

Approved February 12, 1991  
Date

MINUTES OF THE House COMMITTEE ON Taxation

The meeting was called to order by Joan Wagnon  
Chairperson

9:10 a.m./~~pm~~ on Wednesday, February 6, 1991 in room 519-S of the Capit

All members were present except:

Committee staff present:

Tom Severn, Research; Chris Courtwright, Research;  
Don Hayward, Revisor; Bill Edds, Revisor

Conferees appearing before the committee:

Chairman Wagnon called the committee to order at 9:10 a.m. for hearings on HCR 5006 and HCR 5007.

Sylvia Nelson, President of Topeka Women's Club, spoke in support of lower classification rates for nonprofit property. She said her club was suffering from being assessed at the 30% rate and stated the club's desire that it be included in the class created for fraternal benefit societies under HCR 5006 or HCR 5007. The Woman's Club is 501(C)4 (Attachment 1). When questioned, Nelson said her club will look into modification of its charter so that it will be included with 501(C)8 and 501(C)10 organization in the new class.

Leroy Jones, Chairman of the Kansas Legislative Board of the Brotherhood of Locomotive Engineers, spoke in support of a property tax reclassification amendment (attachment 2). Jones spoke as a representative of home owners. He stated his support for returning inventories to the tax rolls.

Joseph Steineger, Jr., Mayor of Kansas City, Kansas, spoke in favor of a constitutional amendment that puts inventories back on the tax rolls. He discussed the impact of losing inventory tax revenues and reappraisal/reclassification's effect on Kansas City, Kansas (attachment 3). Further information was promised by Steineger on reappraisal's effect on Kansas City, Kansas tax revenues. In response to a question, Steineger stated Kansas City, Kansas currently did not exercise its intangibles tax option.

Howard James of The H. K. James Company in Kansas City, Kansas emphasized the need for property tax relief in Kansas City, Kansas. He suggested returning commercial property to the 1988 level of taxation. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation  
room 519-S, Statehouse, at 9:10 a.m./p.m. on Wednesday, Feb. 6, 1991

Donald Schnacke, representing the Kansas Independent Oil & Gas Assoc., asked that the oil and gas industry be treated similarly to business/commercial property if any changes in the rates were to occur (attachment 5).

Bob Corkins, representing the Kansas Chamber of Commerce and Industry, spoke against HCR 5006 and HCR 5007 (attachment 6). He said the KCCI opposes putting the inventory tax back on the tax rolls and opposes a machinery and equipment classification as high as 30%. He said 25 to 27% was a more realistic assessment rate. When questioned, he further stated KCCI's opposition to any ad-valorem tax on inventories.

Mel Davis, a Wichita apartment complex owner, spoke against classifying multifamily residential property of more than four units from 12% to 15% while leaving all other residential property at 12% (attachment 7).

Written testimony was received from Kansas Gas and Electric Company (attachment 8) and from Jim Ludwig, KPL Gas Service (attachment 9).

The chair asked for and received unanimous consent to approve the minutes of Friday, January 18, 1991.

The committee adjourned at 10:25 a.m.

GUEST LIST

COMMITTEE: Topoka

DATE: 2/6/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<del>Adeline</del> Adeline Towle	7301 Fountaine Dale Rd Topeka	Woman's Club of Topeka
Mrs C.E. Nuttall	1605 W 29 <sup>th</sup>	"
Sylvia Nelson	3079 Maupin Lane #103	Woman's Club of Topeka
HAROLD C. PITTS	TOPEKA	AARP-CCTF
Robert Anderson	Oliver	Mid East Oil & Gas
Wendell Strom	TOPEKA	AARP - CCTF
Denathy Strom	Topeka	Woman's Club
Jessie McSunder	Topeka	Observer
Mark Tallman	Topeka	Ks Assoc. of Sch. Boards
Joe STEINER	KCKs	City of K.C.Ks
Nancy Zielke	Kansas City	City of K.C.K
Edward Kirkwood	Topeka	AARP
Paul Daugherty	Columbus	Empire District Electric
Joe Rickbaugh	Topeka	Ks. Livestock Assoc
FRANCES RASTNER	Topeka	Ks Food Dealer Assn
Lois R. Raby	Topeka	Topeka Woman's Club
C. R. Raby	Topeka	J&B
Carol Mason	Topeka	KRC
W J Seiner	Meriden	KFFT
Marge Livingston	Topeka	Kans Motor Carriers Assn
Diane Silver	Lawrence	Capitol Update newsletter
John C. Stiles	Topeka	Beach Aircraft
Paul Stiles	Wichita	Carbondale
Karen Turner	Topeka	KAR



GUEST LIST

COMMITTEE:

*Association*

DATE:

