

Approved January 22, 1990  
Date

MINUTES OF THE ~~SENATE~~ COMMITTEE ON ~~WAYS AND MEANS~~

The meeting was called to order by ~~SENATOR AUGUST "GUS" BOGINA~~ at  
Chairperson

~~10:05~~ a.m. on ~~JANUARY 8~~, 1990 in room ~~123-S~~ of the Capitol.

All members were present except:

Committee staff present:

Research Department: Diane Duffy, Leah Robinson, Ed Ahrens

Revisor: Norm Furse, Gordon Self

Committee Staff: Judy Bromich, Administrative Assistant

Conferees appearing before the committee: Ronda Miller, Committee Secretary

Ed Rolfs, Secretary of Revenue

Senator Bogina noted that the circuit breaker is an entitlement and because of that, Senate Ways and Means Committee will examine the funding proposals for it.

A motion was offered by Senator Johnston and seconded by Senator Allen to introduce the emergency supplemental bill and all appropriations bills as they are prepared by the Revisor during the 1990 session. The motion carried favorably.

Senator Bogina announced that subcommittee assignments would be reviewed in the near future to determine if any changes are necessary to accommodate schedules of the Research staff.

Tom Severn, Kansas Legislative Research Department, distributed and reviewed copies of Attachment 1, an overview of state property taxes. Total state property taxes are approximately \$35 million with \$10.1 million of that amount transferred to the Special City and County Highway Fund, and the amount used by the state is state building fund levies. In answer to a question, Mr. Severn stated that a statewide average of approximately 1.2% of total taxes collected go to the Educational Building Fund (EBF) and the Institution Building Fund (IBF).

Mr. Severn distributed and reviewed copies of Attachment 2, Preliminary 1989 Property Tax Data. He cautioned that there may not be anyone who has the average mill levy and there may not be anyone in any county who has exactly the percentage increase or decrease in his/her mill levy. In answering a question, Mr. Severn noted that the tax data provided includes the any general property tax levied for bonds, but does not include special assessments.

Mr. Severn pointed out a decrease in assessed value in six Kansas counties could be attributed to several factors, including inventory reduction, use value, and the statewide averages that were used as a basis for the classification resolution.

Chris Courtwright, Kansas Legislative Research Department, distributed and reviewed copies of Attachment 3, Residential Reappraisal Circuit Breaker Fiscal Notes. Mr. Courtwright explained that the Legislature has appropriated \$10 million for the residential circuit breaker which is \$17.4 million short of the fiscal note estimates for FY 1990, 1991, and 1992.

In answer to a question, Mr. Courtwright explained that household income is the net income earned by everyone in the household. He noted that paragraph 2 of Attachment 3 should read " . . . if they have total household income of less

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,  
 123-S 10:05 XX JANUARY 8 90  
 room \_\_\_\_\_, Statehouse, at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, 19\_\_.

than \$35,000 or there is someone in the household who is disabled, over 55, or under 18."

Mr. Courtwright stated that the test for entitlement is initially based on a 50% increase of 1989 taxes over 1988 taxes. However, entitlement could be attained or denied in the second year based on changes in household income, family births or deaths.

Mr. Ed Rolfs, Secretary of Revenue, distributed and reviewed copies of Attachment 4. Upon request, Secretary Rolfs noted that he would provide a memorandum regarding the percentage of eligible persons who apply for the Homestead circuit breaker.

Senator Rock noted that he felt the property tax relief should be made to the extent that it exceeds the 50% increase to provide equity.

Secretary Rolfs noted that the data model currently being developed by the staff of the Property Valuation Division should provide more reliable estimates by January 23, 1990. He explained that the state does not have access to the county computer systems and has, therefore, had to compile the data via phone.

In answer to a question, Sec. Rolfs noted that the Department of Revenue is using the effective tax rate test to evaluate the sales assessment ratio that existed prior to the determination of new values. He stated that the average effective tax rate is approximately 3%. Concern was expressed for what happens after the second year of the circuit breaker. Secretary Rolfs noted that the circuit breaker has to be viewed as a bridge to help people plan, and that making any permanent change will take more than a year.

Concern was expressed that use of the taxpayers method would not help lessees, and that one taxpayer who owns several businesses could go broke because of averaging. Sec. Rolfs noted that the major stumbling block in trying to address the leasing question is specifically defining the property tax component.

Secretary Rolfs told the Committee that administrative costs of the circuit breaker would be made available. Senator Bogina noted that the initial goal of Senate Ways and Means is to define the problem and then determine what it costs to solve it.

In answer to a question, Sec. Rolfs noted that the \$10 million shortfall in state general fund receipts was due mostly to corporate refunds of \$9.1 million. He noted that there was an increase in sales tax revenues.

The meeting was adjourned at 11:17 A.M.



# MEMORANDUM

## Kansas Legislative Research Department

Room 545-N -- Statehouse  
Topeka, Kansas 66612-1586  
(913) 296-3181

Revised January 8, 1990

### STATE PROPERTY TAXES

#### Statewide Levies Other Than for Building Funds

**General Purpose Levies.** From 1861 through 1942 a state property tax levy was made for operating purposes. No such levy was made from 1943 through 1946. A general levy was made again from 1947 through 1952, but no such levy was made in 1953 and 1954. The last state general purpose levy of 1.99 mills was made in 1955. The 1921 levy of 2.23 mills is the highest general purpose levy made after 1907, when the state assessed value increased from \$425 million to nearly \$2.5 billion.

**WWI Soldier's Bonus.** From 1923 through 1954, a property tax was levied to retire bonds issued to pay the World War I soldier's bonus.

#### State Building Fund Levies

**Authority.** Article 11, Section 4 of the Kansas Constitution generally is interpreted as prohibiting the Legislature from making a permanent mill levy. However, Article 6, Section 10, approved in 1918 (since reorganized as Article 6, Section 6 by an amendment approved in 1966) authorized a permanent levy for the Educational Building Fund (EBF). The permanent levy for the State Institutions Building Fund (SIBF) (formerly the Charitable-Hospital Building Fund) was authorized by Article 7, Section 6, approved in 1952.

**First Levies.** The first levy for the EBF of 0.25 mill was made in 1942. The first levy for the SIBF was 0.50 mill, in 1953.

**Permanent Levies.** The permanent levies are contained in K.S.A. Chapter 76, Article 6b. Currently, those permanent levies are 1.00 mill for the EBF and 0.50 mill for the SIBF. A history of these permanent levies is shown below:

<u>Year</u>	<u>Educational Building Fund</u>	<u>State Institutions Building Fund</u>
1942	0.25 mill	
1949	0.50 mill	
1953		0.50 mill
1955	1.00 mill	0.75 mill
1965	1.00 mill	0.50 mill*

\* Companion bills enacted in 1965 lowered the SIBF levy by one-fourth mill and authorized counties with approved community mental health centers to levy a like amount for construction of such centers.

