

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at
Chairperson

11:00 a.m./p.m. on Tuesday, January 23, 1990 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Revisor's Office
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Senator Eric Yost, Chief Sponsor of SCR1632
Senator Edward Reilly
Mr. Gene Baldwin, Chief Fin. Officer and Partner-Restaurant Management Company
Gary Keller, President of Landmark Hotel Corporation
David Aull, owner of ClubHouse Inns of Overland Park, KS
Kevin Robertson, Dir. of Governmental Affairs, for Barbee and Associates
Karen France, Dir. Governmental Affairs, KS Assoc. of Realtors
George Puckett, representing KS Restaurant Association
Vern Osborn, a concerned citizen
Nestor Weigand, Jr., representing Citizens of Fair Taxation
Kent Roenbaugh, Concerned Taxpayers for Responsible Government

Chairman Thiessen called the meeting to order at 11:02 a.m. and said the topic for today has created a lot of interest and asked questions be deferred until after all testimony. The Chairman then turned attention to **SCR1632** and recognized Senator Eric Yost, Vice President of the Senate.

SCR1632: A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of property.

THE FOLLOWING CONFEREES ARE PROPONENTS OF SCR1632.

Senator Eric Yost, Vice President of the Senate said SCR1632 represents the first serious effort in years the Legislature has made to significantly reduce the dependence on the property tax as a method for funding local government. He said, the justifiable public outrage over property taxes during the last two months has given this Legislature a golden opportunity to reform the manner in which local government is funded.

He said, the constitutional amendment before you today would roll back property taxes and then cap them at the level to which they have been rolled back. He said the mechanics of this constitutional amendment would be as follows:

A. The amendment would place a cap on every taxing unit in Kansas. The cap would be 100 mills or the 1989 aggregate mill levy, whichever is less. Those taxing units with an aggregate mill levy of less than 100 mills would be frozen at their current level. Those taxing units with an aggregate mill levy of more than 100 mills would be rolled back to 100 mills.

B. Classification would be retained. All real and personal property would be assessed at either 10% or 15%. Agricultural property would be valued on land use value, and assessed at 15%.

C. The effect of combining a 100 mill cap and a 10% assessment rate on residential property, by combining the 100 mill cap and a 15% assessment rate, the effective tax rate cap would be 1.5%.

Senator Yost said he had requested that the Department of Revenue prepare a county-by county breakdown of what this constitutional amendment does. That information is not yet available, and this committee obviously cannot take action on SCR1632 until it is available.

In closing his testimony, Senator Yost said local officials really don't want greater authority for fairer and more efficient sources of revenue--not if those revenues have to be approved by a vote of the people. Because, local officials know

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Tuesday, January 23, 1990

that they already spend a lot more money than the people want them to. They have forgotten that the government belongs to the people, not the other way around. The Senator said it's time for local officials to kick their habit, and give control of local government back to the taxpayers, and that's exactly what this constitutional amendment, if approved by the voters, would do. (ATTACHMENT 1)

Senator Reilly said he strongly supports the concept embodied in SCR1632, which is an acknowledgement that we must get a handle on the issue of property taxes so that people may plan their own futures without being devastated by the impact that many have recently experienced. He said, the impact of reappraisal and classification coupled with tax policies from all units of government has been one of the most devastating. He said, the State must live within its resources, and it must make some difficult decisions as to the course Kansas will follow in this next fiscal year, and local governments have that same obligation.

Senator Reilly said in the final analysis, it is our credibility that is on the line in view of the fact that in our deliberations and previous campaigns we all emphasized what was the purpose of reappraisal which is embodied in the brochure published by the Revenue Department of Kansas. (ATTACHMENT 2a,2b,2c).

Mr. Gene Baldwin said he is the chief financial officer and a partner in Restaurant Management Company, he said, they own and operate 129 Pizza Huts, Long John Silvers, and Grandy's. He said, they operate in 13 different States and nine of the Grandy's are in Kansas. The recent increase in real estate taxes has had a catastrophe effect on us. In 1988 our real estate taxes in Kansas were \$53,000. on our 9 Grandy restaurants in Kansas, and for 1989 they will be \$176,000, an increase of \$123,000 or 232% over last year, at nearly \$20,000 per restaurant, per year. We now pay more in real estate taxes, then we earn in some of our restaurants.

He asked the members to look at the charts he passed to the committee and he said, Chart #1, explains the reason why our real estate taxes increased so dramatically, our assessed value increased by 51%, the increase in value is not suprising to us, because some of our Grandy's are now over 10 years old and, he said, to his knowledge, there has not been a change in appraised value in that time. He said, the assessment rate increased from 12% to 30% at 150% increase in accordance with the constitutional amendment. He said, these two factors resulted in an increase in assessed value of 277% from 1988 to 1989. The 3rd factor affecting real estate tax, is the mill levy. He said, their average mill levy across the State decreased by only 13%, and it was his understanding that the mill levy dropped substantially from 1988 to 1989, as the result of reappraisal and classification. Chart 2, he said shows the average square foot per Grandy's resturant for a 4000 square foot building. The taxes in 1988 were \$1.48 per square foot and 1989 they were \$4.89 per square foot, with a percent of appraised value going from 1988 1.8% to 4.0% in 1989, he said this is over a 25 year business life. Our business would be paying as much in real estate taxes as the business is worth, because he said, real estate tax is based on the value of the property, and is a fixed cost. He said, inventory is a very insignificant factor in their business. He said, unless something is done to reduce these taxes we will have no other alternative, but to look for another State for our holdings. (ATTACHMENT 3a).

A committee member asked Mr. Baldwin if he could get some of the figures on Real Estate Tax as a percent of value in writing so the members could have them for the future. **Mr. Baldwin, turned the information requested into the committee secretary by letter, dated January 24, 1990.** (ATTACHMENT 3b).

Gary Keller, President of Landmark Hotel Corporation said they have 7 hotels and 2 restaurants in Kansas, and he said they believe that it will be necessary to amend the Constitution to avoid prolonging indefinitely the unintended results of concurrent reappraisal and reclassification of Kansas real and personal property. He said the impacts on their business are listed in his written testimony. (ATTACHMENT 4).

David Aull, owner of ClubHouse Inns of Overland Park, Kansas said he has been in the real estate business in Kansas for over 30 years and he holds property in Sedgwick, Shawnee and Johnson Counties as well as a farm in Chase County.

He said in Wichita he owns a building which houses Xerox, and in 1988 the taxes were \$20,988, and in 1989 they increased to \$38,446. He said the building is valued at \$950,000; and applying a 1.5% value to that the taxes on that building would be \$14,250, or 80 cents per square foot of leasable area. He said, he owns 3 ClubHouse

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./p.m. on Tuesday, January 23, 1990.

Inns in Overland Park, Wichita and Topeka. He said, the taxes in Overland Park in 1988 were around \$52,000 and in 1989 the tax bill was \$107,913. He said the building in Wichita, the taxes were \$46,407 and 1989 he said, is \$104,187., and he said in Topeka the 1988 taxes were \$57,711 and in 1989 they were \$133,159. He said, to his business in Topeka the \$133,000 represents a \$75,448 increase in taxes on his hotel, and he said assuming a 50% expense factor on the business, He would have to generate \$113,172. more in revenue each year, times 2 because he has to make up for 1989 and 1990. He said, he would have to generate within this year \$226,344. to make up for this increase in taxes. and he said he would have to increase his room rate \$8.00 per night to break even on the tax increase, in Topeka.

Mr. Aull said he is supportive of SCR1632, but he felt it is obvious that we cannot leave this kind of taxing authority in the counties hands any longer because the mill levy is not controlled by the people. (ATTACHMENT 5)

Kevin Robertson, Director of Governmental Affairs for Barbee and Associates said he was appearing before the committee today on behalf of the 160 hotel and motel properties which comprise the Kansas Lodging Association. He said The KLA believes the current 30-12 classification, with its several tax exemptions passed in 1986 is unfair to service related businesses such as hotels and motels. The combination of hotels and motels having virtually no inventory and remaining classified at 30% has resulted in a tremendous shift of taxes onto the lodging industry. He urged the committee members for their favorable recommendation of SCR1632. (ATTACHMENT 6).

Karen France, Director, Governmental Affairs, Kansas Association of Realtors, said The KAOR recommends putting caps on the amount of property taxes which can be assessed against real estate and looking for alternative means for funding local government budgets. She said, they believe an overall cap of a 3% increase per year should be placed in the amendment, and the issue of exemptions should be addressed by the local units. Let the local units decide their funding with the approval of the people. (ATTACHMENT 7)

George Puckett, representing Kansas Restaurant Association, a statewide group of approximately 950 food service and hospitality industry businesses. He said KRA contends that SCR1632 would provide necessary tax relief to keep small business alive and flourishing. He said if restaurants and other service oriented small businesses are to survive or consider locating in this state, a permanent solution to the commercial real estate tax crisis must be found immediately. (ATTACHMENT 8)

Vern Osborn said he would like for the committee members to look at the people testifying before you today, because they are the one's that are paying the bills, and he said tomorrow you will be hearing from the people who are spending our money, and he said, he felt the people that are paying the bills are the voters, the voters are going to remember, if any survive. He said, he would appreciate the committee looking at the problem in depth and come up with a solution for all Kansans, because that is what we need for survival. He said, the ones that are spending the money should look at budget, and cash flow and if they don't have the money to pay their taxes, that cash flow is not going to be there. He said, the taxpayers want to survive so they can pay a reasonable tax.

