

Approved

March 12, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 9:20 a.m. on Monday, FEBRUARY 24, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. Bill Roy, Jr., excused.

Committee staff present:

Tom Severn & Chris Courtwright, Legislative Research; Bill Edds and Don Hayward, Revisors; Linda Frey, Committee Secretary; Douglas E. Johnston, Committee Assistant.

Conferees appearing before the committee:

Kevin Robertson, Executive Director of the Kansas Lodging Association  
Jean Barbee, Executive Director for the Travel Industry Association of Kansas  
Donald R. Gross, President of the Olathe Chamber of Commerce  
Tom Riederer, Executive Director of the Lenexa Chamber of Commerce  
Curt Wood, Director of Finance for the city of Manhattan

Written testimony from Donald P. Schnacke, representing the Kansas Independent Oil and Gass Association, was distributed to the committee (Attachments 1 and 2).

The Chair requested and received the unanimous consent of the committee for the introduction of a bill.

Public hearings were opened on HB 2850, Transient Guest Tax.

Kevin Robertson, Executive Director of the Kansas Lodging Association, testified in favor of HB 2850 (Attachments 3 and 4). In addition to his written testimony, he said revenues from the transient guest tax were being used by some cities and counties for projects not related to tourism. He also said the city of Wichita was attempting to use the transient guest tax to fund the building of a convention hotel in downtown Wichita. He noted that such a hotel would be in direct competition with already established hotels and motels that currently pay the tax.

Rep. Charlton asked if the 6% levy rate was too high or too low and how it would affect hotel and motel lodging sales.

Rep. Snowbarger asked if there would be a way to define "tourism" so cities and counties would not be able to use the tax for unrelated purposes.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Monday, February 24, 1992.

Rep. Glasscock asked if it was the position of the Lodging Association that there was a philosophical flaw in current law or if there was misuse of the tax revenues. Robertson was unable to say how much of the \$9 million transient guest tax revenues raised statewide by local districts were being misused. He said his association received many calls asserting misuse. For example, he said one city used transient guest tax revenues to plant trees on convention grounds. He said the philosophical flaw was that local districts could charter out.

Jean Barbee, Executive Director for the Travel Industry Association of Kansas, testified in favor of HB 2850 (Attachment 5).

In response to a question, Hayward new section 2 of the bill would void all charter ordinances by applying uniformity to all cities and counties. It would void all current charters, he said.

Donald R. Goss, President of the Olathe Chamber of Commerce testified against HB 2850 (Attachment 6).

Rep. Larkin asked Goss for his definition of economic development and to address the issue of the use of transient guest tax revenues. Goss said tourism and economic development were very broad terms and that it was up to individual Convention and Visitors Bureau boards to decide on a case by case basis what was appropriate use of the revenues.

It was noted that by chartering out of current law a city or county also chartered out of the restriction on use of revenues.

Tom Riederer, Acting Executive Director of the Lenexa Chamber of Commerce, testified against HB 2850 (Attachment 7).

Art Davis, Assistant to the City Administrator for the city of Lenexa, testified against HB 2850 (Attachment 8).

Rep. Charlton stated that HB 2850 was not introduced and heard at the request of any special interest groups.

Curt Wood, Director of Finance for the city of Manhattan, testified against HB 2850 (Attachment 9). In response to a question, Wood said 1% of the 5% transient guest tax levy in Manhattan went to the Chamber of Commerce Convention and Visitors Bureau for promotion of conventions and tourism.

Donald R. Seifert, Assistant Director of Administrative Services for the city of Olathe, testified against HB 2850 (Attachment 10).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Monday, February 24, 1992.

Ernie Mosher, Research Director for the League of Kansas Municipalities, testified against HB 2850 (Attachment 11).

Catherine Holdeman, Intergovernmental Relations Director for the City of Wichita, testified against HB 2850 and refuted Robertson's statement that Wichita was attempting to use transient guest tax revenues to fund the building of a downtown hotel. She said Wichita was not using the tax for the purpose stated (Attachment 12).