*2/6/91*

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<i>Jim Lubow</i>	TOPEKA	KPL
<i>Jacobi Clark</i>	KC	Hallmark Cards
<i>Cathy Holden</i>	Wichita	City of Wichita
<i>Jim Magg</i>	Topeka	KS Bankers Assoc.
<i>Pam Somerville</i>	TOPEKA	KMCDA
DENNY KOCH	"	SW BELL
Donetta Robben	Hays	KS County Clerks Assoc.
PEGGY McCULLICK	Hays	ELLIS COUNTY Clerk
Dan Haas	Overland Park	KCPK
<i>Armin Samuelson</i>	Henston, Ks	Self
GEORGE RUCKETT	WICHITA	KANSAS RESTAURANT AND HOSPITALITY ASSOCIATION
<i>J. Bowen</i>	Junction City	United Tel.
<i>Benjie Koch</i>	Wichita	Wichita Area Chamber
<i>Shelley Sutton</i>	Topeka	KES
<i>Jerry Conrad</i>	KC & E	LAWRENCE
<i>George Barber</i>	Topeka	Ks. consulting Engs
<i>Kevin Allen</i>	Topeka	Ks Motor Car Dealers
<i>Bob Sam</i>	Lawrence	Law. Apt. Assoc.
Bob Corkins	Topeka	KCCI
Cindy Gilpin	Topeka	Budget Division
Mel Davis	Wichita	Mel DAVIS
<i>Nancy Ellen Orlee</i>	Wichita	KS Assoc for Small Business
<i>Bob Stehman</i>	Wichita	Rep Lewen Weidman



February 6, 1991

MEMBERS OF HOUSE TAXATION COMMITTEE

I am here representing the Woman's Club of Topeka where I have been a member for many years and am currently President. The Woman's Club of Topeka was organized in 1897 as an entirely non religious and non sectarian organization. In 1917 it was chartered as a non profit organization in accordance with the laws of Kansas. The purposes set forth in the charter are for the promotion of the social and general welfare of the community, for civic betterment and for the common good. These purposes are accomplished through the united efforts of members working in eleven departments, namely, American Citizenship, American Home, Applied Religion, Art, Drama, Education, Garden, Hobby, Literature, Music, and Social. In addition it was to devise ways to secure a Club House.

Through the years the Woman's Club has made significant contributions toward scholarships for nurses at Stormont Vail, scholarships at Washburn University, and a special Music scholarship at Washburn. Each year our members contribute to community services, such as, Salvation Army, Rescue Mission, Kansas Neurological Institute, Let's Help, Hospice, Kansas Children's Service League, Food Drives, Retarded Citizens Association of Topeka.

In 1934 the State Tax Commission announced "that the Woman's Club of Topeka is, and shall forever, be, exempt from property taxation so long as it does not violate its purposes". We continue to adhere to the purposes set forth in the charter. We <sup>were</sup> placed on the tax roll in 1981 and have paid taxes on property since then. The recent re-appraisal and classification amendment has caused taxes to be a burden for us. In 1988 the real estate taxes were \$12,164.08 and in 1990 were raised to \$21,849.52. This is an increase of over 80%. Our Club cannot survive for long if we must continue taxes at the rate of 30% of assessed value.

The Woman's Club has never been a profit making organization. Our income is <sup>interest</sup> derived from the sale of our former building at Ninth and Topeka, from dues of its 327 dues paying members, gifts from individual members, payments from two churches who use the building, and activities conducted by individual members. A large majority of our members are on fixed incomes and cannot afford higher dues. In order to maintain our building, pay utilities and taxes, our expenses far exceed our income because of being in the 30% taxation rate on property.

We support a proposal to amend the Constitution of Kansas to lower the classification rates for property. The Woman's Club does not understand why they wouldn't be included with the 501 (C) (8) and 501 (C)(10) in the concurrent resolutions 5006 and 5007. We hope that our number 501 (C)(4) will be included in the group to receive lower classification rates. We thank you for giving us consideration as you develop your proposal for lowering excessively high classification rates.

Sylvia H. Nelson, President  
Woman's Club of Topeka

HOUSE TAXATION  
Attachment #1  
02/06/91

THE WOMAN'S CLUB OF TOPEKA

Taken from the Charter under the laws of the State of Kansas  
filed in the office of the Secretary of State:

April 3, 1917

"This corporation is organized as not for profit and the purposes for which it is formed are: the support of literature and science, the promoting of music and other fine arts, and the maintenance of a club home for the Woman's Club, said home to be used for the purpose of promoting the study of science, literature and the other fine arts. The object of this organization, also, shall be mutual helpfulness, a wider acquaintance among its members, united effort in every proposed work looking toward the higher development, the broader culture of its members, the betterment of humanity through the work and influence of its departments as named and to devise methods of securing a Club House.

The Departments of this Organization shall be:

Art	Home Economics
Civics and Justice	Literature
Education	Music
Forestry	Social

Amended November 16, 1965

"Upon the dissolution the assets of the Topeka Woman's Club shall be distributed to one or more organizations which have been granted exemption from Federal Income Tax, to be used in such manner which will best accomplish the purposes and objectives for which the Topeka Woman's Club was organized.

Amended November 7, 1980

"That this Organization is organized not for profit, and that the purposes for which it is formed are:

"The Woman's Club is organized exclusively for the promotion of the social and general welfare of the community; for civic betterment, and for the common good."

