

Approved: Dec. 23, 1993
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MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 10:10 a.m. on November 22, 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

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Conferees appearing before the committee:

Bill Edds, Revisor of Statutes
Perl M. Bass, appointee to Board of Tax Appeals
Nancy Parrish, Secretary of Revenue
Charles Stones, Kansas Bankers Association
Darrell Franklin, Osawatomie, First National Bank
Gerry Ray, Johnson County Board of Commissioners
Chris Courtwright, Legislative Research Department

Review of draft bill on removing fund levy limits

Bill Edds, Revisor of Statutes, opened the meeting by reviewing a draft bill on removing fund levy limits. He said he had put in the draft bill suggestions of the League of Kansas Municipalities and the Kansas Association of Counties. He had also worked with the Municipal Accounting Section. Many of the changes in the statutes have been clean-up--removing archaic legislation and changing references in the draft bill. There was discussion of including townships. The committee felt they should not be treated differently than the cities and counties. Questions from the committee members were answered by Barbara Butts and Bill Ervin from Municipal Accounting, Chris McKenzie, League of Kansas Municipalities and Bev Bradley of the Kansas Association of Counties.

Senator Bond moved that the bill be introduced as amended, as staff has suggested and also with any changes the revisor feels may be needed. The motion was seconded by Senator Hardenburger. The motion carried.

Senator Langworthy thanked the staff for their hard work during the interim and announced this bill will be studied during the beginning of the 1994 legislative session.

Confirmation Hearing, Perl M. Bass, Board of Tax Appeals

Senator Phil Martin introduced Perl M. Bass, appointee to the Board of Tax Appeals.

Mr. Bass read from a prepared statement. (Attachment 1) He was questioned by members of the committee concerning what he thought should be the qualifications for a member of the Board of Tax Appeals. He said a member would need additional education and a broad general knowledge. He did not think the Board should be made up of only attorneys and appraisers. He thinks it is necessary for the taxpayers to have the right of protest. He was questioned about the backlog of cases at the Board of Tax Appeals and if he saw any way to expedite this. He stated he thought some minor exemptions could be eliminated but it does takes time to handle the cases and to write up them up. He also said he could write up some suggestions for eliminating the backlog. However, it is created by the yo yo effect of the change in property valuations.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 10:10 a.m. on November 22, 1993.

AFTERNOON SESSION

Senator Langworthy called the afternoon session to order at 1:40 p.m.

Nancy Parrish, Secretary of Revenue

Income Tax Penalties

Secretary Parrish read from a prepared statement entitled Penalty and Interest. (Attachment 2) Committee members have been receiving many complaints regarding penalties with interest which the Department of Revenue has been charging. Many taxpayers were caught off guard and the committee asked what kind of notification was made to the taxpayers. Secretary Parrish said this has always been in the statutes but has not been enforced. The committee asked if the Department can do something to alleviate this problem. She was also asked if the Department was working with the C.P.A.'s and the Kansas Bar Association in making changes in this law and is the Department going to request changes in the statutes during the 1994 Legislative Session. She said they would be happy to do so. Some taxpayers think if they file for an extension, they do not need to pay the tax at that time, but that is incorrect. A question was also asked about who needs to file an estimated tax. If the amount is over \$200.00, the taxpayer must estimate their taxes and pay the estimate quarterly.

Original Construction Labor Services tax

Secretary Parrish read from a prepared statement entitled Labor Services. (Attachment 3) Members of the committee asked about the \$3 million and what length of time it represented. She replied it was over a period of 4 months. A question was also asked about what percentage the state was paying on original construction for the highway program. Secretary Parrish said she would contact the Kansas Department of Transportation and try to report back to the committee with a figure. She also said they are still estimating a receipt of \$25.7 million on original construction labor services taxes. The committee asked how many people worked on the discovery project and if new people were added to the staff. Secretary Parrish stated no new people have been added to the staff but several field personnel have been allocated in the process of evaluating this. She said they would get a figure on how many were working on this project and how many reallocated. She was also asked about a cost-benefit analysis concerning this tax and she replied she would get these figures by the 1994 Session.