Information was requested regarding how the Wichita, Manhattan and the Olathe and Lenexa Chambers of Commerce spent their transient guest tax revenues in 1991.

The public hearings were closed on HB 2850.

The Chair brought up SB 8 and HB 2815 for discussion and action.

Rep. Larkin discussed the subcommittee's proposed amendments to HB 2815 and SB 8.

The Chair said she would accept a motion to accept the proposals of the subcommittee regarding SB 8 and HB 2815. The proposals would be amended into SB 8.

Rep. Lowther moved and Rep. Larkin seconded accepting the subcommittee report as an amendment to SB 8. The motion carried.

In response to a question, Rep. Larkin said interested parties were addressed and heard from regarding date of notice and payment changes. Rep. Larkin said the subcommittee discussed the issue of providing an earlier payment date than March 20. Smaller counties had no problem meeting an earlier payment date while larger counties needed more time. He said the subcommittee had agreed on a compromise date.

Rep. Vancrum said the March date was the latest time the notices for value could be sent out, but that nothing prevented counties from sending them out earlier.

The Chair said the committee needed to establish the threshold number of real property parcels in counties where county or district hearing panel appointments would not be required.

David Cunningham, Director of Property Valuation, said there are 70 counties with 10,000 parcels or less and 35 with greater than 10,000 parcels or real property.

Bill Waters, Dept. of Property Valuation, said allowing taxpayers

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Monday, February 24, 1992.

to choose arbitration board members would be expensive.

Rep. Larkin described the Colorado board of arbitration which had only one member. He said the subcommittee had received positive reports about the effectiveness of the Colorado plan.

Vic Miller favored choosing an arbiter by going down the a list and striking the most objectionable. He said such lists could be compiled for different areas of the state. He thought one was sufficient.

Rep. Larkin made a motion to amend the subcommittee report so that county or district hearing panel appointments should not be required in counties with fewer than 10,000 parcels of real property. Rep. Wiard seconded the motion. The motion carried.

A memorandum regarding Property Tax Circuit Breakers was distributed to the committee (Attachment 13).

The meeting adjourned at 10:55 a.m. The next meeting will be February 25.



GUEST LIST

COMMITTEE: Separation

DATE: 2/24/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Mike Miller	Topeka	City of Topeka
Alan Steppat	Topeka	Pete McBill & Associates
Jim McRaid	Topeka	Museum
BEU BRADLEY	TOPEKA	KS ASSOC. of COUNTIES
Nancy Hempen	Lawrence.	Do. Co. Treasurer
Ann Holdeman	Wichita	City of Wichita
Jim Beebe	Topeka	Flange & Co. Inc.
Barbara Butts	Topeka	Dept of Admin
Bill Anderson	Mission	Water Dist No. 1
Jessie Roenbaug	Wichita	
Chris Steineger	K.C. KS.	K.C. KS.
Art Davis	Lenexa	City of Lenexa
Tom Riedner	LENEXA	Chamber of Commerce
Bob Corkins	KCCI, Topeka	Ks. Chamber of C & I
Martha Jenkins	Topeka	AIA
Bob Trenter	"	Ks. Govt Consulting
Don Siefert	Olathe	City of Olathe
Donald R. Lane	Olathe	Olathe Chamber of Commerce
JANICE MARCUM	TOPEKA	KDOR
Bill Waters	Topeka	PVD KDOR
Harbor	Topeka	Manager of Ks. Planning
Curt Wood	Manhattan	City of Manhattan



## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202

(316) 263-7297 • FAX (316) 263-3021

800 S.W. JACKSON • SUITE 1400 • TOPEKA, KANSAS 66612

(913) 232-7772 • FAX (913) 232-0917

JAMES B. DEVLIN  
PRESIDENT

DONALD P. SCHNACKE  
EXECUTIVE VICE-PRESIDENT

### VICE-PRESIDENTS

LEE BANKS  
R.D. RANDALL  
PAT RAYMOND  
JACK RINE  
CARL W. SEBITS  
PAUL SIMPSON  
CHARLES W. STEINCAMP

### SECRETARY

THORNTON E. ANDERSON

### TREASURER

B. LYNN HERRINGTON

### DIRECTORS

BILL ANDERSON  
THORNTON E. ANDERSON  
DANE BALES  
LEE BANKS  
ROBERT M. BEREN  
DANNY N. BIGGS  
EARL O. BRANDT  
RAUL F. BRITO  
ROBERT BRUCE  
ROBERT BUFORD  
JON M. CALLEN  
ALAN L. DeGOOD  
SPENCER L. DEPEW  
JAMES B. DEVLIN  
MICHEAL W. DIXON  
JOHN O. FARMER, III  
EUGENE L. FERRIN  
FRANK D. GAINES  
JAY H. GALLOWAY  
R. JAMES GEAR  
JACK GLAVES  
B. LYNN HERRINGTON  
RICHARD A. HIEBSCH  
BYRON E. HUMMON, JR.  
MARK S. JENNINGS  
JOHN D. KNIGHTLEY  
MARVIN E. KRAFT  
BURKE KRUEGER  
JERRY A. LANGREHR  
C.J. LETT, III  
NED E. LOWRY  
KEVIN McCOY  
MARTIN E. MILLER  
LEWIS M. MULL  
DAVID L. MURFIN  
R. DOUGLAS MYERS  
ELWYN H. NAGEL  
DICK PEARCE  
NICHOLAS K. POWELL  
WILL G. PRICE  
ROB RAMSEYER  
R.D. RANDALL  
PAT RAYMOND  
GARY L. REED  
JACK RINE  
M. BRADFORD RINE  
A. SCOTT RITCHIE, III  
JAMES W. ROCKHOLD  
DANIEL F. SCHIPPERS  
CARL W. SEBITS  
GEO. R. SHAW  
DON D. SHAWVER  
JOHN C. SHAWVER  
PAUL SIMPSON  
CHARLES W. STEINCAMP  
BARNEY E. SULLIVAN  
JAY D. SWANSON  
ROD SWEETMAN  
LAWRENCE TENK  
DOUGLAS W. THIMESCH  
DAVID H. TRIPP  
J.M. VESS  
THOMAS D. WHITE  
CHARLES B. WILSON  
BILL WOHLFORD  
I. WAYNE WOOLSEY

February 21, 1992

Honorable Jim Lowther  
State Capitol - Room 155-E  
Topeka, KS 66612

RE: HB 2125 - Marginal Oil Wells

Dear Jim:

At our hearing before the House Taxation Committee on HB 2125, you asked a question about production longevity of oil wells that would qualify for the exemption defined in the bill.

Your question was very appropriate, but not easily answered. I believe one of the conferees, Mr. Mike Vess, indicated that this bill was no guarantee that all qualifying marginal wells would demonstrate a record of longevity. He indicated that ad valorem taxes were part of the equation determining the life of a well. Factors involved in the determination include: cooperation from state regulatory agencies, efficient operating procedures, the characteristics of the well, the level of taxation, and the price of oil, etc. These all can contribute to slowing down the day when a sensitive and marginal well will be abandoned and plugged. By the passage of HB 2125, the legislature can contribute to this effort by offering relief from ad valorem taxes on those most sensitive oil wells which would qualify for the exemption.

Operating costs are by far the largest factor in the budget of a producing well and typically absorb 85% of the income from a 2-3 BOPD well. This money moves into the economy of Kansas. Of the remaining 15%, the operator must service his investment risk, pay taxes, and, hopefully, realize a profit.

As the production or income curve moves closer to the operating cost curve, the decision to abandon and plug a well is made. I'm enclosing a chart which describes this point in a very simple manner. Obviously, relief from ad valorem taxes related to the working interest will contribute to postponing that decision. Each well has its own characteristics and it is not possible to predict how long production will continue.