SWAM  
Jan. 8, 1990  
Attachment 1

**Temporary Rates.** From time to time the Legislature has modified the state's building fund levies for one year to provide funds for the Correctional Institutions Building Fund (CIBF) or to provide additional funds for the EBF. A history of these temporary rates is shown below.

<u>Year</u>	<u>EBF</u>	<u>SIBF</u>	<u>CIBF</u>
1976	1.00 mill	0.25 mill	0.25 mill
1977	1.00 mill	0.40 mill	0.10 mill
1983	1.10 mill	0.40 mill	--
1986	1.00 mill	0.25 mill	0.25 mill
1987	1.00 mill	0.25 mill	0.25 mill

**Disposition of Funds.** All of the EBF levy currently is earmarked for the erection, equipment, and repair of buildings at the educational institutions under the State Board of Regents. From 1955 through 1968, one-fourth of the EBF was earmarked for the State Dormitory Fund.

All of the SIBF levy is earmarked for the erection, equipment, and repair of buildings at the various state institutions for the mentally ill and retarded and for the rehabilitation of youth and physically handicapped.

All of the CIBF was earmarked for the use and benefit of state correctional institutions.

**Taxes Levied Upon Tangible Property for Collection.** Taxes levied for the state building funds for collection in selected state fiscal years are as follows:

<u>Fiscal Year</u>	<u>EBF<sup>(1)</sup></u>	<u>SIBF<sup>(1)</sup></u>	<u>CIBF<sup>(1)</sup></u>	<u>Total<sup>(1,2)</sup></u>
1990 (estimated) <sup>(3)</sup>	\$ 14,105,000	\$ 7,053,000	\$ --	\$ 21,158,000
1989	11,352,000	5,676,000		17,029,000
1988	11,260,000	2,815,000	2,815,000	16,890,000
1987	11,202,000	2,800,000	2,800,000	16,803,000
1986	11,438,000	5,719,000	--	17,158,000
1985	11,208,000	5,604,000	--	16,811,000
1978	9,082,000	3,633,000	908,000	13,624,000
1977	8,330,000	2,083,000	2,083,000	12,495,000

- 1) Beginning in FY 1985, these data exclude minor amounts from certain in-lieu tax levies.
- 2) Detail may not add to total due to rounding.
- 3) Current estimate of Kansas Legislative Research Department.

**Motor Vehicle Taxes Collected.** The motor vehicle tax took effect on January 1, 1981. Amounts collected under this "tax and tag" law, imposed in lieu of the general property tax, are in addition to the amounts shown above. Total state collections from this source in selected years have been as follows:

<u>Fiscal Year</u>	<u>Collections</u>
1990 (estimated) <sup>(1)</sup>	\$ 2,900,000
1989	2,769,000
1988	2,527,000
1987	2,410,000
1986	2,251,000

1) Current estimate of Kansas Legislative Research Department.

### Motor Carrier Property Tax

The Motor Carrier Property Tax, enacted in 1929, applies to over-the-road motor vehicles and rolling equipment owned, used, or operated by motor carriers in nonlocal intrastate or interstate business who haul for hire and are subject to the authority of the State Corporation Commission. The property is assessed by the Division of Property Valuation, Motor Carrier Bureau, based on reports filed by the motor carriers. Taxes are computed on the basis of the statewide average mill levy for the previous year. Taxes are due on December 20 and June 20 and are deposited in the State General Fund. An amount equal to the tax is transferred to the Special City and County Highway Fund.

Collections from the tax in recent years have been as follows:

<u>Fiscal Year</u>	<u>Collections</u>
1990	\$ 10,100,000 <sup>(1)</sup>
1989	10,726,000
1988	9,897,000
1987	10,946,000 <sup>(2)</sup>
1986	8,060,000
1985	6,643,000

1) Consensus Estimate as of November 15, 1989.

2) About \$1.3 million, collected in previous fiscal years, was released from a tax protest account to the State General Fund.

**KANSAS LEGISLATIVE RESEARCH DEPARTMENT**

**ROOM 545-N - Statehouse**

**Phone 296-4138**

January 8, 1990

TO: Senator Gus Bogina

Office No: 120-S

RE: Preliminary 1989 Property Tax Data

Attached are preliminary 1989 property tax data, by county, obtained January 5, 1990, from the Division of Property Valuation (PVD) of the Department of Revenue. These data were provided to PVD by county clerks. For 63 counties, the data have been reviewed by PVD based on a preliminary version of the November 1 abstract. Changes from earlier compilations of these data are minor.

Data shown for each county are 1988 and 1989 assessed valuations, total property taxes levied, and the countywide average mill levies, along with the percent increases for each. Also shown is the dollar amount of increase in property taxes levied in each county in 1989.

Each table shows the same data sorted in different ways. The first is alphabetical. Subsequent tables are sorted by 1989 assessed value, percent increase in assessed value, 1989 property taxes, the dollar increase in property taxes, the percent increase in property taxes levied, the 1989 countywide average mill levy, and the percent increase in the countywide average mill levy, as indicated at the top of each table.

  
Thomas A. Severn  
Principal Analyst

Attachments

SWAM  
Jan 8, 1990  
Attachment 2



















# MEMORANDUM

## Kansas Legislative Research Department

Room 545-N -- Statehouse  
Topeka, Kansas 66612-1586  
(913) 296-3181

December 7, 1989

To: Study Committee on Reappraisal and Classification

Re: Residential Reappraisal Circuit Breaker  
Fiscal Notes

This memorandum is in response to your request for information regarding the fiscal note for the current residential reappraisal circuit breaker and for various proposals to expand that program.

Under the current program, persons with property tax increases of 50 percent or more are eligible for half of their increase (up to \$500) if they have total household income of less than \$35,000 and there is someone in the household who is disabled, over 55, or under 18. Under the second year of the program, persons whose 1989 taxes are 50 percent or more above 1988 will be eligible for 25 percent of their increase (up to \$250) if they meet the income and demographic requirements.

### Limitations of the Data and Methodology

The estimated fiscal notes are based on a random sample of 397 urban and rural residential parcels. However, farm homesites were excluded from the sample because of the administrative complexity involved with determining a percentage tax increase for such property. The sample is now part of a computer model at the Division of Property Valuation.

The sample was drawn last April and does not reflect any changes in valuation that may have been made during the local appeals process. Also, the model uses countywide estimated urban and rural average mill levies for 1989, so the actual mills levied on any given property in the sample will be different than what we have assumed.