Closing of a business in the Kansas City Area

Secretary Parrish read from a prepared statement entitled Criminal and Civil Investigation of Legs. (Attachment 4) At issue were several stories by the Wyandotte County Attorney Tomasic about how unhappy he was with the actions of the Department of Revenue. Secretary Parrish said some of the incidents were unfortunate and she has apologized to Mr. Tomasic and she hopes this does not happen again.

Mortgage Registration Tax

Chuck Stones, Director of Research, Kansas Bankers Association, appeared before the Committee regarding a tax situation which he feels is unfair. (Attachment 5) He introduced Darrell Franklin, First National Bank, Osawatomie, who also spoke about the unfairness of this tax. He said the Federal Land Bank borrowers do not pay any mortgage registration tax. The federal credit banks are also exempt from this tax. He gave several examples of the unfairness of the tax.

Gerry Ray, Johnson County Board of Commissioners, spoke as an opponent to removing this tax. (Attachment 6) She said this tax has really increased in 1992 and seems to be continuing to increase in 1993. The tax does not seem to have an adverse reaction on the market. So far in 1993 \$8 million has been collected in mortgage registration taxes in Johnson County and that equates to 2.9 mills in property tax.

The committee asked if the Kansas Bankers Association would like to see a bill draft and Mr. Stones said he thinks it merits further study and he would be happy to work with the staff.

Staff Reports

Chris Courtwright, Legislative Research Department, reviewed the latest state general fund consensus estimates. (This memorandum to Governor Joan Finney and the Legislative Budget Committee from the Kansas Division of the Budget and Kansas Legislative Research Department, dated November 18, 1993, is on

CONTINUATION SHEET

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Statehouse, at 10:10 a.m. on November 22, 1993.

file in the Research Department.) He explained that the “consensus revenue estimating group” meets to make the estimates four times for each fiscal year.

The meeting adjourned at 4:10 p.m.

The next meeting is scheduled for November 23 at 9:00 a.m., 1993.

GUEST LIST
SENATE ASSESSMENT AND TAXATION COMMITTEE

DATE: Nov 22, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<i>John McBride</i>	<i>Topeka</i>	<i>ole server</i>
GERRY RAY	Overland Park	Johnson Co Comm. City of Overland Pt
Michele Matthias	Lawrence	Johnson County
Chris McKenzie	Topeka	League of Ks Muncip.
Barbara Butts	"	Dept of Admin
Bill Ervin	✓	✓ ✓ ✓
EVON WILLIAMS	^{WARRENSBURG} Johnson County, MO	Johnson County, KS
BEV BRADLEY	Topeka	KS Assoc of Counties
Whitney Duncan	Topeka	McMillan's Assoc. - KSLibrary
Jim Ludwig	Topeka	WESTERN RESOURCES
M. Hawwa	"	Hawwa's Capitol Report
Mark Tallman	Topeka	KASB
Gena McFarland	Overland Park	Chamber of Commerce
Alan Steppat	Topeka	Pete McMillan & Assoc.
Erin Miltic		
Chuck Stores	Topeka	KBA
Darnell Franklin	Oscawatomie	"

BEFORE THE SENATE ASSESSMENT & TAXATION COMMITTEE

November 22, 1993

Thank you, Senator Martin, and special thanks to the membership of the Committee for allowing me to appear.

First, I assure you that I have no private or personal agenda. In this position, my perpetual goal is fair and impartial hearings for all individuals and groups that appear before the Board of Tax Appeals. Another necessary concern is to protect and maintain the property tax base.

My qualifications include twenty consecutive years as a county commissioner, where we had annual property tax board of equalization hearings. As a result I became very familiar with appraisals, tax rates, valuations, plus annual budget preparation and management. Also during that time, I was co-owner and general manager of the local Chrysler, Plymouth, Dodge dealership. Aside from establishing a reputable business in the automobile industry, I gained invaluable experience in private enterprise and training in accounting or management of income and expenses.

