

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on March 11, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Pettey (excused)

Committee staff present: Michael Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:
Rogers Brasier, Attorney, Division of Accounts and Reports
Bill Ervin, Chief, Municipal Accounty Section, Accounts and Reports
Mark Burghart, General Counsel, Department of Revenue
John Torbert, Executive Director, Kansas Association of Counties
Don Moler, Senior Legal Counsel, League of Kansas Municipalities
Donald Seifert, Administrative Services, City of Olathe

Others attending: See Guest List ([Attachment 1](#))

Chairman Brown opened the hearing on **SB 130**, concerning municipalities authorized to participate in state debt setoff program; and reciprocal agreements with other states. Bill Ervin, of the Municipal Accounting Section of the Division of Accounts and Reports, spoke in support of the bill (see [Attachment 2](#)). He reported that similar legislation had passed the House last year, but died in the Senate for lack of time; and that this bill had passed the Senate 40-0.

Mike Heim, Legislative Research Department Staff Member, asked if all welfare payments are subject to setoff. Doug Craig, of the Accounts and Reports Division, answered that not all welfare accounts are subject to setoff because of federal law. Mr. Heim asked if some types of ordered judicial restitution are subject to setoff. Mr. Craig replied yes as they were considered to be a debt. He offered to provide the committee a listing of all account codes with an indication of the accounts subject to setoff. Representative Tomlinson asked if the bill's authorization included reciprocal agreements with other states. Mr. Brasier responded that it was anticipated such an agreement would be entered into with Missouri and probably no other state.

Mike Burghart, General Counsel of the Department of Revenue, spoke in support of **SB 130** (see [Attachment 3](#)), stating it would be a tool that should be available to the Department of Revenue to assist in tax collections. It was pointed out that there is a charge of up to 15% for amounts collected through setoff; therefore agencies generally pursue the debts to the limits of their ability.

Don Moler, of the League of Kansas Municipalities, testified in favor of **SB 130** (see [Attachment 4](#)), stating the League views the legislation as a win-win situation for both the state and municipalities.

Donald Seifert, of the City of Olathe, testified in support of the bill (see [Attachment 5](#)).

John Torbert, of the Kansas Association of Counties, testified in favor of the bill (see [Attachment 6](#)). He stated there may be a glitch in the setoff procedure because social security numbers are not readily available to counties. Mr. Ervin replied that other identifying data could be used, such as the federal employer identification numbers for businesses.

The written testimony of Mike Billinger, Ellis County Treasurer and a Representative of the Kansas County Treasurer's Association, was distributed to committee members (see [Attachment 7](#)).

Gerry Ray, of the Johnson County Board of County Commissioners, relayed the Commission's support of the bill.

The Chairman asked at what point is a debt a debt--is it when it becomes a problem to collect--and what kinds of municipal accounts are included for setoff (sewer assessments, unpaid utility bills, or parking fines)? Mr. Ervin stated it will be the decision of the local unit of government to determine what debts they will submit to the Setoff Program.

Representative Wempe stated that most counties have a policy that if property taxes are unpaid, homeowners are protected for a certain period of time before collection is enforced and payment required. He wondered if the setoff program would alter the policy. The question was raised of whether unemployment compensation

benefits are subject to setoff, and Mr. Brasier said that they are only taken for child support debts. Workers compensation is not taken by setoff because of federal law.

Representative Wempe also stated he owns property in two communities and has found municipal utilities to operate their businesses in a sloppy way. In those communities, if a renter does not pay utility bills and skips, the landlord is required to pay them. He asked if municipalities will be required to attempt debt collections, like state agencies are required, prior to involving the setoff program. Mr. Brasier stated that the Division of Accounts and Reports would enter into reciprocal agreements with the various municipalities and would set down certain criteria, similar to that set out for state departments in the Agency's Policies and Procedures Manual, that must be met before the setoff program would operate.