→ *Caution: Reg. § 1.501(c)(4)-1 does not reflect P.L. 99-514, P.L. 100-203, P.L. 100-647, or P.L. 101-73. See ¶ 3001.0014 et seq.* ←

● **Regulations**

[¶ 3034] § 1.501(c)(4)-1. **Civic organizations and local associations of employees.**—(a) *Civic organizations*—(1) *In general.* A civic league or organization may be exempt as an organization described in section 501(c)(4) if:

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

(2) *Promotion of social welfare*—(i) *In general.* An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A "social welfare" organization will qualify for exemption as a charitable organization if it falls within the definition of "charitable" set forth in paragraph (d)(2) of § 1.501(c)(3)-1 and is not an "action" organization as set forth in paragraph (c)(3) of § 1.501(c)(3)-1.

(ii) *Political or social activities.* The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. See, however, section 501(c)(6) and § 1.501(c)(6)-1, relating to business leagues and similar organizations. A social welfare organization that is not, at any time after October 4, 1976, exempt from taxation as an organization described in section 501(c)(3) may qualify under section 501(c)(4) even though it is an "action" organization described in § 1.501(c)(3)-1(c)(3)(ii) or (iv), if it otherwise qualifies under this section. For rules relating to an organization that is, after October 4, 1976, exempt from taxation as an organization described in section 501(c)(3), see section 504 and § 1.504-1.

(b) *Local associations of employees.* Local associations of employees described in section 501(c)(4) are expressly entitled to exemption under section 501(a). As conditions to exemption, it is required (1) that the membership of such an association be limited to the employees of a designated person or persons in a particular municipality, and (2) that the net earnings of the association be devoted exclusively to charitable, educational, or recreational purposes. The word "local" is defined in paragraph (b) of § 1.501(c)(12)-1. See paragraph (d)(2) and (3) of § 1.501(c)(3)-1 with reference to the meaning of "charitable" and "educational" as used in this section. [Reg. § 1.501(c)(4)-1.]

.10 **Historical Comment:** Proposed 1/21/56, withdrawn, and repropoed 2/26/59. Adopted 6/25/59 by T.D. 6391. Amended 8/30/90 by T.D. 8308.

[¶ 3035] **Civic Leagues and Local Associations of Employees**

● ● **CCH Explanation**

.01 **Civic leagues.**—Civic leagues entitled to exemption under Code Sec. 501(c)(4) are those not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. It should be noted

¶ 3034 **Reg. § 1.501(c)(4)-1(a)(1)** ©1990, Commerce Clearing House, Inc.



Civic Leagues and Local Associations of Employees

● ● CCH Explanation

that the requirements for civic leagues are different from those for employee's associations.

Promotion of social welfare does not include direct or indirect participation or intervention in political campaigns of any candidate for public office. However, a social welfare organization that, since October 4, 1976, has not been classified as exempt under Code Sec. 501(c)(3) may qualify for exemption under Code Sec. 501(c)(4), even though it is an "action" organization that attempts to influence legislation or that advocates or campaigns for the attainment of its primary objectives, which may be achieved only through the passage or defeat of legislation (Reg. § 1.501(c)(4)-1(a)(2)(ii), ¶ 3034).

A "local association" is one whose activities are confined to a particular community, place, or district irrespective of political subdivisions. If its activities are limited only by the borders of a state, it will not be considered to be purely local in character. See Reg. § 1.501(c)(3)-1(d)(2) and (3) at ¶ 3032, above, for definitions of "charitable" and "educational".

Application for exemption is filed on Form 1024.

Civic leagues must file information returns on Form 990. This return must be filed with the District Director on or before the 15th day of the fifth month following the close of the organization's annual accounting period.

**.015 Commercial-type insurance activities.**—A charitable organization described in Code Sec. 501(c)(3) or a civic league or other social welfare organization described in Code Sec. 501(c)(4) will be granted tax-exempt status only if no substantial part of their activities consists of providing commercial-type insurance. For organizations exempt from tax after application of this test, the activity of providing commercial-type insurance is treated as an unrelated trade or business (as defined in Code Sec. 513) but, instead of the usual tax on unrelated trade or business taxable income, such organization is treated as an insurance company with respect to such income. See Code Sec. 501(m) and ¶ 3070E.01.—CCH.

● ● ● Annotations by Topic

Airport .....	.019	Garden club .....	.031
Anti-abortion .....	.02	Gas station operation .....	.0315
Apartment complex member-tenants organization .....	.021	Grocery cooperative .....	.0317
Area Redevelopment Act .....	.022	Hanover Improvement Society, Inc. ....	.032
Automobile club .....	.0225	Homeowners' association .....	.0321
Baseball club .....	.023	Housing projects .....	.0323
Bus lines .....	.025	Junior chamber of commerce .....	.0326
Business activities to amortize indebtedness ..	.024	League for home aid .....	.033
Buyers' club .....	.026	Limited dividend housing corporation .....	.035
Candidate rating .....	.0265	Marsh Foundation .....	.05
City beautification .....	.0266	Milwaukee housing corporation .....	.065
Community activities .....	.027	Mutual sick and death benefits society .....	.066
Condominium housing association .....	.0275	Plumbers' cooperative .....	.067
Cooperative buying association .....	.0277	Political education .....	.071
Crime prevention .....	.028	Professional golf tournament .....	.075
Dance promoting club .....	.029	Profits for members .....	.085
Depressed area development .....	.0292	Public information .....	.09
"Employees" defined .....	.0293	Public interest representative at legislative hearings .....	.093
Employer approval .....	.0291	Public parking lot .....	.095
Employer-union organization .....	.0295	Radio forum .....	.10
Exempt organizations .....	.0296	Recreation lake association .....	.102
F.S.A.-organized corporation .....	.03	Rehabilitation of unemployed aged .....	.105
Festival .....	.0303	Riding association .....	.107
Firearm practice .....	.0304	Roller rink .....	.108

