ~~the right of the person to request a hearing during the 30-day period beginning on the day after the five-day period described above,~~ the administrative appeals available to the taxpayer with respect to such warrant and the procedures relating to such appeals, and the provisions of law and procedures relating to the release of warrants on property. Delete.

(2) If the person requests a hearing, such hearing shall be held by the secretary or the secretary's designee. A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax relates. ~~The hearing shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax. A taxpayer may waive the requirement of the preceding sentence. To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under subsection (c). For purposes of this subsection, paragraphs (3), (4) and (5) of subsection (c) shall apply.~~

(c) (1) No levy may be made on any property or right to property of any person unless the secretary or secretary's designee has notified such person in writing of their right to a hearing under this subsection before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax relates. The notice required shall be given in person, left at the dwelling or usual place of business of such person or sent by certified or registered mail, return receipt requested, to such person's last known address, not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period. The notice required shall include in simple and nontechnical terms the amount of unpaid tax, the right of the person to request a hearing during the 30-day period, and the proposed action by the secretary and the rights of the person with respect to such action, including a brief statement which sets forth the provisions of law relating to levy and sale of property, the procedures applicable to the levy and sale of property under law, the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals, the alternatives available to taxpayers which could prevent levy on property and the provisions of law and procedures relating to redemption of property and release of warrants on property.

(2) If the person requests a hearing such hearing shall be held by the secretary or the secretary's designee. A person shall be entitled to only one hearing with respect to the taxable period to which the unpaid tax relates. The hearing shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax. A taxpayer may waive the requirement of the preceding sentence. In the case of any hearing conducted under this subsection.

(3) (A) The hearing officer shall at the hearing obtain verification from the secretary or secretary's designee that the requirements of any applicable law or administrative procedure have been met. The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including appropriate spousal defenses, challenges to the appropriateness of collection actions and offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement or an offer-in-compromise. The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

(B) The determination by an appeals officer under this subsection shall take into consideration the verification presented, the issues raised and whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

(C) An issue may not be raised at the hearing if the issue was raised and considered at a previous hearing under subsection (b) or in any other previous administrative or judicial proceeding, and the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

(4) The person, within 30 days of a determination under this section, may appeal such determination to the board of tax appeals, and the board of tax appeals shall have jurisdiction to hear such matter.

(5) (A) Except as provided in paragraph (B), if a hearing is requested,

the levy actions which are the subject of the requested hearing and the running of any period of limitations shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.

(B) Paragraph (A) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the secretary has shown good cause not to suspend the levy.

(6) If the secretary has made a finding under K.S.A. 79-3229, and amendments thereto, that the collection of tax is in jeopardy, this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

New Sec. 7. (a) (1) Any taxpayer, such taxpayer's heirs or legal representative may petition the secretary to abate all or part of any final retailers' sales or compensating tax liability of the taxpayer. As used in this section, "tax liability," "tax" or "liability" shall include the amount of tax due and the penalties and interest thereon. The petition shall be in writing and shall set forth: (A) The reasons why all or part of the liability should be abated; (B) the facts that support such an abatement; and (C) a waiver of the taxpayer's right to confidentiality under the confidentiality provisions of chapter 79 of the Kansas Statutes Annotated, conditioned on the secretary's abatement of all or part of the liability. A petition shall be accompanied by a sworn statement of the taxpayer's assets and liabilities, whenever the petition is based on insolvency or inability to pay. The petition shall be signed under penalty of perjury by the petitioner and by the taxpayer, if available. A petition for the abatement of a final liability shall not operate to stay the collection of any tax.