Nestor Weigand, Jr. from Sedwick County said he is Chairman, for Citizens of Fair Taxation, and he was representing 25,000 members across the State, mainly small business people, homeowners and small farmers. He said, they believe that the current property tax system as provided by the now in place Constitutional Amendment will and is having a serious negative impact on senior citizens, people on fixed incomes, and small business people as well as the State of Kansas. He said, we are presently being laughed at by our neighbors as being a high tax State, specifically in regards to Senator Yost's proposal SCR1632, he said, they agree that there needs to be a cap on the amount of property tax which can be assessed against real estate, and if SCR1632 is to put a cap of 1% on homeowners, 1½% on business, farmers and agriculture, then we concur. We also feel there needs to be an overhaul cap of about 3% annually on any increases, and we recommend SCR1632 be put in a more simplified terminology, so when the people go to the polls to vote they understand what they are voting for and what they are voting against.

Kent Roenbaugh, Concerned Taxpayers for Responsible Government, said he lives and owns

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Tuesday, January 23, 1990

property in Topeka, and also serves on the Board of Tax Appeals for Shawnee County. He said, they support SCR1632 and they feel it makes sense for a long term solution. He said, they feel the circuit breaker is only a short term relief. He said in regard to his handout (ATTACHMENT 9) an example regarding business owners in Kansas City, which seems to be a joke to a lot of people, that people on the Kansas side are moving to the Missouri side, and he said, he can assure the committee it is not a joke, he said, he does business with two people that employed 40 to 80 people each on the Kansas City side, and they are both moving to Missouri because of the property taxes. We urge you to look at this very closely and consider it during this session.

Chairman Thiessen adjourned the meeting at 12:15 p.m.

GUEST LIST

COMMITTEE: SENATE
ASSESSMENT & TAXATION

DATE: Tuesday, 1-23-90

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Woody Woodman	PO Box 679 KC Mo	KCPL
Bernie Koch	Wichita	Wichita Chamber
BIO GRANI	TOPEKA	KCC
THOMAS J. HURLEY	TOPEKA	Coffey City Coal
THEVA POTTER	TOPEKA	PEOPLES NAT. GAS
George Barber	Topeka	Ks Lodging Assn
Ken Robertson	Topeka	Ks Lodging Assn
Harold Pitts	Topeka	
Eric Glus	Burlington	
George L. Dene	Burlington Ks	
Marion Logan	" "	City
GENE MERRY	Burlington, Ks	City
STEEB FRIEND	Burlington, Ks	Recreation Commission
RUSSELL LARKIN	LAWRENCE KS	CITIZEN
James A. Stokup	Lawrence Ks.	Concerned Citizen
KENNETH F. LAHM	LAWRENCE, KS.	SELF..
Thomas R. Webb	Topeka	Webb + Assoc
Calvin Smith	Wichita	WIBA
Bryan Patton	Topeka	Citizens For Better Dist
Bryan K. Joy	Burlington	citizen
Donald W. Cook	Topeka Ks	citizen
Tim Gartner	Topeka	SUB TEL
Tom Whitaker	Topeka	Ks Motor Carriers Assn
Joseph W. Fry	Burlington	Cathy G.
Cathy Holdeman	Wichita	City of Wichita

Name	Addr.	Org
Jim Ludwig	TOPEKA	EPL
JERRY CLINGMAN	TOPEKA	SANTA FE RY CO
Alan Steppat	Topeka	Ks. Legislative Policy Group
Vernon Biek	Gridley	Cotthey County Clerk
Melvin Brunge	Waverly	" " Comm
Bob Corkins	Topeka	Ks. Chamber of Com & Ind.
Gene BALOWIN	Wichita	RESTAURANT Management Co.
George PUCKETT	WICHITA	KS RESTAURANT ASSN.
CHUCK STUART	Topeka	United School Assn of KS
Jim Burgess	Topeka	KSBA
Mike Miller	Topeka	City of Topeka
Arate to bety	Topeka	KFFT
Karen S. [unclear]	Coffey Co	Coffey Co. Comm.
Don Rye	Onaga	Leg.
Betty Quernmeier	Topeka	Concerned Taxpayers for Responsible Govern

GUEST LIST

COMMITTEE: SENATE
ASSESSMENT & TAXATION

DATE: _____

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Kent Roenbaugh	4100 S. Topeka	TAX PAYER
Kerri Schuh	Box 617 New Straawn	City of New Straawn
Hillei Macten	Wichita	Seidman Co.
John Vorhies	Topeka	KAC
Janet Stubbs	Topeka	WBAK
Kisu Fagar	Topeka	Senate Salisbury
VERA OSBORNE	ST. GEORGE	Comm. For Sensible Taxation
Lee Harrison	Topeka	KFFTA
Don Anderson	Topeka	KFFTA
Paul Ebert	Flusk	KFFTA
GROVEA. D. OSBORNE	ST. GEORGE 135	KFFTA
Carol Osborne	St. George	Comm. for Sensible Taxation
Annmarie Gregor	Manhattan	Comm. for Sens. Tax
Curtis Reed	Topeka	Ks. Peace Officers Assn.
Stathleen Cowen	Wichita	Taxpayer
Rae Cowen	Wichita	Taxpayer
Maria Bell	P.O. Box 343, Mulvane	Taxpayer
Ralph A. Bell	P.O. Box 343 Mulvane	Taxpayer
Doreen Strom	Topeka	CSTF AARP
George Habel	Topeka	CSTF AARP
Ronald D. Kirkwood	Topeka	AARP-Kansas
Kate Fyfe		AARP/SHL
Colvin C. Moeger	Topeka, KS	SHL
Janis Jean	Manhattan	
Janis Cannon	SAW	KOBE

State of Kansas

Kansas Senate

SENATOR ERIC R. YOST
Vice President of the Senate

Topeka Address
State Capitol Building
Room 128-South
Topeka, Kansas 66612

Wichita Address
9132 Funston Court
Wichita, Kansas 67207



Office of the Senate Vice President

TESTIMONY BEFORE THE
SENATE ASSESSMENT AND TAXATION COMMITTEE
BY SENATOR ERIC YOST
IN FAVOR OF SCR 1632
JANUARY 23, 1990

Mr. Chairman, SCR 1632 represents the first serious effort in all the years that I have served in the Legislature to significantly reduce the dependence on the property tax as a method for funding local government.

In my view, the property tax is too subjective, it is inefficient to collect, and the amount of tax levied against individual taxpayers bears no relationship to those taxpayers' ability to pay. In short, the property tax has become antiquated. However, there is still some hope for local government. The justifiable public outrage over property taxes during the last two months has given this Legislature a golden opportunity to reform the manner in which local government is funded.

The question, then, is what to do. The constitutional amendment before you today would roll back property taxes, and then cap them at the level to which they have been rolled back. This proposal keeps the property tax, as bad as it is, in the tax mix, but significantly reduces its role in the funding of local government.

SENATE ASSESSMENT AND TAXATION COMMITTEE
TUESDAY, JANUARY 23, 1990 ATTACHMENT 1

page 2
Yost Testimony
January 23, 1990

The mechanics of this constitutional amendment would be as follows:

A) The amendment would place a cap on every taxing unit in Kansas. The cap would be 100 mills, or the 1989 aggregate mill levy, whichever is less. Those taxing units with an aggregate mill levy of less than 100 mills would be frozen at their current level. Those taxing units with an aggregate mill levy of more than 100 mills would be rolled back to 100 mills.

B) Classification would be retained. All real and personal property would be assessed at either 10% or 15%. Residential property would be assessed at 10%, commercial at 15%. Agricultural property would be valued on land use value, and assessed at 15%.

C) The effect of combining a 100 mill cap and a 10% assessment rate on residential property would be an effective tax rate cap of 1% on residential property. For commercial property, by combining the 100 mill cap and a 15% assessment rate, the effective tax rate cap would be 1.5%.

I have requested that the Department of Revenue prepare a county-by-county breakdown of what this constitutional amendment does. That information is not yet available, and this committee obviously cannot take action on SCR 1632 until it is available.

Although the county-by-county impact of this constitutional amendment is not yet available, it appears that this amendment would reduce property taxes in Kansas by 33%. That is not to say, however, that total funding of local government would be reduced by 33%. If the property tax constitutes half the funding for local government, then a 33% reduction in the property tax itself would result in only a 17% cut in local revenues. That figure will obviously fluctuate county-by-county.

page 3
Yost Testimony
January 23, 1990

Tomorrow, this committee will hear from the opponents of a constitutional cap on property taxes. For an hour, you will be regaled with horror stories about what will happen to local government if this amendment passes. First, local officials will stand here and tell you that this amendment will cause them to make cuts in spending, and of course, those cuts will intentionally be the most obnoxious cuts they can conjure up. Then, they'll tell you that in order to avoid making those cuts, they'll have to raise other taxes through the roof, and of course, those taxes will intentionally be the most unpopular taxes they can conjure up.

Mr. Chairman, unreasonable people can always find an unreasonable way to implement a major change in policy that they didn't support in the first place. Reasonable and dedicated public servants will implement the same policy in a constructive and progressive manner. The deficit created by the passage of this amendment could be erased in the following way: 1) a modest and reasonable reduction in local spending, and 2) a shifting away from the property tax to other revenue sources that are fairer and more efficient.

To alleviate the concerns of those who have suggested that in some communities, the property tax has not been abused, and remains the most dependable source of revenue, I have included in this constitutional amendment a provision which would allow local officials to increase the property tax to any level they want, including back up to where it is today--if the people approve such an increase.

The mere introduction of this constitutional amendment will not reduce property taxes. Only the people of this state can reduce property taxes, first by adopting this amendment, and then by refusing to exercise the local option property tax which is included in this amendment. In effect, this constitutional amendment provides Kansas taxpayers with a much greater role in local government than they now enjoy.

page 4
Yost Testimony
January 23, 1990

In conclusion, local officials have become addicts, and their drug of choice is the property tax. They have become addicts because of the ease with which the property tax can be increased year after year. After all, no vote of the people is required to increase property taxes. Like other addicts, they should welcome a cure to their addiction, but instead, they resist. Local officials really don't want greater authority for fairer and more efficient sources of revenue--not if those revenues have to be approved by a vote of the people. That is because down deep, local officials know that they already spend a lot more money than the people want them to. They have forgotten that the government belongs to the people, not the other way around. It's time for local officials to kick their habit, and give control of local government back to the taxpayers, and that's exactly what this constitutional amendment, if approved by the voters, would do.

