

Approved: February 18, 1994
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 17, 1994 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: Bill Waters, Property Valuation Department
Larry Clark, Kansas Appraisers' Association
Karen France, Kansas Association of Realtors
Ellen Ross, Kansans for Fair Taxation

Others attending: See attached list

APPROVAL OF MINUTES

Senator Martin moved to approve the minutes for February 16, 1994. The motion was seconded by Senator Sallee. The motion carried.

REPORT OF SUBCOMMITTEE ON:

SB 541--PROPERTY TAXATION; APPRAISAL STANDARDS; REAL ESTATE RATIO STUDY

SB 542--PROPERTY TAXATION; APPRAISAL PROTESTS FOR ILLEGAL LEVIES

Bill Waters, Property Valuation Department, reported on a group which had met to discuss **SB 541** and **SB 542**. The group was made up of the subcommittee of Senators Langworthy, Tiahrt and Martin, members of the Property Valuation Division, Kansas Appraisers' Association, taxpayers, attorneys, and staff from the committee. He went over a copy of **SB 542** and pointed out changes which have been made. (Attachment 1) He said the bill is a compromise among the group. He answered questions from the committee regarding the appeals process and the changes made.

Larry Clark, Kansas Appraisers' Association, said he appreciated working with the members of the subcommittee and staff. He said he thinks they have come up with a workable system. He also said the appeals process has been streamlined.

Karen France had a question concerning the clarification of dealing with the equalization process in the spring if the payment under protest was unresolved. She understood that it would automatically become a payment under protest and they could be paid a refund. She thought the language was vague in that area.

Senator Bond moved to amend section c, page 6, by striking the word "of" in line 4 and adding after KSA 79-1448, "occurs after the final date for the payment under protest." The motion was seconded by Senator Martin. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:10 a.m. on February 17, 1994.

Ellen Ross, Kansans for Fair Taxation, appeared to thank the committee for the work with SB 541 and SB 542. She said she still is concerned with the lack of physical inspection but they will monitor the appeals process and see if the physical inspection should be done more often.

Senator Martin moved to accept the subcommittee report as amended. The motion was seconded by Senator Tiahrt. The motion carried. (Attachment 2)

Senator Martin moved to pass SB 542 favorably as amended. The motion was seconded by Senator Bond. The motion carried.

No action was taken on SB 541. Chairman Langworthy announced HB 2748 would be used in place of SB 541.

SB 714--SEVERANCE TAX EXEMPTION FOR PRODUCTION FROM THREE YEAR INACTIVE WELLS

Senator Corbin moved to pass SB 714 favorably. The motion was seconded by Senator Sallee.

Discussion was held by the committee members concerning the need for this bill, and if the 10 year exemption should be only 3 or 5 years. It was mentioned that the bill addresses those wells, both gas and oil, that are marginal; this bill is not going to have the fiscal impact that concerned them; it would be good tax practices and good for economic development.

The vote was taken and the motion carried.

The meeting adjourned at 12:00 noon.

The next meeting is scheduled for February 18, 1994.

GUEST LIST
SENATE ASSESSMENT AND TAXATION COMMITTEE

DATE: February 17, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Glan Steppart	Topeka	PETE McGill & Assoc.
KAREN FRANCE	"	KAR
Allie Devine	Topeka	Ks. Livestock Assoc.
Christy Young	Topeka	Topeka Chamber of Comm.
JANET STUBBS	"	Ks. Bldg. IND. ASSN.
Ness Korman	TOPEKA	KAPE
Basil Covey	TOPEKA	KRTA
Jordan Hallett	Topeka	CPAK
Becky Sanders	Topeka	BOTB
BEV BRADLEY	TOPEKA	Ks ASSOC of Counties
Michelle Clum	Topeka	att. Jon Small
R.H. Kramer	Topeka	Retired State Employee
Gary Clark	Platts	Ks. County Appraiser Assoc.
Bill Waters	PVD Topeka	PVD KDOOR
Robin Lehman	Lawrence	Lawrence Apt. Assn.
Steve Stoltz	Revenue Topeka	Revenue
MARK A. BURGHART	TOPEKA	"

SENATE BILL No. 542

AN ACT relating to property taxation; concerning the appraisal process and protest of payment of taxes; amending K.S.A. 79-411 and 79-412 and K.S.A. 1993 Supp. 79-1460, 79-1476 and 79-2005 and repealing the existing sections.

