



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

September 21, 1979

MAIN PHONE (913) 296-2215
CONSUMER PROTECTION 296-3751
ANTITRUST 296-5299

ATTORNEY GENERAL OPINION NO. 79- 208

Mr. John R. Dukelow
Agricultural Marketing Specialist
Kansas Wheat Commission
1021 North Main
Hutchinson, Kansas 67501

Re: Agriculture--Kansas Wheat Act--Limitations on
Deposits to State General Fund Pursuant to
K.S.A. 1978 Supp. 75-3170e

Synopsis: Kansas wheat taxes deposited in the state general
fund pursuant to K.S.A. 1978 Supp. 2-2609 are
limited in amount to two hundred thousand dollars
(\$200,000) pursuant to K.S.A. 1978 Supp. 75-3070e.

* * *

Dear Mr. Dukelow:

At the direction of the Kansas Wheat Commission, you have requested our opinion concerning funds collected by the Commission which are to be deposited in the state treasury.

K.S.A. 1978 Supp. 2-2608, a section of the Kansas Wheat Act, provides for the levy of a two-mill excise tax on every bushel of wheat marketed through commercial channels in this state. A subsequent section of the same act provides that twenty percent (20%) of the money received by this levy is to be credited to the state general fund. K.S.A. 1978 Supp. 2-2609.

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You inquire whether the total amount of money to be deposited in the general fund is limited by a fixed dollar amount similar to the two hundred thousand dollar (\$200,000) limitation as in the case of other fee generating agencies.

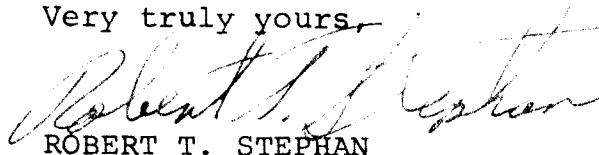
Deposits of fee revenues of certain other agencies are limited by the express terms of K.S.A. 1978 Supp. 75-3170a(c). The statutes requiring the fee or tax of the agency to be deposited in the state general fund to which such limitation is applied are enumerated in paragraph (a) of the above-cited section. That section does not include K.S.A. 1978 Supp. 2-2609.

However, the 1978 Kansas Legislature attempted to amend K.S.A. 1978 Supp. 75-3170a to include K.S.A. 1978 Supp. 2-2609 in the list of statutes subject to the fixed dollar limitation (L. 1978, ch. 1, §3). This chapter amended chapter 211 of the laws of 1978 which also amended K.S.A. 1978 Supp. 75-3170a. Chapter 1 resulted from the passage of Senate Bill No. 939; however, this bill was not coordinated with other Senate and House bills purporting to amend the provisions of K.S.A. 1978 Supp. 75-3170a. Therefore, the Revisor of Statutes in preparing the 1978 Cumulative Pocket-Part Supplement to the Kansas Statutes Annotated from the Session Laws of 1978, assigned a separate number to a new section of the Kansas Statutes Annotated, K.S.A. 1978 Supp. 75-3170e, containing a duplicate listing of those statute sections enumerated in K.S.A. 75-3170a(a) but including two additional code sections, namely, K.S.A. 1978 Supp. 2-3008 and K.S.A. 1978 Supp. 2-2609.

Without elaborate discussion, we do not find that Chapter 1 of the 1978 Session Laws was unconstitutionally adopted and can only conclude that the legislature and the governor intended to include the two sections added by Chapter 1 in the list of statutes subject to the two hundred thousand dollar (\$200,000) ceiling on contributions to the state general fund. We cannot say that K.S.A. 1978 Supp. 75-3170a and K.S.A. 1978 Supp. 75-3170e are in conflict and would conclude that the latter section is merely duplicative and supplemental.


Therefore, it is our opinion that Kansas wheat taxes deposited in the state general fund pursuant to K.S.A. 1978 Supp. 2-2609 are limited in amount to two hundred thousand dollars (\$200,000).

Very truly yours,



ROBERT T. STEPHAN

Attorney General of Kansas



Bradley J. Smoot
Deputy Attorney General

RTS:BJS:gk