

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 12, 2007 in Room 519-S of the Capitol.

All members were present except:
Representative Paul Davis- E

Committee staff present:
Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:
Secretary Wagnon, Department of Revenue
Richard Cram, Department of Revenue
Kim Winn, KS League of Municipalities
Jonathan Mitchell, City of Ellsworth
Matt Shatto, Asst. City Administrator, City of Lenexa (written testimony only)

Others attending:
See attached list.

SB 34 - Additional projects that qualify pursuant to the transportation development district act

Martha Dorsey, Legislative Research Department, briefed the Committee on the bill. **SB 34** would clarify that a streetscape project would qualify as a Transportation Development District (TDD) project. The bill also would clarify that a building facade may be included in a TDD project when the facade is part of changes made to an existing building.

The Chairman opened the public hearing on **SB 34**.

Kim Winn, KS League of Municipalities, stated that **SB 34** is a non-controversial bill. The language is unclear whether a "streetscape" or "facade" project would be appropriate as a TDD project. The League believes that the City of Ellsworth proposed project is laudable and within the original intent of the legislation. **SB 34** simply clarifies the current law to allow the Ellsworth project to go forward (Attachment 1).

Jonathan Mitchell, City of Ellsworth, testified that **SB 34** would enable Ellsworth to address a problem many rural communities face. He provided background on a previous Ellsworth project that utilized a TDD in 2006 and said that by utilizing a financing mechanism like the TDD it is feasible for their downtown to improve its facades and create some uniformity in the district. He concluded by requesting the Committee's assistance in allowing Ellsworth to be innovative and enduring (Attachment 2).

It was noted that written testimony was submitted and distributed from Matt Shatto, Asst. City Administrator, City of Lenexa, in support of **SB 34** (Attachment 3).

There being no other conferees, the Chairman closed the hearing on **SB 34**.

SB 115 - Revocation of retailer's sales tax registration certificate in certain circumstances and prescribing certain unlawful acts related thereto

Chris Courtwright, Legislative Research Department, briefed the Committee on **SB 115**. The bill, as amended, would authorize the Secretary of Revenue to suspend or revoke the sales tax registration certificate of certain taxpayers found in default for a least 60 days in the remittance of the tax or failure to file returns. He described the due process, that would occur before suspensions or revocations would occur and noted that additional language clarifies that it would be unlawful for any person to engage in the business of selling tangible personal property or furnishing taxable services after such person's certificate had been suspended or revoked.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 12, 2007 in Room 519-S of the Capitol.

The Chairman opened the public hearing on **SB 115**.

Richard Cram, Department of Revenue, said the Department supports the bill as it came out of the Senate (Attachment 4). There are 16 other states that have similar provisions and **SB 115** contains that suggested language, modeled after a similar provision in Missouri law. This will provide an additional tool to enhance their collection efforts, when someone is at least 60 days delinquent in paying taxes or filing returns. Mr. Cram said there is nothing in current law that prohibits a retailer from lawfully engaging in the sales or purchase of inventory, even after their sales tax registration certificate is revoked. He agreed to provide data on the percentage of businesses that would be impacted by this legislation.

With no other conferees, the Chairman closed the hearing on **SB 115**.

The Chairman turned the Committee's attention back to **HB 2430 - Increase of maximum refund and determination of the amount of claim under the homestead property tax refund**.

Gordon Self, Office of Revisor of Statutes, explained the Substitute bill HB 2430 (Attachment 5). He explained the following changes:

New Section 1, page 1, provides a limitation on entitlement, so if someone owns their homestead that has an appraised valuation that exceeds 350,000 they are not entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. He explained the normal appeal process that is available to taxpayers.

Section 2, (a), page 1, deletes social security benefits out of criteria used to determine income for qualification of a claim. Restates in concluding sentence of (a).

Section 2, (I), page 4, lowered the 20% assumption to 15% and changes the date 1979 to 2007.

Section 3, page 5, increased the maximum refund amount from \$600 to \$750.

Section 4, (b), page 5, changes the law requiring a copy of the statement of property tax levy to be included with the claim to the amount of property tax levied.

Section 4, ©, page 6, provision that relates to renters defining the rules behind possible denial of their claim.

Discussion followed regard the fiscal note and number of household affected by **Substitute HB 2430**. Mr. Courtwright said the last amendment that went on the bill would reduce the fiscal note by \$300,000. The program would be expanded by \$22 million, an increase from \$20.6 to \$42.6 million which includes all the amendments in the bill. This is due to the additional number of participants that qualify for the program. There are approximately 600 households that would be excluded, under the \$350,000 asset test, and an additional 300 households, due to the exclusion of the social security benefits, with a total of 900.

Representative Treaster made a motion that a 5 year sunset be placed on the full act. Representative Davis seconded the motion. The motion carried.