All estimates also assume that renters are not eligible for the circuit breaker and that all households that are eligible will in fact apply. Finally, the most speculative part of our analysis concerns the lack of data on the extent to which households meet the demographic and income requirements. Some work done by the Budget Division last spring extrapolated some 1980 census data forward to estimate that perhaps 39 percent of all Kansas households might meet both the minimum income and demographic requirements. But after lengthy conceptual discussions about statistics, the Research Department and the Budget Division agreed that that figure could not be meaningfully applied to the computer model, which was then estimating that about 15.8 percent of all residential parcels would experience property tax increases of 50 percent or more (exclusive of any income or demographic considerations). The estimated fiscal note ended up being based upon the assumption that between 6 and 10 percent of all residential parcels in Kansas would end up qualifying under all the criteria.

SWAM  
Jan. 8, 1990  
Attachment 3



### **Revision of Estimate Made During 1989 Session**

As you know, the last estimate made during the 1989 Session for the FY 1990 fiscal note was \$8.4 million. The Legislature appropriated \$10 million with the enactment of S.B. 31.

As we discussed in Committee, however, the \$8.4 million estimate was based on a series of assumptions that now appears to have been somewhat unrealistic. For one thing, that estimate was based on county-by-county urban and rural estimated mill levies that assumed an absolute local tax lid. That assumption led us to estimate that the average refund would be between \$125 and \$150. Given that mill levies turned out to be higher than those used in our earlier analysis, the model now shows that it is more reasonable to assume that the average refund may be closer to \$156. The model also indicates that about 25.4 percent of all households may have increases of 50 percent or more in their property taxes. Based on the increase in this figure from the 15.8 percent of all households that the model showed last spring, we increased the 6 to 10 percent range assumed for those households also meeting the income and demographic criteria to 12 to 14 percent.

The \$8.4 million also was based on the assumption that only 85 percent of the refunds for the first year of the program would be paid out in FY 1990. (In other words, the total estimate for the first year was \$9.9 million.) The Governor has announced plans to substantially accelerate processing of the refunds, so it appears that perhaps 95 percent could be paid out in FY 1990.

So, based on our new series of assumptions and a new computer run of the same 397 randomly selected parcels used during the Session, we now think that the FY 1990 fiscal note could be around \$17.3 million. (The annualized fiscal note for the first year of the program is estimated at \$18.2 million.)

### **Making an Estimate for FY 1991**

The circuit breaker also will be available to those who meet the income and demographic requirements in the second year if their 1989 property taxes have increased by 50 percent over 1988 taxes. That circuit breaker will only fund 25 percent of the increase up to \$250.

Running this formula through PVD's parcel sample yielded an average refund of about \$78. If we assume that exactly the same number of households would qualify as the first year (although because of demographic or income changes this may not be the case), we would again use the same 12 to 14 percent figure. Taking 95 percent of the annualized number for the second year of the program and adding it to the 5 percent carried forward from the first year would give us a FY 1991 estimate of about \$9.6 million. Five percent of the annualized second year estimate, or \$0.5 million, would be carried over to FY 1992. (The annualized fiscal note for the second year of the program would be \$9.2 million.)

## Proposals to Expand the Circuit Breaker

One of the proposals mentioned in Committee to expand the circuit breaker would be to eliminate the \$500 maximum refund for the first year. Based on PVD's model, eliminating that cap would raise the average refund for the first year to about \$173. Using the 95 percent payout in FY 1990 and the same 12 to 14 percent of all households qualifying, we think that the fiscal note would be about \$19.2 million for FY 1990, an increase of approximately \$1.9 million over the new FY 1990 estimate. Our analysis would estimate FY 1991 and FY 1992 fiscal notes of about \$10.6 million and \$0.5 million, respectively. The annualized estimates for both years of the program would be \$20.2 million and \$10.1 million, respectively.

Another one of the proposals would lower the 50 percent property tax increase threshold to 40 percent. The computer model suggests that about 33.5 percent of all households would have increases of 40 percent or more. Assuming once again that the income and demographic requirements would eliminate about half of those with the necessary property tax increases, it would be reasonable to assume that about 16 to 18 percent of all households would be eligible. The model also estimates that for the first year, the average refund would be about \$145, and for the second year, the average refund would be about \$72. These numbers would lead us to estimates of about \$21.1 million for FY 1990, \$11.5 million for FY 1991, and \$0.5 million spilling over into FY 1992. The annualized estimates would be \$22.2 million and \$10.9 million.

Yet another suggestion was to increase the amount of the refund for eligible claimants from 50 percent of their increase to 60 percent for the first year of the program and from 25 percent to 30 percent for the second year (while leaving the \$500 and \$250 caps in place). The computer model indicates that the average refund would be about \$183 for the first year under this scenario and about \$91 for the second year. Again assuming that about 12 to 14 percent of all households would be eligible, we would estimate the FY 1990, FY 1991, and FY 1992 fiscal notes at \$20.3 million, \$11.3 million, and \$0.5 million, respectively. The annualized estimates would be \$21.4 million and \$10.7 million.

Another scenario suggested in Committee would be to eliminate the income and demographic requirements. As we have indicated, the model suggests that about 25.4 percent of all households would qualify, and the fiscal notes would approximately double from those revised fiscal notes offered above (\$17.3 million in FY 1990; \$9.6 million in FY 1991; and \$0.5 million in FY 1992).

Obviously, making two or more of these changes in the circuit breaker simultaneously would produce different fiscal notes. If you have any further questions, please contact tax staff at the Research Department.



KANSAS DEPARTMENT OF REVENUE

*Property Valuation Division*  
Robert B. Docking State Office Building  
Topeka, Kansas 66625-0001  
(913) 296-4218

**MEMORANDUM**

TO: THE HONORABLE AUGUST BOGINA, JR., CHAIRMAN  
SENATE COMMITTEE ON WAYS AND MEANS

FROM: ED C. ROLFS  
SECRETARY OF REVENUE *Ed Rolf*

DATE: JANUARY 8, 1990

RE: COMMERCIAL CIRCUIT BREAKER

-----  
Thank you for the opportunity to appear today to discuss various considerations in providing property tax relief to Commercial property owners.

Probably the most difficult task we face in defining the parameters for such a program. We would suggest that there are several factors to consider in targeting relief to that segment of the commercial property owner population which has been most adversely affected by the effects of reappraisal and classification.

**WHAT IS MEANT BY COMMERCIAL PROPERTY?**

One fundamental step is in defining what is meant by commercial property. There is not a classification in our constitutional scheme of property taxation that is called "commercial". The type of property we think of as commercial is part of the "all other" property classification. This classification also includes property owned by not-for-profit organizations and farm out-buildings, as well as every type of property which is not residential, agricultural or state-assessed property.