916 CCH—Standard Federal Tax Reports

§ 1.501(c)(4)-1(b) ¶ 3035.015

# Brotherhood of Locomotive Engineers

Kansas State Legislative Board

P.O. Box 66 • Osawatomie, Kansas 66064



## HOUSE COMMITTEE ON TAXATION

RE: Classification proposals recommended by Subcommittee I

February 6, 1991  
Topeka, Kansas

By: Leroy Jones  
Chairman of the Kansas Legislative Board  
Brotherhood of Locomotive Engineers

Madam Chair, and Members of the House Taxation Committee. I want to thank you for the opportunity to testify on the proposals developed by your Subcommittee I, HCR 5006 and HCR 5007.

I am Leroy Jones, Chairman of the Kansas Legislative Board for the Brotherhood of Locomotive Engineers. I am here today to support the changing of our Kansas Constitution as it pertains to classification of property for taxation purposes.

To not confuse the issues, I will prefer to refer to HCR 5007. Of course, I'm here to represent homeowners. Because of the shifts in property tax from the last tax concurrent resolution, we need to address why those shifts occur. My members in Wyndotte County were hit the hardest. I believe the major cause of this shift was the exempting out of inventories. Therefore, we are very supportive of lines 28 thru 35. This section helps the lower end housing property. It also addresses placing inventories back on without hurting the smaller businesses. In the long run, I believe the smaller business will see actual lower tax dollar amounts.

The multi-family residential real property is addressed in HCR 5007 as it should be. I was here when the percentage was dropped to 12%. The proponents told the committee how dropping the percentage would allow the landlords to lower the rent. If you look around the state I think you will find that very few apartment rentals were lowered. An article in the Johnson County Sun Newspaper this last year published an article about this

HOUSE TAXATION  
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very subject. Their survey found that no apartment rent was lowered, two stayed the same, and in all others the rent increased. So you can see, the apartment owners pocketed the tax savings. Therefore, I support the raise from 12% to 15% and if I had my way, I would raise it to 20%.

Last of all I would like to address the livestock industry. The exemption of livestock was wrong. The idea of exempting livestock was sold to the Legislature as something that would help the family farmer. The people who really benefited from the exclusion of livestock were the feedlot operators. Feedlots are a business and for them not being taxed is unfair to the rest of the business community. I believe that we should place livestock back on the tax rolls.

Madam Chair and members of the committee, we cannot afford to wait any longer. I urge you to consider my recommended changes and pass HCR 5007.

Thank you.



## City of Kansas City, Kansas

Joseph E. Steineger Jr., Mayor



Executive Chamber  
One Civic Center Plaza

Kansas City, Kansas 66101  
Phone (913) 573-5010

February 6, 1991

Representative Joan Wagnon  
Chairperson of House Committee on Taxation  
State Capitol Room 519-S  
Topeka, Kansas 66612

Dear Chairperson Wagnon  
and Members of the House Taxation Committee:

The City of Kansas City, Kansas appreciates the opportunity to appear before you this morning in regard to House Concurrent Resolutions 5006 and 5007. The residents of our community have felt severe impacts from reappraisal and classification, with the city losing 68.4 million dollars due to the inventory exemptions. The impact of this removal of 14% of our county's tax base has resulted in increased property taxes for residential as well as commercial property owners.

You must realize that many of our citizens are low-income or senior citizens living on fixed incomes and they cannot incur even modest increases in their tax bills without severe financial stress. Yet the changes in classification have forced residential property owners to take on an increase of over 35% in taxes between 1988 and 1989. Commercial property owners have experienced increases anywhere from 75% to 500%. Such increases will and have had severe negative impacts on many businesses in Kansas City, Kansas. In a survey of our small businesses last Fall, 40.7% of the respondents stated that there was a dire need for some kind of modification or lowering of property taxes.

Our citizens and businesses have cried out for relief from the increased property taxes. On December 7th, 1989 our Council adopted a resolution recognizing that reappraisal and reclassification had resulted in an unacceptable shift in the tax burden being imposed on the citizens of our city, and proclaimed reducing property taxes as a priority for local government operations.

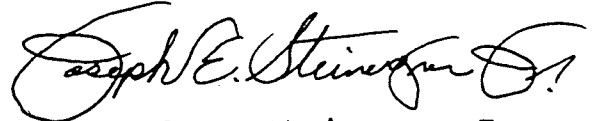
HOUSE TAXATION  
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Representative Joan Wagnon  
February 6, 1991  
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I come before you today asking that you adopt a constitutional amendment that puts inventories back on the tax roles and give the citizens of my community and of the state the relief they so desperately need. Without the inclusion of inventories general property taxes are levied against too small of a tax base, thus enhancing some of the tax shifts created by reclassification and resulting in real property taking too much of the tax burden and making the average citizen and small businessman pay more than their share.