Representative Tomlinson asked the percentage of appeals made to the present program. Mr. Brasier stated that he estimated about 4%, and probably 50% of those (who initially appeal) will default by not completing the appeal process.

Mark Burghardt described the Department of Revenue's policy with respect to collection of delinquent tax accounts in that the department takes every collection action possible to collect in full or to work out a payment schedule for repayment. Just having access to the setoff program would be an incentive to get a debtor to bargain for a payment schedule, he believes.

Chairman Brown asked in opening the setoff program to municipalities, how would there be uniformity in the way delinquent accounts were processed by the various units? Would the Accounts and Reports Division establish uniform procedures? She also questioned that under this bill the possibility of enforcing payment on someone with no means of income and thus taking their home away.

Representative Bryant questioned the disparity in municipalities participating in reciprocal agreements on page 6, section (b), and page 1, section 1. He felt there may need to be a "clean up" amendment.

There were no others present to testify, so the Chairman closed the hearing on **SB130**.

After committee discussion, on motion of Representative Packer, seconded by Representative Hayzlett, the Committee minutes of March 9, 1993 were approved.

Representative Brown then distributed copies of her letter to Right to Life, Inc. (Attachment 8) regarding their misinterpretation of **HB 2103** (concerning Emergency Medical Services, Do Not Resuscitate Orders), stating she was offended by their article and wanted the Committee members to be aware of the article and letter.

The meeting was adjourned at 2:45 p.m. The next meeting is scheduled at 1:30 p.m., March 16, 1993, in Room 521-S of the State Capitol.

GUEST LIST

COMMITTEE: House Local Government

DATE: March 11, 1993

[illegible]

Testimony of Bill Ervin, Chief, Municipal Accounting Section
S.B. 130 - Relating to Expansion of Setoff Program
House Local Government Committee
March 11, 1993, 1:30 p.m.

The main purpose of S.B. 130 is to allow municipalities to use the Setoff Program.

The Setoff Unit is an office within the Division of Accounts and Reports that is responsible for administering the State Debt Setoff Act (K.S.A. 75-6201 et seq.) and, in so doing, assists other state agencies in collecting their delinquent accounts receivable. The steps by which this is done follow:

1. State agencies submit certain debt information (debtor name, social security number, debt amount, and debt description), and we enter this information into our computerized "master debtor file."
2. On a regular basis, "state payor agencies" compare their payments in process computer tapes against the master debtor computer tapes (e.g., tax refunds of Department of Revenue, unemployment compensation benefit payments by Department of Human Resources, etc.).
3. When a match is made between a payment in process and a debt in the master debtor file, the payment is suspended, and we send the debtor a notice that we intend to apply the suspended money to his/her debt. We advise the debtor that, if he/she disputes the validity of the debt, we provide a due process hearing. If the debtor does not request a hearing, we "set off" the payment in process against the debt, we deduct our 15% service fee, and we transfer the remaining 85% to the creditor state agency.
4. If, within 15 days, the debtor requests a hearing, the payment in process remains suspended until after the resolution by the hearing officer.

During FY92, the Setoff Program collected \$6,170,848 which is 24.5% over that collected in FY91. For the first eight months of FY93, the Setoff Program collected \$3,704,562, which is 22.6% over that collected in the first eight months of FY92. Appendix 1 shows the amounts of State agencies' debts collected in FY90, FY91, and FY92. Appendix 2 shows which payments in process in FY90, FY91, and FY92 were matched against debts in the master debtor file and subsequently set off against those debts.

We believe the benefits of this successful collection program should be extended to municipalities via S.B. 130. Extending the Setoff Program to municipalities was proposed in 1992 H.B. 3188 which the House passed 121-0. Unfortunately, with the press of late session affairs, that bill never made it to the Senate floor for consideration. We have "talked up" the concept of the Setoff Program for municipalities in various ways: our monthly Municipal Accountants' Bulletin and presentations to municipal government meetings. The municipalities' response has been

very favorable.