*SWAM  
Jan. 8, 1990  
Attachment 4*

The Sales-Ratio study has traditionally defined commercial property as including all land and improvements utilized or intended to be utilized as a business or income producing enterprise and all personal property subject to ad valorem taxation listed on commercial personal property statements.

## **TARGETING RELIEF**

After defining commercial property, one would necessarily want to target relief under a circuit breaker proposal to some certain segment of the population.

## **REQUISITE TAX INCREASE**

A fundamental requirement is that ad valorem taxes on the taxpayer's property increased by a stated amount from 1988 to 1989. The amount of increase would need to be well defined. For example, the program may want to provide assistance to taxpayer's whose taxes increased 100% or more. It would be well, however, to specify that the increase be due to reappraisal and classification so that if I owned a vacant lot last year and constructed improvements on it I would not necessarily qualify for a refund.

## **AGGREGATE TAX INCREASE**

It is also necessary to limit relief to a taxpayer whose total property taxes increased by the threshold set above. Two factors of importance operate here.

**Include both real and personal property taxes.**

First, if a taxpayer's real estate taxes increase significantly, but his personal property taxes decrease, perhaps the need for relief is not present. This could certainly hold true for taxpayers who had large amounts of inventory removed from the tax rolls or personal property which saw a significant reduction in tax burden.

**"Per Taxpayer rather than "per parcel" approach.**

Secondly, the system should probably be designed on a "per taxpayer" rather than a "per parcel basis. In this manner, taxpayers who own multiple properties would qualify for only one refund check, and would have to have experienced a net overall tax increase on all of their property.

The "per taxpayer", approach, while perhaps more equitable, does present some technical problems. The first is in defining a taxpayer. One would have to decide whether to look only to the exact legal ownership or whether to develop some "rules of attribution" so that related parties are consolidated as one taxpayer. For example, many Kansas corporations have multiple subsidiaries. Should the group of companies receive only one refund check, or should each corporation qualify, even if all companies are commonly owned. The same holds true in family situations. Husband may own property A, wife owns property B and they jointly own property C. Should they get one or three refunds?

Data availability is another problem. The data bases which we have do not aggregate taxes paid by each taxpayer. Everything we have had available is keyed to parcels. We are in the process of gathering a statistical sample which would allow us to provide information on this type of program. Doing so is an intensely manual operation. Basically, we are having to pull the sample, and contact each taxpayer to get the necessary information. This process is complicated by the fact that many taxpayers own property in more than one county, and many counties do not utilize a computerized system for commercial personal property. We anticipate having sample data available on January 23, 1990, and to be able to begin analysis of various proposals shortly thereafter.

We have developed a fiscal estimate which is attached, however, the Department would note that this is a rough estimate.

### **TAX RATE TEST**

In order to further target the relief provided, the program could be limited to taxpayers whose actual effective tax rate exceeds both the state-wide and their county-wide average.

### **SMALL BUSINESS DEFINITION**

In order to limit refunds to "small businesses", said term should be defined. Attached hereto is a definition which is already utilized in our statute which basically limits the term to companies with a maximum of 25 to 50 employees and less than \$1.5 million to \$4.0 million in annual gross receipts, depending on the type of business.

The Kansas Department of Human Resources has provided information which shows the number of Kansas businesses stratified by the number of employees. A copy of that data is attached.

### **INCOME TEST**

There should also be an ability to pay consideration in such a program. We would suggest that an appropriate limitation may well be to limit refunds to taxpayers whose average federal taxable income over the past three years has been \$50,000 or less. Appended hereto is suggested statutory language.