Respectfully submitted,



Joseph E. Steineger, Jr.  
Mayor

c: Kansas City, Kansas City Councilmembers

H. K. JAMES

Company

913-262-1717

POST OFFICE BOX 3302  
KANSAS CITY, KANSAS 66103

February 6, 1991

Attention: The State of Kansas, Governor and Legislature.

Reference: Property Reappraisal/Classification.

November 7, 1989 I received from Wyandotte County real estate tax statements concerning three commercial buildings we own near Kansas University Medical Center. Parcel #113205 escalated 207.83 per cent, and Parcel #11302 escalated 185.73 per cent. The real estate taxes are in excess of 25 per cent of the gross rentals of these properties. If we were to attempt to pass on these increases our tenants would relocate in Missouri. We have owned this property since 1954 and therefore, we are in full command of property values and rental rates.

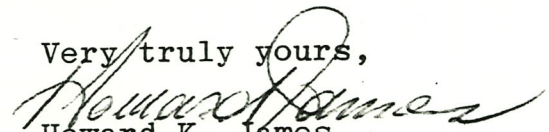
The former governing body responsible for this most serious problem is blatantly guilty of breaching its fiduciary responsibility to the affected constituents, and this infamous action must, and will be corrected.

It would not appear that our present Legislature is much closer to a fair solution to this problem than they were in the two preceding sessions. In all fairness, I believe that you have recognized that a serious problem does exist, and you are attacking this problem.

It is not economically feasible that the property defined above should experience a tax raise of more than 10 per cent over the 1988 level. Immediate relief should be implemented by rolling taxes back to the 1988 level, and lock them in place until the Kansas governing body and voters can resolve the problem fairly, for all constituents in the state of Kansas.

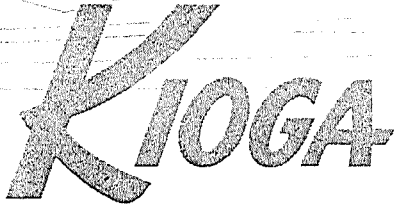
It is reasonable to assume that it could require as many as five years for you to resolve this problem. We must have immediate relief or the results for many of our commercial and industrial property owners will be tragic.

Very truly yours,

  
Howard K. James  
The H. K. James Company

Residence: 7000 W. 73rd St.  
Overland Park, KS

HOUSE TAXATION  
Attachment #4  
02/06/91



## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202  
(316) 263-7297 • FAX (316) 263-3021  
1400 MERCHANTS NATIONAL BANK BLDG. • TOPEKA, KANSAS 66612  
(913) 232-7772 • FAX (913) 232-0917

February 6, 1991

**TO: House Committee on Taxation**

**RE: HCR 5006 & 5007 - Constitutional Amendments for Classification of Taxation**

KIOGA is opposed to the passage of another state constitutional amendment relating to the classification of taxation that leaves oil and gas properties at 30% and drops commercial and industrial properties to 25%.

When the constitutional amendment was passed a couple of years ago, we did not have the research or information to argue against keeping our industry at the level defined under the old constitutional requirement of 30% and at fair market value. This is where the oil and gas industry has been for years and this is where we are now.

Two major studies that shed new light on taxes related to oil and gas properties have been conducted by Kansas, Inc. since the enactment of the constitutional classification amendment. Oil and gas industry taxation was examined by this summer's Special Committee on Assessment and Taxation. The question was raised as to the fairness in taxation applicable to the oil and gas industry. The comments arose from debate on a proposal that came out of a Kansas, Inc. study. It was noted that the effective tax rate applicable to oil and gas properties for FY 1989 was 9.7%. This was compared to information from another Kansas, Inc. study that established that all other commercial and industrial property had an effective tax rate of 3.3%. One member stated correctly that this comparison of commercial and industrial property taxes confirms that oil and gas properties in Kansas are taxed at a very high rate and again raised the issue of fairness in taxation as applied to our industry.

We are pleased to finally have those responsible for establishing Kansas tax policy address this subject of high oil and gas taxes. We believe it is a very serious issue and that the rationale and justification for taxing an industrial property producing oil and gas at a rate three times higher than other industrial properties should be examined and corrections made.

We believe if the assessment rate on commercial and industrial properties is decreased to a rate below the current 30%, as is proposed in HCR 5006 & 5007, oil and gas properties should be reduced accordingly in the name of tax fairness.

We are an industry attempting to be good citizens of our state. Our goal, and the reason Kansas, Inc. conducted its study relating to oil and gas industry taxation, is to specifically identify tax inequities and to make recommendations to correct those inequities. Kansas has, through high taxation, discouraged many from further investment in Kansas and they have taken their investments to other producing states whose tax policies encourage their activity.

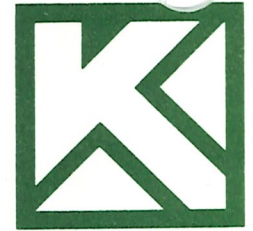
**Donald P. Schnacke**

HOUSE TAXATION  
Attachment #5  
02/06/91



# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry



500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

HCR 5006 & HCR 5007

February 6, 1991

### KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the  
House Taxation Committee

by

Bob Corkins  
Director of Taxation

Madam Chairman and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to appear today to express our concerns regarding proposed changes to the constitutional property tax classification system. Although KCCI would consider supporting reclassification designed to bring commercial property tax reductions, we oppose this and other similar proposals for reasons which I will briefly explain.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

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Attachment #6  
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First, we are very encouraged by the primary thrust of these proposals. They all finally acknowledge that the business sector is the class which has suffered most under statewide reappraisal and classification and that some relief for this class should be the primary objective.