For the last eight years, I have been employed by KDOR, Collection/Enforcement Division, as a home-based field representative. My duties included registration and termination

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of business accounts, filing tax warrants, requesting injunctions, etc. -- but mainly collecting delinquent taxes: sales, withholding, and income, liquor ~~and~~ excise, etc. While in that position, I acquired a vast amount of knowledge about Kansas's somewhat complex tax system. At the same time I wrote over 2400 receipts and collected over \$1 million for the State of Kansas. That is no record, but it is in the top 10 percent for home-based field representatives.

Recently I successfully completed Property Appraisal Course I. Gaining that knowledge has been very helpful, since real and personal property tax issues are the majority of BOTA cases.

In my short time on the Board, I have observed that BOTA members and staff are a very dedicated group. If all state agencies operated as effectively and efficiently, the citizens and taxpayers would be better served, and your job would be easier.

Thank you again for your consideration. Senator Martin and the Governor's Office have a more complete resume.

Pearl Bass

I welcome any questions you might have and will try to respond in an effort to share with you the knowledge and experience I believe I have gained through my varied positions.

STATE OF KANSAS

Nancy Parrish, Secretary of Revenue
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1588



(913) 296-3041
FAX (913) 296-7928
Information (913) 296-3909

Department of Revenue
Office of the Secretary

To: Senator Audrey Langworthy, Chair
Senate Assessment and Taxation Committee

From: Nancy Parrish
Secretary of Revenue

Date: November 22, 1993

RE: Penalty & Interest

The Kansas Department of Revenue installed a new accounts receivable management system in 1991. During the development of this program the department reviewed the application of penalty and interest on unpaid liabilities. During that review, it was determined that the Department's previous application of penalty was not in accordance with the statutes that the Department administers.

An internal team reviewed the penalty and interest statutes and prepared penalty and interest training materials so that associates within the department have consistent training on the application of penalty and interest. The income tax portion of the penalty and interest training materials are provided for the committee.

Interest is 1 1/2% per month (or 18% annually) on the balance due, from the original due date until the date of payment.

Penalty for most tax types is 10% for payments that are received within 60 days after the original due date and 25% for payments received more than 60 days after the original due date.

Prior to the review of the statutes after the new Accounts Receivable Management System was installed, application of penalty on income tax accounts depended on the circumstance of the delinquency.

Example 1: If a taxpayer owed \$100.00 in tax on April 15 but didn't remit until May 15, that taxpayer was assessed interest at the rate of 1 1/2% a month and penalty of 10%. If the taxpayer remitted on July 1, the taxpayer was assessed interest at 1 1/2% and penalty at 25%.

Example 2: If the taxpayer thought he had remitted all the tax owed on April 15 but in reality had made a mathematical error, the Department would send an adjustment letter to the taxpayer indicating the amount due and interest on the amount. If the taxpayer paid the adjusted amount plus interest within 30 days, no penalty was assessed.

(Same scenario for amended returns).

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Example 3: If a taxpayer filed for an extension until August 15 and remitted less than the amount of tax that was owed, the taxpayer owed the additional tax plus interest on August 15 but no penalty was assessed.

In 1992 (for the 1991 tax year), taxpayers receiving adjustments or filing amended returns were assessed penalty pursuant to statute. Because of the change in application of the penalty, taxpayers with clean records (i.e. no prior delinquencies) who requested waivers of penalty were granted the waivers.

During late 1992 and during 1993 the Department communicated with the Society of CPA's, the Public Accountants Association, and other associations regarding the change in interpretation of the statute. In addition, the income tax instruction booklet was rewritten to reflect specifically the application of penalty when a taxpayer has filed an extension.

In 1993 (for the 1992 tax year), income taxpayers that filed an extension but failed to remit all the tax that was due prior to April 15 were assessed penalty.