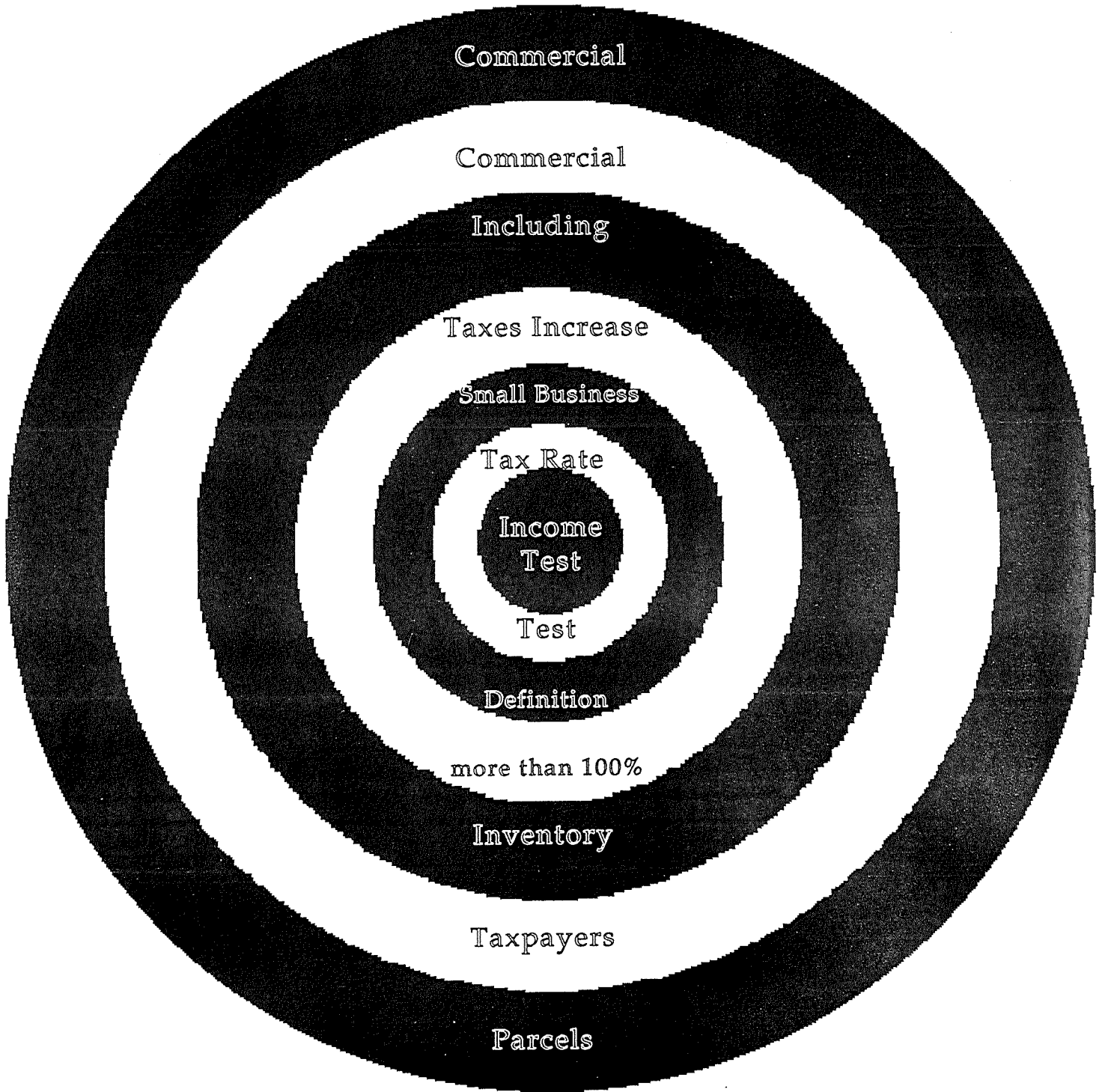
### **DATA CURRENTLY AVAILABLE**

Attached hereto are several fiscal note analyses which have been developed using currently available data. These figures have been computed using the "per parcel" data we currently have, and using a block sample drawn from six counties' information. Various limitations addressed above have not been considered in these estimates.

I would be happy to respond to any questions you may have.

# Commercial Circuit Breaker

Target Area





KANSAS DEPARTMENT OF REVENUE

*Office of the Secretary*

Robert B. Docking State Office Building

Topeka, Kansas 66612-1588

(913) 296-3041

COMMERCIAL CIRCUIT BREAKER PROGRAM  
FISCAL ESTIMATE

Commercial Circuit Breaker:

Property tax increase of 100% from 1988;  
Refund of lesser of \$5,000 or 50% of the  
difference between the tax levied from 1988  
to 1989. \$81,500,000

LIMITATIONS:

1. Limited by taxpayer instead of per parcel approach.	20%	- 16,300,000
2. Include Personalty and Inventory in the threshold limitation.	10%	- 6,520,000
3. Effective Tax Rate Test - Refund applies to those whose effective tax rate exceed either the statewide or countywide average commercial property tax rate.	15%	- 8,802,000
4. Small Business Limitation	5%	- 2,493,900
5. Federal Taxable Income must be less than \$50,000	10%	- <u>4,738,410</u>
<b><u>Estimated Fiscal Impact</u></b>		<b><u>\$42,645,690</u></b>



## INCOME TEST

"Net income" means:

(A) In the case of individuals, the average of adjusted gross income, as defined for federal income tax purposes, for the three taxable periods prior to 1989;

(B) in the case of corporations and financial institutions, the average federal taxable income, as defined for federal income tax purposes for the prior three taxable periods prior to 1989;

(C) in the case of partnerships, the average ordinary income, as defined for federal income tax purposes, for the prior three taxable periods prior to 1989;

(D) in the case of trusts, the average distributable net income, as defined for federal income tax purposes, for the prior three taxable periods prior to 1989; and

(E) for any other taxpayers, the average income for the prior three taxable periods prior to 1989, pursuant to rules promulgated by the secretary of revenue.

In the case of taxpayers, not in existence for three taxable periods prior to 1989, the average income for all prior taxable periods shall be used.

(c) The secretary of aging shall prepare annually a report evaluating the effectiveness of the older Kansans employment programs and recommending measures to increase the number of older Kansans gainfully employed. The report shall be prepared and made available annually to the governor, members of the legislature, the secretary of human resources and the members of the advisory council on aging no later than December 15 in any year.

(d) As used in this section, "older Kansan" means a resident of the state of Kansas who is 55 years of age or older.

History: L. 1982, ch. 333, § 1; July 1.

#### Article 60.—KANSAS SMALL BUSINESS PROCUREMENT ACT

##### Cross References to Related Sections:

Division of purchases, department of administration, see 75-3737a et seq.

**75-6001.** Short title. This act may be cited as Kansas small business procurement act.

History: L. 1978, ch. 354, § 1; July 1.

**75-6002.** Policy; fair proportion of state purchases and contracts placed with small businesses. Because the existence of a strong and healthy free enterprise system is directly related to the well-being and competitive strength of small businesses and to the opportunity for these small businesses, including those owned and operated by minority persons, to have free entry into business, to grow and to prosper, it is declared to be the policy of this state to ensure that a fair proportion, at least but not limited to ten percent (10%), of the total dollar amount of purchases of and contracts for property and services for the state (including but not limited to supplies, materials, equipment, maintenance, contracted services, repair services and construction) be placed with small businesses. Each state agency shall participate to the extent possible in carrying out this policy.

History: L. 1978, ch. 354, § 2; July 1.

**75-6003.** Definitions. As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Small business" means a business which is independently owned and

operated, not dominant in its field of operation and is not an affiliate or division of a larger business.

(b) "Business" means: (1) An entity organized for profit, including but not limited to, an individual, partnership, corporation, joint venture, association or cooperative; or (2) a bona fide nonprofit organization operating primarily for the habilitation, rehabilitation or employment of handicapped persons which employs at least five handicapped persons for every nonhandicapped person who is directly engaged in the manufacture and processing of products by the nonprofit organization.

(c) "Dominant in its field of operation" means exercising a controlling or major influence in a kind of business activity in which a number of businesses are engaged. In determining if a business is dominant, the following criteria, among others, shall be considered: Number of employees; volume of business; financial resources; competitive status or position; ownership or control of materials, processes, patents, license agreements and facilities; sales territory; and nature of business activity. Furthermore, notwithstanding the above criteria, the following businesses shall be deemed dominant in their field of operation: (1) Manufacturing businesses which employ more than 50 persons and have in the preceding three fiscal years exceeded \$3,000,000 gross income annually; (2) general construction businesses which in the preceding three fiscal years exceeded \$4,000,000 gross income annually; (3) all other nonmanufacturing businesses which employ more than 25 persons and have in the preceding three fiscal years exceeded \$1,500,000 gross income annually.

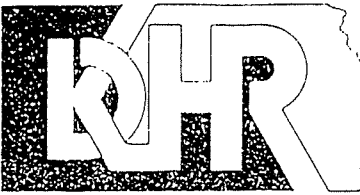
(d) "Affiliate or division of a larger business" means a business which is a subsidiary of or owned in part by a larger business which is dominant in its field of operation, or which is owned in excess of 20% by the partners, officers, directors, majority shareholders or their equivalent, of a larger business which is dominant in its field of operation.

(e) "Small business set-aside" means a purchase request which will be offered to and response accepted only from small businesses.