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

Section 1. K.S.A. 1993 Supp. 79-1460 is hereby amended to read as follows: 79-1460. The county appraiser shall notify each taxpayer in the county annually on or before March 1 for real property and May 1 for personal property, by mail directed to the taxpayer's last known address, of the classification ~~or~~ *and* appraised valuation of the taxpayer's property, except that, for tax year ~~1993~~ 1995, and each year thereafter, the valuation for all real property shall not be increased unless: (a) ~~A specific review thereof is conducted, including an individual physical inspection of such property by the county or district appraiser or such appraiser's designee provided that no such inspection shall be required to change the valuation of land devoted to agricultural use;~~ (b) ~~a the record of such the latest physical inspection is maintained, including the documentation for such increase, was reviewed by the county or district appraiser, and documentation exists to support such increase in valuation in compliance with the directives and specifications of the director of property valuation, and such record and documentation is available to the affected taxpayer; and~~ (e) (b) for the taxable year next following the taxable year that the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process, documented substantial and compelling reasons exist therefor and are provided by the county appraiser. For the purposes of this section and in the case of real property, the term "taxpayer" shall be deemed to be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk. Such notice shall specify separately both the previous and current appraised and assessed values for ~~the land and buildings situated on such lands. Such notice shall specify separately both the previous and current appraised and assessed values for the land and buildings situated on such lands. Such notice shall also include the most recent county sales ratio for the particular subclass of property to which the notice relates, except that no such ratio shall be disclosed on any such notices sent in any year when the total assessed valuation of the county is increased or decreased due to reappraisal of all of the property within the county each property class identified on~~

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the parcel. Such notice shall also contain the uniform parcel identification number prescribed by the director of property valuation. Such notice shall also contain a statement of the taxpayer's right to appeal and the procedure to be followed in making such appeal. Failure to timely mail or receive such notice shall in no way invalidate the classification or appraised valuation as changed. The secretary of revenue shall adopt rules and regulations necessary to implement the provisions of this section.

Sec. 2. K.S.A. 1993 Supp. 79-1476 is hereby amended to read as follows: K.S.A. 79-1476. The director of property valuation is hereby directed and empowered to administer and supervise a statewide program of reappraisal of all real property located within the state. Except as otherwise authorized by K.S.A. 19-428, and amendments thereto, each county shall comprise a separate appraisal district under such program, and the county appraiser shall have the duty of reappraising all of the real property in the county pursuant to guidelines and timetables prescribed by the director of property valuation and of updating the same on an annual basis. In the case of multi-county appraisal districts, the district appraiser shall have the duty of reappraising all of the real property in each of the counties comprising the district pursuant to such guidelines and timetables and of updating the same on an annual basis. Commencing in ~~1990~~, 1994, every parcel of real property shall be actually viewed and inspected by the county or district appraiser once every ~~four~~ six years. *Any county or district appraiser shall be deemed to be in compliance with the foregoing requirement in any year if 16 2/3% or more of the parcels in such county or district are actually viewed and inspected.* ~~The director shall require the initiation of such program of statewide reappraisal immediately after the effective date of this act.~~

Compilation of data for the initial preparation or updating of inventories for each parcel of real property and entry thereof into the state computer system as provided for in K.S.A. 79-1477, and amendments thereto, shall be completed no later than January 1, 1989. Whenever the director determines that reappraisal of all real property within a county is complete, notification thereof shall be given to the governor and to the state board of tax appeals.

Valuations shall be established for each parcel of real property at its fair market value in money in accordance with the provisions of K.S.A. 79-503a, and amendments thereto.

In addition thereto valuations shall be established for each parcel of land devoted to agricultural use upon the basis of the agricultural income or productivity attributable to the inherent capabilities of such

land in its current usage under a degree of management reflecting median production levels in the manner hereinafter provided. A classification system for all land devoted to agricultural use shall be adopted by the director of property valuation using criteria established by the United States department of agriculture and conservation service. For all taxable years commencing after December 31, 1989, all land devoted to agricultural use which is subject to the federal conservation reserve program shall be classified as cultivated dryland for the purpose of valuation for property tax purposes pursuant to this section. Productivity of land devoted to agricultural use shall be determined for all land classes within each county or homogeneous region based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation, at a degree of management reflecting median production levels. The director of property valuation shall determine median production levels based on information available from state and federal crop and livestock reporting services, the soil conservation service, and any other sources of data that the director considers appropriate.