There was concern expressed over the importance of the act to work in conjunction with the advance management program as well. Committee permission was given to allow staff to coordinate the particulars of the bill. It was clarified that the 5 year sunset was on the entire act of **Substitute HB 2430**.

Two suggestions for a new name for the bill were offered: Homestead Property Tax Relief Act (HPTR) or Primary Residence Property Tax Relief Act (PRPTR). The Chairman said they would return to the bill for final action tomorrow.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 12, 2007 in Room 519-S of the Capitol.

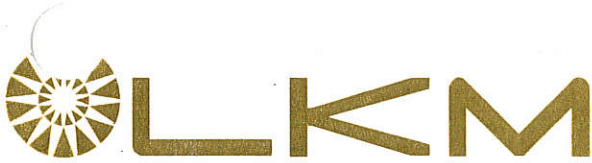
Representatives Bowers introduced Madison Davis, Kylie Cool, Archie Huskey and Tyler Brenneman. Representative Hayzlett introduced his nieces, Erica Calkins and Kayle Bemis, from his district. They all served as pages in the House today.

The meeting was adjourned at 10:05 a.m. The next meeting is March 13, 2007.

TAXATION COMMITTEE

DATE: MARCH 12, 2007

NAME	REPRESENTING
Tom Cochran	GBBA
David R. Corbin	KDOR
Whitney Damon	ONEOK, FLC.
Randall Allen	Ks. Assn. of Counties
Sandy Braken	KLP
Michelle Peterson	Capitol Strategies
Erik SARTORIUS	City of Overland Park
Christy Caldwell	Topeka Chamber
Bernie Koch	Wichita Chamber
RONALD RICHEV	ME
STEVE JOHNSON	ONEOK PARTNERS
Anna Kamm	MR
Timothy Douglas	Hein Law Firm
Shahida Stafford	Kansas Grain & Feed Assn.
Ed Muef	LGR
Ben Cleever	DOR
James Bartle	Dept. of Revenue



League of Kansas Municipalities

To: House Taxation Committee
From: Kimberly Winn, Director of Policy Development & Communications
Date: March 12, 2007
Re: Support for SB 34

On behalf of the 576 member cities of the League of Kansas Municipalities, I am pleased to offer comments today in support of SB 34. The need for this legislation became apparent during discussions with the City of Ellsworth regarding a proposed downtown revitalization effort.

Under the current statutory language, it is unclear whether a "streetscape" or "facade" project would be appropriate as a Transportation Development District project. We believe that the project proposed by the City of Ellsworth is laudable and within the original intent of this legislation. SB 34 simply clarifies the current law to allow this exciting project to go forward.

Many of the cities in central and western Kansas are losing population and retail activity. City leaders are looking for creative and practical solutions to the difficult task of revitalizing the downtowns which are the heart of our Kansas communities. Each community is different and each community must find its own unique solution. SB 34 offers a simple statutory fix so that the City of Ellsworth can set into motion an exciting plan to revitalize their downtown.

We thank you in advance for your consideration of this legislation. I would be happy to answer questions at the appropriate time.

City of Ellsworth

Ellsworth, Kansas

CITY HALL – 121 WEST 1ST STREET

P.O. BOX 163 – 67439

(785) 472 – 5566

(785) 472 – 4145 Fax

January 16, 2007

Dear Chairman and Members of the Taxation Committee:

First of all, I would like to thank you for allowing me the opportunity to testify in support of Senate Bill 34. The proposed legislation would enable Ellsworth to address a problem many rural communities face.

Ellsworth, like many rural communities across the state and country, is battling a problem of population decline. Census estimates have placed Ellsworth's population growth from 2000 to 2005 at negative 78 or negative 2.6 percent. This is a disheartening number and a significant reason why it is essential for Ellsworth to be progressive in its development. In the past ten years our community has done a great deal of things that few people would associate with a small community. In 1999, we opened a new rural health center that draws in people from all over our region. In 1998, we renovated our municipal pool to include a water slide, mushroom fountain and aesthetic improvements. Since 2001, we have built a new water treatment plant, fire station, street shop, airport terminal building and golf course clubhouse. We have offered aggressive incentives to attract businesses and have even offered free land to entice families to relocate to our county. All of these efforts and ideas have helped us retain a fairly steady level of population but as a community we realize we must do more.

Recently, Ellsworth led the charge to enhance our county's economic development efforts. Over the past several years, a half-time contract director was responsible for oversight of the county's economic development and free land program. In December of 2006, Ellsworth worked with all of the municipalities within Ellsworth County to create a new structure that would allow for the creation and financing of a full-time economic development director. The Ellsworth community has a lot to gain from reaching out to others within our region. Thinking outside the box has greatly benefited Ellsworth.