(2) The secretary shall review each petition and may: (A) Issue a determination that rejects the petition without further comment; (B) require the petitioner to submit additional verified documentation in support of the abatement; or (C) require the petitioner and the taxpayer to appear and testify under oath concerning the abatement. If the secretary finds that there is serious doubt as to either the collectability of the tax due or the taxpayer's liability, the secretary may abate all or part of the tax liability. If the secretary abates any tax liability, the secretary shall make a written finding that determines the tax amount the taxpayer should reasonably be required to pay, and sets forth the reasons for the abatement being made. Such a finding may require payment to be made as directed within 30 days as a condition for the abatement. If at any time within four years following the entry of such a finding, the secretary finds that the petition is fraudulent, the matter may be reopened by the sec-

retary and the taxpayer shall be subject to the tax liability to the same extent as if such abatement had not been made.

(3) No taxpayer shall have a right to the abatement of any tax liability under this section. Any decision by the secretary regarding the abatement of a final tax liability shall be discretionary and may only be made upon finding there is serious doubt either as to the collectability of the tax due or the taxpayer's liability. Any order or finding shall be final and conclusive and shall not be subject to review under K.S.A. 74-2438, 77-501, *et seq.* or 79-3226, and amendments thereto.

(b) This section shall be construed as a part of and supplemental to the Kansas retailers' sales tax act.

Sec. 8. K.S.A. 2001 Supp. 60-2310 is hereby amended to read as follows: 60-2310. (a) *Definitions.* As used in this act and the acts of which this act is amendatory, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them:

(1) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise;

(2) "disposable earnings" means that part of the earnings of any individual remaining after the deduction from such earnings of any amounts required by law to be withheld;

(3) "wage garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt; and

(4) "federal minimum hourly wage" means that wage prescribed by subsection (a)(1) of section 6 of the federal fair labor standards act of 1938, and any amendments thereto.

(b) *Restriction on wage garnishment.* Subject to the provisions of subsection (e), only the aggregate disposable earnings of an individual may be subjected to wage garnishment. The maximum part of such earnings of any wage earning individual which may be subjected to wage garnishment for any workweek or multiple thereof may not exceed the lesser of: (1) Twenty-five percent of the individual's aggregate disposable earnings for that workweek or multiple thereof; (2) the amount by which the individual's aggregate disposable earnings for that workweek or multiple thereof exceed an amount equal to 30 times the federal minimum hourly wage, or equivalent multiple thereof for such longer period; or (3) the amount of the plaintiff's claim as found in the order for garnishment. No one creditor may issue more than one garnishment against the earnings of the same judgment debtor during any one 30-day period, but the court shall allow the creditor to file amendments or corrections of names or addresses of any party to the order of garnishment at any time. In answering such order the garnishee-employer shall withhold from all earnings of the judgment-debtor for any pay period or periods ending during such 30-day period an amount or amounts as are allowed and required by law. Nothing in this act shall be construed as charging the plaintiff in any garnishment action with the knowledge of the amount of any defendant's earnings prior to the commencement of such garnishment action.

(c) *Sickness preventing work.* If any debtor is prevented from working at the debtor's regular trade, profession or calling for any period greater than two weeks because of illness of the debtor or any member of the family of the debtor, and this fact is shown by the affidavit of the debtor, the provisions of this section shall not be invoked against any such debtor until after the expiration of two months after recovery from such illness.

(d) *Assignment of account.* If any person, firm or corporation sells or assigns an account to any person or collecting agency, that person, firm or corporation or their assignees shall not have or be entitled to the benefits of wage garnishment. The provision of this subsection shall not apply to the following:

(1) Assignments of support rights to the secretary of social and rehabilitation services pursuant to K.S.A. 39-709 and 39-756, and amendments thereto, and support enforcement actions conducted by court trustees pursuant to K.S.A. 23-492, *et seq.*, and amendments thereto;

(2) support rights which have been assigned to any other state pursuant to title IV-D of the federal social security act (42 U.S.C. § 651 *et seq.*);

(3) assignments of accounts receivable or taxes receivable to the director of accounts and reports made under K.S.A. 75-3728b and amendments thereto; or

(4) collections pursuant to contracts entered into in accordance with K.S.A. 75-719 and amendments thereto involving the collection of restitution or debts to district courts.

