

Approved: 1/28/93  
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Keith Roe at 9:00 a.m. on January 27, 1993 in Room 519-S of the Capitol.

All members were present except:  
Representative Crowell, excused

Committee staff present: Tom Severn, Legislative Research Department  
Chris Courtwright, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Bill Edds, Revisor of Statutes  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:  
Mark Burghart, General Counsel, Kansas Department of Revenue  
Becky Burghart, Division of Collections, Kansas Department of Revenue  
Richard Harrold, Department of Wildlife & Parks

Others attending: See attached list

After Committee review, the minutes of January 25 and 26, 1993, were approved as printed.

Chairperson Roe opened the hearing on HB 2090.

HB 2090                      Collection of delinquent taxes; authorizing limited use of debt collection agencies.

Mark Burghart, General Counsel, Department of Revenue, testified in support of HB 2090. He stated that this bill would allow the Department to fully utilize all available collection techniques to recover tax dollars which are due and owing the State of Kansas. He also said that the use of a collection agency has previously been recommended by the Division of Legislative Post Audit (Attachment 1). Mr. Burghart responded to questions from the Committee.

Becky Burghart, Division of Collections, Department of Revenue, also responded to questions on HB 2090. She said that the field staff has three main responsibilities - compliance, taxpayer assistance, and collections work. Responding to a question on waiver of penalties and interest due to hardship, Ms. Burghart said that the Department is attempting to educate taxpayers as to their rights.

Chairperson Roe concluded the hearing on HB 2090.

Chairperson Roe opened the hearing on HB 2091 and HB 2092.

HB 2091                      Withholding and estimated tax; altering the method by which penalties are computed.

HB 2092                      Income taxation; computation of Kansas adjusted gross income.

Mark Burghart, Department of Revenue, testified in support of HB 2091, stating that this is a technical change concerning the method of computing underpayment of estimated tax which should have been made in 1989 when related statutes were amended (Attachment 2).

Mark Burghart, Department of Revenue, testified in support of HB 2092, stating that this bill is a technical correction to repeal an expired provision in the income tax act (Attachment 2).

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on January 27, 1993.

Chairperson Roe concluded the hearing on HB 2091 and HB 2092.

Chairperson Roe opened the hearing on HB 2093.

<u>HB 2093</u>	Confidentiality of tax information; authorizing the disclosure of information for certain limited purposes.
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Mark Burghart, Department of Revenue, testified in support of HB 2093. He said that this bill would authorize the disclosure of certain information derived from returns and reports filed with the Director of Taxation to other state agencies (Attachment 3).

Richard Harrold, Department of Wildlife & Parks, testified in support of HB 2093. He stated that passage of this bill would allow Wildlife & Parks to receive information that is important to the investigative effort to determine if an applicant actually qualifies as a resident for purchase of licenses that are available only to residents (Attachment 4). Mr. Harrold responded to questions from the Committee.

Chairperson Roe concluded the hearing on HB 2093.

The meeting adjourned at 10:00 a.m.

The next meeting is scheduled for January 28, 1993.

Date: 1/27/93

GUEST REGISTER

HOUSE COMMITTEE ON  
ASSESSMENT AND TAXATION

[illegible]



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 Keith Roe, Chairman  
House Committee on Taxation

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

Date: January 27, 1993

RE: 1993 House Bill No. 2090

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Thank you for the opportunity to appear in support of H.B. 2090. The bill would authorize the Department of Revenue to contract with a debt collection agency to collect delinquent taxes on in-state accounts. The Department has had statutory authority to use collection agencies for out-of-state accounts since 1983. The use of a collection agency has previously been recommended by the Division of Legislative Post Audit.

The bill would allow the Department to fully utilize all available collection techniques to recover tax dollars which are due and owing the State of Kansas. Due to budget constraints, personnel limitations and the large number of delinquent accounts (approximately 135,000), some accounts are not being pursued in a timely fashion. The longer an account remains dormant, the more likely it is that a collection will not be made. The ability to use in-state collection agencies is one way of addressing this problem. The Department's experience with collection agencies on out-of-state accounts has generally been favorable and the Department is confident that the same results would be obtained on in-state accounts. A collection agency would be used only after the Department has exhausted all of its options and has failed to make a collection. Such an agency would be used primarily for low dollar accounts and accounts where the business has been inactive for a long period of time.

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Attachment 1

**REASONS FOR SUPPORTING PROPOSAL:**

1. Fairness - 97% of Kansas taxpayers pay their tax liability in a timely fashion. It is not fair that the other 3% should avoid the payment of these taxes.
2. Revenue Stability - by allowing the Department to use all available collections alternatives, taxes which are legally due and owing are collected. This avoids tax increases to fund essential state services. Approximately \$120,000,000 in state taxes remain delinquent that are not involved in a bankruptcy proceeding. In addition, the Department has over \$71,000,000 in pending claims in bankruptcy court.