2-A
-23-90

TO: SENATE COMMITTEE ON ASSESSMENT AND TAXATION
FROM: EDWARD F. REILLY, JR., SENATOR, THIRD DISTRICT
DATE: JANUARY 23, 1990

Thank you, Mr. Chairman and Members of the Committee, for this opportunity.

Before the conclusion of this 1990 Legislative Session, just about everything that can be said will have been said about the issue of property taxation in Kansas.

Back on November 28, 1989, when the Joint Committees on Assessment and Taxation of the House and Senate were meeting, I quoted then from William Allen White who in 1922 wrote an editorial commenting on the fact that Kansans live longer than Americans in other states. The reason he said plainly was, "We are never bored, there is always something going on, and Kansans like a show." That show continues to be played as we recognize the impact reappraisal and classification coupled with local budgeting practices has had on our state, and the audience--the property taxpayers of Kansas--are still with us and are not giving good reviews.

The audience wants some action, and I strongly support the concept embodied in SCR 1632, which is an acknowledgement we must get a handle on the issue of property taxes so that people may plan their own futures without being devastated by the impact that many have recently experienced.

The movement that we have seen of our Kansas citizens is a

result of fear and anxiety, even hopelessness, as to how they might be able to pay the increased taxes that have been levied on their properties. As a resident of, I believe, the third fastest growing county

in the state, I am well aware now of the fact that many of the new residents of our county, if they were buying a home or business today,

would not qualify as a purchaser in view of the new taxes on their respective properties. More simply they would not have been able to

locate in our county and possibly not even in our state.

I know we are all agonizing over what to do just as many citizens of the state are agonizing over what the Legislature will do and whether this problem can be fairly, effectively and quickly addressed. SCR 1632 is at least a start in that direction.

The impact of reappraisal and classification coupled with tax policies from all units of government has been one of the most devastating. In fact, I believe we were one of the counties with the largest increases percentagewise in new taxes levied. The audit report given

yesterday by the post auditor typically addressed the restructuring of our local budget, utilizing those areas exempt from the lid in order

make shifts that ultimately resulted in additional levies to generate additional revenues. (See attached news articles and memorandum.)

The fact that this restructuring of budgets was legal, as it has

been pointed out by both officials as well as the post auditor,

does not make it moral in the sense that to adopt these new levies has resulted not only in a massive protest but a fear and despair the taxpayers will not be able to retain their property or their businesses.

As one gentlemen so succinctly said to me recently, "It is imperative that government recognize that its tax policies, when they become so oppressive as to confiscate one's property and our ability to conduct business and raise our families, government is no longer the servant of the people, but the master." Government must learn to live as those of us, many in Kansas on social security and limited incomes must live, within our means.

I would submit that that is where we are in this process of governing our fellow Kansans. The state must live within its resources, it must make some difficult decisions as to the course Kansas will follow in this next fiscal year, and local governments have that same obligation. It is a shame that not all of them considered the impact of their actions on those who sustain the system, the citizen of the state.

In the final analysis, it is our credibility that is on the line in view of the fact that in our deliberations and previous campaigns we all emphasized what was the purpose of reappraisal which is embodied in the brochure published by the Revenue Department of Kansas, May of 1988, and I would call your attention to specifically the par-

agraph dealing with reappraisal. If we are to retain that credibility
in
the process which we all deeply respect and enjoy then we must work
together to restore our citizens respect in the workings of their
government. The challenge is great enough to make all of us as
ordinary men and women equal to the task. I trust we are those
men
and women, ready willing and able, compassionate, prepared to face
the challenge and to deal with it, no matter how difficult.

CLYDE D. GRAEBER
REPRESENTATIVE, FORTY FIRST DISTRICT
LEAVENWORTH
1900 KINGMAN
LEAVENWORTH, KANSAS 66048-4230



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER GOVERNMENTAL ORGANIZATION
INSURANCE
LOCAL GOVERNMENT
URBAN COUNCIL

*From Senator Ed Reilly
Dist 3*

August 20, 1987

The Honorable Robert T. Stephen
Attorney General - State of Kansas
Kansas Judicial Center
Topeka, Kansas 66612

Dear General Stephen:

Recent newspaper articles have indicated an attempt by certain Kansas cities and counties to avoid a mandatory tax lid imposed by Senate Bill 164 - statewide reappraisal, which was passed overwhelmingly by the Kansas Legislature.

Senate Bill 164, passed during the 1985 legislative session provided for a new uniform tax lid on all taxing subdivisions (except the state). This was intended to prevent massive increases in taxes or debt limits resulting from statewide reappraisal.

When the Kansas Legislature passed the law mandating statewide property reappraisal by 1989, the legislature realized that shifts in the assessed values of property could be very costly to taxpayers, Legislative intent was to prevent this from happening and Senate Bill 164 placed a lid on these possible increases.

The legislative intent of such a lid was to prevent cities and counties from budgeting huge increases in their general funds as a result of higher property valuations.

To get around this safeguard contained in Senate Bill 164, certain counties and cities are budgeting more monies than actually needed for their next fiscal year in their general fund in anticipation of next year's budgetary restraints imposed by law. These cities and counties openly admit they will create cash carryovers into the next fiscal year.

I, therefore, request an attorney general's opinion as to the legality of these attempts by cities and counties in Kansas to circumvent the intent of the legislature and the tax lid provision mandated by Senate Bill 164.

Sincerely,

Clyde D. Graeber

Clyde D. Graeber
State Representative

Edward F. Reilly

Edward F. Reilly
State Senator

Martha Jenkins

Martha Jenkins
State Representative

CDG:cbd



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

October 27, 1987

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

ATTORNEY GENERAL OPINION NO. 87- 158

The Honorable Clyde D. Graeber
State Representative, Forty-First District
1900 Kingman
Leavenworth, Kansas 66048

The Honorable Martha Jenkins
State Representative, Forty-Second District
Route 1, Box 47
Leavenworth, Kansas 66048

The Honorable Edward F. Reilly
State Senator, Third District
1412 S. Broadway
Leavenworth, Kansas 66048

Re: Taxation--Aggregate Tax Levy Limitations--
Mandatory Tax Lid

Synopsis: Although the intent of 1985 Senate Bill No. 164 is to prevent increases in 1989 property taxes as a result of using higher reappraised values, the bill does not prevent political subdivisions from padding their budgets in anticipation of the impending tax lid. Cited herein: K.S.A. 79-1945 et seq.; 79-2925 et seq.; 79-5001 et seq.; K.S.A. 1986 Supp. 79-5021; 79-5022; 79-5028; 79-5029; 79-5030; 79-5033; 79-5036; 1985 Senate Bill No. 164.

*

*

*

Representative Clyde D. Graeber
Representative Martha Jenkins
Senator Edward F. Reilly
Page 2

Dear Representatives Jenkins and Graeber and Senator Reilly:

You request our opinion concerning tax levy limitations. Specifically, you inquire whether certain counties and cities violate the intent of 1985 Senate Bill No. 164 (K.S.A. 1986 Supp. 79-5021 et seq.) by levying more moneys than actually needed for the next fiscal year in their general fund in anticipation of the budgetary restraints imposed by K.S.A. 1986 Supp. 79-5022.

K.S.A. 1986 Supp. 79-5021 et seq. provides for a uniform tax lid on all taxing subdivisions in anticipation of statewide reappraisal. Pursuant to K.S.A. 1986 Supp. 79-5022, amounts levied in 1989 for expenditure in 1990 are limited. You have indicated that the purpose of this limitation is to prevent increases in taxes as a result of using higher reappraised values. In effect, taxing subdivisions must reduce mill levies by the amount increased valuations generate to prevent a tax windfall to the subdivision; i.e. the dollar amount levied in 1989 may not exceed the dollar amount levied in 1988. Certain levies are exempt from the new lid. K.S.A. 1986 Supp. 79-5028. After the first year, taxing subdivisions may permanently exempt themselves from the lid, subject to a protest petition. K.S.A. 1986 Supp. 79-5029. K.S.A. 1986 Supp. 79-5036 authorizes counties and cities to exempt themselves after the first year from the provisions of K.S.A. 1986 Supp. 79-5021 to 79-5033 by home rule. Additionally, the board of tax appeals may authorize tax levies in excess of the aggregate limitation pursuant to K.S.A. 1986 Supp. 79-5030.

In construing a statute, if the language is clear and the purpose appears with reasonable certainty, there is no need to resort to further rules of construction to ascertain its meaning. Pillsbury Co. v. Atchison, Topeka & Santa Fe Ry. Co., 548 F.Supp. 28 (D.C. Kan. 1982). Additionally, when a statute is plain and unambiguous, courts must give effect to the intention of the legislature as expressed, rather than determine what laws should or should not be. Szoboszlay v. Glessner, 233 Kan. 475 (1983).