House Taxation  
Attachment 1  
02-24-92

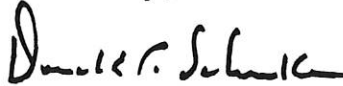
Honorable Jim Lowther  
February 21, 1992  
Page 2

Under HB 2125, equipment, which can represent 60-80% of the ad valorem tax on a 4 BOPD well, would continue to be taxed. Royalty interests, who have no risk or operating expense, would also continue to be taxed. It is to the benefit of royalty interest holders to keep marginal wells producing.

Despite the testimony of one of the opponents, we don't believe there are 4 BOPD well leaseholds as defined in HB 2125 in southwest Kansas.

We firmly believe, as a matter of tax policy for Kansas, HB 2125 should be passed. It addresses a serious issue that won't go away without positive legislative action.

Sincerely,

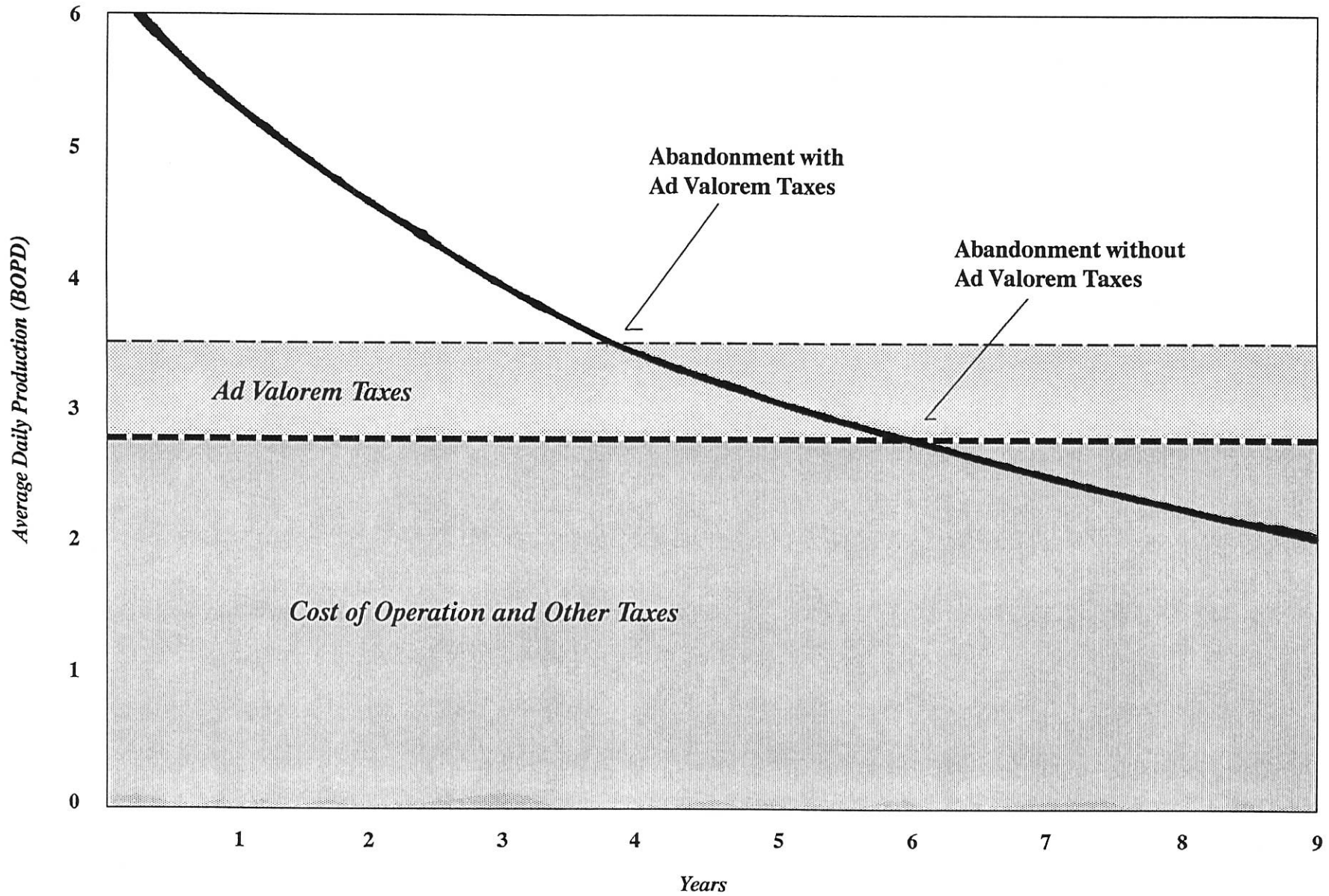


Donald P. Schnacke

DPS:pp  
Encl

cc: Members, House Taxation Committee

# Effect of Ad Valorem Tax On Stripper Well Economic Life







STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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

July 7, 1986

ATTORNEY GENERAL OPINION NO. 86- 96

Frank C. Beyerl  
Greenwood County Attorney  
223 N. Main  
Eureka, Kansas 67045

Re: Taxation -- Collection and Cancellation of Taxes --  
County Treasurer's Acceptance of Partial Payment of  
Delinquent Property Taxes

Synopsis: K.S.A. 79-2004 and K.S.A. 79-2004a deal with the  
time for payment of real estate and personal  
property taxes. By expressly giving the taxpayer  
the option to pay the full amount immediately or  
one-half of the full amount assessed at a time,  
the statutes exclude all other options available to  
the taxpayer. Accordingly, a county treasurer may  
not be compelled to accept partial payment on any  
delinquent taxes, although he or she may do so in  
his or her discretion, crediting it to the tax  
assessed. Cited herein: K.S.A. 79-2002; 79-2004,  
79-2004a; K.S.A. 1985 Supp. 79-2101; Comp. Laws  
of 1879, §89, §91.

\* \* \*

Dear Mr. Beyerl:

As Greenwood County Attorney, you request our opinion  
regarding the partial payment of delinquent property taxes.  
Specifically, you inform us that the Greenwood County  
Treasurer has refused to accept partial payment on any  
delinquent taxes, and inquire as to whether she may be

House Taxation  
Attachment 2  
02-24-92