If the bill is passed, we will need to do some special work to make the Setoff Program more feasible for municipalities. The Setoff Program now keys off social security numbers, and, presently, most municipalities have not captured the social security numbers of their debtors. It's possible for us to extend our procedures whereby we could make the matches using last names and addresses of the debtors. We will also be encouraging municipalities to change their procedures to capture social security numbers on parties that they do business with.

S.B. 130 also incorporates the Department of Revenue's initiative on reciprocal collection efforts of income tax debts with other states.

S.B. 130 passed the Senate 40-0 on February 18.

Thank you for the opportunity to appear before you today. I appreciate your consideration of S.B. 130.

Attachments

Setoff Program
Summary of Collections (Setoff and Write off) By Agency
Fiscal Year 1990 - Fiscal Year 1992

Agency Name	1990	1991	1992
Attorney General	\$ 171.00	\$ -0-	\$ 614.00
Board of Regents	-0-	111.00	-0-
Commission On Veterans Affairs	-0-	133.00	-0-
Department of Administration	369.00	1,439.00	192.00
Department of Education	-0-	-0-	168.00
Department of Human Resources	501,145.00	382,955.00	381,144.00
Department of Revenue	72,573.00	67,047.00	91,014.00
Department of Transportation	-0-	180.00	-0-
Emporia State University	32,909.00	26,803.00	24,519.00
Fort Hays State University	10,106.00	16,911.00	18,791.00
Grain Inspection Department	65.00	1,324.00	-0-
Health and Environment	6.00	-0-	18.00
Highway Patrol	-0-	80.00	-0-
Insurance Department	-0-	42.00	235.00
Judicial Branch	-0-	1,581.00	2,074.00
Ks. Development Finance Authority	-0-	368.00	-0-
Kansas Soldiers Home	233.00	-0-	-0-
Kansas Lottery	-0-	-0-	111.00
Kansas State University	27,819.00	29,066.00	29,920.00
KSU-Salina-School of Technology	663.00	841.00	2,114.00
Kansas Neurological Institute	1,128.00	2,197.00	1,201.00
Ks. Public Employees Retirement System	306.00	-0-	219.00
Kansas University Medical Center	606,290.00	697,265.00	815,683.00
Larned State Hospital	1,453.00	7,642.00	4,988.00
Osawatomie State Hospital	22,439.00	22,113.00	20,792.00
Parsons State Hospital	192.00	969.00	751.00
Pittsburg State University	23,947.00	19,127.00	15,789.00
Rainbow Mental Health Facility	6,139.00	4,739.00	6,064.00
School for the Deaf	17.00	-0-	-0-
Dept. of Social & Rehabilitation	2,721,791.00	3,602,156.00	4,683,410.00
Topeka State Hospital	12,505.00	13,089.00	11,987.00
University of Kansas	40,628.00	42,843.00	36,793.00
Wichita State University	19,967.00	13,903.00	22,170.00
Wildlife and Parks	735.00	-0-	54.00
Winfield State Hospital	430.00	-0-	33.00
Total	\$ 4,104,026.00	\$4,955,124.00	\$ 6,170,848.00

The following write off collections are included in the above amounts:

Department of Revenue	\$ 3,468.00	\$ 8,695.00	\$ 19,312.00
Kansas State University	10,633.00	8,838.00	11,687.00
Kansas University Medical Center	238,775.00	260,150.00	406,663.00
University of Kansas	11,747.00	7,114.00	8,112.00
Other Agencies	8,726.00	10,379.00	15,489.00
Total	\$ 273,349.00	\$ 295,176.00	\$ 461,263.00