Thinking outside the box in early 2006 allowed Ellsworth to become the smallest community in the state to utilize a Transportation Development District (TDD). By utilizing an increment of excise tax from 12 businesses, Ellsworth was able to finance a \$1.2 million road project that would not have otherwise been possible. While most TDDs have been used to fund a parking area or access road for a big box store, we used it to rebuild two roads, improve drainage and lighting for a business district that could not afford assessments. Transportation Development Districts provide a valuable avenue for financing projects within commercial districts. While many communities would simply raise the mill levy or assess the project to the business owners, this is not an option in Ellsworth. Our mill levy for the city alone is more than 73 mills and many of the businesses are struggling to make ends meet.

In September 2006, Ellsworth was host to more than 6,000 people that witnessed a herd of longhorns making their way through downtown Ellsworth. As the crowd, that more than doubled Ellsworth's population, watched the cattle and drovers make their way through the downtown corridor they probably did not see the vibrant and prosperous community we have come to know. Many of them probably did not realize that they were walking the same streets that were once full of prominent individuals like Bat Masterson, Wyatt Earp and Buffalo Bill Cody. While many communities have run from their pasts, Ellsworth has clearly embraced it. In fact, Ellsworth has tried to build on it. In the past three years, the community has received Historic Preservation Funds from the Kansas State Historical Society, completed a historical reconnaissance survey, submitted a state and federal nomination for historic register placement, received two grants from FHL Bank of Topeka for historic preservation and downtown master plan documents, and has submitted applications for Heritage Trust Funds from the Kansas State Historical Society. The National Drovers Hall of Fame has also been working to make downtown improvements and has raised thousands of dollars in an effort to preserve and restore Ellsworth's signature Insurance Building. In the next several months, a local dentist will spend several hundred thousand dollars to restore two buildings to their historic splendor. The businessman will relocate his office to the restored buildings and will give his building to the Arts Council for their gallery and exhibit space. These improvements, as well as anticipated improvements to the signature Insurance Building, will only increase the urgency of the need for consistency in our downtown. As a master plan is being completed for our downtown, it is going to become increasingly clear that our downtown needs to improve. Inconsistent facades and structural shortcomings are abundant within our downtown and few merchants have the wherewithal of the aforementioned dentist. A new approach is necessary for our community to enhance its downtown. That is why we support Senate Bill 34.

By utilizing a financing mechanism like the Transportation Development District, it may be feasible for our downtown to improve its façades and create some uniformity in the district. Preliminary discussions and research have led us to believe that if legislation were passed to allow façade or streetscape improvements as part of a TDD, we could make our downtown reflect the prosperity of our community. By granting all of the businesses with the opportunity to create such a district we feel that the master plan vision could become a reality. Sales tax contributing entities would be able to contribute through the new increment of sales tax and non-sales tax contributors can contribute through a payment in lieu of taxes (PILOT) agreement. Concerns about public dollars going to private improvements would be addressed through the creation of façade easements. With façade easements, property owners within the benefit district would essentially deed their façade to the City of Ellsworth until the district financing was retired. Under current statutory requirements, this period of debt-service is limited to 22 years and 100 percent of property owners must consent to the district creation. We feel like this is very feasible. While it will take a lot of work to get 83 property owners to sign façade easements and voluntarily assume an incremental increase in sales tax, preliminary discussions with members of this district have increased our confidence that it's attainable.

About six months ago, we talked with two attorneys about using a TDD to assist with improvements for the downtown. One attorney suggested that we go ahead with the

improvements but the other had concerns about us proceeding with the project definition as it is written. So, after some discussion with community leaders, legislators and others around the state, we worked with Senator Emler to draft Senate Bill 34. This bill, if passed, will provide clarification regarding the TDD and may help us to make improvements necessary for our survival.

In closing, I would like to thank you again for the opportunity to voice my support for Senate Bill 34 and solicit your assistance in allowing a small Kansas community to be innovative and enduring.

Sincerely,



Jonathan Mitchell
City Administrator
City of Ellsworth



TESTIMONY IN SUPPORT OF SB 34

To: Honorable Kenny Wilk, Chair
Members of House Tax Committee

From: Matt Shatto, Assistant City Administrator, on behalf of the City of Lenexa
Governing Body

Date: March 8, 2007

Subject: SB 34 – Written Only Testimony

Thank you for the opportunity to present testimony regarding SB 34. The City of Lenexa recognizes the importance of this proposed legislation as it will provide further flexibility in the utilization of Transportation Development Districts. Transportation Development Districts currently provide municipalities around the State with a great opportunity for transportation enhancements and aid in efforts for economic development.