The share of net income from land in the various land classes within each county or homogeneous region which is normally received by the landlord shall be used as the basis for determining agricultural income for all land devoted to agricultural use except pasture or rangeland. The net income normally received by the landlord from such land shall be determined by deducting expenses normally incurred by the landlord. The net rental income normally received by the landlord from pasture or rangeland within each county or homogeneous region shall be used as the basis for determining agricultural income from such land. The net rental income from pasture and rangeland which is normally received by the landlord shall be determined by deducting expenses normally incurred from the gross income normally received by the landlord. Commodity prices, crop yields and pasture and rangeland rental rates and expenses shall be based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation. Net income for every land class within each county or homogeneous region shall be capitalized at a rate determined to be the sum of the contract rate of interest on new federal land bank loans in Kansas on July 1 of each year averaged over a five-year period which includes the five years immediately preceding the calendar year which immediately precedes the year of valuation, plus a percentage not less than .75% nor more than 2.75%, as determined by the director of property valuation.

Based on the foregoing procedures, the director of property valuation shall make an annual determination of the value of land

within each of the various classes of land devoted to agricultural use within each county or homogeneous region and furnish the same to the several county appraisers who shall classify such land according to its current usage and apply the value applicable to such class of land according to the valuation schedules prepared and adopted by the director of property valuation under the provisions of this section.

For the purpose of the foregoing provisions of this section the phrase "land devoted to agricultural use" shall mean and include land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, which is devoted to the production of plants, animals or horticultural products, including but not limited to: Forages, grains and feed crops, dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants and animals listed in the foregoing definition.

The term "expenses" shall mean those expenses typically incurred in producing the plants, animals and horticultural products described above including management fees, production costs, maintenance and depreciation of fences, irrigation wells, irrigation laterals and real estate taxes, but the term shall not include those expenses incurred in providing temporary or permanent buildings used in the production of such plants, animals and horticultural products.

~~The valuations established for tangible property under the program of statewide reappraisal shall not be applied by any county as a basis for the levy of taxes until January 1, 1989.~~ The provisions of this act shall not be construed to conflict with any other provisions of law relating to the appraisal of tangible property for taxation purposes including the equalization processes of the county and state board of tax appeals.

Sec. 3. K.S.A. 1993 Supp. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, ~~before protesting the payment of~~ *after paying either the first half or the whole of such taxpayer's taxes, may protest* such taxpayer's taxes, ~~shall be required, either at the time of paying of such taxes, or, if the whole or part of the taxes are paid prior to~~ *on or before* December 20, ~~no later than December 20,~~ or, with respect to taxes paid in whole on or before

December 20 by an escrow or tax service agent, no later than January 31 of the next year, ~~to file or, with respect to delinquent taxes, no part of which have been previously paid, no later than the date on which such delinquent taxes are paid, by filing a~~ written statement with the county treasurer, on forms approved by the state board of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and *clearly stating* ~~citing any law, statute or facts on which such taxpayer relies in~~ *relied upon by such taxpayer in* protesting the whole or any part of such taxes. When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, *review any law or facts stated by the taxpayer and make a written recommendation concerning the resolution of the taxpayer's protest and forward a copy thereof to the taxpayer.* Within 15 days of the mailing of the county appraiser's recommendation, the taxpayer may accept the county appraiser's recommendation, or request an informal meeting with the county appraiser in which event the county appraiser shall forthwith schedule a ~~formal~~ *an informal* meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. In the event the taxpayer does not request an informal meeting with the county appraiser within 15 days of the mailing of the county appraiser's recommendation, the county appraiser shall within 5 days thereafter forward a copy of the written statement of protest to the state board of tax appeals for approval of such recommendation. In the event the taxpayer does request an informal meeting with the county appraiser, ~~the~~ The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property as required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer and the state board of tax appeals, in the event the valuation of the taxpayer's property is changed, in writing of the results of the ~~formal~~ *informal* meeting. The state board of tax appeals ~~may~~ *shall* within 45 days after receipt of notification of such change review such change and schedule a hearing thereon upon a finding that the taxpayer's property may not be valued according to law. If the state board of tax appeals ~~takes no action within such 45 day period, the results of the formal informal meeting shall be final~~ *approves the results of the informal*

meeting, the board shall notify the county appraiser and the taxpayer in writing. If the taxpayer remains aggrieved by the results of the informal meeting, the taxpayer may appeal such results to the state board of tax appeals within 30 days of the mailing of the approval of such results by the board, which shall conduct a hearing as provided in subsection (g).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, except that this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such property was acquired.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because of the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto. *occurs & § 20^{proven} & 7^{cell}*

