

Approved: February 24, 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 23, 1994, in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, 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: Senator Don Sallee
Jamie Clover Adams, Ks Fertilizer and Chem. Assoc.
Chris Wilson, Kansas Agricultural Aviation Assoc.
David Cunningham, Director, Property Valuation Division
Nancy Burns, Wyandotte County Commissioner

Others attending: See attached list

APPROVAL OF MINUTES

Senator Sallee moved the approval of the minutes for February 22, 1994. The motion was seconded by Senator Reynolds. The motion carried.

Chairman Langworthy called the attention of the committee to some written testimony from Duane Johnson, State Librarian regarding **SB 733**--Property Tax levies for funding of certain libraries. (Attachment 1)

Chairman Langworthy appointed a subcommittee composed of Senators Langworthy, Tiahrt, Bond, Martin and Lee to work on **SB 756**--Board of Tax Appeals procedures.

SB 771--COUNTY APPRAISER CAN'T INCREASE VALUE OF REAL ESTATE IF BERM OR CONTAINMENT AREA IS REQUIRED BY STATE OR FEDERAL AGENCY

PROPOSERS

Senator Don Sallee explained **SB 771** and he said he was not pleased with the federal mandates put on the local tax rolls. These mandates may add value to the property but it does not add to the income produced on the property, yet through these federal mandates the market value is raised and the property is then appraised higher and the taxes are higher.

Jamie Clover Adams, Kansas Fertilizer and Chemical Association, appeared in support of **SB 771**. (Attachment 3) She passed to the committee, testimony from Joe Lieber, Executive Vice President, Kansas Cooperative Council. (Attachment 2) She said this bill would alleviate an inequity going on in the countryside. She presented a visual aid to explain the containment structures required at a fertilizer dealership. Facilities should not be hit twice--once for the cost of the regulatory compliance and then a second hit from increased appraisal values and the resulting tax increases. Fertilizer containment does not add value to a facility and it does not increase capacity or profits. She did suggest an amendment to **SB 771** to define "containment area". Current fertilizer containment includes not only berms but also load pads. She urged the committee to favorably report **SB 771**.

Chris Wilson, Executive Director, Kansas Agricultural Aviation Association, also spoke in support of **SB 771**. (Attachment 4) She said her association is ready and willing to comply with reasonable regulations which allow them to do the job of protecting the environment if they are also economically feasible. They do not believe these facilities add value to the property. They are a necessary regulatory compliance feature. She

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:10 a.m. on February 23, 1994.

She did not believe they should be subjected to increased property taxes as a result of complying with regulations. She urged favorable consideration of **SB 771**.

Committee members said they were having difficulty believing these containment structures do not add value. Other members said these are containment dikes that would not be in if not required by law. There were statements that having looked at the example, they could not see that it would increase the productivity and they should not be penalized if they have to comply with federal mandates.

OPPONENT

David Cunningham, Director, Property Valuation Division, appeared in opposition to **SB 771**. (Attachment 5) He thought this should not be in the statutes but could be handled administratively. He also said it directly conflicts with the statutes that provide that each parcel of real property shall be appraised at its fair market value. It would also set up legal problems. He said there are situations where these can serve dual purposes and can be used for other services. These cases must be determined by the appraiser on a case by case basis. He has issued directives to county appraisers to carefully examine these situations to determine if there is an impact on the value.

Mr. Cunningham was asked why the Division used directives instead of writing Rules and Regulations for situations like this because the Rules and Regulations can be reviewed by the Legislature and the directives are not. He explained the reason for the directives and said he could write Rules and Regulations but the directives are more easily changed.

SB 781--SALES OF PROPERTY ACQUIRED BY COUNTY AT TAX SALE

Senator Bill Wisdom said this bill was requested by the Wyandotte County Commissioners. It deals with the selling of real estate which has been foreclosed and is owned by the county.