compelled to do so. In answering your question, we find it initially helpful to refer to 84 C.J.S. §624 on Taxation. The sub-heading on partial payment provides:

"Except where part payment is authorized by statute, or where the taxes are separable, acceptance of part payment cannot be compelled, although an officer may accept it in his discretion."  
(Emphasis added.)

The section explains that the law ordinarily intends that taxes shall be paid in full at one time and, unless part payment is authorized by statute, a taxpayer cannot tender a portion of the tax due and demand a receipt therefor. However, it goes on to state that this does not mean the officer may not legally accept a partial payment, and in fact he may do so in his discretion, crediting it to the tax assessed.

We are aware that your question is directed toward the collection of delinquent, not current, property taxes. K.S.A. 1985 Supp. 79-2101, the statute which deals with the collection of delinquent taxes, specifies:

"All the taxes on personal property that remain due and unpaid on February 16 or July 1 shall be collected in the following manner:

"If such taxes remain unpaid for a period of 30 days after mailing such notice, the county treasurer shall forthwith issue a warrant under the treasurer's hand directed to the sheriff of the county, commanding the sheriff to levy the amount of such unpaid taxes and the interest thereon, together with the sheriff's fees for collecting the same, upon any personal property, tangible or intangible, of the person, firm, unincorporated association, company or corporation to whom such taxes were assessed."

Thus, if personal property taxes are not paid to the county treasurer by February 16 or July 1 of the year due, they

become delinquent and must be collected according to the provisions of K.S.A. 1985 Supp. 79-2101, rather than pursuant to K.S.A. 79-2004a. However, we find no differences in the statutes which deal with the payment of current taxes (K.S.A. 79-2004 and 79-2004a), and the statute which deals with the payment of delinquent taxes (K.S.A. 1985 Supp. 79-2101), which would compel a county treasurer to accept partial payment on delinquent taxes when the treasurer cannot be compelled to accept the same on current taxes. Therefore, we find the provisions of K.S.A.