Our examination of the bill reveals no language restricting the type of activity described in your inquiry. The new tax lid first applies to 1989 levies for 1990 expenditures. K.S.A. 1986 Supp. 79-5022. Thus, the amounts levied in 1988 will be used to limit the amounts authorized to be levied in

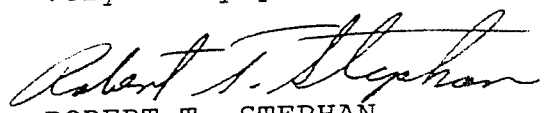
representative Clyde . Graeber
representative Martha Jenkins
Senator Edward F. Reilly
Page 3

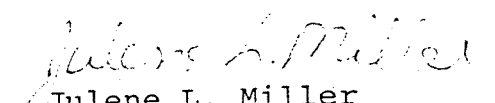
1989. However, no limitations as to the preparation of the 1988 budget appear in the bill; 1988 levies are not limited by 1987 levies except as otherwise provided by law. See, e.g., K.S.A. 79-2925 et seq.; K.S.A. 79-5001 et seq.; K.S.A. 79-1945 et seq. The public will have an opportunity to contest mill increases pursuant to K.S.A. 79-2929, so that the limitation of K.S.A. 1986 Supp. 79-5022 is not as important in 1988 as it will be in 1989 when the property valuations may increase taxes without opportunity for public input. But for the tax lid, the increases would be automatic. In our opinion, reading in limitations on the 1987 and 1988 levies would be adding meaning to the statute which is otherwise not there. Pursuant to the rules of statutory construction quoted above, it is our opinion that these statutes cannot be read to prevent cities and counties from padding their budgets in anticipation of the impending tax lid.

It should be noted that the activity described in your inquiry could give rise to violations of other laws regarding budgetary procedures and expenditures. However, any possible violation would have to be determined on a case-by-case basis. Finally, K.S.A. 1986 Supp. 79-5033 gives the state board of tax appeals jurisdiction to, upon complaint by any taxpayer, "inquire into the levy of taxes by any taxing subdivision for the purpose of determining if such taxing subdivision is operating in compliance with the limitations and provisions of K.S.A. 1985 Supp. [sic] 79-5021 to 79-5035, inclusive."

In conclusion, since the language of 1985 Senate Bill No. 164 does not restrict political subdivisions from budgeting more moneys in 1988 than actually needed for the next fiscal year in their general fund, counties and cities do not violate the act by doing so.

Very truly yours,

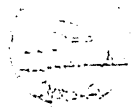

ROBERT T. STEPHAN
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General

RTS:JLM:jm

CYCLE D GRAEBER
REPRESENTATIVE
LEAVENWORTH
1987-1988
LEAVENWORTH - KANSAS GOV. BLDG.

STATE OF KANSAS



HOUSE OF
REPRESENTATIVES

September 23, 1987

Julene Miller, Deputy Attorney General
Kansas Attorney General's Office
Kansas Judicial Center
Topeka, Kansas 66612

Dear Ms. Miller:

Recently, Senator Reilly, Representative Jenkins and myself requested an Attorney General's opinion in connection with certain budget procedures undertaken by cities and counties throughout the state in an attempt to avoid the tax lid imposed by reason of the recent reappraisal law passed by the legislature. As part of my follow-up in this regard, I asked legislative research, more particularly Tom Severn, to give me a summary of how he felt the action by the cities and counties would affect future budgets, procedures and the tax lid as adopted by the legislature. I thought a copy of his memorandum, directed to me, might be of help to you in your research in regard the question raised.

Sincerely,

Clyde D. Graeber
State Representative

CDG:cbd

Editorial/Opinion

LEAVENWORTH TIMES

1987

Nov

2-6-6

Circumventing the law

When the Kansas Legislature passed the law mandating statewide property reappraisal by 1989, the lawmakers realized that shifts in the assessed values of property could be devastating to taxpayers. In order to soften the impact on property owners who will see the assessed valuation of their homes or businesses increase greatly, the Legislature also passed a law which placed a lid on the general fund budget for cities and counties.

What this lid does is prevent the cities and counties from budgeting a huge increase in their general funds in anticipation of higher property valuations. The end result should be, that although property values in a given taxing area will increase greatly because of reappraisal, the dollar amount of taxes collected will not increase by a like amount because the budget cannot go up that much. The intent was to keep homeowners from being hit with huge tax bills created by changes in assessed valuation brought about from reappraisal.

The legislators realized that reappraisal could be devastating for homeowners if no controls were in place to protect them. Cities or counties, which could have had a tax windfall as a result of reappraisal, were supposed to be prevented from becoming fiscally irresponsible at the property owners' expense.

But cities and counties have found a loophole in the budget lid. In order to reap the

benefits of reappraisal and to keep from having budgetary constraints next year, they are budgeting more for their general funds this year than is needed, according to Dean Oroke, chairman of the Board of Leavenworth County commissioners.

The Leavenworth County commissioners not only over budgeted this year for the general fund in anticipation of the next year's budgetary constraints, they also passed a charter resolution last June which would have eliminated the state-mandated tax lid which holds increases to five mills. However, the resolution was rescinded last week because the commissioners were able to over budget for the general fund this year without lifting the mill levy lid.

We can understand that local governments do not want to have their hands tied by state red tape when it comes to budgeting, but the Legislature was right to protect property owners from the possibly devastating effects of reappraisal. Reappraisal is designed to make the assessed value of property equitable. This ensures the fairness of property tax levies. Reappraisal was never intended as a way to provide windfall revenue for cities and counties. Those cities and counties which are trying to over budget this year, so they can reap extra revenue from reappraisal are violating the intent of the state law, if not the letter.

Budgets rise to soften effects of reappraisal

By TONY COX

Times Staff Writer

Taxpayers across the state can expect to pay higher local taxes in 1988 because cities and counties will budget higher mill levies to protect themselves from Kansas reappraisal laws, a top county official said Thursday.

New assessed property values from statewide reappraisal will go into effect on the 1989 tax bills, said Dean Oroke, chairman of the Board of Leavenworth County Commissioners. To keep local governments from receiving a windfall of taxes from the higher assessed values, the state will put a two-year freeze on the amount of taxes those entities can collect, he said.

The budget for 1988 will be the standard from which budgets in 1989 and 1990 will be prepared, Oroke said. Because of that, many counties and cities will be appropriating funds for major projects this year.

"The idea was that we'd better do this year what we wanted to do and lay the groundwork for it because we may not be able to in the future," Oroke said. "That's why several counties and cities will be bumping their mill levies up as high as they possibly can this year."

Oroke said Leavenworth County was able to protect itself from a shortfall of funds from the reappraisal freeze without increasing its

mill levy. The county approved a 1988 budget with a total mill levy of 33.833, a decrease from the 33.834 that was budgeted for this year.

The county board restructured its budget to increase line items that will be frozen by reappraisal law, Oroke said. At the same time, areas of the budget that will not be affected by the freeze were decreased. The end result was a smaller budget overall, he said.

County officials raised the general fund, an area of the budget that will be affected by the freeze, to the maximum of five mills, Oroke said. Many of the department heads whose budgets are included in the general fund received the total amount they requested for 1988.

Oroke said he expected the county to underspend its 1988 budget more than usual because of the new budgeting strategy. The carryover funds should decrease the amount of taxes that will be levied in 1989, he said.

Because of the reappraisal laws, the county board passed a charter resolution in June that would eliminate the five-mill lid on the general fund, Oroke said. But board members were able to accomplish their objectives without going above five mills in the general fund, he said, and the resolution was rescinded Thursday.

LEAVENWORTH 1987
JAMES
NOV

2-6-7



BUDGET TIPS FOR CITIES

1988 for 1989

Published by
THE LEAGUE OF KANSAS MUNICIPALITIES
112 West Seventh Street, Topeka, Kansas 66603



June 13, 1988

INTRODUCTION

This bulletin is prepared each year to assist municipal officials in preparing city operating budgets for the coming year. It is not a manual, but a report on information and ideas which may be helpful, together with statutory citations. Frequent reference is made to the budget forms prepared by the state municipal accounting section. For a general review of city finances, see pages 62 to 107 of the League's "Handbook for the City Governing Body," 1985 edition, or Chapter 12 of the "City Clerks Manual", 1987. For information on capital budgeting, see the League's "Guide for Capital Improvement Programming and Budgeting," November, 1983. Throughout this report, reference is made to Research/Information Bulletins (RIB) published by the League. These are available for a handling and mailing charge of 50¢ each.

CONTENTS

This report is organized in the following parts:

	<u>Page</u>
A. 1988 Calendar for 1989 Budget Preparation	2
B. The Purpose of the Budget	3
C. State Budget Forms	3
D. Estimating State Aids and Shared Taxes	3
(1 State-Local Revenue Sharing Fund. 2 Local Ad Valorem Tax Reduction Fund. 3 State Highway Aid Payments—Direct. 4 State Highway Aid Payments—Through County. 5 Highway Aid—Connecting Links. 6 Bingo Gross Receipts Tax. 7 Liquor Drink Tax. 8 Other Payments.)	
E. Tax Lid Comments	4
(Division I—The Current 1988 Tax Lid Law: 1 General Explanation. 2 Increase by Home Rule Action. 3 Increase From Board of Tax Appeals. 4 Increase by Referendum. 5 Use of Other Levy Authority. 6 Base Year. 7 State Forms. 8 Independent Agencies. 9 Assessed Valuation. 10 Determining Exempt Amounts. 11 Fund or Function Exemption. 12 Employee Benefits Fund. 13 Intangibles Tax Replacement. 14 Delinquent Taxes. Division II—The 1989 tax Lid Law: 1 Background. 2 Summary of New Act. Division III--Planning 1988 Levies Under the 1989 Law: 1 Local Options and Strategies. 2 Tax Lid Analysis Form.)	

Levy Rate Suspensions. In 1989 and thereafter, all existing statutory fund mill levy is suspended. However, no taxing subdivision may levy in 1989 any taxes which in the aggregate produce an amount in excess of that levied in 1988, with certain exceptions as noted below. In 1990, and thereafter, any statutory fund levy limits are to be adjusted. The levy limit amount (not rate) for 1988 levies (either levied or authorized) becomes the base amount for 1990 levies, and then is increased by increases in assessed valuation. For example, if \$10,000 could be levied in 1988 for a fund with a current rate limit of two mills, and the assessed valuation increased 10% in 1990, then up to \$11,000 could be levied for this fund in 1990 for 1991 purposes.