ATTACHMENT 2-3

3-11-93

SETOFF PROGRAM
SOURCES OF COLLECTIONS
FY 1990 - FY 1992

<u>SOURCES OF COLLECTIONS</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>
State Employee Payroll	\$ 108,779	\$ 97,659	\$ 115,106
State Tax Refunds	1,864,786	1,728,980	1,628,306
Other State Payments (A)	265,193	252,866	348,411
Direct Payments (B)	108,118	122,158	160,978
Unemployment Insurance (C)	1,470,808	2,460,213	3,502,308
Unclaimed Property	10,801	12,144	15,836
Agency Collections (D)	275,541	244,009	369,871
KPERS (E)	-0-	37,095	30,032
TOTAL	<u>\$ 4,104,026</u>	<u>\$ 4,955,124</u>	<u>\$ 6,170,848</u>

- (A) These include miscellaneous voucher that contain social security numbers of federal employer identification numbers. Also includes Lottery prize winnings.
- (B) These are cash payments received from debtors after they are notified by the Setoff Program.
- (C) KPERS monthly benefits and unemployment insurance benefits are only matched against delinquent child support debts.
- (D) When agencies receive direct payments on accounts that are in the Setoff Program and have been notified by the Division of Accounts and Reports, they are required to reimburse the Division 15 percent for its collection activities on setoff accounts (KUMC 10 percent) and 100 percent on write off accounts.
- (E) Fiscal year 1991 was the first year for the Setoff Program to intercept KPERS retirement and disability payments for child support debts.

STATE OF KANSAS

Mark A. Burghart, General Counsel
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1588



(913) 296-2381
FAX (913) 296-7928

Department of Revenue
Legal Services Bureau

MEMORANDUM

To: The Honorable Nancy Brown, Chairperson
House Committee on Local Government

From: Mark A. Burghart, General Counsel
Kansas Department of Revenue

Date: March 11, 1993

RE: 1993 S.B. 130

Thank you for the opportunity to appear in support of S. B. 130. The bill, among other things, would authorize the Department of Revenue and the Department of Administration to enter into a reciprocal agreement with other states to allow the set-off of tax liabilities of other states.

The bill would allow the state to further utilize the existing debtor set-off program to collect delinquent tax accounts of other states. Other states would in turn collect delinquent Kansas tax accounts under the reciprocal agreements. This concept was introduced to the Kansas Department of Revenue by the Missouri Department of Revenue in the fall of 1991. Missouri passed legislation in 1984 enabling that state to set-off against another state's tax debts but have not been able to take advantage of this legislation due to a lack of comparable legislation in any other state. Since no two states have entered into such an agreement, it is difficult to determine how beneficial this concept might prove to be for the State of Kansas.

It is important to note that the Department would first attempt to collect the delinquent tax in-house through the use of telephone collections and written correspondence. The account would then typically be assigned to a private collector who then has the task of convincing the taxpayer to pay the debt. S.B. 130 would simply provide another alternative for collecting the debt. The debtor is informed of the intent to set-off and it is then up to the debtor and the State to determine the terms of the set-off.

On behalf of the Department, I urge your favorable consideration of S.B. 130. I would be happy to respond to any questions you might have.

ATTACHMENT 3

3-11-93



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Local Government
FROM: Don Moler, Senior Legal Counsel, League of Kansas Municipalities
RE: SB 130
DATE: March 11, 1993

League Policy Position. The League supports the passage of SB 130 to permit municipalities to utilize the state setoff program for the collection of certain municipal debts. Allowing the collection of certain municipal debts through a State setoff program appears to be a win/win situation. The State setoff system can help municipalities retrieve moneys which they otherwise might not be able to retrieve. In this process, municipalities would be able to use the State setoff system and provide fees for its use and maintenance. Finally, this program would allow local governments to retrieve moneys owed and reduce the need to raise taxes on the citizens who do pay their bills.