79-2004 and 79-2004a, and the case law in Sheriff v. Ainsworth, 27 Kan. 446 (1882), to be relevant in answering your inquiry.

K.S.A. 79-2004 deals with the time for payment of real estate taxes, and states at subsection (a):

"Any person charged with real estate taxes on the tax books in the hands of the county treasurer may pay, at such person's option, the full amount thereof on or before December 20 of each year, or 1/2 thereof on or before December 20 and the remaining 1/2 on or before June 20 next ensuing."

Similarly, K.S.A. 79-2004a deals with the time for payment of personal property taxes, and states:

"Any person, firm, unincorporated association, company or corporation charged with personal property taxes on the tax books in the hands of the county treasurer may at its option pay the full amount thereof on or before December 20 of each year, or 1/2 thereof on or before December 20 and the remaining 1/2 thereof on or before June 20 next ensuing, . . . ."

"In the event any one so charged with personal property taxes shall fail to pay the first half thereof on or before December 20, then the full amount thereof shall become immediately due and payable."  
(Emphasis added.)

Thus, the Kansas statutes dealing with the collection and cancellation of taxes authorize the payment of taxes in one of two ways: either the full amount can be paid on or before December 20 of each year, or one-half of the full amount can be paid on or before December 20 and the remaining one-half on or before June 20 next ensuing.

We rely on the Latin phrase expressio unius, exclusio alterius in concluding that by expressly giving the taxpayer the option to pay the full amount immediately or one-half of the full amount assessed at a time, the statutes exclude all other options on the part of the taxpayer. Therefore, as our statutes do not authorize any other partial payment of real estate taxes or personal property taxes, the taxpayer must either pay the full amount on or before December 20, or pay half and half pursuant to K.S.A. 79-2004 and K.S.A. 79-2004a.

This result is supported by an early decision of the Kansas Supreme Court which addressed the question of whether a taxpayer can at his option tender to the county treasurer a part of the taxes assessed upon any specific property, and compel him to receive and issue a receipt for such portion. The court stated:

"A county treasurer cannot be compelled to receive taxes by piecemeal, nor obliged to give any receipt unless a full payment is made. Any other rule would throw a great burden on the officer, beside casting into the county records great confusion."  
Sheriff v. Ainsworth, 27 Kan. 446, 448  
(1882).

This decision was based on §89 of the tax law (Comp. Laws of 1879, p. 957), which provided:

"When the treasurer shall receive any tax, he shall give a receipt therefor.  
If upon land or town lot, the receipt shall describe the land as it is described in the tax roll, and give the valuation thereof; and if upon personal property, it shall state the value thereof, and on the reverse side it shall give the amount of each kind of tax on each one hundred dollars." (Emphasis added.)



Our present statute on tax receipts by the county treasurer, K.S.A. 79-2002, provides:

"Receipts shall be given for all taxes received by the county treasurer.  
Payment of current ad valorem property taxes shall be validated by a statement indicating the date received and the amount paid on all copies of such receipts." (Emphasis added.)

Both statutes impose the requirement that receipts shall be given for all taxes received by the county treasurer. Based on this requirement, the 1882 Kansas Supreme Court found that §89 implied that the treasurer was entitled to the entire tax before being required to give a receipt, and that the taxpayer could not tender any sum of money he saw fit, and have the same credited on his taxes, or demand a receipt for the money thus paid.

The Court found this implication was made stronger by §91 of the tax law, which provided:

"[A]ny person charged with taxes, on the tax book in the hands of the county treasurer, may, at his option, pay the full amount thereof on or before the 20th day of December of each year, or one-half on or before the 20th day of December, and the remaining one-half on or before the 20th day of June next ensuing."

While K.S.A. 79-2004 and 79-2004a separate the payment of taxes into real estate taxes and personal property taxes, both statutes contain wording nearly identical to that which was relied on by the Kansas Supreme Court in 1882. That Court stated:

"Giving him by express statute the option to pay one-half at a time, excludes all other option on the part of the taxpayer. This is the clear intendment of the statute, and we need go no further than rest upon its language."