(b) (d) If the grounds of such protest shall be that the valuation or assessment of the property upon which the taxes so protested are levied is illegal or void, such statement shall further state the exact amount of valuation or assessment which the taxpayer admits to be valid and the exact portion of such taxes which is being protested.

(e) (e) If the grounds of such protest shall be that any tax levy, or any part thereof, is illegal, such statement shall further state the exact portion of such tax which is being protested.

(d) (f) Upon the filing of a written statement of protest, the grounds of which shall be that any tax levied, or any part thereof, is illegal, the county treasurer shall *mail a copy of the written statement of protest to the state board of tax appeals and* ~~mail a copy of such protest to the governing body of the taxing district making the levy being protested.~~

~~(e) Within 30 days after notification of the results of the formal meeting with the county appraiser pursuant to subsection (a), the protesting taxpayer may, if aggrieved by the results of the formal meeting with the county appraiser, appeal such results to the board of county commissioners, or the hearing officer or panel appointed pursuant to K.S.A. 79-1611, of the county wherein the property is located by filing a notice of such appeal with the county clerk, or at the taxpayer's option, the taxpayer may appeal the results of the formal meeting directly to the state board of tax appeals, on forms approved by the state board of tax appeals and provided by the county treasurer, together with a copy of the written statement of protest. A copy of the~~

~~written notification of the results of the formal meeting with the county appraiser shall be provided by the county appraiser.~~

~~(f) Upon receipt of the copy of the written statement of protest and a copy of the written notification of the results of the formal meeting with the county appraiser, the board of county commissioners or hearing officer or panel shall within 30 days of such receipt hear the taxpayer's appeal and shall within 15 days thereafter notify the taxpayer and the state board of tax appeals, in the event the valuation of the taxpayer's property is changed. The state board of tax appeals may within 45 days after receipt of notification of such change review such change and schedule a hearing thereon upon a finding that such change and schedule a hearing thereon upon a finding that the taxpayer's property may not be valued according to law. If the state board of tax appeals takes no action within such 45 day period, the decision of the board of county commissioners or the hearing officer or panel shall be final. If the taxpayer remains aggrieved by the results of such hearing, such taxpayer may appeal such results to the state board of tax appeals within 30 days of the date of such notice. Thereupon, the board shall docket the same and notify the taxpayer and the county; treasurer of such fact. In addition thereto if the grounds of such protest is that the valuation or assessment of the property is illegal or void the board shall notify the county appraiser thereof.~~

~~(g) After examination of the copy of the written statement of protest and a copy of the written notification of the results of the formal *any informal* meeting with the county appraiser in cases where the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act, unless waived by the interested parties in writing.~~

~~If the grounds of such protest is that the valuation or assessment of the property is illegal or void the board shall notify the county appraiser thereof.~~

~~(h) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the formal meeting with the county appraiser with the board. In all instances where the board sets a request for hearing and requires the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor.~~

~~(i) When a determination is made as to the merits of the tax protest, the board shall render and serve its order thereon. The county~~

treasurer shall notify all affected taxing districts of the amount by which tax revenues will be reduced as a result of a refund.

(j) If a protesting taxpayer fails to file a copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the formal meeting with the county appraiser with the board within the time limit prescribed, such protest shall become null and void and of no effect whatsoever.

(k) In the event the board orders that as refund be made and no appeal is taken from such order, the county treasurer shall, as soon thereafter as reasonably practicable refund to the taxpayer such protested taxes from tax moneys collected but not distributed. Upon making such refund, the county treasurer shall charge the fund or funds having received such protested taxes.

(l) Whenever, by reason of the refund of taxes from any fund, it will be impossible to pay for the imperative functions of such fund for the current budget year, the governing body of the taxing district affected shall issue no-fund warrants in an amount necessary to pay such refund. Such warrants shall conform to the requirements prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by such section and may be issued without the approval of the state board of tax appeals. The governing body of such taxing district shall make a tax levy at the time fixed for the certification of tax levies to the county clerk next following the issuance of such warrants sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and the tax levy limitations imposed by article 19 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and K.S.A. 79-5001 to 79-5016, inclusive, and amendments thereto, shall not apply to such levies.