(f) "Minority person" means a citizen of the United States who is Negro, Hispanic,

KANSAS

DEPARTMENT OF HUMAN RESOURCES



LABOR MARKET INFORMATION SERVICES  
401 S.W. Topeka Boulevard, Topeka, Kansas 66603-3189  
(913) 296-5058

RECEIVED

DEC 13 1989

PLANNING & RESEARCH

Mike Hayden, Governor

Ray D. Siehndel, Secretary

December 11, 1989

Ms. Martha Carithers  
Kansas Department of Revenue  
Research Section-2nd floor  
Landon State Office Building  
Topeka, Kansas 66612

RE: Data Request

Dear Ms. Carithers:

Following our discussion of Monday, December 11, I am submitting the attached table for your review and comment. Information is as reported for the quarter ending March 1988. While the data is well over one year old, the per cent distribution among size categories will vary little with the current period. The first and second columns are total active firms covered by the Kansas Employment Security Law and the remaining two columns reflect private ownership only.

Let me know if I can provide additional information. Contact me 913-296-5058.

Sincerely,

William H. Hayes, Chief  
Labor Market Information Services

Attachments

WHL:aw

TABLE 1  
 EMPLOYING UNITS AND NUMBER OF EMPLOYEES  
 BY SIZE CLASS AND OWNERSHIP  
 MARCH 1988 1/

Size of Employment Category	<u>All Coverage</u>		<u>Private Ownership</u>	
	<u>Employing Units</u>	<u>Employment</u> *	<u>Employing Units</u>	<u>Employment</u>
<u>Total</u>	<u>62,283</u>	<u>968,421</u>	<u>58,925</u>	<u>798,959</u>
1-4	34,093	71,043	32,361	67,731
5-9	12,638	82,704	12,206	79,829
10-19	7,556	101,328	7,303	97,936
20-49	4,783	144,891	4,473	134,698
50-99	1,792	123,571	1,523	104,141
100-249	1,021	153,962	772	116,931
250-499	238	81,135	184	62,571
500-999	101	68,433	63	42,804
1000 +	61	141,354	40	92,318

1/ Employment "covered" by the Kansas Employment Security Law as reported to "Covered Employment and Wages ES-202".

\* Employees reporting hours worked

Kansas Department of Human Resources  
 Division of Policy and Management Analysis  
 Research and Analysis Section  
 April 19, 1989

## INCOME TEST

"Net income" means:

(A) In the case of individuals, the average of adjusted gross income, as defined for federal income tax purposes, for the three taxable periods prior to 1989;

(B) in the case of corporations and financial institutions, the average federal taxable income, as defined for federal income tax purposes for the prior three taxable periods prior to 1989;

(C) in the case of partnerships, the average ordinary income, as defined for federal income tax purposes, for the prior three taxable periods prior to 1989;

(D) in the case of trusts, the average distributable net income, as defined for federal income tax purposes, for the prior three taxable periods prior to 1989; and

(E) for any other taxpayers, the average income for the prior three taxable periods prior to 1989, pursuant to rules promulgated by the secretary of revenue.

In the case of taxpayers, not in existence for three taxable periods prior to 1989, the average income for all prior taxable periods shall be used.

FISCAL NOTE RESPONSE

TO: Dean Reynoldson

FROM: Martha Carithers

DATE: February 28, 1989

PERSONALIZED BILL CODE: HB2473BFI

BRIEF OF BILL:

House Bill 2473, as introduced, is an independent act that would create a property tax refund program for owners of commercial real property whose tax increased 100% in calendar year 1989 over that of calendar year 1988. The refund is based upon the excess of 1989 over 1988. The bill provides a schedule of deductions from the refund, based on assessed valuation brackets, that is to be used for calendar year 1989. No refund will be issued for less than \$5 or more than \$5,000. The refund amount for calendar year 1989 is to be 50% of that calculated by the schedule. Filing for tax year 1989 must be made by October 15.

The bill provides for: the administration of the program by the Division of Taxation; rules and regulation by the Secretary; proof of taxation; audits; interest; appeal process; and fraud.

This bill is effective from and after publication in the statute book.

FISCAL IMPACT:

It is estimated that passage of this bill would have an indeterminable, but potentially significant impact, for Fiscal Years 1990 and 1991, on funds appropriated, presumably from the State General Fund.

Even though the deduction and refund amounts for midpoints of each assessed valuation bracket in the schedule can be estimated, based on the assumptions of no increase in the number of C&I parcels, no increase in statewide C&I market value and no change in the statewide average mill levy, the distribution of the assessed values in the population of commercial property is not available.

Based on the average assessed valuation and average liability, the estimated impact is about \$40 million. This estimated is based on the assumptions of no increase in parcels, no increase in market value, that all C&I taxes will increase by 100%, and that the average statewide mill levy will decrease. Whether this will be the case is not known. The mill levies may decrease or may increase, contingent upon the tax base within the individual taxing districts of the state.

Worksheet is attached.

House Bill 2473 as Introduced

<u>Tax Year 1988</u>		<u>Tax Year 1989</u>
90,000	C&I Parcels	90,000
\$11,800,000,000	Total C&I Market Value	\$11,800,000,000
10.61%	1988 C&I Asses/Sales Ratio	
	1989 Classification	30.00%
\$1,250,000,000	Total C&I Assessed Value	\$3,540,000,000
\$130.40	Avg. Statewide Mill Levy	
	Est. Total C&I Liability	
\$163,000,000		
\$13,900	Average Assessed Value	\$39,333
\$1,811	Est. Average Liability	
<u>Tax Year 1989</u>		
\$3,622	Est. Avg. Liability Up 100%	
\$1,811	Amount Est. Avg. Liability Up	
\$39,333	Average Assessed Value (above, Right)	
\$965	Avg. Co-insurance Deduction	
\$846	Amount Up (less) Co-Insur.	
\$423	Avg. Refund (50% for 1989)	
\$38,070,000	Estimated Total Refund	

MEMORANDUM

TO: Mr. Michael O'Keefe  
Division of Budget

DATE: February 20, 1989

FROM: Kansas Department of Revenue

RE: House Bill 2319  
as Introduced

BRIEF OF BILL:

House Bill 2319, as introduced, would provide for a state-funded "homestead" property tax refund for commercial property owners. The owner of commercial real estate whose property taxes levied in 1989 upon all of such owner's commercial property exceed by at least 100% the property taxes levied upon the same commercial property in 1988, may apply to the Division of Taxation of the Department of Revenue for a refund of property taxes levied upon such property. For calendar year 1989, the amount of such refund shall be equal to the lesser of \$5,000 or 50% of the difference between the property tax levied on such property in 1988 and the property tax levied on the same property in 1989. For calendar year 1990, the amount of such refund shall be equal to the lesser of \$2,500 or 25% of the difference between the property tax levied on such property in 1988 and the property tax levied on the same property in 1989.