(e) *Exceptions to restrictions on wage garnishment.* The restrictions on the amount of disposable earnings subject to wage garnishment as provided in subsection (b) shall not apply in the following instances:

(1) Any order of any court for the support of any person, including any order for support in the form of alimony, but the foregoing shall be subject to the restriction provided for in subsection (g); *and*

(2) any order of any court of bankruptcy under chapter XIII of the federal bankruptcy act~~; and~~

~~(3) any debt due for any state or federal tax.~~

(f) *Prohibition on courts.* No court of this state may make, execute or enforce any order or process in violation of this section.

(g) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) If the individual is supporting a spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50% of the individual's disposable earnings for that week;

(2) if the individual is not supporting a spouse or dependent child described in clause (1), 60% of such individual's disposable earnings for that week; and

(3) with respect to the disposable earnings of any individual for any workweek, the 50% specified in clause (1) shall be 55% and the 60% specified in clause (2) shall be 65%, if such earnings are subject to garnishment to enforce a support order for a period which is prior to the twelve-week period which ends with the beginning of such workweek.

Sec. 9. K.S.A. 79-3225 is hereby amended to read as follows: 79-3225. (a) All taxes imposed under the provisions of the "Kansas income tax act" shall be paid on the 15th day of the fourth month following the close of the taxable year. When the tax as shown to be due on a return is less than ~~$5~~ *$20*, such tax shall be canceled and no payment need be remitted by the taxpayer.

(b) The director of taxation may extend the time for payment of the tax, or any installment thereof, for a reasonable period of time not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the case of a taxpayer who is abroad. Interest shall be charged at the rate prescribed by *subsection (a) of* K.S.A. 79-2968~~(a)~~ and amendments thereto for the period of such extension.

Sec. 10. K.S.A. 79-3226 is hereby amended to read as follows: 79-3226. (a) As soon as practicable after the return is filed, the director of taxation shall examine it and shall determine the correct amount of the tax. If the tax found due shall be greater than the amount theretofore paid, or if a claim for a refund is denied, notice shall be mailed to the taxpayer. Within 60 days after the mailing of such notice the taxpayer may request an informal conference with the secretary of revenue or the secretary's designee relating to the tax liability or denial of refund by filing a written request with the secretary of revenue or the secretary's designee which sets forth the objections to the proposed liability or proposed denial of refund. *The secretary or the secretary's designee may accept or reject any such request submitted after such 60-day period of time.* The purpose of such conference shall be to review and reconsider all facts and issues that underlie the proposed liability or proposed denial of refund. The secretary of revenue or the secretary's designee shall hold an informal conference with the taxpayer and shall issue a written final determination thereon. The informal conference shall not constitute an adjudicative proceeding under the Kansas administrative procedure act. Informal conferences held pursuant to this section may be conducted by the secretary of revenue or the secretary's designee. The rules of evidence shall not apply to an informal conference and no record shall be made, except at the request and expense of the secretary of revenue or the secretary's designee or taxpayer. The taxpayer may bring to the informal conference an attorney, certified public accountant and any other person to represent the taxpayer or to provide information. Because the purpose of the department staff is to aid the secretary or secretary's designee in the proper discharge of the secretary's or secretary's designee's duties, the secretary or secretary's designee may confer at any time with any staff member with respect to the case under reconsideration. The secretary of revenue or the secretary's designee shall issue a written final determination within 270 days of the date of the request for informal conference unless the parties agree in writing to extend the time for issuing such final determination. A final determination constitutes final agency action subject to administrative review by the state board of tax appeals. In the event that a written final determination is not rendered within 270 days, the taxpayer may appeal to the state board of tax appeals.

