

Approved: February 22, 1993  
Date

## MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:10 a.m. on February 10, 1993 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Feleciano Jr., Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee, Senator Wisdom

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

Conferees appearing before the committee: Steve Stotts, Department of Revenue  
Mark Burghart, Department of Revenue  
Secretary Nancy Parrish

Others attending: See attached list

### **SB 171--Sales tax exemption for fees and charges for participation in certain recreational activities**

Senator Tiahrt discussed a problem with cities holding national events and a sales tax being charged on entry fees.

Senator Tiahrt made a motion to amend SB 171 on page 3, line 26 to strike the words "of sports, games or other such activities" and insert the words "sanctioned by a national sporting association". The motion was seconded by Senator Feleciano. Motion carried.

Senator Tiahrt moved SB 171 be passed out favorably. Senator Feleciano seconded the motion. Motion carried.

### **Labor services--original construction**

Steve Stotts, Department of Revenue, appeared to answer questions from the committee concerning the 2.5 percent sales tax on original construction which was enacted in 1992. He passed out a brief of the fiscal impact of an estimate on this sales tax printed in September 1991. (Attachment 1) He reviewed the tax and discussed the interpretations of the Department of Revenue in administering it. He also passed out a memo written to Chris Courtwright concerning Contractor Revenue Analysis--Reconciliation for the committee to review. (Attachment 2) Mark Burghart, Department of Revenue, also answered questions from the committee.

The committee asked if the Department had enough staff to administer this tax. Secretary Parrish of the Department of Revenue answered that no additional staff has been added. She also said the Department needs to be sure the industry is well informed about this tax and that is an education program. She was asked a question about how many people had been allocated to this program and Secretary Parrish said she would get that information for the committee. There was also discussion of an estimate of how much was going to be lost from the use of out-of-state subcontractors and that was not known. However, in the local sales tax law a project for less than \$10,000 is not subject to the sales tax.

The meeting adjourned at 11:55 a.m.

The next meeting is scheduled for February 11, 1993.

**GUEST LIST**  
**SENATE ASSESSMENT AND TAXATION COMMITTEE**

DATE: June 10, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Leslie Leach	Topeka	Ks. Chapter, N.E.C.A.
Jim Allen	"	KFLC
MARK CARDINAL	"	KDOR
Steve Smith	"	"
Jan Stevens	Tulsa, OK	Texaco
BILL JARRELL	Wichita	Boeing
Janet Stubbins	Topeka	ABA of Ks.
Mark McCrory	Topeka	McCrory Const., Inc.
Delishia Bogan	Topeka	Cresley, Inc.
Walter L. Phoyt Family	Morrill KS	Br. Co. Comm.
BEV BRADLEY	TOPEKA	KS Assoc of Counties
WALT DARLING	TOPEKA	KS Division of Budget
James Parrish	Topeka	KDOR Rev.
Chuck Tilman	Topeka	KNZN
Hal Barrett	KC	KCK CVB
J. W. Wright	Topeka	Eagle
KAREN FRANK	Topeka	KAR
Mike Hall	Topeka	Hein Ebert & Kosen
Gordon T. Horst	Topeka	Commercial Paper Assoc

K.S.A. 79-3603(p)

BRIEF:

Excludes those services performed in either the original construction of a building or facility or in the construction, reconstruction, restoration, replacement or repair of a bridge or highway, from the imposition of sales tax on the gross receipts received for the service of installing or applying tangible personal property. "Building" and "facility" are statutorily defined.

FISCAL IMPACT:

Sales tax receipts would increase by an estimated \$55.5 million in FY 1993. The state general fund would receive about \$52.2 million and the state highway fund would get around \$3.3 million.

This estimate is based on figures from tables in the 1987 U.S. Census of Construction Industries and the 1982-1987 Census growth rate for each component. These Census figures are for the estimated 86% of the Kansas construction establishments with a payroll. Because of the complexity of assumptions that would be necessary, no attempt has been made to adjust the estimate based on the establishments without a payroll. Further, no attempt has been made to adjust the estimate based on increased highway and bridge construction as a result of the current Kansas highway program.

One assumption made in the estimating is that the cost for the repair from a natural catastrophe is 10% of the total repair cost. In arriving at the estimated cost of "service," it has been assumed that the costs for materials, machinery rentals, capital expenses and year end assets are not services. Payroll cost was not used to estimate services cost because it is not presented by type (building, road, etc.) or kind (new, remodel, etc.). It is assumed that the Census year and the Kansas Fiscal Year can be equated. The figures (in millions) from the 1987 Census of Construction Industries are:

		C of CI 1982-1987 Avg. Annual Growth	Est. 1993
	1987		
New Buildings Cost	\$1,967.320	7.11%	\$2,913.798
Catastrophe Repair (10% of Repair)	33.967	0.19%	\$34.371
Total Highway Cost	521.115	11.84%	\$973.651
Total Bridge Cost	<u>145.045</u>	15.77%	<u>\$324.567</u>
Total (including Non-Service Cost)	\$2,667.447		\$4,246.387
Less Estimated Non-Service Costs*	<u>-\$1,501.239</u>		<u>-\$2,069.264</u>
Estimated Total	\$1,166.208		\$2,177.123

\*56.28% in 1987; est. at 48.73% for 1993

At \$2,177.123 million times the tax rate of 4.25%, the tax is estimated at \$92.528 million. It is assumed that about 20% of this amount would also be exempt under other 3606 statutes such as: (b) political subdivision purchases, (c) nonprofit educational purchases, (bb) port authority purchases, and (ll) community health center purchases. Applying 80% to the \$92.528 million leaves about \$74.022 million as the net annual impact. In the first year, only 9/12ths is expected so the FY 1993 impact should be about \$55.517 million.

9/16/91 J.P.

*Senate Assessment & Taxation  
February 10, 1993  
attachment 1-1*

STATE OF KANSAS

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Department of Revenue  
*Research & Revenue Analysis*

TO: Chris Courtwright  
FROM: Steve Stotts *Stotts*  
DATE: January 29, 1993  
SUBJECT: Contractor Revenue Analysis - Reconciliation

Attached is an analysis of the increased revenues the Department has received, could have received, or expects to receive from the new, June 1, 1992, 2.5% sales tax on contractors services on new construction, for the first 12 months of collections under this new law.

The \$1,471,000 amount has already been transferred to the school finance fund. As the months pass, we have noticed an increase in the amount submitted by contractors under the new 2.5% tax. We thought October through December would be more representative so we multiplied that three month total by two to estimate the second six months at \$2,155,396. The Subtotal for the 12 month period, \$3,626,396 then represents an estimate of new contractor tax payments for projects which were not exempted because of a pre-May 15 contract.

The next line of the analysis shows an estimate of a little over \$12.0 million as the amount of revenue that could have been collected, but was not collected, because of the provision which exempted contractor's project costs if the project was covered by written contract signed before May 15, 1992. The Department issued about 13,600 exemption permits with an estimated project value of about \$967.0 million. Assuming 50% of the total project cost was for services, a 2.5% tax on \$483.5 million would have produced about \$12.1 million in tax revenue. Almost all of the projects had a project completion date before the end of calendar year 1992 so it was assumed all of the \$12.1 million was a "revenue forgone" loss in the first six months of the new law.

For the second six months, it was assumed that, basically, the same level of construction would continue except for some seasonal slowdown in January and February. Therefore, it is estimated that the Department will actually realize another \$9.0 million from the same type of projects which were covered by exemption certificates in the first six months.

In summary, the three revenue estimate figures, \$3.6, \$12.1 and \$9.0 million, total \$24,711,923 for the 12 month period. This represents a combination of either

*Senate Assessment + Taxation*  
*February 10, 1993*  
*attachment 2-1*

money received, or money that could have been received, or revenue yet to be received, in the 12 month period. The final estimate for contractor services in last year's H.B. 2892 was \$39.9 million. It appears that, regardless of this attempt to reconcile the figures, there will be a shortage of 12 month revenues from this source. If the Department had actually received all of the above \$24.7 million, there would be a shortage of \$15.2 million. Unfortunately, the \$12.1 million exempted in the first six months is irretrievably lost so the indicated shortage at this time appears to be \$15.2 plus the first six month's \$12.1 million for a total budget shortage of \$27.3 million.

In a further attempt to analyze the \$15.2 million shortage, we plan to examine contractor registrations as well as to determine whether all contractors are filing the required bifurcated return. Until we do this study, we will never know whether all of the required tax was paid or was the original estimate of \$39.9 million simply a bad estimate.

Regarding an estimate for FY 1994, based on the data available today, it appears that the above "potential" revenue (from this 2.5% contractor tax) is about \$24.7 million for FY 1993. Allowing for a modest 4% increase in growth and/or prices, the FY 1994 estimate is \$25.7 million.

Please let me know if you want any additional information.

Steve Stotts

Attach.

cc Nancy Parrish

**ANALYSIS OF INCREASED CONTRACTOR REVENUE COLLECTIONS**

(i.e., 2.5% rate applied to contractor services on new construction)

Contractor bifurcated revenue processed, July through December, 1992:	\$1,471,000
Estimated, second six months (Oct. through Dec., 1992, times 2):	\$2,155,396
Subtotal	<u>\$3,626,396</u>
Plus estimated 6 month amount exempted by Project Exemption Certificates: ( 50% of Project cost times 2.5% )	\$12,085,527
Plus estimated second six months (slow January and February):	<u>\$9,000,000</u>
Apparent 12 month potential total revenue from Contractor Services:	\$24,711,923
Current estimate for H.B. 2892	<u>\$39,900,000</u>
Estimated potential actual under estimate	\$15,188,077