Nancy Burns, Wyandotte County Commissioner, urged support for **SB 781**. She said currently Wyandotte County has 500 vacant lots and they are trying to sell them. Each time they are put up for sale, they have to be advertised for three consecutive weeks. If they are not sold at that time, they must again be advertised for three consecutive weeks. She said the publication of the notices is very expensive, and when it must be done time and time again, the cost is almost prohibitive. Sometimes the publication cost is more than the property is worth. This bill would help to move these properties more efficiently.

There were questions from the committee concerning the new language about private sales and the property never being advertised.

The hearing was closed on **SB 781**.

SB 770--DELINQUENT REAL ESTATE TAX SALES

David Cunningham, Director Property Valuation Division, appeared before the committee and said the Division did not take any position on **SB 770**. (Attachment 6)

This bill was requested by the County Attorney from Jefferson County but he did not appear to testify on the bill.

Tom Severn, Research Analyst, passed to the committee a printout showing 1 percent of assessed tangible valuation by county for 1993. (Attachment 7)

Chairman Langworthy announced at the next meeting there would be discussion and possible action on bills which have been previously heard. She listed the numbers of the bills and asked any committee members to talk to her about them if they have a special interest.

The meeting adjourned at 12:00 noon.

The next meeting is scheduled for Thursday, February 24, 1994.

DATE: February 23, 1994

[illegible]

To: SENATE ASSESSMENT AND TAXATION COMMITTEE
 From: Duane Johnson, State Librarian
 Date: Monday, February 21, 1994
 About: Correction of information you heard from a conferee at the Friday,
 February 18 hearing on Senate Bill 733

It was asserted to you by an opponent of SB 733, that Kansas is second only to the State of Illinois in the number of local governmental units authorized by state government. The following data is taken from the latest U. S. Department of Commerce Census document (November 1992)*, after that agency's survey of state, county, and local governments.

These data include counties, cities, townships, school districts, and any additional special district for which a separate tax fund is levied.

The Department of Commerce states, "The number of special district governments increased by 12 percent from 1987 to 1992. This continues the upward trend of the past few decades [since 1952] to create new government units to meet the additional needs for government services and resources."

Library districts are included among the districts counted for Kansas. The implementation of SB 733 would not increase the number of Kansas districts as was asserted at the hearing on Friday.

Number of governmental units in each state:

1 Illinois	6810	26 Alabama	1134
2 Pennsylvania	5397	27 Idaho	1105
3 Texas	4919	28 Florida	1041
4 California	4495	29 Tennessee	960
* 5 Kansas	3918	30 North Carolina	954
6 Minnesota	3616	31 Mississippi	898
7 Ohio	3534	32 Massachusetts	851
8 Missouri	3368	33 Maine	799
9 New York	3319	34 West Virginia	708
10 Nebraska	2997	35 South Carolina	705
11 Indiana	2976	36 Vermont	690
12 North Dakota	2795	37 Utah	635
13 Wisconsin	2752	38 Arizona	598
14 Michigan	2727	39 Wyoming	576
15 Iowa	1904	40 Connecticut	575
16 Colorado	1826	41 New Hampshire	531
17 Oklahoma	1822	42 New Mexico	494
18 South Dakota	1803	43 Louisiana	461
19 Washington	1796	44 Virginia	461
20 New Jersey	1625	45 Maryland	416
21 Oregon	1487	46 Delaware	281
22 Arkansas	1473	47 Nevada	212
23 Kentucky	1345	48 Alaska	176
24 Georgia	1321	49 Rhode Island	128
25 Montana	1305	50 Hawaii	21

*U. S. Department of Commerce, Bureau of the Census, November 1992, GC92-1(P)

*Senate Assess + Tax
 February 23, 1994
 attach 1-1*

Testimony of Senate Bill 771
Assessment and Taxation Committee
February 23, 1994
Prepared by Joe Lieber, Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperatives. Of these, over 150 are local farm supply cooperatives that are owned by nearly 200,000 Kansas farmers and ranchers.