Exceptions to the Tax Lid. The following exceptions to the tax lid apply to all taxing subdivisions in 1989, and to cities and counties in 1989 and thereafter. It is emphasized that these exceptions apply to the base year (1988 levied taxes for 1989) as well as the following year. In other words, in determining the aggregate tax lid amount that may be levied in 1989, the taxes levied for an exempt fund or purpose would be deducted in determining the base amount as well as the new amount authorized. It should also be noted that most of the exceptions relate to purposes, not to a fund.

The tax lid exceptions include: (1) taxes levied by a county or a city for another subdivision; (2) amounts in excess of the lid when approved by the voters; (3) for "emergency need" approved by the state board of tax appeals; (4) principal and interest on bonds and temporary notes; (5) no-fund warrants approved by the board of tax appeals; (6) legal judgments; (7) employee liability expense and premiums; (8) special assessments; (9) social security; (10) worker's compensation; (11) unemployment insurance; (12) health care costs (new); (13) employee retirement and pension programs; (14) district court operations; (15) Geary County-Junction City law enforcement; (16) Riley countywide law enforcement; (17) city industrial levies; (18) county economic development levies; (19) county mental health centers and retardation services; (20) county out-district community college tuition; (21) community college levies under K.S.A. 72-4424; (22) added state or federal mandated expenditures; and (23) other expenses for which a tax lid exception is made by reference to the new law. These include taxes levied for emergency medical services (HB 2639), payments on state infrastructure loans (SB 574), the Johnson-Sedgwick county court act (SB 592), and assessment equalization (SB 592).

In 1990 (levy year) and thereafter, levy authorizations exempted from the existing tax lid law as well as the new law are included as lid exempt levies for cities and counties.

Cities and Counties—Modification. As noted above, the tax lid provisions of the new law will permanently apply only to cities and counties. A provision exists in the present law, K.S.A. Supp. 79-5036, whereby local units, beginning in 1990, may modify the new tax lid law in the same manner as used for the adoption of home rule charter ordinances or charter resolutions.

Debt Limits. The debt limit provisions of K.S.A. Supp. 79-5037 were not changed. In substance, any existing statutory limits on the amount of indebtedness are suspended after property reappraisal. The amount of the future debt limitation is determined by the percentage that the authorized dollar amount before reappraisal relates to the assessed valuation after reappraisal. This adjusted percentage rate of debt limit is then applied to valuations after reappraisal.

DIVISION III—PLANNING 1988 LEVIES UNDER THE 1989 LAW

III-1. Local Options and Strategies. As noted in the discussion of the new tax lid law in Division II, taxes levied in 1988 will largely determine the amount of taxes that may be levied under the lid in 1989, after reappraisal. Charter ordinances that modify the existing tax lid law become invalid on January 1, 1989, under the Kansas Constitution, since the statutes modified by existing charter ordinances are repealed at that time. (Although taxes authorized by such charter ordinances help determine the tax lid base for 1990 levies.) It may be constitutionally permissible to charter the new tax lid law, after January 1, 1989, although there was an

charges, investment earnings, utility compensation, local sales taxes and other revenue so deposited in the general fund, exclusive of property taxes.

III-2. Tax Lid Analysis Form. Presented below is a table which may be used to plan budgets and tax levies in 1988, while planning for 1989 levies under the 1989 law. The objective is to levy taxes in 1988 which are covered by the new tax lid law, thus increasing the base and preserving lid exempt levy authority as may be necessary for use in levying taxes under the reappraisal law in 1989. As a general rule:

--Do use the tax lid-controlled general fund to the maximum extent possible.

--Avoid, if possible, the levying of taxes which are now exempt, but not exempt under the 1989 law, such as for a noxious weed fund or for special law enforcement (K.S.A. 12-110b). Use the general fund, even though such taxes would also increase the lid base for 1989.

--For purposes now exempt and also exempt under the new law, like the employees benefits, also use the general fund. This will increase the base, and also provides the option of reinstating such purposes as a lid exempt purpose in 1989 if needed.

--Don't use a charter ordinance-established lid exempt fund, such as for utility costs, unless necessary. While it may increase your tax base it will not be exempt in making 1989 levies.

As previously stated, these suggestions apply only when a city now has unused tax lid authority. All cities that had not chartered the 1988 tax lid law were sent a model charter ordinance on May 2.

FORM INSTRUCTIONS

This form is for calculations to permit adjustments to 1988 tax levies to secure the maximum tax lid base and discretion for 1989 levies. The general objective is to use lid-exempt taxes in 1989 to the minimum extent possible. The column "1989 Status" relates only to levies made in 1989. The situation changes for levies made in 1990.

For cities that have not chartered the tax lid, the amount in line 2d may not exceed that city's statutory tax lid authority—see State Budget Forms C, C-1 and C-2, and related instructions.

For cities that have by charter ordinance elected not to be governed by the tax lid, use the column 2 spaces (Lid Controlled Levies, Not Exempt by State Law) to the maximum extent possible.

The amount on line 4, 1988 Proposed column, should match the proposed certified taxes for 1988.

CITY PROPERTY TAX LID ANALYSIS FORM

	1987 <u>Actual</u>	1988 <u>Proposed</u>	1989 <u>Status</u>
I. Political Subdivision Taxes, Exempt from City Tax Lid			
a. Recreation commission	\$ _____	\$ _____	Exempt
b. Library board	\$ _____	\$ _____	Exempt
c. Other _____	\$ _____	\$ _____	Exempt
d. Total, Subdivision Taxes	\$ _____	\$ _____	Exempt

2-8
1-23-90

WHAT IS REAPPRAISAL?

Reappraisal is a process for reviewing all real estate in order to update the fair market value of the property for tax purposes.

WHAT IS THE PURPOSE OF REAPPRAISAL?

The purpose is to arrive at the fair market value of all property in a manner that is consistent from one property to another. This ensures that owners of similar property within the same taxing unit will pay the same amount of taxes. Reappraisal is not intended to increase local government revenues by increasing property values.

WHY DO WE NEED REAPPRAISAL NOW?

The last statewide reappraisal in Kansas was completed nearly 15 years ago. Since then, property tax values have not been kept up-to-date. As a result, the property tax system did not meet the requirements of the Kansas Constitution. Different types of property have been assessed at widely differing percentages of fair market value. Identical pieces of property have also been assessed at very different levels. Consequently, taxpayers have no assurance they are being treated the same as their neighbors who have similar kinds of property. The only solution is to reappraise all real estate so that all property records are brought up-to-date and appraised values are brought into line with current market conditions. If the Kansas Legislature had not mandated reappraisal, it is likely the courts would have ordered the state to do so.

WHY WILL REAPPRAISAL BE COMPLETED IN KANSAS?

The 1985 Kansas Legislature enacted K.S.A. 79-1476 et seq., which provides for a statewide reappraisal of all real estate. The reappraisal process has already begun and must be completed by January 1, 1989. To ensure that property values remain up-to-date, the legislature has mandated that county appraisers must update real property values on an annual basis. Commencing in 1990, every parcel of real property will be actually viewed and inspected by the county appraiser once every four years.

WHO IS CONDUCTING THE REAPPRAISAL?

The reappraisal is being carried out through the cooperative and coordinated efforts of the local county appraisers responsible for each of the 105 counties and the Property Valuation Division of the Kansas Department of Revenue. The primary responsibility for the reappraisal rests with county appraisers; the Division of Property Valuation provides assistance to local appraisers to ensure that the reappraisal is completed in a quality and timely fashion.

The cooperation and assistance of Kansas property owners is also crucial to the success of reappraisal. It is hoped that everyone will accept the program as assurance that the State of Kansas is making every effort to treat all citizens fairly and equitably.

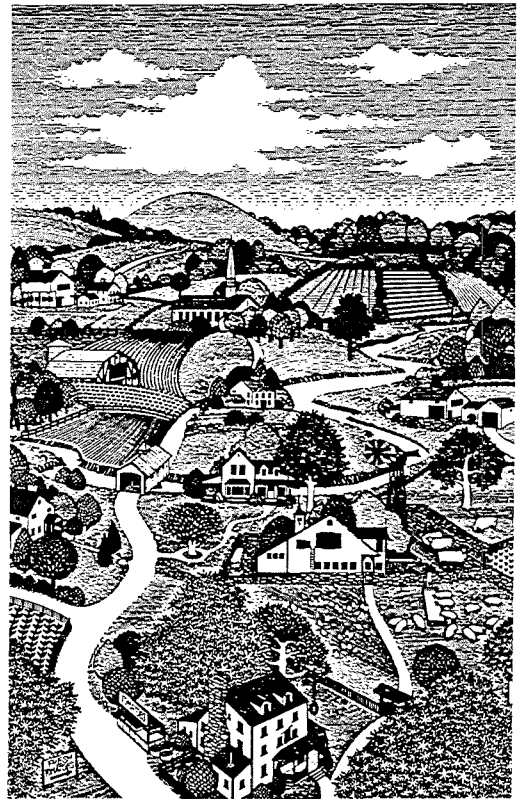
HOW WILL THE VALUE OF RESIDENTIAL REAL ESTATE BE DETERMINED?