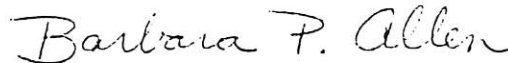
We concur in this result, and conclude that a taxpayer does not have the right to make partial payment on delinquent property taxes.

In summary, K.S.A. 79-2004 and K.S.A. 79-2004a deal with the time for payment of real estate and personal property taxes. By expressly giving the taxpayer the option to pay the full amount immediately or one-half of the full amount assessed at a time, the statute excludes all other options available to the taxpayer. Accordingly, a county treasurer may not be compelled to accept partial payment on any delinquent taxes, although he or she may do so in his or her discretion, crediting it to the tax assessed.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Barbara P. Allen  
Assistant Attorney General

RTS:JLM:BPA:crw



Date: February 24, 1992  
To: House Committee on Taxation  
From: Kevin Robertson  
Executive Director  
Re: HB 2850 - Transient Guest Tax Uniform and Equal

Madame Chair and members of the committee thank you for allowing me the opportunity to appear before you today on HB 2850. I am Kevin Robertson, Executive Director of both the Kansas Hotel and Lodging Associations representing 140 hotels and motels in the state of Kansas.

The lodging industry has a unique interest in HB 2850, as it is the rental of hotel and motel rooms exclusively which the transient guest tax taxes. In calendar year 1991, hotels and motels collected \$9,033,664.26 in the 64 cities and counties which have a transient guest tax. Of that amount, 98% was returned to their local units of government (supposedly) for the promotion of conventions and tourism. The Department of Revenue retains 2% of the total to offset the costs of administering the tax.

**The lodging industry supports HB 2850** to make the transient guest tax statutes uniform and equal. This would have the affect of not allowing cities and counties to "charter out" of its provisions.

The attorney general ruled in 1982 opinion 82-17, "a city levying a transient guest tax under either the 1975 or 1977 enactment may, by charter ordinance, exempt itself from the 2% rate limitation upon the levy of such a tax, and may exempt itself from the statutory restriction that such tax moneys be expended only for convention and tourism promotion." At least 34 of the 64 cities and counties collecting a transient guest tax have chartered-out of the statutes.

In many of these 34 localities, in the opinion of the lodging industry, guest tax revenues are being spent on projects other than convention and tourism promotion. An attorney general opinion rendered this past summer indicates that the promotion of conventions and tourism is whatever the city fathers believe it to be. This would not be changed by HB 2850, however, the statutory convention and tourism committee would once again serve as the advisory committee in determining how guest tax revenues are to be spent.

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

House Taxation  
Attachment 3  
02-24-92

Kansas Department of Revenue

Transient Guest Tax

County	Rate	Effective Date	Previous Rate and Effective Date		Previous Rate and Effective Date		Previous Rate and Effective Date	
Cherokee Co.	2%	6/1/83						
Cloud Co.	2%	7/1/91						
Crawford Co.	2%	12/1/86						
Finney Co.	2%	1/1/78						
Franklin Co.	2%	11/1/84						
Geary Co.	5%	4/1/90	3%	4/1/86	2%	4/1/78		
Grant Co.	2%	4/1/92						
Labette Co.	2%	7/1/87						
Lyon Co.	2%	7/1/83						
Marshall Co.	2%	9/1/87						
Mitchell Co.	2%	10/1/91						
Montgomery Co.	2%	6/1/84						
Morris Co.	4%	1/1/92	2%	10/1/85				
Phillips Co.	2%	1/1/87						
Reno Co.	Repealed	12/31/87	2%	9/1/78				
Rice Co.	2%	4/1/92						
Russell Co.	4%	12/1/90	2%	3/1/85				
Scott Co.	Repealed	3/3/86	2%	4/1/86				
Sedgwick Co.	5%	7/1/85						
Sherman Co.	3%	1/1/91	2%	3/1/83				
Smith Co.	Rescinded	11/13/89	2%	1/1/90				
Wilson Co.	2%	2/1/86						
Woodson Co.	2%	11/1/82						