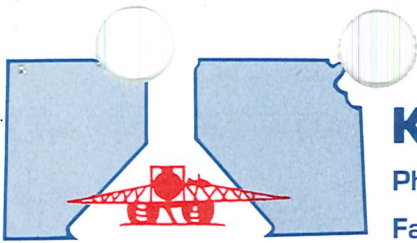
We are here to testify in support of SB 771.

Our members have gone to quite an expense to protect the public and to abide by state and federal regulations by building containment facilities.

It is our understanding that these improvements would not be subject to real estate taxes. But, it is also our understanding that some country appraisers have increased the value of the real estate.

Senate Bill 771 would prevent them from doing so.

*Senate Assess + Tax
Feb 23, 1994
attach 2-1*



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Phone 913 234-0463

816 S.W. Tyler St., Topeka, KS 66612

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(Mailing Address) P.O. Box 1517, Topeka, KS 66601-1517

STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE
SENATE ASSESSMENT & TAXATION COMMITTEE
SENATOR AUDREY LANGWORTHY, CHAIR
REGARDING S.B. 771
FEBRUARY 23, 1994

Madam Chair and members of the Committee, I am Jamie Clover Adams, Director of Legislative and Regulatory Affairs for the Kansas Fertilizer and Chemical Association (KFCA). KFCA is the professional trade association of our state's fertilizer and agrichemical industry. Our 600 members include primarily retailers, but also distribution firms, manufacturer representatives and others which serve the industry. KFCA thanks the Committee for holding hearings on this important issue.

KFCA strongly supports S.B. 771 which addresses a problem currently faced by many KFCA members -- county appraisers increasing appraised values because dealers have installed containment structures required by the Fertilizer Containment Law. Environmental regulation and the burden associated with compliance is a reality and will only increase in the future. Facilities should not be hit twice -- once for the cost of the regulatory compliance and then a second hit from increased appraisal values and the resulting tax increases. Because the addition of containment at a fertilizer dealership is an expense of being in business, and not an investment nor income producing structure, it should not be taxed.

*Senate Assess + Tax
Feb 23, 1994
attach 3-1*

As background, in 1989 KFCA requested and the Legislature passed a bill requiring the Board of Agriculture to establish regulations for fertilizer containment to protect ground and surface water. The regulations became effective in January, 1991 and the first requirements, load pads, are coming on-line this year with the remaining containment scheduled for completion in early 1995. To date, KFCA members have spent thousands of dollars complying with this regulation. In fact, the Board of Agriculture reports that at least six firms have gone out of business specifically because of these regulations. Further, KFCA is currently working with the Board of Agriculture to establish pesticide containment regulations.

In December 1991, KFCA obtained a memo from the Property Valuation Division (PVD) regarding containment. It is attached. In it, PVD outlines a very logical argument. The memo states that it is arbitrary to claim a structure has value because it exists or even more so as a result of government officialdom. It also points out that containment is most likely an expense to the industry and not an investment which will produce any income or value. KFCA whole-heartedly agrees. However this memo, along with all other field directives, as we understand it, were recalled and no longer hold force.

Fertilizer containment does not add value to a facility. In fact, without it the firm would no longer be in business. It does not increase capacity or profits. Catalytic converters fall into a similar category -- they add cost to an automobile but neither you nor I would pay any more for the automobile because it has one. It is required by law and consumers expect it to be there.

Enactment of S.B. 771 would not result in revenue loss to either counties or the state. It does not decrease the value of a fertilizer dealership. It only ensures that facilities are not appraised and taxed for an improvement required by law that does not produce income nor add value. Further, it sends a strong message to the regulated community that they will not be penalized for protecting the environment.

KFCA suggests an amendment to define containment area. Current fertilizer containment includes not only berms but also load pads, while proposed federal pesticide containment regulations strongly suggest the use of covered load pads. If left to PVD, containment area may not be defined as intended. Further, as the rescinded PVD memo illustrates, they can change their opinion at any time.