However, our opposition has been directed by our members due to three main items included in all reclassification plans submitted this session: inventory taxes, increased public utility taxes, and excessively high machinery and equipment taxes.

KCCI opposes all forms of an inventory tax, including those upon public utilities' inventory. Any business subjected to an inventory tax, to whatever degree, would be saddled with a regressive, counterproductive tax which is highest when they can least afford it and which the vast majority of other states have already declared obsolete. In addition, to reimpose an inventory tax in Kansas, when 42 other states have either never imposed it or have eliminated it, would be devastating to our economic development.

KCCI opposes any increase in the assessment rates applied to public utility property. Although all property taxes on businesses are eventually reflected in the price of goods and services sold, it is especially true and rapid with respect to utilities -- an expense which very few individuals and businesses can avoid.

KCCI opposes any unreasonable increase in property taxes applied to business machinery and equipment. Our members strongly believe that the current appraisal and straight line depreciation method used for machinery and equipment must not be changed. While some reasonable increase in the assessment rate applied to this property would be acceptable, most KCCI members feel that 30% would be too high.

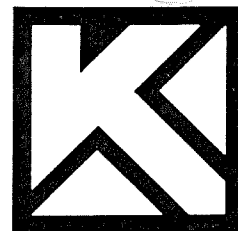
We remain optimistic about the possibility of a reclassification amendment which effectively addresses the commercial property tax problem in a fair and prudent manner. Because of the uncertainties involved in the process, though, KCCI still prefers a statutory approach towards solutions. Reclassification, unfortunately, will not reduce the present overreliance on property taxes as a source of revenue.

Again, thank you for your time and consideration.

Attachment 6-2

# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry



500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

### COMPARISON OF REGIONAL TREATMENT OF BUSINESS MACHINERY & EQUIPMENT AD VALOREM TAXATION

#### Kansas

- \* All business M&E appraised at "retail cost when new"
- \* All business M&E depreciated on a 7-year straight line basis
- \* All business M&E assessed at 20% of appraised value

#### Colorado

- \* All business M&E appraised at "original installed cost new"
- \* Depreciation calculated on "Iowa curve":
  - not equivalent to straight line depreciation
  - 12 classes of M&E established, according to M&E life
  - all classes, faster depreciation allowed in early years
  - IRS "form 534" depreciation used as guideline
  - annually updated Colo. booklet used by appraisers
- \* All business M&E assessed at 29% of appraised value

#### Iowa

- \* Generally, tangible personal property is all exempt
- \* Computers and industrial machinery are taxed
- \* Appraisal = 30% of "acquisition cost"
- \* No depreciation is allowed, regardless of M&E's useful life;  
property remains on tax rolls at 30% acquisition cost until disposed of
- \* Property is assessed at 100% of appraised value

#### Missouri

- \* Substantial discretion is given to local appraisers
- \* Generally, M&E is appraised at "retail cost when new"
- \* Depreciation schedules vary by county, some using straight line
- \* Business M&E is assessed at 33% of appraisal; Agric. M&E = 12%

#### Nebraska

- \* Business M&E appraised at "historic" price:
  - generally meaning original retail price
  - exceptions allowed for other appraisal method  
if M&E life expectancy exceeds 10 years
- \* Depreciation of M&E:
  - 10 year straight line on most M&E
  - 5 year straight line on computers and data processing
  - 3 year straight line on videotapes, etc.
- \* Business M&E is assessed at 100% of appraisal

#### Oklahoma

- \* Business M&E is both appraised and depreciated using state's "book value"
- \* No depreciation schedule, per se, but "book" is revised annually
- \* Assessment rates on M&E vary by county, but average 10 to 12% of "book value"

February 6, 1991

Chairman Wagnon, and members of the House Tax Committee:

My name is Mel Davis of 549 Tallyrand, Wichita, Kansas. I own and operate 288 apartment units in Wichita. Although I am vice-chairman of the Wichita Housing Task Force, I appear here today representing no person or organization except myself.

I object to the proposed legislation that re-classifies multi-family residential property of more than four units from 12% to 15%, while leaving all other residential property at 12%. I object strictly on the grounds of equity. To create a special class for rental real estate used as a residence that would make it different from other real estate used as a residence, would be unfair to the occupant, who, ultimately, must pay the tax.

Although I recognize the problems that you face as a legislator in your never-ending quest for funds, such a classification variation of housing rates places a severe penalty on the members of our community least likely to afford it...the renter. Already the renter is penalized by legislation that allows him no tax shelter from interest or ad valorem taxes, as benefits the homeowner. Now, to increase his rent through higher taxes than is paid by his home-owning neighbor is indeed cruel and unjust.