UNDERESTIMATE PENALTY

The requirements for remitting estimated tax payments are explained in the instructions for individual estimated tax. An individual is not subject to the penalty if an individual's tax payments equals 100% of the prior year's tax liability or 90% of the current year's liability.

Although this penalty has been in statute for a number of years, it had not been enforced by the Department. Some individuals voluntarily have remitted the penalty. In 1992, the Department began a limited program of assessing the penalty. In 1993 programs were developed and are now part of our normal audit program. The enforcement of the underestimated tax penalty provisions is an attempt to require taxes to be paid on income as it is earned. Enforcement of this program places all taxpayers in the same position of those that have withholding taxes withheld from their wages. Since the penalty for underestimated tax is interest and penalty combined, statutorily the underestimated tax penalty cannot be waived. The Department has the discretion to waive penalty but not interest.

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Nancy Parrish, Secretary of Revenue
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1588



(913) 296-3041
FAX (913) 296-7928
Information (913) 296-3909

Department of Revenue
Office of the Secretary

To: Senator Audrey Langworthy, Chair
Senate Assessment and Taxation Committee

From: Nancy Parrish
Secretary of Revenue

Date: November 19, 1993

RE: Labor Services

FY 1993 RECEIPTS AND FY 1994 ESTIMATES

In fiscal year 1993 retailers reported collecting about \$4.4 million in sales taxes on labor services performed (on new construction) at the 2.5% rate as established during the 1992 legislative session. The original estimate, \$39.9 million, was revised to \$12.6 million prior to the 1993 legislative session, in part to reflect lower than expected collections for this tax and to take into account the provision that exempted original construction covered by contracts entered into prior to May 15, 1993 ... a provision that resulted in \$12 million in lost revenue. The original FY '94 estimate, \$43 million, was revised to \$25.7 million. At that time, we weren't sure of the reasons for that shortfall. A number of assumptions were suggested ... e.g. that it took time for some companies to learn of the new rates, or to reprogram their computers to accommodate the bifurcated rate, and that a few companies would not collect the tax unless the Department exercised stronger enforcement measures.

Tax Filings: Reporting Errors

15 months after the imposition of the tax, we have a clearer picture and understanding of the shortfall. Our tentative conclusions are that (1) Some companies have misreported retail sales tax collections, reporting total collections, but not differentiating between non-original construction and new construction, thereby swelling the apparent collection numbers for repair and rehabilitation of buildings, but at the same time incorrectly reflecting a shortfall in new construction receipts and (2) Some companies did not comply with the new law.

Other factors, such as new construction trends, must certainly enter into the picture, but that information is not clear.

We will continue to try to sort out new construction tax receipts from other construction tax receipts, but without auditing each filer, it will not be possible to precisely measure those receipts. We will continue to work for accurate estimates, and will keep the committee informed in the process. Furthermore, the Department will continue to work with contractors to assist them in accurate reporting procedures. If necessary, we will redesign tax forms to make filing easier.

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As to current receipts, let me explain the situation as follows:

Retailers providing original and non-original labor services for the construction industry are located in the department's 7100 business code classification. In this classification, FY 1992 collections were \$44.3 million, in FY 1993 \$65.7 million ... a 48% increase.

For a true comparison between the years, we adjust the FY 1992 figure for the increase resulting from the new 4.9% sales tax rate. The FY 1992 collection figure, (adjusted) is \$51.1 million. Comparing FY 1992 (adjusted) to FY 1993 (actual) reveals a growth rate of approximately 28.5%, or \$14.6 million, in this category. This figure is significantly higher than expected, and raised concerns that this, in part, would explain why new construction receipts were lower than expected.

The Department's audit services bureau has conducted several audits of construction companies in the Wichita area and has discovered (1) that several of these companies are charging the full 4.9% rate on all labor services, original or non-original, and (2) that some companies are filling out the return by estimating the dollar amount of tax due, from which they are deriving an estimated cost of labor services performed. If companies fill out the tax forms incorrectly, we cannot accurately calculate the amount of 2.5% tax being collected and remitted.