The City of Lenexa fully supports SB 34 and any other statewide legislation that would increase the flexibility associated with this economic development tool. Please do not hesitate to contact me should you have any questions or if the City of Lenexa can provide you with additional information.

Testimony to the House Taxation Committee

Richard Cram

March 12, 2007

Senate Bill 115

Representative Wilk, Chair, and Members of the Committee:

Senate Bill 115, introduced by the Legislative Budget Committee and amended by the Senate Committee on Assessment and Taxation and passed by the Senate, amends K.S.A. 79-3608 to allow the secretary of revenue to suspend or revoke the sales tax registration certificate of a retailer due to nonpayment of the sales tax or failing to file a return. The registration may be suspended or revoked if the taxpayer is found in default for a period of at least 60 days and after 30 days' notice and a hearing in accordance with the Kansas Administrative Procedures Act. The certificate would not be reinstated until all tax, penalty and interest is paid. The proposal also makes it unlawful for a person to engage in business as a retailer after the registration certificate has been suspended or revoked.

During testimony to the Legislative Budget Committee last fall on the success of the Department's collection and compliance efforts, Secretary Joan Wagnon testified that many other states have provisions in their sales tax administration laws authorizing revocation of sales tax licenses or registration when a registered retailer is delinquent in the payment of sales tax or filing of returns. At least 16 other states have these provisions. Kansas currently has no such express statutory provisions. The Committee requested that the Department suggest legislation to add such provisions to Kansas law. Senate Bill 115 contains that suggested language, modeled after a similar provision in Missouri law.

This proposal will assist the Department in collecting outstanding sales tax liabilities and will provide an additional tool in the Department's inventory to enhance its collection efforts: the sales tax registration revocation process. The Department can proceed to revoke a delinquent retailer's sales tax registration, following notice and hearing. Once the registration is revoked, the retailer can no longer lawfully engage in sales or purchase inventory using a resale exemption certificate until delinquent tax, penalty and interest are paid.

Substitute for HOUSE BILL NO. 2430

By Committee on Taxation

AN ACT concerning taxation; relating to homestead property tax refunds; amending K.S.A. 79-4509 and 79-4511 and K.S.A. 2006 Supp. 79-4502 and repealing the existing sections.

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

New Section 1. A person owning or occupying a homestead that is not rental property and for which the appraised valuation for property tax purposes exceeds \$350,000 in any year shall not be entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. The provisions of this section shall be part of and supplemental to the homestead property tax refund act. The provisions of this section shall expire on June 30, 2012.

Sec. 2. K.S.A. 2006 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments ~~and all--payments--received--under--the--federal--social--security--act except-disability--payments~~, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who

occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and

taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any

other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less.

(i) "Rent constituting property taxes accrued" means ~~20%~~ 15% of the gross rent actually paid in cash or its equivalent in ~~1979~~ 2007 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household

while occupied by the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arms length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.

Sec. 3. K.S.A. 79-4509 is hereby amended to read as follows: 79-4509. In the event property taxes accrued, rent constituting property taxes accrued or their sum exceeds \$600 \$750 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been \$600 \$750.

Sec. 4. K.S.A. 79-4511 is hereby amended to read as follows: 79-4511. (a) Every claimant under this act shall supply to the division, in support of a claim, reasonable proof of age or disability, and changes of homestead, household membership, household income, and size and nature of property claimed as the homestead. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (g) of K.S.A. 79-4502 and amendments thereto.

(b) Every claimant who is a homestead owner, or whose claim is based wholly or partly upon homestead ownership at some time during the calendar year, shall supply to the division, in support of a claim, ~~a copy of the statement~~ the amount of property taxes levied upon the property claimed as a homestead and a statement that the property taxes accrued used for purposes of this act have been or will be paid by the claimant and that there are no delinquent property taxes on the homestead. Upon

request by the division, such claimant shall provide a copy of the statement of property taxes levied upon the property claimed as a homestead. The amount of personal property taxes levied on a manufactured home or mobile home shall be set out on the personal property tax statement showing the amount of such tax as a separate item.

(c) Every claimant who is a homestead renter, or whose claim is based wholly or partly upon homestead rental at some time during the calendar year, shall supply to the division, in support of a claim, a statement prescribed by the director certifying the amount of gross rent paid and that ad valorem property taxes were levied in full for that year on the property, all or a part of which was rented by the claimant. When such claimant reports household income that is 150% or less of the homestead rental amount and such claimant has failed to provide any documentation or information requested by the division to verify such household income in support of a claim as required pursuant to subsection (a), within 30 days of such request, such homestead property tax refund claim shall be denied.

(d) The information required to be furnished under subsections (b) or (c) shall be in addition to that required under subsection (a).

Sec. 5. K.S.A. 79-4509 and 79-4511 and K.S.A. 2006 Supp. 79-4502 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.