The basic standard of value for residential property is fair market value, which is defined by Kansas law as the amount a willing buyer



**Kansas Department of Revenue
Division of Property Valuation
Robert B. Docking State Office Building
Topeka, Kansas 66612-1585**

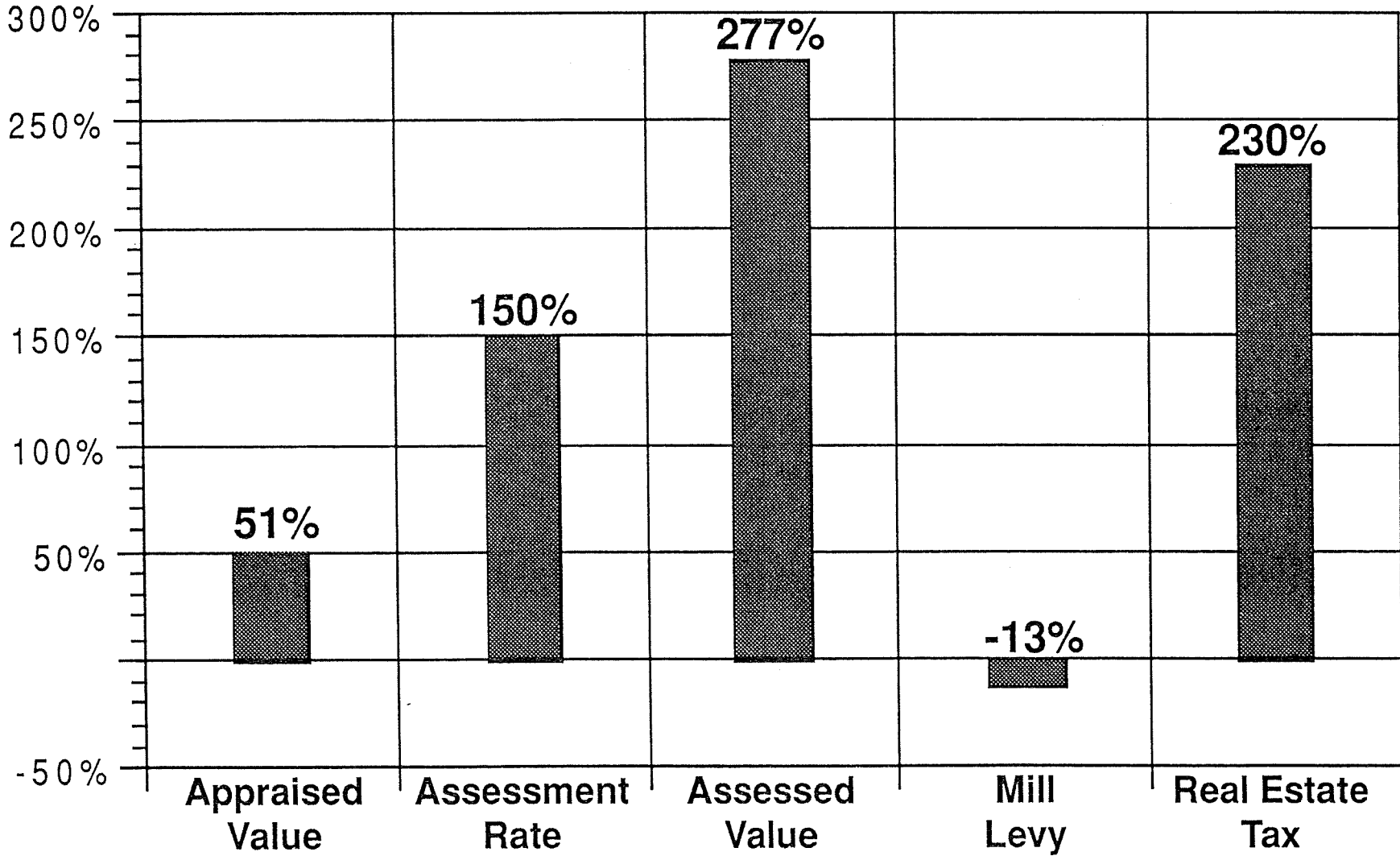
UNDERSTANDING REAPPRAISAL AND CLASSIFICATION



**PV-RA-16
(Rev. 5/88)**

Chart 1

KANSAS REAL ESTATE TAX 1989 COMPARED TO 1988



SENATE ASSESSMENT AND TAXATION COMMITTEE
TUESDAY, JANUARY 23, 1990 ATTACHMENT 3 - a

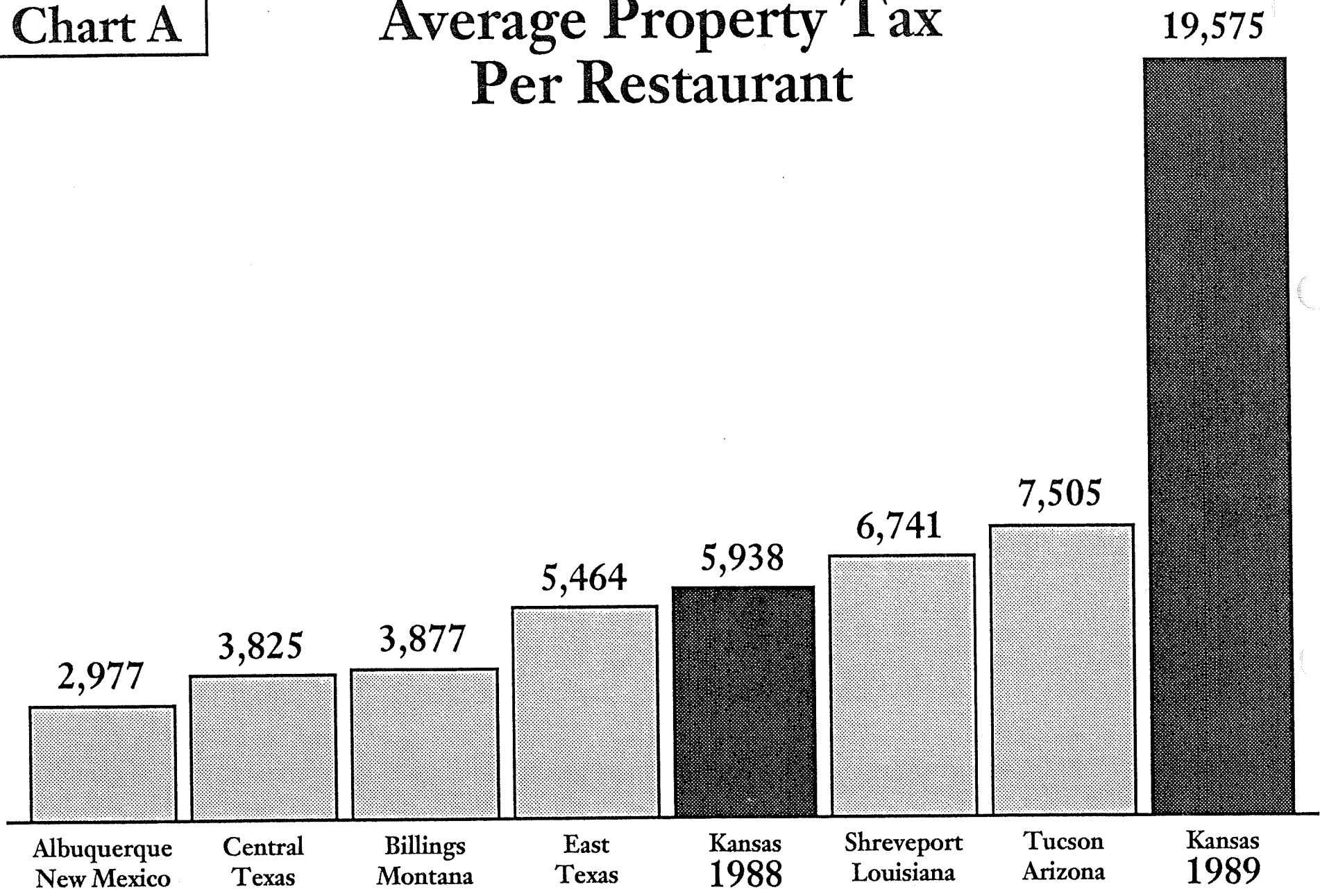
Typical Grandy's Restaurant 4000 Sq. Ft. Building

	<u>1989</u>	<u>1988</u>
Tax Per Square Foot	\$4.89	\$1.48
Percent of Appraised Value	4.0%	1.8%

8-2-2

Chart A

Average Property Tax Per Restaurant



3-2-3

Chart B

Value Of A Small Business

Nine Grandy's Restaurants in Kansas

1989	Projected Cash Flow	\$	690,000
	Multiple		<u> x 6</u>
	Total Value	\$	4,140,000
1989	Projected Cash Flow	\$	690,000
	Less Increased Real Estate Tax	\$	140,000
1989	Actual Cash Flow	\$	550,000
	Multiple		<u> x 6</u>
	Adjusted Value	\$	3,300,000
	Drop in Value	\$	840,000
	% Decrease		20%



Restaurant Management Company

555 N. Woodlawn • Suite 3102 • Wichita, Kansas 67208 • (316) 684-5119

January 24, 1990

Senator Eric R. Yost
Vice President of the Senate
State Capitol Building
Room 128 - South
Topeka, KS 66612

Dear Senator Yost:

In my testimony yesterday before the Senate Assessment and Taxation Committee, I presented a chart that showed the amount of Kansas real estate tax compared to the real estate tax paid by us in the other states where we operate. I also said that, in 1989, we will pay 4% of Kansas property value in real estate taxes each year. A committee member asked me to list the percentage of value paid in real estate taxes for the other states in which we operate. The table below is my calculation of real estate tax as a percent of value.