We know that some of the 28.5% increase in non-original construction labor services is actually being reported as new construction, but we have no way of determining the actual amount. A detailed audit of each construction company would be required to arrive at accurate numbers.

The estimate for original construction services in fiscal year 1994 is currently \$25 million. Through October about \$3.0 million in original construction services has been accounted for. The consensus estimating group met on November 17, and increased FY 1994 state sales tax estimates by \$11.7 million. Even though reported original construction receipts are not meeting expectations, total receipts are exceeding expectations.

Enforcement Activities: Discovery Project

As of November 22, the Department's discovery project has identified 3,308 contractors/subcontractors as potential unregistered retailers. 500 of the 3,308 have been contacted. Of the 500 contacts about 150, have been identified as not properly registered for at least one of the following taxes: income withholding, corporate income, and most notably, sales. These companies have been mailed application packets. 64 referrals have been made to the department's audit service bureau, and 24 companies have registered and filed returns.

Currently, \$193,000 has been assessed by the Audit Services Bureau. Because the focus has been to identify unregistered taxpayers, get them registered and into compliance with the system, the only collection activity has been as a consequence of audit referrals. On October 1st, the Department expanded its Discovery activities to include a less formal field based component. This component focuses on personal case by case management of non-registered contractors by agents of the Department, and is designed to give those contractors an opportunity to come into compliance without the formal audit procedure. Training for the revenue agents involved in this aspect of the project is now being completed and a case management system has been developed to track the progress of contractors identified as non-registered.

The Department expects a faster rate of contractor compliance as a result of this field-based case management approach. A significant increase in collections is expected as a consequence of the elimination of time intensive audit procedures in

favor of the more informal field based approach. It is expected that only a few of the non-registered contractors will require a more formal approach. Once they are in the system and submitting monthly returns the Department's audit and business tax bureaus will work with each retailer to resolve tax liabilities and provide assistance as needed.

STATE OF KANSAS

Nancy Parrish, Secretary of Revenue
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1588



(913) 296-3041
FAX (913) 296-7928
Information (913) 296-3909

Department of Revenue
Office of the Secretary

MEMORANDUM

To: Audrey Langworthy, Chairperson, Assessment and Taxation Committee
From: Nancy Parrish, Secretary of Revenue
Date: November 22, 1993
Subject: Criminal and Civil Investigation of Legs

PURPOSE OF INVESTIGATION

The Department of Revenue opened an investigation on Red Apple Lounge, Inc. DBA Legs and Entertainment America, Inc. as part of an overall, on-going project to bring the strip club industry into tax compliance. Legs was one of the first businesses of this type the Department's Criminal Fraud Unit focused on because of:

- its volume of reported sales
- the fact that Legs contended that dancers working at the club were independent contractors rather than employees
- the rate of voluntary tax compliance on the part of dancers working at Legs was extremely low
- suspicion of hidden ownership
- suspicion of under-reporting of liquor drink taxes, and corporate and individual income taxes
- the existence of an on-going criminal investigation on the part of the Kansas City Police Department and the Wyandotte District Attorney's Office. It was thought the club may be permanently closed for the criminal activity and the Department wanted to ensure tax compliance before the business went out of existence.

RESULTS OF INVESTIGATION

The purpose of any criminal tax fraud investigation is to prove or disprove willful tax violations. In relation to the suspicions outlined above, every suspicion has been documented through a criminal and civil investigation.

Final tax assessments have been issued in the following amounts:

- Liquor Drink Tax \$219,549
- Sales Tax \$107,336
- Corporate Income Tax \$153,845
- Withholding \$395,408
- Individual Income Tax \$95,105
- TOTAL \$971,243

To date the Department of Revenue has collected \$118,334.

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Tax warrants are filed in Johnson County against real property owned by the taxpayers.