I have heard that the justification for this inequity is that multi-family owners have enjoyed a windfall from classification. In my own case, and I suspect in the vast majority of cases, reappraisal wiped out such potential windfalls, and didn't even begin to cover the increased costs I, and others in this field, have absorbed. As an illustration of this last point, for the decade of 1980 to 1990, while the Cost of Living escalated by 59%, the average apartment rent in Wichita raised by 19%! In my apartment complex, rents escalated a miniscule 11% during that entire decade. There is no room left for more absorption. I can assure you that future increases in costs must be and will be passed through to the tenant.

As a member of the largest School Board in Kansas, I am painfully aware of the dilemma of increasing demand for services and decreasing revenues, and am sympathetic to your plight. Perhaps the legislature was too generous to residential housing in the original Constitutional Amendment. Perhaps the 12% classification rate should be changed, but if that is the solution, I implore you to retain the linkage of identical classification rates for all residential property, be it single or multi-family. The rationale that guided you and your predecessors when you created this legislation is no less appropriate today than it was then.

Finally, then, for the sake of decency and fairness, please do not attempt to solve our state's fiscal problems on the backs of our most desperate citizens...the voiceless, under-represented, young and old economically distressed apartment dweller, who would like to own a home and enjoy the benefits that go with it, but simply can't afford it. How can we, in the name of justice, increase his burden to lighten ours...and how long will he remain voiceless in the face of such inequity?

Thank you for your consideration.

HOUSE TAXATION  
Attachment #7  
02/06/91



KANSAS GAS AND ELECTRIC COMPANY

ROBERT L. RIVES  
GROUP VICE PRESIDENT

February 4, 1991

The Honorable Joan Wagnon  
Chair, House Assessment and Taxation Committee  
1606 Boswell  
Topeka, KS 66604

Dear Representative Wagnon:

Proposals to increase the property appraisal values of utilities including KG&E through HCR 5006 would add about \$2.9 million per year to the electric bills of our customers.

KG&E's tax bill was virtually unaffected by the changes which followed the constitutional amendment and reappraisals. Our property taxes including inventory were approximately \$28 million in both 1988 and 1989 and went up to more than \$28.6 million for 1990. Thus the much discussed tax change did not benefit KG&E or our customers. The proposed increase resulting from higher appraised values would necessarily be passed along to customers. Regulators generally view property taxes as a cost of service to be recovered from utility customers.

This proposed increase not only would burden state citizens but do so unfairly. While customers of an investor-owned company like KG&E would be compelled to pay large tax increases through their electric bills, thousands served by municipally-owned utilities would escape the increase entirely.

For these reasons, please give the proposed upward changes careful thought before putting them in place.

Sincerely,

RLR:nh

HOUSE TAXATION  
Attachment #8  
02/06/91



**TESTIMONY BEFORE THE  
HOUSE ASSESSMENT AND TAXATION COMMITTEE**

by **Jim Ludwig**

**KPL GAS SERVICE**

February 6, 1991

Madam Chairman and Members of the Committee:

We appear before you to oppose HCR 5006 and HCR 5007.

**BACKGROUND:** Utility Valuation

Utilities are state, not locally, assessed. Each year the director of the Property Valuation Division (PVD) of the Kansas Department of Revenue appraises a utility's fair market value based on the following factors called indicators of value:

1. Net operating income, which is income before interest on borrowed money is subtracted. It is capitalized on the basis of the cost of borrowing money and by market indicators of risk (eg., Dunn & Bradstreet) and includes the PVD's estimation of what a reasonable investor would expect as a return on his/her investment. In PVD's calculations, this "earnings" indicator is the most important factor in determining market value.
2. Original cost.
3. Original cost less depreciation.
4. Market value of stock and debt.

We acknowledge the KPL's property tax bill went down from 1988 to 1989.

1988: \$37.1 million

1989: \$31.8 million

Total \$ 5.3 million reduction

There are two primary reasons KPL's property taxes decreased the year classification and reappraisal was implemented:

- The most overlooked reason KPL's assessed valuation dropped from 1988 to 1989 was that our earnings were down due to unusually mild weather. About \$400,000 to \$500,000 of our savings was attributable to depressed earnings (see #1 indicator of value above). We estimate that even if the state's tax base had not been increased by classification and reappraisal, our tax would have gone down a little because of a lower assessment due to depressed earnings.
- Statewide mill levies went down on the average. Since KPL operates in over 80 counties in Kansas, and levies went down on the average, our taxes went down with them. This drop in mill levies accounted for most of our property tax reduction.

HOUSE TAXATION  
Attachment #9  
02/06/91

This has proven to be a transitory reduction as mill levies rose to meet the revenue demands for local services. Utilities have been, and still are, assessed at 30 percent, the state's highest level.

### **KPL: Corporate Taxpayer**

KPL is a major contributor to the tax revenues that make it possible for units of government to provide services. Each year KPL pays over \$70 million in combined federal and state income, property, payroll (FICA) and other taxes. We also collect nearly \$40 million annually in city franchise taxes and another \$17 million in state and city sales taxes. As a major company in the state and an important part of the economy of a three-state area, our contribution in taxes should be, and is, substantial, yet not disproportionate with that of other businesses.

The drop in property taxes for 1989 reversed a five-year trend of escalating taxes for KPL. From 1983 to 1988, KPL experienced a 65.5 percent increase in property taxes for electric property and 54.8 percent for gas property, while our assessment increased 29.3 percent and 34.8 percent respectively. In dollars, our total property tax liability increased from \$22.8 million in 1983 to \$37.1 million in 1988.