KFCA urges the Committee to favorably report S.B. 771 to alleviate the current inequity facing fertilizer dealerships who have invested substantial amounts of money to meet fertilizer containment requirements and then are required to shell-out again through increased taxes on structures that do not add value nor produce income.

We appreciate this opportunity to voice our views. I would be glad to answer any questions you may have.



KANSAS DEPARTMENT OF REVENUE

Division of Property Valuation

Robert B. Docking State Office Building
Topeka, Kansas 66612-1585

MEMORANDUM

TO: RON SWISHER, BUREAU CHIEF

FROM: ROBERT G. STEPHENS, A.S.A., COMMERCIAL PROPERTY

DATE: DECEMBER 19, 1991

RE: ASSESSMENT OF POLLUTION CONTROL STRUCTURES

The Kansas Grain & Feed Association is asking PVD to reconsider our position relative to the assessment of structures for fertilizer containment to protect ground and surface water. These structures (dikes) must be erected to be in accord with Kansas regulations with each facility to be inspected by the Board of Agriculture for compliance. These regulations became effective in January, 1991 by Kansas Statutes.

This subject was first given consideration in early 1990 by former PVD Director, John Luttjohann on counsel by former reappraisal coordinator, George Donatello (see attached letter dated January 8, 1990). The tone of this letter suggests that the KG&FA had asked that these dikes receive exempt status from PVD, which of course is a legislative matter and so the request was refused. This letter goes on to delineate that the dikes will be assessed and for tax purposes considered either real or personal property based upon their relationship to dry or liquid fertilizer storage. (This instruction is in itself casual and possibly unconstitutional.) The letter asserts they are to be valued in accordance to fair market value in money as defined in K.S.A. 79-501a. The issue is this; do the dikes have a market value or do they even contribute to the value of the storage facility?

It is arbitrary to claim a structure has value because it exist or even more so as a result of government officialdom. The market establishes value; not government regulations, no matter how well intended they may be. These dikes are required by law of everyone in the fertilizer business and they will not make a facility any more valuable since everyone has to have them. To a certain extent, the position (PVD's) as stated in the aforementioned letter defies logic; by virtue of their existence should not imply there is value, only that the structure should be described and listed. It is my belief that PVD fell into the trap of believing that if a structure has a *replacement cost new*, it must also have a *replacement cost new depreciated* and consequently, value. An example of the government increasing cost but not value is the automobile industry. The market does not place any value on catalytic converters for vehicles even though they increase the cost of a new car and containment dikes are no different; both are the result of government regulations intended to protect the environment. In the end, these dikes are most likely an expense to the industry and not an investment which will produce any income or value.

Assuming many of the counties appraised bulk fertilizer storage facilities utilizing the cost approach to value, it is likely that the dikes were listed and valued without regard to whether they actually confer any value to the structure. County appraisers should be instructed to list these containment dikes with the storage structures, but they should only be valued by the county if the market establishes there is any contributory value.

cc. David C. Cunningham, Director
John R. Cooper, M.A.I., Mgr., Commercial Real Estate

enc.



Chris Wilson
Executive Director
4210 Wam/Teau Drive
Wamego, KS 66547
OF: (913) 456-9705
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STATEMENT OF THE
KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE
SENATOR AUDREY LANGWORTHY, CHAIRPERSON
REGARDING S.B. 771
FEBRUARY 23, 1994

Chairperson Langworthy and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Agricultural Aviation Association (KAAA). KAAA is the state's professional organization for the agricultural aviation industry. Our approximately 300 members are the firms, pilots and allied representatives of the industry. Over 85% of the firms in Kansas are KAAA members. We appreciate the opportunity to support S.B. 771.

This bill simply puts into statute the policy which PVD has had regarding environmental protection measures at bulk chemical facilities since the fertilizer containment program began. It will result in no revenue lost to the state or counties, because these structures have not previously been taxed. It is necessary to make clear that it is the state's policy that these environmental protection measures, required by law and regulation, not be subject to increases in property valuation.