In addition, the following criminal charges have been filed by the Wyandotte County District Attorney against four individuals as a result of the Department's investigation:

- making a false writing (K.S.A. 21-3711) 59 counts
- conspiracy (K.S.A. 21-3302) 2 counts
- membership violations (K.S.A. 41-2614(c)(1) & (3) 2 counts

CHRONOLOGY OF INVESTIGATION

The Department of Revenue initiated the tax compliance project in May of this year. The Department's Criminal Fraud Unit utilized covert and overt investigative techniques to establish probable cause necessary to obtain a financial search warrant for the search of the Legs premises at 1230 Minnesota in Kansas City on June 4 and 5.

Following execution of the search warrant, the Department performed an analysis and audit from the seized documents. This analysis and audit resulted in tax assessments and supported the above outlined criminal charges.

On July 27, the Wyandotte County District Attorney requested that the Department of Revenue delay serving the tax warrants, so that the District Attorney's Office could simultaneously file a nuisance petition. On the 29th of July, the Department of Revenue was contacted by John Dauner of the Kansas City Star and informed by him that a nuisance petition had filed by the Wyandotte County D.A. Concerned that the premature filing of the nuisance petition would result in assets being removed from the State, the jeopardy assessments were served and tax warrants issued and executed immediately. The Department had taken measures to facilitate the serving of the individual income tax assessments against the taxpayers on July 30 to ensure we would know where to locate them. Because the Department was forced to execute the tax warrants immediately, we were unable to locate the taxpayers and as a result were unable to seize financial accounts held by such taxpayers. Financial accounts were seized at local banks and cash was seized from the premises that day to partially satisfy assessments against the Red Apple Lounge, Inc. and Entertainment America, Inc. businesses.

An alias tax warrant was executed on August 5. Cash was again seized from the premises and the building was secured in order to protect against the possibility of tangible personal property being removed from the premises. This action was precipitated by an expected decision to close the business by the Wyandotte County District Court and was suggested by the Wyandotte County District Attorney.

The Department later learned that the tangible property on the premises at Legs was secured as collateral on loans obtained by Entertainment America, Inc. Because the Department of Revenue would have had to pay off the lienholder following sale of the tangible property, combined with the fact that the sale would be delayed several months as the assessments went through the appeal process, the Department decided to accept an offer of a cash bond of \$15,000 in exchange for releasing the property. Unfortunately, this decision was not communicated effectively to the District Attorney's Office.

CURRENT STATUS

The industry-wide project continues with dedicated investigative and audit resources. As a result of the Legs investigation, the Department has been contacted by industry representatives about the possibility of participating in a voluntary withholding tax program.

The current status of the tax assessments against Legs is at the stage of informal appeal. Settlement discussions are on-going.

The Department's cooperation with the Wyandotte District Attorney's Office in the criminal case against Legs is on-going with a preliminary examination scheduled for November 30, 1993.

The Kansas Bankers Association

1500 Merchants National Bank Bldg.

Topeka, KS 66612

913-232-3444 FAX 913-232-3484

TO: Senate Assessment & Taxation Committee

From: Chuck Stones, Director of Research

Madam Chair and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear before you today to discuss a matter that many of our members feel is an unfair tax situation. As you know, the State of Kansas imposes a mortgage registration tax on all mortgages filed in the state. This tax is collected by the Registers of Deeds and becomes part of the general fund revenue in their respective counties.

We feel there must be a better system than the mortgage registration tax. This tax is discriminatory in at least two ways:

- 1) This type of tax is imposed only upon those who must borrow money to acquire property, and;
- 2) One of our major competitors in the rural parts of Kansas, the Farm Credit Bank, is exempt from this tax.

We are hoping we can find a more equitable method of taxation that would include all property acquirers and not exempt anyone.

We are NOT trying to decrease the income flow to the counties. If the Committee decides the present method of taxation should be changed we would very much like to work with the Registers of Deeds to come up with a revenue neutral alternative. One possible alternative would be to impose a similar tax on deed filings. We believe this would be fairer because it would include all transfers of property, and because it is actually a tax upon the end user and not on the mortgage instrument. This should also eliminate the special advantage for federal agencies such as the Farm Credit System. We don't have numbers of FCB filings, but in rural counties the number could be significant.