1983 was a benchmark year for KPL, because it represents the completion of all major generating unit construction at Jeffrey Energy Center. We have not had any major construction to increase our valuation during the period our taxes on electric property increased by 65.5 percent.

### **EFFECTS OF THE HOUSE PROPOSALS ON KPL**

#### **HCR 5007**

If HCR 5007 were in effect,

1990 property tax liability would be:	\$40.4 million
Actual 1990 property tax:	<u>\$33.5 million</u>
Increased taxes as a result of HCR 5007:	\$ 6.9 million

#### **HCR 5006**

If HCR 5006 were in effect,

1990 property tax liability would be:	\$41.0 million
Actual 1990 property tax:	<u>\$33.5 million</u>
Increased taxes as a result of HCR 5006:	\$ 7.5 million

The assumptions underlying the two House proposals are unrealistically conservative. Both assume KPL's total valuation remains constant and that mill levies increase only by the factor that the proposals reduce the total statewide property tax base. Experience has shown mill levies rise to meet demands for more government services, a fact not factored into either the \$6.9 million or \$7.5 million property tax increases. KPL's property taxes would likely increase more than these estimates.

### **TAX LIABILITY CHANGES: Impact on Utility Customers**

Unregulated businesses have options to deal with increased taxes. Their earnings potential is less restricted than ours, because they can freely increase the price of their products or services. Our earnings - the rate of return permitted to our shareholders - are capped by the Kansas Corporation Commission (KCC). If we exceed our revenue requirements, plus our allowed rate of return on equity, we return it to our customers.

Attachment 9-2

Tax reductions are not windfalls for utilities. In the regulated utility business, upward and downward changes in taxes are normally passed on to customers. For example, when KPL benefitted from 1986 federal income tax reform, we were among the first utilities in the region to voluntarily return the \$40 million in tax savings to our customers in the form of reduced electric and gas rates. More moderate reductions in taxes may be treated as a reduction in revenue requirements in future rate cases or as an adjustment against inflation or other expenses.

Likewise, increases in our taxes put pressure on rates to go up. The "pass through," however, is not dollar for dollar when property taxes go up, because utilities have to borrow money to pay the taxes and let interest expense accrue until a rate case can be prepared and then heard by the KCC. This lag between tax payment and recovery ultimately costs customers more than the face amount on KPL's property tax bills. Besides recovering borrowed money and interest, we must also earn enough rate of return on equity to attract shareholders to loan us the money in the first place. All this results in higher utility bills.

KPL's wage and interest expenses have increased over the past few years. Our last electric rate case was settled in May 1983, and our last natural gas case in October 1988. There have been several decreases in electric rates due to reduced tax liabilities, the most recent of which was a \$9.3 million reduction in February 1989.

Our property tax reduction of 1989 has helped offset increased costs of doing business and delay electric and gas rate cases. But, increased taxes would increase our overall revenue requirements and hasten the schedule for another rate case.

The 1989 Kansas legislature enacted a law which fundamentally changed the way all natural gas distribution companies do business. Gas utilities had not been financially responsible for the customer service lines that take gas from the company-owned gas meter to the customer's house. Over 90 percent of these customer service lines were installed by others and have never been part of the gas companies' property.

The 1989 legislature mandated that gas distribution companies assume responsibility for these service lines. We, and other natural gas utilities, are engaged in systematically checking those lines and replacing them as necessary. This is an expensive undertaking, but worthwhile because it enhances public safety. Such a massive customer service program has benefitted modestly from the comparatively small 1989 property tax savings experienced by KPL. We have applied our savings to the line replacement costs. As we assume ownership of replacement lines, our valuation will also increase for property tax purposes.

#### **TAX LIABILITY: Impact on Low Income Customers**

The effects of increased taxes would be worst for our poorest customers. The Low Income Home Energy Assistance Program (LIHEAP), a federal and state program that assists poor persons pay their utility bills, has been reduced by hundreds of millions of dollars in the past decade. Some funding has also been reallocated to other social programs.

Kansas has compensated for reductions in LIHEAP allocations by supplementing funding with oil overcharge money, but these funds are expected to be depleted this year.

Our customers who receive LIHEAP assistance are among this state's most impoverished citizens - those with annual household incomes of less than \$7,000. Annual LIHEAP benefits to these families average only \$210. Nearly half the recipient families have at least one elderly member.

Reductions in energy assistance programs, coupled with rising rates due to tax increases, do not bode well for our customers who already have a hard time. Our trends in collections shows a measure of their difficulty. The monthly average number of customers in arrears, 1989 versus 1990, increased 10 percent.

While a property tax increase of several million dollars may seem small when distributed over the utility bills of hundreds of thousands of customers, the resulting higher utility bills do the most harm to those least able to pay, even making those who do not own any property shoulder a burden. The result is a regressive - and hidden - distribution of taxation.

## **CONCLUSION**

Any "tax relief" measure that raises utility bills is not real relief. KPL does not seek special exclusion from taxation. Our goal is to support tax proposals that are fair to all taxpayers and proposals that tax utilities at the same rate other businesses are taxed. Because HCR 5006 and HCR 5007 violate that goal, we urge the committee to vote against this resolution.