**OTHER INFORMATION:**

1. Any contract with a collection agency would be subject to the bid procedure specified in K.S.A. 75-3739. The Department recently obtained a new vendor for its out-of-state collections. Four vendors provided sealed bids. The vendor selected has a 17.3% collection fee. This fee is passed on to the delinquent taxpayer pursuant to statute.
2. The collection percentage on referrals of out-of-state accounts has ranged from 13% to 18%. The low collection percentage is good because it shows that the Department is referring only the worst accounts to the collection agency - those which the Department has been unable to collect after exhausting all its efforts.
3. Any contract with a collection agency would require that the agency be subject to:
  - (A) Federal Trade Commission's "Guides Against Debt Collection Deception"
  - (B) The Federal Communications Act
  - (C) The Code of Ethics and Code of Operations of the American Collectors Association, Inc.
  - (D) Fair Debt Collection Practices Act
    - calls must be made between 8 am and 9 pm
    - the collection agency shall not use threats, intimidation or harassment.

I would be happy to respond to any questions you might have.

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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 Keith Roe, Chairman  
House Committee on Taxation

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

Date: January 27, 1993

RE: 1993 H.B. 2091 and H.B. 2092

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Thank you for the opportunity to appear in support of H.B. 2091 and H.B. 2092. Both bills involve technical corrections as such and do not make changes in substantive policy. The individual bills are described below.

H.B. 2091

H.B. 2091 concerns the method of computing underpayment of estimated tax. The bill amends K.S.A. 79-32,107 to provide that the amount of underpayment of estimated tax shall be the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to 90% of the tax shown on the return for the taxable year, or if no return was filed, 90% of the tax for such year over the amount, if any, of the installment paid on or before the last day prescribed for payment. This is a change which should have been made in 1989 when related statutes were amended. The amendment will conform the Kansas underpayment of estimated tax provisions to those in the Internal Revenue Code.

H.B. 2092

H.B. 2092 repeals an expired provision in the income tax act which allowed a deduction for the amount of any gain realized by a mortgagor resulting from the sale or other disposition of real estate due to the foreclosure of a mortgage. The original deduction was enacted in 1986 when a number of mortgage foreclosures were occurring in the State of Kansas. The

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deduction was available only for tax years 1985 through 1989. Since the three (3) year statute of limitations provided by K.S.A. 79-3230 bars any taxpayer from using this provision any longer, it should be eliminated to prevent taxpayers from incorrectly claiming the deduction.

I would be happy to respond to any questions you might have.

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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 Keith Roe, Chairman  
House Committee on Taxation

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

Date: January 27, 1993

Re: 1993 House Bill No. 2093

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Thank you for the opportunity to appear in support of H.B. 2093. The bill would authorize the disclosure of certain information derived from returns and reports filed with the Director of Taxation to other state agencies. Generally, information contained on income tax returns is strictly confidential and unauthorized disclosure constitutes a misdemeanor and results in immediate dismissal from employment. The bill would authorize the following:

1. The disclosure of a taxpayer's name, last known address and residency status to the Department of Wildlife and Parks to be used solely in its license fraud investigations.
2. The disclosure of oil and gas production statistics to an oil and gas reporting service. This information is currently available from the Conservation Division of the Kansas Corporation Commission (KCC). The Department is prohibited from disclosing the information because of our confidentiality provision. (K.S.A. 75-5133) The amendment would merely allow the Department to provide the same information that is available from the KCC.
3. A reciprocal exchange agreement with the secretary of human resources for the purpose of identifying taxpayers who have failed to file a return or pay the tax under any of the provisions administered by the Department of Revenue and the Department of Human Resources.

I would be happy to respond to any questions you might have.

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*House Taxation Cmte*  
*Attachment 3*



STATE OF KANSAS



*Richard Harrold*

Joan Finney  
Governor

DEPARTMENT OF WILDLIFE & PARKS

Theodore D. Ensley  
Secretary

OFFICE OF THE SECRETARY

900 SW Jackson St., Suite 502 / Topeka, Kansas 66612 - 1233  
(913) 296-2281 / FAX (913) 296-6953

H.B. 2093

Testimony Presented To: House Taxation Committee  
Provided by: Kansas Department of Wildlife and Parks  
January 27, 1993

H.B. 2093 amends K.S.A. 79-3234 to authorize the Department of Revenue to share certain information with the Department of Wildlife and Parks for the sole purpose of license fraud investigations. That information would apply only to the taxpayer's name, last known address and residency status. This information is important to the investigative effort to determine if an applicant actually qualifies as a resident for purchase of licenses that are available only to residents.

Names (computer tapes generally) of license applicants or holders would be provided to the Department of Revenue to be checked against their income tax records. Information on individuals claiming residency, but not on the Department of Revenue listings would be made available to the KDWP for investigation. Investigative results would also be available to the Department of Revenue for possible tax evasion investigation by that Department.

Several states, including Wisconsin, utilize a similar procedure which results in additional monies as a result of detecting fish and wildlife license violations. Also of importance is that the procedure has resulted in increased tax revenues to those states through identification of individuals failing to file state tax returns.

This issue was considered by the 1992 legislature as S.B. 578 and although amended several times, passed the Senate on a 40 to 0

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*Attachment 4*

vote. Additional amendments occurred in the House and the bill died on General Orders as the session ended. The extensive amendments made to the bill was believed responsible for its failure as there did not appear to be opposition to the original intent of sharing information for a specific purpose with KDWP.

The Department of Wildlife and Parks supports H.B. 2093 and encourages the House Taxation Committee to favorably consider the bill.