ATTACHMENT 4

3-11-93



MEMORANDUM

TO: Members of House Local Government Committee

FROM: Donald R. Seifert, Assistant Director, Administrative Services *DRS*

SUBJECT: SB 130 - State Debt Setoff Program; Authorizing Municipal Participation

DATE: March 11, 1993

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of SB 130. This bill would authorize municipalities to participate in the debtor setoff program administered by the Department of Administration. It was introduced at our request as one component in a package of measures aimed at strengthening cities' ability to deal with the issue of delinquent special assessments.

The setoff program provides a mechanism whereby the state can withhold payments in process to debtors of the state. We believe the setoff program is an example of good government at work, whereby the left hand knows what the right hand is doing. This bill would provide cities with an opportunity to cooperate in this program which has been quite successful in collecting debts of the state and its agencies. Olathe appreciates the Department of Administration's support for this bill and its interest in expanding the setoff program to local governments.

The city's interest in this legislation first arose out of concern for delinquent special assessment payments, which have increased dramatically in our community in recent years. However, we believe participation in the setoff program has broader implications for other municipal debts including water and sewer bills, library charges, court judgments, and parking fines. SB 130 is not a substitute for good accounts receivable management practices, but it will provide local governments with another collection alternative. We urge the Committee to recommend SB 130 favorable for passage.

rc

ATTACHMENT 5
3-11-93



"Service to County Government"

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Topeka, Kansas 66612-1852
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Executive Director
John T. Torbert, CAE

March 10, 1993

Testimony

To: House Local Government Committee

**From: John T. Torbert, CAE
Executive Director**

Subject: Senate Bill 130

The Kansas Association of Counties is in support of Senate Bill 130. This legislation would allow cities and counties to participate in the state setoff program.

The legislation is not mandatory upon local government because the city or county would have the ability to chose whether or nor they wanted to participate in the program. The setoff program has been successful at the state level and there is no reason why it could not work equally as well at the city and county level. Any program that will assist us in collecting monies that are owed to us will mean that property taxes don't have to go up as much to fund local government services and programs.

The KAC urges your support of SB 130.

ATTACHMENT 6

3-11-93

MAR 09 '93 10:31AM ELLIS COUNTY ATTOR

P.2

TESTIMONY

DATE: March 11, 1993

TO: House Local Government Committee

FROM: Mike Billinger, Ellis County Treasurer and
Representative of the Kansas County Treasurer's
Association


Good afternoon Madam Chairman Brown and members of the Local Government Committee. My name is Mike Billinger, Treasurer of Ellis County, and I am grateful for this opportunity to offer testimony on behalf of the Kansas County Treasurer's Association.

The Kansas County Treasurer's Association supports S.B. #130. The association's interest in this bill is two-fold.

Initially, this bill will provide treasurer's an additional method of collecting delinquent taxes. In many instances S.B. #130 will provide the mechanism to collect delinquent taxes in amounts too small to recoup by current collection procedures. County treasurer's have a tendency to create an imaginary cost effective threshold for the collection of delinquent taxes. When the cost of collecting taxes exceeds the amount of the tax, treasurer's many times will not pursue the collection process beyond what is required by law. Essentially this makes good business sense but does nothing for tax fairness.

Secondly, S.B. #130 will provide tax relief to local taxpayers. It will help reduce the need to assess taxpayers who stay current on their tax liabilities for the shortfall created by delinquencies. Often times delinquent taxes are accepted as a cost of government. The ability to factor delinquencies into the annual budgetary process somewhat diminishes the importance of collecting all delinquent taxes. We believe S.B. #130 will assist in minimizing the use of this budgetary procedure.

On behalf of the Kansas County Treasurer's Association, I ask that you take favorable action on S.B. #130. Once again, thank you for your time and considerations. I apologize for not presenting this testimony personally and for not being available to the committee for questions. However if you should have concerns relating to the aforementioned I am available at 913-628-9465.