The Director of Taxation is to provide appropriate forms to applicants, county clerks and county treasurers. The Secretary of Revenue is authorized to issue rules and regulations. The funds for the refunds will be appropriated. No refund will be issued for an amount less than \$5. Filings must be made by October 15. A refund amount may be applied against any liability outstanding in the Department of Revenue. Applicants must provide copies of 1988 and 1989 tax statement, with an ownership statement. Provision is made for audits, recovery of excessive refund payment, and appeals to the State Board of Tax Appeals.

This bill is an independent act, effective from and after publication in the statute book.

FISCAL IMPACT:

Assuming filing would begin January 1, 1990 and that the appropriation would be from the State General Fund, it is estimated that passage of this bill would have a significant, but indeterminable, effect upon the State General Fund in Fiscal Year 1990.

The 1988 statewide assessment/sales ratio for commercial and industrial property is 10.61%. Therefore, it will require an increase in market value of 182.75%, or approximately 200%, to bring the assessed value to 30% of market. With a 200% increase in assessed value, a corresponding decrease in the mill levy of 66% would be required for tax liability to remain constant.

There are an estimated 90,000 improved, commercial and industrial parcels in Kansas. Each is a potential claimant under this bill.



EXAMPLE: 1988 assessed value = 10.61 % of market value.  
1988 average statewide mill levy \$130.40 per thousand.

Assume: Assessed value of property in 1988 = \$50,000  
\$50,000 x \$130.40 per thousand = 1988 tax liability of \$6,520

Then: 1989 assessed value of same property will be (\$50,000) + (200%) =  
\$150,000

If this property were to pay the same amount of tax in 1989, then  $\$6520 \div \$150,000 =$   
\$43.46 per thousand would be the new mill levy. This would represent an  
approximate 66% decrease in the mill levy. For the 1989 property tax to increase by  
100% the average mill levy would still have to decrease by approximately one-third.

Even though many counties are projecting decreases in their mill levies for tax year  
1989, no information currently exists to project the magnitude of any decreases  
which may occur.

Total assessed value of commercial and industrial real estate in Kansas for tax year  
1988 was \$1.25 billion. Applying the statewide average mill levy yields a total  
estimated tax of \$163 million. If the tax doubles and one-half the increase may be  
refunded, then the potential refund is \$81.5 million. However, it must be pointed out  
that in many areas the tax increase will be substantially more than 100%, but in all  
cases the refund is limited to \$5,000.

#### ADMINISTRATIVE IMPACT:

If this bill were passed, it is estimated that the Department would incur \$35,947 one-  
time and \$110,540 annual expenses for a total of \$146,487 in Fiscal Year 1990. Please  
see detailed costs, attached.

A completely new processing cycle would need to be created by the Income Tax  
Bureau of the Department for the processing of commercial property refunds.

There would be no additional costs to the Division of Property Valuation.

#### ADMINISTRATIVE PROBLEMS AND COMMENTS:

##### Division of Property Valuation:

There are several problems associated with the language used in this bill. First, those  
who may apply are limited to owners of commercial real estate; however, line 21 says  
that the taxes to be considered for refund are those on "all of such owner's  
commercial property". While it is unclear, this would seem to imply that one must  
add in taxes on all personal property and commercial motor vehicles, etc., before the  
comparison were made. If this is the case, then the fiscal impact would be  
significantly reduced.

Second, does the same language "all of such owner's commercial property" limit the  
owner of multiple commercial properties to one claim for refund?

Third, how will the provisions of this bill be applied to mixed use properties?  
Previously, a property which was used both for commercial and residential purposes

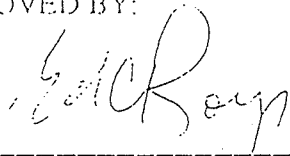
had only one assessed value because all property was assessed at 30%. For in 1989, each use will have a separate assessed value to accommodate different assessment levels. The bill does not address what values are to be compared in these situations.

Division of Taxation:

A number of the current homestead refund provisions also apply to this refund act. However, there is no income limit for claimants under this bill and there is no requirement that the claimant be a resident of Kansas. The bill does not provide that the property be located in Kansas. The bill makes no provision for decedent taxpayers. Will a claim be allowed on the behalf of a deceased taxpayer?

Unlike provisions of the Homestead Property Tax Refund Program, this bill makes no provision that the claimant must file, with a copy of the statement of property taxes levied, a statement "that the property taxes...have been or will be paid by the claimant and that there are no delinquent property taxes..." (K.S.A. 79-4511(b)).

APPROVED BY:



---

Ed C. Rolfs  
Secretary of Revenue

Salaries and Wages

(4) Tax Examiner I	\$21,220	\$ 84,880
(1) Office Assistant II	\$17,746	<u>17,746</u>
	Total	\$102,626

Capital Outlay

(4) 60 X 30 Executive Dbl. Pdl. Desk @ \$340/ca.	\$ 1,360	
(1) 60 X 30 Secretarial Dbl. Pdl Desk @ \$490/ca.	490	
(4) Swivel Tilt Arm Chair @ \$175/ca.	700	
(1) Steno Posture Chair @ \$125/ca.	125	
(4) 12 Column Printing Calculator @ \$106/ca.	424	
(2) 5 Drawer File (Letter) @ \$180/ca.	360	
(3) Open Shelf File 90 X 12 X 36 @ \$180/ca.	540	
(1) Video Terminal @ \$980/one time charge	980	
(1) Terminal Cable @ \$125/ea.	125	
(1) Installation of Cable @ \$275/ca.	275	
(1) CRT Work Station @ \$95/ca.	<u>95</u>	
	Total	\$ 5,474

Contractual Services

(2) Telephone Scts @ \$30/ca.	\$ 60
(2) Telephone (Monthly Fee) @ \$36/mo.	864
(2) Telephone Installation @ \$207/ca.	414
(2) Holes Telephone @ \$27.50/ca.	55
(4) Electrical Outlets @ \$48.50/ca.	194

Printing

Additional Forms 10,750

Miscellaneous 1,000

Postage 18,000

Floor space 600 sq. ft. @ \$11.75/sq. ft. 7,050

Total \$ 38,387

Total Salaries and Wages \$102,626

Total Capital Outlay 5,474

Total Contractual Services \$ 38,387

Grand Total \$146,487

MEMORANDUM

TO: Mr. Michael O'Keefe  
Division of Budget

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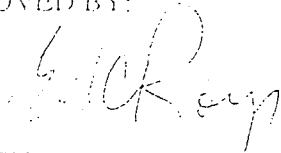
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Floor space 600 sq. ft. @ \$11.75/sq. ft.	<u>7,050</u>	
	Total	\$ 38,387

Total Salaries and Wages	\$102,626
Total Capital Outlay	5,474
Total Contractual Services	<u>\$ 38,387</u>

Grand Total \$146,487

HOUSE BILLS 2319 AND 2473

House Bill No. 2319 says in part:

Section 1. The owner of commercial real estate whose property taxes levied in 1989 upon all of such owner's commercial property exceed by at least 100% the property taxes levied upon the same commercial property in 1988, may apply for a refund of property taxes levied upon such property. For calendar year 1989, the amount of such refund shall be equal to the lesser of \$5,000 or 50% of the difference between the property tax levied on such property in 1988 and the property tax levied on the same property in 1989. For calendar year 1990, the amount of such refund shall be equal to the lesser of \$2,500 or 25% of the difference between the property tax levied on such property in 1988 and the property tax levied on the same property in 1989.