(m) The county treasurer shall disburse to the proper funds all portions of taxes paid under protest and shall maintain a record of all portions of such taxes which are so protested and shall notify the governing body of the taxing district levying such taxes thereof and the director of accounts and report if any tax protested was levied by the state.

(n) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who have an appeal pending before the board of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 4. K.S.A. 79-411 is hereby amended to read as follows: 79-411. ~~The assessor or~~ appraiser from actual view and inspection ~~or from statistical methods prescribed by the director of property valuation,~~ from consultation with the owner or agent thereof if expedient and from such other sources of information as are with ~~his or her~~ *the appraiser's* reach, shall determine as nearly as is practicable the fair market value in money of all taxable real property within ~~his or her township, city or the county, as the case may be and he shall appraise all such real property at its fair market value in money and assess the same as required in K.S.A. 79-1439, and amendments thereto.~~

Sec. 5. K.S.A. 79-412 is hereby amended to read as follows: 79-412. It shall be the duty of the ~~assessor~~ *county or district appraiser* to ~~examine all such buildings and other improvements as are not expressly exempt from taxation and shall separately value the land and improvements; but the value of the land and the improvements shall be entered on the assessment roll in a single aggregate.~~

Sec. 6. K.S.A. 79-411 and 79-412 and K.S.A. 1993 Supp. 79-1460, 79-1476 and 79-2005 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

SUBCOMMITTEE REPORT

S.B. 541 and S.B. 542

The Subcommittee held two meetings on these bills. At the first meeting, the Subcommittee engaged in a discussion of the policy options with interested parties including county appraisers, PVD, and taxpayer representatives. At the conclusion of that meeting, several of the conferees were asked to meet to agree on ways to accomplish broad goals established by the Subcommittee.

At the second Subcommittee meeting, representatives of PVD, KCAA, BOTA, and taxpayers presented amendments to S.B. 542 which, for the most part, had been agreed to by all participants on the previous day. In the course of discussing the amendments, the Subcommittee requested some additional clarifying language.

Following are the policy changes endorsed by the Subcommittee.

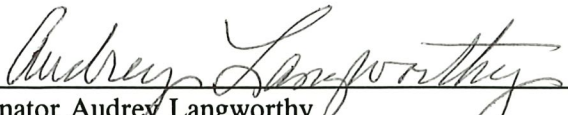
1. Payments of taxes under protest on the basis of valuation or assessment would not be permitted if the taxpayer had appealed the value or assessment in the spring, unless by a subsequent owner following sale of the property. A protest would not be necessary to protect a taxpayer's right to a refund following a successful appeal.
2. Statements of protest of valuation will be reviewed by the county appraiser, with a recommendation to be made within 15 days to BOTA, with a copy to the taxpayer. The taxpayer then could request an informal meeting with the county appraiser. If, as a result of that meeting, the value is changed, the county appraiser must report the change within 15 days to BOTA and the taxpayer. The change would be final after 45 days unless BOTA schedules a hearing within that period. The taxpayer, however, could proceed with a hearing if not satisfied with the change.
3. Protests of taxes would be restricted to the December 20 payment, or to the first payment of delinquent taxes. When the taxes are paid by an escrow agent, the statement of protest still could be submitted up until January 31, as under current law.
4. The requirement that a physical inspection be performed when a property's value is increased is removed in favor of a requirement that the record of the latest physical inspection be reviewed, and that documentation exists to support the increase in valuation.
5. The requirement for values of land and improvements to be separately stated on the change of value notice is removed. (The information still will be available to taxpayers at the appraiser's office.)
6. Commencing in 1994, physical characteristics of each parcel of real estate must be checked for accuracy once every six years instead of every four years.

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attach 2-1*


The Subcommittee has requested additional clarification, but this report outlines the major recommendations with regard to S.B. 542.

The Subcommittee does not recommend further consideration of S.B. 541. According to the Director of Property Valuation, the ratio study issues would be better addressed by H.B. 2748 which currently is in the House Taxation Committee.

Respectfully submitted,



Senator Audrey Langworthy



Senator Todd Tiahrt



Senator Phil Martin