Mike Billinger 
Ellis County Treasurer
Representative of K.C.T.A.
Legislative Committee

ATTACHMENT 7

3-11-93

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

NANCY BROWN

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AND THE WOMEN'S NETWORK BOARD
FEDERAL EMERGENCY MANAGEMENT AGENCY
(FEMA) ADVISORY BOARD MEMBER

March 10, 1993

Right to Life, Inc.
701 SW. Jackson, Ste. 203
Topeka, KS 66603

To Whom It May Concern:

I find your Legislative Report (copy attached) and reference to HB 2103 to be totally and ridiculously inaccurate. HB 2103 was requested by the Emergency Medical Services Board and supported by hundreds of emergency responders. It is not a "right to die" bill, but a "Do Not Resuscitate" bill that was introduced to aid the responders, patients and their families.

The bill was referred to the Silver Haired Legislature because more input was needed from the public, not for any "sinister" purpose. It became apparent to committee members that additional information and education was needed regarding the issue as well as the use of the 911 emergency number. By referring it to the Silver Haired Legislature for review, both goals could be accomplished. There is nothing "curious" about the referral; it just made good sense.

The statement that "the bill was temporarily scuttled, thanks to the efforts of prolife committee John Toplikar, Gayle Mollenkamp, and others," is totally inaccurate. Not to discredit the committee members, prolife issues were not a factor in the discussion. It is unfortunate that Right to Life of Kansas is reading more into what happened in committee than actually took place. Frankly, I find the article to be very divisive (is that the intent?) and personally offensive with the reference to a "proabort committee chair."

I am very proud of the committee members and the professionalism they exhibit in making committee decisions, based on facts not emotions. The committee has not resorted to "politics", nor have they been partisan. Furthermore, their personal beliefs have been private. I respect the personal belief of each of the committee members, as well as their right to make committee decisions based on their beliefs. But to indicate in a newsletter to Kansans that there was any division in the committee based on these beliefs is very sad and unworthy of your organization.

I am also proud of the committee secretary who attempts to answer questions and provide information to the callers. To suggest she "drew an impassioned discourse" is inappropriate and irresponsible on the part of the author of this biased article. The caller insisted that this was a "Right to Die" bill, and the committee secretary (who heard all the testimony) responsibly responded that this was not the intent of the bill. Again, your article is misleading by indicating the caller did not reference the "right to die" issue.

H. Local Gov Co.
3/15/93 Attachment 8

If you have any further questions about HB 2103 or any other bill, it is more appropriate to ask the committee chair or any of the legislators about the details rather than reference the committee secretary in your newsletter.

The committee process is open and, as chairman, I have been very willing to listen to the committee members as well as those wishing to speak to the committee. Nothing is done behind the scenes and all members participate. You certainly are most welcome to express your views at a meeting so they can be part of the record. However, making misleading and inaccurate comments in an article without publicly expressing concerns or obtaining all the factual information is very disturbing.

Sincerely,



Nancy Brown

NJB:LH

enclosure

Legislative Report (Continued from page 7)

Meanwhile, back in the Kansas Legislature, a seemingly innocuous bill took a sinister turn during committee debate. House Bill 2103 was reportedly intended to protect emergency medical personnel from lawsuits for inappropriately attempting to resuscitate terminally-ill nursing home patients. Proposed amendments, committee discussion and comments by proabortion chairperson Rep. Nancy Brown in the press, indicated a far broader scope, centering around persons and situations, other than terminally-ill nursing home patients for whom resuscitation efforts would entail an unwarranted intrusion. The bill was temporarily scuttled, thanks to the efforts of prolife committee members, John Toplikar, Gayle Mollenkamp, and others, and some last minute lobbying by RTLK lobbyists Audrey Feldkamp and Cleta Renyer.

A call to the committee secretary simply asking for the status of the bill, drew an impassioned discourse that the bill had nothing to do with the Right To Die, even though the caller had not mentioned that. The bill has been referred to the Silver Haired Legislature. (That is a curious referral if it's only about EMT's and not about "self determination" or the "right to die.")