Real Estate Tax
As A Percent of Value

Albuquerque, New Mexico	.9%
Central Texas	1.2%
Billings, Montana	1.2%
East Texas	1.7%
KANSAS, 1988	1.8%
Shreveport, Louisiana	2.1%
Tucson, Arizona	2.3%
KANSAS, 1989	4.0%

Further, I would like to clarify an answer I gave to a question asked during my presentation. I showed a chart which illustrated the fact that the value of our Grandy's business will drop by 20% because of increased real estate taxes. One committee member asked me if we had protested our property values using the income approach to valuation. I responded that we have protested some values. However, I need to clarify my response to state that, when an appraiser values a piece

SENATE ASSESSMENT AND TAXATION COMMITTEE
TUESDAY, JANUARY 23, 1990 ATTACHMENT 3-b



Senator Eric R. Yost
January 24, 1990
Page 2

of real estate, the actual operating business profit has no bearing on the valuation of the real estate. When an appraiser uses the income approach, the income he considers is the market rent income that property would generate if leased to a third party. The business itself could be making or losing large amounts of money, and that fact would be ignored in determining real estate value. This is part of the problem with real estate tax; it is based on a value - not the user's ability to pay. Let me say that I think the appraiser is right in not considering the profit of an operating business in determining value. If we make no money in one of our Grandy's, the real estate value should not be set at zero. On the other hand, if we made a million dollars in one Grandy's, the 4,000 square foot building it occupies should not be worth as much as the Fourth Financial Center in Wichita. The income method is a valid approach for a hotel or office building where the income from the property is rent. Where an operating business uses the property, the profit of the operating business has no applicability to the real estate value. This is why small business has been hurt so badly by this real estate tax increase. The real estate tax just adds another fixed cost to the business that reduces the ability of that business to generate cash flow, profits and value.

Senator Yost, if any other of your colleagues believe that a business can get a lower real estate value because they are making less money in their business - please get the word out that the profits of an operating business do not affect real estate values.

Please circulate this letter to members of the Senate Assessment and Taxation Committee on my behalf, as you have better access to proper names and addresses.

Yours very truly,



Gene R. Baldwin
Senior Vice President
and Chief Financial Officer

GRB/lmb

January 23, 1990

ATT 4
1.23.90

Members of the Senate Taxation Committee
State Capitol Building
Topeka, Kansas

RE: Support for Senate Concurrent Resolution No. 1632

Ladies and Gentlemen:

My name is Gary Keller. I am President of Landmark Hotel Corporation, a company headquartered in Topeka which has ownership interests and operates 24 hotels and several restaurants across the country. Seven of our hotel properties and two of our restaurants are Kansas properties.

I am present today to testify on behalf of Senate Resolution No. 1632 because I believe that it will be necessary to amend the Constitution to avoid prolonging indefinitely the unintended results of concurrent reappraisal and reclassification of Kansas real and personal property. I say unintended because it is hard to believe that the former Administration and the Legislature intended the type of impact which resulted to our business and which I am certain resulted in severe impact to many other Kansas commercial businesses as well as homeowners. I am told that Kansas is the only state in the U.S. that chose to reappraise and reclassify at the same time.

In essence, noteworthy impacts on our businesses are as follows:

- (1) Appraised values, after adjustment by the appraisers, increased an average of 84%, with the greatest increase being 479%.
- (2) In terms of property taxes per room, six of our seven Kansas hotels are among the eight throughout the company in highest taxes per room. The only exception is a California Holiday Inn in which the capital investment was roughly twice our average investment in a Kansas Holiday Inn. It's taxes are approximately 10% higher than our Kansas average.

(3) Our total property taxes, after adjustment by the reappraisal appraisers, nonetheless increased approximately 72%, with the extreme being a 365% at one hotel. It's impossible for anyone to accurately determine what "fair" property taxes should be, but our opinion is that, on balance, ours were on average fair prior to reappraisal and reclassification.

(4) The most accurate means of gauging property taxes relative to property performance is the measurement of the ratio of property taxes to net operating income before taxes and debt service (NOI). Our Kansas properties, as assessed, encounter property taxes 76% higher compared to their NOI than our other hotels. One of our Holiday Inns in Peoria, Illinois produces twice the NOI as compared to one of our Kansas properties and pays 50% less in property taxes.

Those who have or would indicate that we simply pass along increased taxes as the additional cost of doing business, should be reminded that we live in a competitive world, whether it's in the selection of hotel accommodations, the selection of office rental space or the selection of a dining establishment. We can't simply raise our rates to pass these increases along, because occupancies aren't high enough to justify rate increases. That reflects the simple economics of supply and demand. Because of the Kansas economy, the overbuilding of real estate, and the 1986 Tax Reform Act, all forms of real estate have had difficulty in degree of obtaining or maintaining profitability. Since 1984, our revenues have remained roughly the same, while virtually all costs have increased -- including government increased costs in the form of higher FICA, SUTA and FUTA taxes, sales taxes, workman's compensation payments and,

beginning this summer, the increase in the minimum wage. Because of the Federal Government's inability to deal with its budget deficits and its trade relationships, interest rates are far too high.

Several so called "circuit breaker" initiatives have been proposed, none of which would reduce the pressure we feel as a result of reappraisal and reclassification, because we don't qualify as a "small business". Even if we did qualify, the return of \$5,000 per property would be inconsequential relative to the approximate \$450,000 overall increase in our property taxes.

It appears to us that commercial businesses, large or small, without substantial inventories and, to a lesser extent, homeowners, are being asked to bear the burden of a property tax shift primarily away from large Fortune 500 type businesses with substantial inventories, such as Boeing, Beech, Goodyear and Hallmark Cards.

We would hope that some consideration can be given to commercial businesses both small and large which face similar problems as a result of this tax situation. It appears to us that the various circuit breaker proposals are inadequate and don't address the real reasons why we face this problem. Only by permitting the voters of Kansas to readdress the reclassification issue in the harsh light of historical perspective will the inequities which have been created have the opportunity to be readdressed. Resolution No. 1632 should be seriously reviewed and considered and alternative forms of taxation developed to accommodate revenue shortfall which it will create.

The consequences of a failure to comprehensively review reclassification as it is proposed in this resolution may well be the death knell to many commercial businesses in Kansas and economic disincentives for future commercial investments. It's up to you, the Legislature, to give some hope to those of us in the trenches and to evaluate the overall Kansas tax structure in comparison to our neighboring states. Let's level the playing field.

ATT 5
1-3-90

Presented to
Chairman of the Tax Committee
Considering Senate Bill 1632

January 23, 1990

Mr. Chairman, my name is David Aull. My company is ClubHouse Inns of Overland Park, Kansas.

Today I would like to discuss with you the effect of the reappraisal and tax situation as it relates to not only my business but to my personal affairs. I have somewhat of a unique situation in that I've been in the real estate business in Kansas for over thirty years and hold property in Sedgwick County, Shawnee County and Johnson County, as well as a farm in Chase County.

Today I'm going to give you actual examples of the effect that the tax increases have had on both my business and personal properties.

On the farm land in Chase County my taxes in 1988 were \$5,628.24. In 1989 they went down to \$4,741.16. If you applied a 1% value to farm land my taxes would be about \$4,500 on the farm, and I think that would be fair.

In Wichita I own a building which houses Xerox. In 1988 the taxes were \$20,988; in 1989 they increased to \$38,446. The building is valued at \$950,000; and applying a 1.5% value to that, the taxes on that building would be \$14,250, or 80 cents per square foot of leasable area. It is interesting to note in this case that the economic pressures on this building have been so great that I am in conversations with my lender to determine if the building should be given back. The loan on this building is \$600,000. If I'm considering giving it back, the question is, is the building really worth only the mortgage? If that is true, then the taxes on the building would be \$9,000. If that were true, maybe there would be a way I could hold on to the building.

My company, ClubHouse Inns, owns three ClubHouse Inns in the state of Kansas. On the Overland Park property the taxes in 1988 were only partially assessed, but would amount to around \$52,000 for the full year. In 1989 our tax bill was \$107,913.

In Wichita the building is fully assessed and was taxed \$46,407 in 1988 and \$104,187 in 1989.

In Topeka taxes in 1988 were \$57,711; in 1989 they were \$133,159. I would like to cite you an example in Topeka of what this kind of increase means to us as far as our business. The \$133,000 represents a \$75,448 increase in taxes on this hotel. Assuming a 50% expense factor on the business, I would have to generate \$113,172 more in revenue each year times two because I have to make up for 1989 and 1990. I would have to generate within this year \$226,344 to make up for this increase in taxes! Assuming that I rented 28,000 room nights a year, which would be 65% occupancy on this hotel, the 28,000 divided into \$226,344 represents an \$8 increase in room rate for me to break even on the tax increase, not counting other business expense increases. Is there anyone here who really believes that I can raise the room rate on this hotel \$8?

There are a couple of other things I'd like to bring to your attention. When I moved my business from Wichita to Overland Park, we rented office space. We had the opportunity at that time--the summer of '88--to lease space on either the Missouri side or on the Kansas side. Rents were the same. Now we have been hit with a \$20,000 increase on just 10,000 square feet of office space because of the tax increase. Had I known in the summer of '88 that this would occur, we would have seriously considered renting space in Missouri. Furthermore, knowing that the tax situation was coming and knowing that Kansas taxes were already high for housing, I bought my personal residence on the Missouri side. This proved to be the right thing to do. My Missouri taxes are at least 2/3 less than what they would have been in Kansas.

I'm suggesting to you some things to think about on how to right this wrong.

First of all, I am fully supportive of Senate Concurrent Resolution No. 1632. I believe that this thinking, however, should be extended. I think that farm land should not exceed 1% of the market value. Houses should be 1% of market value and commercial should be 1.5% of market value. By market value I actually mean that you should do away with the county assessment procedure altogether and go to a pure market situation where the owner signs a certified contract subject to perjury and penalties for the actual cost of the real estate. This could be applied not only to farms and houses, but to all commercial property. It is obvious that we cannot leave this kind of taxing authority in the counties' hands any longer because the mill levy is not controlled by the people.

And frankly I'm not sure that the appraisal process is even fair. There is only one true test and that is what something sells for - what the willing buyer and willing seller are willing to pay. This means that costs of real estate can fluctuate, which, based on the formula, means a changing tax structure on the houses, but they should go up and down. In the case of commercial property, it's worth only what its economic benefit at the time can produce. So why shouldn't a property that is being reduced in price also have the taxes reduced accordingly?