(~~b~~)(a) A final determination finding additional tax shall be accompanied by a notice and demand for payment. Notice under this section shall be sent by first-class mail in the case of individual taxpayers and by registered or certified mail in the case of all other taxpayers. The tax shall be paid within 20 days thereafter, together with interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, on the additional tax from the date the tax was due unless an appeal is taken in the manner provided by K.S.A. 74-2438 and amendments thereto, but no additional tax shall be assessed for less than ~~$5~~ ~~$20~~. Interest at such rate shall continue to accrue on any additional tax liability during the course of any appeal.

$5 unless the secretary or the secretary's designee determines the administration and collection cost involved in collecting an amount over $5 but less than $100 would not warrant collection of the amount due.

Sec. 11. K.S.A. 79-3607 is hereby amended to read as follows: 79-3607. Retailers shall make returns to the director at the times prescribed by this section upon forms prescribed and furnished by the director stating: (1) The name and address of the retailer; (2) the total amount of gross sales of all tangible personal property and taxable services rendered by the retailer during the period for which the return is made; (3) the total amount received during the period for which the return is made on charge and time sales of tangible personal property made and taxable services rendered prior to the period for which the return is made; (4) deductions allowed by law from such total amount of gross sales and from total amount received during the period for which the return is made on such charge and time sales; (5) receipts during the period for which the return is made from the total amount of sales of tangible personal property and taxable services rendered during such period in the course of such business, after deductions allowed by law have been made; (6) receipts during the period for which the return is made from charge and time sales of tangible personal property made and taxable services rendered prior to such period in the course of such business, after deductions allowed by law have been made; (7) gross receipts during the period for which the return is made from sales of tangible personal property and taxable services rendered in the course of such business upon the basis of which the tax is imposed. The return shall include such other pertinent information as the director may require. In making such return, the retailer shall determine the market value of any consideration, other than money, received in connection with the sale of any tangible personal property in the course of the business and shall include such value in the return. Such value shall be subject to review and revision by the director as hereinafter provided. Refunds made by the retailer during the period for which the return is made on account of tangible personal property returned to the retailer shall be allowed as a deduction under subdivision (4) of this section in case the retailer has theretofore included the receipts from such sale in a return made by such retailer and paid taxes therein imposed by this act. The retailer shall, at the time of making such return, pay to the director the amount of tax herein imposed, except as otherwise provided in this section. The director may extend the time for making returns and paying the tax required by this act for any period not to exceed 60 days under such rules and regulations as the secretary of revenue may prescribe. *The director may accept or reject any such return submitted after such extension period.* When the total tax for which any retailer is liable under this act, does not exceed the sum of $80 in any calendar year, the retailer shall file an annual return on or before January 25 of the following year. When the total tax liability does not exceed $1,600 in any calendar year, the retailer shall file returns quarterly on or before the 25th day of the month following the end of each calendar quarter. When the total tax liability exceeds $1,600 in any calendar year, the retailer shall file a return for each month on or before the 25th day of the following month. When the total tax liability exceeds $32,000 in any calendar year, the retailer shall be required to pay the sales tax liability for the first 15 days of each month to the director on or before the 25th day of that month. Any such payment shall accompany the return filed for the preceding month. A retailer will be considered to have complied with the requirements to pay the first 15 days' liability for any month if, on or before the 25th day of that month, the retailer paid 90% of the liability for that fifteen-day period, or 50% of such retailer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs computed at the rate applicable in

~~the month in which the fifteen-day period occurs, and, in either case, paid any underpayment with the payment required on or before the 25th day of the following month. Such retailers shall pay their sales tax liabilities for the remainder of each such month at the time of filing the return for such month. Determinations of amounts of liability in a calendar year for purposes of determining filing requirements shall be made by the director upon the basis of amounts of liability by those retailers during the preceding calendar year or by estimates in cases of retailers having no previous sales tax histories. The director is hereby authorized to modify the filing schedule for any retailer when it is apparent that the original determination was inaccurate.~~

Sec. 12. K.S.A. ~~79-3225,~~ 79-3226 ~~and 79-3607 and K.S.A. 2001 Supp. 60-2310 are~~ is hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

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Attach. No. 4
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