I have included two charts with my testimony. One shows the number of mortgages registered and the number of deeds filed for a number of years for a few counties. We went back as far as we did because the large number of mortgage refinancings the last few years has made that number larger than normal. The other chart is a listing of what the surrounding states are doing in this area.

Thank you for your time and interest in this area.

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Attach 5-1

Mortgage and Deed Filings

5-2

JOHNSON COUNTY			MIAMI COUNTY		SHAWNEE COUNTY	
YEAR	DEEDS	MORTGAGES	DEEDS	MORTGAGES	DEEDS	MORTGAGES
1989	16,778	19,859	1,401	1,166	7,308	5,614
1990	16,992	19,051	1,323	1,063	6,345	5,551
1991	17,091	20,348	1,371	1,054	6,587	5,479
1992	20,528	33,849	1,448	1,516	7,350	7,793
Thru Sept 93	didn't get	didn't get	1,145	1,274	5,890	6,187

6-4

MORTGAGE REGISTRATON TAX
by State

OKLAHOMA

Title 68 - §1901 - 1909

Mortgage Stamp - based on amt of mortgage and term of loan
fee is graduated from 2¢ per \$100 to 10¢ per \$100

paid at time of filing

collected at county level and transmitted to state general fund

FCB is exempt

they have a nominal deed filing fee of \$10

MISSOURI

Nothing

NEBRASKA

Documentary Stamp Tax

§79-901-908

tax on grantor of deed

\$1.50 per \$1000 value

collected by registers of deeds

1/3 stays at county, remainder goes to state general fund

COLORADO

Nothing -

Only administrative fees

PROPOSAL TO THE KANSAS LEGISLATURE 1993
ON MORTGAGE REGISTRATION TAX

We have with this proposal an opportunity to eliminate our State's discrimination against borrowers'; reduce the burden now being paid by a few people and distribute the burden to more people; increase the revenue for the State of Kansas and actually reduce what the borrowing individuals have to pay.

Sounds to good to be true but it is just as easy to accomplish as it sounds. Currently, every borrower who obtains a mortgage has to pay \$2.60 for each thousand in the amount of the mortgage. Perhaps we should say every borrower except those that are not being discriminated against when they get their loans from the Farm Credit Service or Farmers Home Administration. There is a builder in Johnson County who is building a \$70,000 dollar homes in another county and financing it for low or moderate income families who pay low interest and no mortgage registration tax. Next door to some of these high priced housing projects, low and moderate income families might get a \$25,000 or 30,000 loan from a bank or savings and loan and have to pay the going rate of interest, plus pay mortgage registration taxes. Then there is the man who buys a farm or house and finances it with Federal Credit Bank, (previously known as Federal Land Bank), pays no mortgage registration taxes, while his neighbor who got his loan from a bank or savings and loan has to pay full registration taxes.

WHY? Why do some borrowers have to pay mortgage registration tax while others do not? Why do people with money who pay cash for property only pay \$5.00 or \$6.00 dollars to record a deed while those who have to borrow have to pay mortgage registration taxes.

Why do we in Kansas continue to apply this unfair tax against our borrowing Kansans while most other states do not? Of the states that touch Kansas' borders, Missouri, Colorado and Nebraska have no mortgage registration taxes while Oklahoma has a small 2 to 10 cent fee per 100 on mortgages.

Why don't we eliminate this discriminating tax policy against borrowers and asses the tax on purchasers when their deeds are recorded?

Now that we have discussed the wrongs with our existing tax system, lets talk dollars and revenue for the state.

The Farmers Home Administration have approximately 2 billion dollars in loans. If Kansas collected \$2.60 per thousand this would create \$520,000 in taxes. If the Farm Credit Service has a similar amount of loans it would

be an additional 1/2 million in revenues. If the majority of these loans were made as a result of a purchase, then the state could pick up a million dollars of revenue which they are not currently collecting, by shifting the tax to deeds rather than mortgages. The state cannot collect taxes on the Federal Government's mortgages but they can collect the tax from the recording of the purchaser's deed.