Section 6. Every applicant under this claim shall submit to the division, in support of the refund claim, a copy of the statement of property taxes levied upon such commercial property in 1988 and 1989, and a statement that such applicant was the owner of such commercial property in both 1988 and 1989.

Section 10. A claim for refund shall be disallowed if the division finds that the applicant received title to the commercial property primarily for the purpose of receiving benefits under this act.

Several problems emerge when trying to define the intent of this proposed legislation.

"The owner of commercial real estate whose property taxes levied in 1989 upon all of such owner's commercial property exceed by at least 100% the property taxes levied upon the same commercial property in 1988 ...".

(1) What is meant by "commercial property"? Is it to include personal property? Apartments? Vacant commercial or industrial land? Trailer parks? Nursing Homes? Technically, there is no commercial subclass of property addressed in the classification amendment. Are we talking about subclass "other" only?

(2) What is meant by "... all of such owner's commercial property ..."? Does this mean that the total taxes paid by that particular owner in 1988 is compared to the total taxes paid by that owner in 1989? If so, does this limit the amount of the refund to \$5,000 per owner? Or is it the intent of the legislation that the limit be \$5,000 per parcel? Also, how can we check to be sure that the owner has totaled all of his commercial property taxes, and hasn't failed to report individual properties which haven't increased in tax liability, or have increased only slightly?



(3) How are changes to the property to be considered? Perhaps a building has been demolished or a new one built on the property. Perhaps there has been substantial remodeling or restoration, or additions made to the building.

(4) What happens if the same owner goes by different names, such as is often the case with corporations and their subsidiaries. Is each name entitled to a refund?

(5) What about mixed-class properties that are only partly "commercial"?

(6) If personal property is included in the category of "commercial property", how is the tax on inventory to be treated, since it was taxed in 1988 but not in 1989. Also, machinery and equipment is taxed differently in 1989.

(7) What about the owner whose taxes have gone up only 99%. Will he end up paying more taxes than an owner of more valuable property? What if there are two nearly identical properties, one of which has been grossly under-assessed in the past? Will the owner of that property get another break, while the one who has been paying his fair share is denied any relief? Is this "ad valorem"?

House Bill No. 2473 says in part:

Section 1. (a) The owner of commercial real property located in this state whose property taxes levied in 1989 upon all of such owner's commercial real property exceed by at least 100% the property taxes levied upon the same commercial real property in 1988, may apply to the division of taxation of the department of revenue for a refund of property taxes levied upon such property. For calendar year 1989, the amount of such refund shall be equal to the amount determined by deducting the amount computed in accordance with the following schedule from excess tax:

1989 Total Assessed Value of All Commercial Property	Deduction From Excess Tax
Not over \$10,000 .....	0
\$10,001 - \$20,000 .....	2% of excess over \$10,000
\$20,001 - \$30,000 .....	\$200 + 3% of excess over \$20,000
\$30,001 - \$40,000 .....	\$500 + 5% of excess over \$30,000
\$40,001 - \$60,000 .....	\$1,000 + 7% of excess over \$40,000
\$60,001 - \$80,000 .....	\$2,400 + 9% of excess over \$60,000
Over \$80,000 .....	\$4,200 + 11% of excess over \$80,000

As used in this section, "excess tax" means the lesser of the amount by which the 1989 property tax levied exceeds the 1988 property tax levied upon the same commercial real property, or \$5,000.

(b) For calendar year 1989, the amount of such refund shall be equal to 50% of the amount of the refund allowed pursuant to

subsection (a).

Sec. 6. Every applicant under this act shall supply to the division, in support of the refund claim, a copy of the statement of property taxes levied upon such commercial real property in 1988 and 1989, and a statement that such applicant was the owner of such commercial real property in both 1988 and 1989.

Sec. 8. If the commercial real property for which a refund is being claimed is subject to more than one constitutional assessment rate, total market value and total taxes levied for all uses will be used to determine eligibility and refund under section 1.

Sec. 12. A claim for refund shall be disallowed if the division finds that the applicant received title to the commercial property primarily for the purpose of receiving benefits under this act.

This legislation does address the issue of personal property and mixed-use properties, but the other questions still remain. Also, in Section 1(b), should this read "1990" instead of "1989"?

SUMMARY OF SAMPLE C/I PARCELS

\$/acre

COUNTY	N	AVG. ASSD88	AVG. APPR89	RATIO	AGG. PERCENT	AVG. 2319	AVG. 2473
25 Elk	98	2,593	9,007	28.8%	40.50%	81	147
29 Ford	185	13,415	141,709	9.5%	126.26%	379	762
85 Saline	171	13,306	140,412	9.5%	81.90%	590	508
87 Sedgwick	518	28,515	210,567	13.5%	39.63%	254	132
91 Sherman	102	12,671	133,099	9.5%	128.29%	511	407
105 Wyandotte	328	59,646	662,092	9.0%	124.37%	1693	635
TOTAL	1402	28,986	278,834	10.4%	97.96%	720	400

ASSD89	N	%
0 - 10,000	399	28.5%
10,001 - 20,000	284	20.3%
20,001 - 30,000	185	13.2%
30,001 - 40,000	98	7.0%
40,001 - 60,000	131	9.3%
60,001 - 80,000	67	4.8%
over 80,000	238	17.0%
	<u>1402</u>	<u>100</u>

654 parcels (46.6%) had an estimated tax increase of 100% or more.

COUNTY SIZE	#	SAMPLE	# C/I	HB2319	HB2473
0 - 5,000	30	Elk	5,399	437,319	793,653
5,001 - 10,000	40	Sherman	15,761	8,053,871	6,414,727
10,001 - 20,000	23	Ford	17,459	15,346,461	13,303,758
20,001 - 40,000	8	Saline	11,603	6,845,770	5,894,324
40,001 - 100,000	2	Wyandotte	7,492	12,683,956	4,757,420
> 100,000	2	Sedgwick	17,179	4,363,466	2,267,628
TOTAL	105		74,893	47,730,843 (637.32)	33,431,510 (446.39)