While only a few KAAA members currently have fertilizer containment facilities, many of them will be installing pesticide containment facilities in response to anticipated bulk pesticide regulations. Our industry is ready and willing to comply with reasonable regulations, which allow us to do the job of protecting the environment and are also economically feasible. We have been supportive of containment regulation efforts. At the same time, we believe that these facilities do not add value to the property. They are a necessary, regulatory compliance feature, required of all others in the industry. All firms are on a level playing field. While these

*Senate Assess + Tax
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attach 4-1*

facilities may cost \$25,000 to \$50,000 or more per site to construct, they will not substantially add to the facility's market value in the end.

We also believe that an industry such as the fertilizer and chemical industry, which promotes and basically writes regulations for itself, then spends millions of dollars to comply, should be commended for its efforts to protect the environment--not subjected to increased property taxes as a result. We urge your favorable consideration of S.B. 771. Thank you for the opportunity to comment on this bill.

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STATE OF KANSAS

David C. Cunningham, Director
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Department of Revenue
Division of Property Valuation

MEMORANDUM

TO: Senator Audrey Langworthy
Senate Assessment & Taxation Committee

FROM: David C. Cunningham
Division of Property Valuation

DATE: February 23, 1994

SUBJECT: Senate Bill 771

I appear today in opposition of S.B. 771. The purpose of this bill is to prohibit valuation increases to real estate for the addition of improvements of berm or containment areas for fertilizer or pesticides if the improvement was required by a state agency or the EPA.

The bill as written violates Article 11, Section 1, of the Kansas Constitution which requires the legislature to provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation to the extent value is added to existing property and it is not valued at fair market value when other properties are being valued at fair market value. In addition, it directly conflicts with both K.S.A. 79-501 and K.S.A. 79-1439. K.S.A. 79-501 provides that each parcel of real property shall be appraised at its fair market value. K.S.A. 79-1439 provides that all real and tangible personal property shall be appraised uniformly and equally as to class and at fair market value.

I am not here to suggest that these types of additions or improvements to existing property add value. To the contrary, I would question whether value is added and PVD has previously directed county appraisers to carefully examine these situations to determine if there is an impact on the value. In other words, does the market recognize any value being added to these properties when these types of improvements are made? PVD has suggested little if any value is added; however, that fact must be determined by the appraiser on a case by case basis.

I believe this can and should be handled administratively to avoid any conflicts in the valuation statutes.

Senate Assess. & Tax
February 23, 1994
Attachment 5-1

STATE OF KANSAS

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Department of Revenue
Division of Property Valuation

MEMORANDUM

TO: Senator Audrey Langworthy, Chair
FROM: David C. Cunningham, Director of Property Valuation
DATE: February 23, 1994
SUBJECT: Senate Bill No. 770

Senate Bill No. 770 amends several statutes pertaining to tax foreclosure sales. Language is inserted in K.S.A. 1993 Supp. 79-2801 mandating a tax foreclosure sale on abandoned buildings and the land accommodating such abandoned buildings whenever the aggregate assessed valuation of such real estate exceeds 1% of the total assessed tangible valuation on the tax rolls of the county on November 1 of the preceding year (§ 1, p. 1). Language giving the board of county commissioners discretion in holding tax foreclosure sales is eliminated (§ 1, p. 1). Presently, the bringing of a tax foreclosure sale is discretionary with the board of county commissioners provided the aggregate assessed valuation of the real estate subject to sale is less than \$300,000, or the aggregate amount of delinquent taxes, including special assessments, is less than \$10,000.

Language requiring the court to equitably apportion the gross sum received from the sale and the cost and charges of such sale among the various tracts and lots is eliminated (§2, p. 4).

The Division of Property Valuation has no position on Senate Bill No. 770.