We no longer live in an age of increasing real estate values. If any thing, they are static, and in some cases decreasing. The tax base that has been enjoyed for years and years because of increasing inflationary real estate values can no longer be counted on.

Thank you for letting me speak today, and I can only hope that something positive will come from all of this.



ATT6
1. 1990

Date: January 23, 1990
To: Senate Committee on Assessment & Taxation
From: Kevin Robertson
Director of Governmental Affairs
Re: SCR-1632

Mr. Chairman and members of the Committee, my name is Kevin Robertson. I am Director of Governmental Affairs for Barbee and Associates and I am appearing before you today on behalf of the 160 hotel and motel properties which comprise the Kansas Lodging Association.

The Kansas Lodging Association supports SCR-1632.

Over the past year, lodging property owners have shared with us the many horror stories of their 1989 property tax increases. At the KLA Annual Meeting last October, our members most often cited 1989 property tax figures two or three times higher than those of 1988. This is **after** a majority of property owners had battled reappraisal, many by hiring outside experts, through the appeals process and had their property values reduced.

The Kansas Lodging Association believes the current 30-12 classification, with its several tax exemptions, passed in 1986 is unfair to service related businesses such as hotels and motels. The combination of hotels and motels having virtually no inventory and remaining classified at 30 percent has resulted in a tremendous shift of taxes onto the lodging industry.

Let me give you a specific case study of a typical medium-sized hotel. This particular hotel is located on Interstate 135 between Wichita and Salina and has 82 economy rooms. In 1988 this hotel paid \$27,878.00 in property taxes. Its 1989 property tax bill is \$54,439.00. The hotel's 1989 property tax increase was a whopping \$26,564.00, but at **only** a 95 percent tax increase, would not qualify for any of the "circuit breaker" type relief bills which have been introduced this session.

Under the 15 percent classification and 100 mill cap offered by SCR-1632, the property tax on this \$1,166,500 appraised value hotel would be \$17,497.50.

SENATE ASSESSMENT AND TAXATION COMMITTEE
TUESDAY, JANUARY 23, 1990 ATTACHMENT 6

The Kansas Lodging Association is aware that the passage of this legislation would require the addition of an alternate funding source for Kansas education. The Kansas Lodging Association most strongly favors an increase in the sales tax devoted to education, however, KLA also supports both the earnings tax (HB-2636) and the income tax (SB-469) proposals which have been introduced by the legislature.

Thank you for allowing me to testify on SCR-1632, I urge your **favorable recommendation** of this proposal.

I will attempt to answer any questions you may have.



ATTN
23-90

TO: THE SENATE TAXATION COMMITTEE
FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS
DATE: JANUARY 23, 1990
SUBJECT: SCR 1632

Thank you for this opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear today to support the concepts which SCR 1632 puts forward.

Of the hundreds of people we have talked to across the state, one common theme which we heard was, that property taxes are too high because they are used to pay for too many things.

The Kansas Association of REALTORS® recommends that the answer to the property tax crisis which we face is not just a mere reworking of the classifications or the assessment rates. The answer lies in putting caps on the amount of property taxes which can be assessed against real estate and looking for alternative means for funding local government budgets.

Since 95% of all property tax dollars are spent at the local level, we feel the property tax burden should be reduced from 1989 levels and the local units of government should be given all avenues to finance their budgets to replace the property tax revenue. The local units should have more options for funding their budgets than they are now given by the state--this means sales tax, income tax, earnings tax, or whatever form of taxation the local units deem is appropriate and which is approved by a vote of the people.

SENATE ASSESSMENT AND TAXATION COMMITTEE
TUESDAY, JANUARY 23, 1990 ATTACHMENT 7

We believe SCR 1632 is a start in the right direction toward giving the people of the state of Kansas a chance to vote for a new property tax system, which is needed in order to stop the crises which we are now faced with.

However, we believe that, if we are in fact advocating a cap on taxes at a rate of 1% for homes and 1½ for commercial and agricultural properties, then it should be stated that simply in the constitution. We believe that the next constitutional amendment which goes on the ballot will need to be as simple and straightforward as possible.

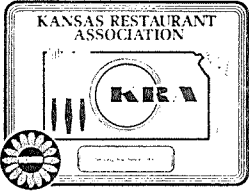
Taxpayers are going to need to look at the amendment, understand it and reasonably know how much their property tax will be or they will not vote for it. Therefore, we should not bog the proposed amendment down in the mention of mill levies and assessment rates when we put the next amendment forward. The people feel like they were misled in 1986 because they could not understand the amendment when they read it and had to rely on other people to explain it to them. They won't let it happen again. If we put another confusing amendment on the ballot and it fails, the state gains nothing.

We also believe an overall cap of a 3% increase per year should be placed in the amendment. This would prevent local units which are not yet at the 1 and 1½% levels, from jumping up their taxes in the first year and it would also prevent an artificial increase in valuations in order to meet budget deficits.

We believe that the issue of exemptions should be addressed by the local units, when they are discussing the alternative means for funding their budgets. Let the local units decide their funding with the approval of the people, instead of the state telling them what they can or cannot do.

While SCR 1632 may not be the perfect proposal, we recommend it and our comments to you as starting points in this discussion of a new amendment. We stand ready to assist you in developing the appropriate amendment.

P 11 8
3-90



KANSAS RESTAURANT ASSOCIATION

359 SOUTH HYDRAULIC • P.O. BOX 235 • WICHITA, KANSAS 67201 • (316) 267-8383

MY NAME IS GEORGE PUCKETT, AND I REPRESENT THE KANSAS RESTAURANT ASSOCIATION, A STATEWIDE GROUP OF APPROXIMATELY 950 FOODSERVICE AND HOSPITALITY INDUSTRY BUSINESSES. THE KANSAS RESTAURANT ASSOCIATION SUPPORTS SCR 1632 WHICH WOULD AMEND THE KANSAS CONSTITUTION TO CHANGE CURRENT REAL ESTATE ASSESSMENT RATES THEREBY CREATING A MORE FAIR AND EQUITABLE SYSTEM OF COMMERCIAL REAL ESTATE TAXATION. SMALL BUSINESS HAS ALWAYS BEEN WILLING TO PAY ITS FAIR SHARE OF TAXES. THE FACT CANNOT BE DENIED, HOWEVER, THAT THE CURRENT SYSTEM OF TAXATION IS NOT FAIR AND IT IS NOT EQUITABLE. IF RESTAURANTS AND OTHER SERVICE ORIENTED SMALL BUSINESSES ARE TO SURVIVE OR CONSIDER LOCATING IN THIS STATE, A PERMANENT SOLUTION TO THE COMMERCIAL REAL ESTATE TAX CRISIS MUST BE FOUND IMMEDIATELY. THE KRA CONTENDS THAT SCR1632 WOULD PROVIDE NECESSARY TAX RELIEF TO KEEP SMALL BUSINESS ALIVE AND FLOURISHING. DURING THE 1989 SESSION, THE KRA SUPPORTED A ONE YEAR MORATORIUM ON THE CLASSIFICATION AMENDMENT. WE WERE TOLD THAT REQUEST WAS IMPRACTICAL AND WOULD BE TOO DIFFICULT TO IMPLEMENT. WE WERE FURTHER ASSURED THAT, IF THERE WERE PROBLEMS, NOT TO REACT AS ALARMISTS BECAUSE THEY COULD BE QUICKLY TAKEN CARE OF AT THE OFFSET OF THE 1990 SESSION TO MAINTAIN FAIR AND EQUAL TAXATION. WE ARE ALSO CONCERNED WITH RECENT MEDIA STATEMENTS THAT SOLUTIONS TO OUR TAX DILEMMA MAY BE DIFFICULT BECAUSE BOTH HOUSES WON'T AGREE ON A SOLUTION, OR THAT THE MATTER WILL BECOME A PARTISAN ISSUE AND DEMOCRATS AND REPUBLICANS WILL NOT AGREE ON HOW THE MATTER SHOULD BE HANDLED,... ONCE AGAIN, SMALL BUSINESS IS STRUGGLING FOR ITS VERY EXISTENCE, EVEN AFTER THE ASSURANCE THAT IF THERE WERE ANY UNEXPECTED SURPRISES WHEN TAX STATEMENTS WERE MAILED OUT IN NOVEMBER, THEY WOULD BE QUICKLY CORRECTED IN THE 1990 SESSION. SMALL BUSINESS IS DESPERATELY AWAITING THAT RELIEF, BOTH ON AN IMMEDIATE AND A LONG TERM BASIS. YOUR HELP IS URGENTLY NEEDED. THANK YOU.

SENATE ASSESSMENT AND TAXATION COMMITTEE
TUESDAY, JANUARY 23, 1990 ATTACHMENT 8

ATT 9
-23-90

CONCERNED TAX PAYERS FOR RESPONSIBLE GOVT.

Kent Roenbaugh Topeka, Kansas

Betty Dürmeier Topeka, Kansas

We Concerned Tax Payers for responsible Govt. are in favor and support Senator Yosts bill for a Constitutional Amendment that would place a cap on property taxes. We feel that there is to much of a burden on property tax payers to support city, county, and state government. In effect, high property taxes will force people not to purchase homes as it is already putting small business owners out of business.

In regard to the proposed Circuit Breaker. This will only help in the short run. We need long term relief and long term results. The only thing that high property taxes will do is put small business out of business and stunt any growth that the state might have had. The State of Kansas needs to shed its bad image of high taxes and concentrate on the growth of business in the state. High property taxes will not generate excess money for the state. High property taxes will however cause a business owner in Kansas City, Kansas to relocate his business on the Missouri side to pay lower property taxes. This type of move by the small business owner is already being done and will only cause the State of Kansas to lose more revenue.

In closing, We urge each one of you to support Senator Yost and the property tax payers of Kansas. We feel this bill is fair and will carry long term, positive results. Thank you.