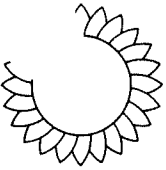
Upon analyzing a 55 million dollar bank in Kansas it was determined that they had Real Estate loans totaling 15 million dollars. They also had 98 collection accounts totaling 1.86 million. There are accounts held by the bank for the benefit of the buyers and sellers on a contract for deed and are not on the banks books. These sales contracts are not recorded and only a deed is recorded when the contract is paid. The state will collect only \$6.00 on each deed and fail to collect the \$5,000 in taxes if the taxes were shifted from mortgages to deeds. If 550 banks in the state had similar collection accounts this would be 2.75 million dollars in taxes that currently fail to be collected.

This same bank made their 15.7 million real estate loans by financing 80% or less of the selling price. In other words 20 to 30% of the selling price of property is not reflected in the mortgage registration amounts because of the down payment. In this bank alone it would have increased the states taxable income \$104,000. When you consider this 25% average difference between selling price and mortgage amounts and applying it to all banks, savings and loans, credit unions, Farm Credit Service, and Farmers Home Administration you are creating millions of additional taxable dollars of income.

With the exception of the past couple of years,(do to a large number of people refinancing), the records in the Register of Deeds offices always show more deeds recorded then mortgages. This would indicate that there are many cash purchases that escape registration taxes. If the taxes were on the deeds instead of mortgages approximately 20% more dollars would be taxed on the number of recordings and 20% more dollars on the deeds compared to mortgages. This could result in a 40% increase.

As you can see a huge increase in revenue can be generated by switching the tax to deeds instead of assessing it on mortgages. The affidavits of value required by the sellers and used in recording the deeds will allow the tax to be collected with no extra cost and little effort to the county Register of Deeds .

Lets stop picking on borrowers, raise more revenue, and actually reduce the tax on individuals. Switch to Deed Registration Tax.



Johnson County
Kansas

November 22, 1993

TO: SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: JOHNSON COUNTY BOARD OF COMMISSIONERS

SUBJ: MORTGAGE REGISTRATION FEES

Mortgage Registration Fees are collected by the Register of Deeds at a rate of \$.26 per \$100 of mortgage indebtedness. In Johnson County, declining interest rates and a resurgence in mortgage refinancing resulted in increased collections in 1992. This trend is expected to continue to influence receipts through 1993.

Although the degree to which the fees are collected tend to reflect the state of the economy they are not considered to have an adverse effect on the real estate market in themselves. The factors which are likely to have negative impact on homebuyers, farmers and commercial business, are changes in the federal tax code, the inflation rate and the interest rates. Such factors have a greater effect on the costs of property than the one time assessment of a nominal fee applied on the registration of the property.

Mortgage Registration Fees provide revenue which is used to support General Government operations in the County. The fees are projected to generate \$8 million in 1993, this equates to 2.94 mills in property tax. Unless property taxes were to be increased, necessary programs and services would have to be curtailed or possibly deleted should such a significant source of revenue be lost.

In 1990 the Legislature increased the Mortgage Registration Fees from \$.25 to \$.26 to provide a funding source for the state's Heritage Trust Fund which supports historical preservation projects that are selected by the State Historical Society. In 1992 Johnson County collected \$300,000 from the increase and remitted \$100,000 (the maximum amount required by law) to the State's Heritage Trust Fund. The remaining funds were put into the Johnson County Heritage Trust Fund which supports historical preservation projects within the County.

Mortgage Registration Fees are a significant source of revenue for Johnson County. Unless an alternate source were created the loss or reduction of these fees would have a direct effect on the level of property tax in the county. The Johnson County Commission urges the retention of Mortgage Registration fees, at the current level, as an important funding mechanism for county government.

Senate Assessment + Tax
Nov 22, 1993
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