*Senate Assess. & Tax
February 23, 1994
Attachment 6-1*

County	Assessed Tangible Valuation	One Percent
Allen	54,472,190	544,722
Anderson	37,878,932	378,789
Atchison	59,877,020	598,770
Barber	51,251,433	512,514
Barton	140,021,488	1,400,215
Bourbon	50,475,317	504,753
Brown	50,439,018	504,390
Butler	229,485,533	2,294,855
Chase	22,281,891	222,819
Chautauqua	22,013,714	220,137
Cherokee	82,202,427	822,024
Cheyenne	26,607,119	266,071
Clark	30,314,486	303,145
Clay	40,743,388	407,434
Cloud	44,433,553	444,336
Coffey	579,676,805	5,796,768
Comanche	26,720,446	267,204
Cowley	145,065,372	1,450,654
Crawford	107,744,847	1,077,448
Decatur	25,630,238	256,302
Dickinson	79,192,103	791,921
Doniphan	35,745,597	357,456
Douglas	399,405,807	3,994,058
Edwards	34,786,157	347,862
Elk	18,194,146	181,941
Ellis	140,147,338	1,401,473
Ellsworth	57,185,442	571,854
Finney	275,543,142	2,755,431
Ford	144,628,738	1,446,287
Franklin	84,084,297	840,843
Geary	86,509,506	865,095
Gove	31,193,491	311,935
Graham	34,830,347	348,303
Grant	294,681,977	2,946,820
Gray	42,652,571	426,526
Greeley	27,299,485	272,995
Greenwood	45,112,622	451,126
Hamilton	44,091,522	440,915
Harper	46,258,143	462,581
Harvey	125,664,783	1,256,648
Haskell	128,639,635	1,286,396
Hodgeman	24,333,541	243,335
Jackson	43,323,434	433,234
Jefferson	64,166,320	641,663
Jewell	25,958,078	259,581
Johnson	2,809,495,863	28,094,959
Kearny	193,955,096	1,939,551
Kingman	68,671,365	686,714
Kiowa	50,610,981	506,110
Labette	71,559,940	715,599
Lane	23,347,215	233,472
Leavenworth	209,608,192	2,096,082
Lincoln	22,406,408	224,064
Linn	145,381,960	1,453,820
Logan	25,307,820	253,078
Lyon	127,698,683	1,276,987
Marion	57,496,799	574,968
Marshall	54,320,058	543,201
McPherson	159,103,680	1,591,037
Meade	68,164,300	681,643
Miami	102,940,472	1,029,405
Mitchell	32,547,011	325,470
Montgomery	139,557,902	1,395,579
Morris	34,971,507	349,715
Morton	126,468,284	1,264,683
Nemaha	52,396,030	523,960
Neosho	55,139,111	551,391
Ness	46,948,199	469,482
Norton	27,032,961	270,330
Osage	58,597,045	585,970
Osborne	24,725,108	247,251
Ottawa	32,457,714	324,577
Pawnee	46,414,435	464,144
Phillips	38,906,110	389,061
Pottawatomie	296,913,421	2,969,134
Pratt	71,715,356	717,154
Rawlins	27,231,063	272,311
Reno	280,772,079	2,807,721
Republic	34,224,171	342,242
Rice	71,925,322	719,253
Riley	172,258,988	1,722,590
Rooks	46,210,082	462,101
Rush	32,395,883	323,959
Russell	58,509,597	585,096
Saline	229,746,512	2,297,465
Scott	41,485,478	414,855
Sedgwick	2,007,037,441	20,070,374
Seward	177,214,112	1,772,141
Shawnee	760,451,786	7,604,518
Sheridan	27,083,383	270,834
Sherman	42,679,288	426,793
Smith	28,079,540	280,795
Stafford	53,735,286	537,353
Stanton	83,645,395	836,454
Stevens	295,946,056	2,959,461
Sumner	106,777,217	1,067,772
Thomas	57,448,075	574,481
Trego	28,892,516	288,925
Wabaunsee	35,369,567	353,696
Wallace	19,682,099	196,821
Washington	42,718,140	427,181
Wichita	23,794,495	237,945
Wilson	41,807,256	418,073
Woodson	23,801,225	238,012
Wyandotte	583,341,498	5,833,415