City	Rate	Effective Date	Previous Rate and Effective Date		Previous Rate and Effective Date		Previous Rate and Effective Date	
Abilene	3%	8/1/86	2%	7/1/77				
Andover	5%	1/1/91						
Arkansas City	4%	10/1/86	3%	10/1/80				
Atwood	2%	4/1/90						
Belleville	2%	4/1/85						
Chanute	3%	1/1/91						
Colby	2%	1/1/87	1%	5/1/82				
Dodge City	6%	8/1/91	3%	2/1/89	2%	5/1/81		
El Dorado	4%	2/1/89	2%	1/1/80				
Ellsworth	3%	1/1/92						
Emporia	3%	1/1/89	2%	12/1/82				
Eureka	2%	1/1/88						
Fort Scott	3%	1/1/88	2%	9/1/81				
Great Bend	3%	4/1/90	2%	9/1/78				
Greensburg	2%	3/1/82						
Hays	3%	10/1/89	2%	4/1/82				
Hiawatha	2%	5/1/84						
Hutchinson	4%	10/1/87						
Iola	3%	1/1/90						
Kansas City	4%	10/1/89	2%	3/1/85				
Kinsley	2%	7/1/91						
Lansing	2%	4/1/91						
Larned	2%	10/1/91	1%	3/1/74				
Lawrence	4%	10/5/85	2%	3/1/80				
Leavenworth	4%	11/1/87	2%	7/1/82				
Lenexa	4%	8/1/82						
Liberal	3%	5/1/88	2%	3/1/82				
Lindsborg	2%	10/1/82						
Manhattan	5%	7/1/89	3%	3/1/86	2%	1/1/82		
Marysville	2%	10/1/86						
McPherson	3%	3/1/91	2%	3/1/86	discontinued	12/9/83	2%	3/1/81
Merriam	4%	1/1/92	2%	1/1/89				
Newton	5%	4/1/91	3%	4/1/87	2%	7/1/83		
Norton	2%	2/1/86	1%	6/1/80				
Oakley	2.5%	4/1/91	1%	4/1/84				
Oberlin	2%	2/1/86						
Olathe	4%	7/1/87	2%	9/1/80				
Osawatomie	2%	2/1/86						
Overland Park	4%	9/1/89	2%	1/1/85				
Park City	5%	11/1/87	2%	2/1/85				
Pratt	2%	12/1/82						
Salina	5%	10/1/91	3%	10/1/87	2%	10/1/77		
Scott City	2%	9/1/89						
S. Hutchinson	4%	12/1/87						
Topeka	5%	1/1/87	2%	9/1/80				
WaKeeney	1%	9/1/84						
Wamego	2%	1/1/91						
Wellington	2%	10/1/87						
Wichita	6%	7/1/90	5%	11/1/82				
Winfield	4%	1/1/91						

House Taxation  
Attachment 4  
02-24-92



**Transient Guest Tax  
98% Collection**

(Local Units Recieve 98% State Receives 2%)

**COUNTIES AND CITIES WITH FOUR AND FEWER FILERS ARE CONFIDENTIAL**

<u>Rate</u>	<u># Filers</u>	<u>City/County Name</u>	<u>Jul-Sep '91</u>	<u>Oct-Dec '91</u>	<u>CY 1991 Total</u>
2%	7	Crawford Co.	\$10,449.77	\$9,533.20	\$33,261.06
2%	9	Finney Co.	\$18,238.58	\$24,598.03	\$82,857.22
2%	5	Franklin Co.	\$5,645.37	\$6,708.47	\$23,565.97
5%	11	Geary Co.	\$54,917.89	\$50,850.95	\$196,726.60
2%	6	Labette Co.	\$4,114.11	\$2,992.24	\$14,188.76
2%	12	Montgomery Co.	\$13,834.49	\$19,175.38	\$61,897.81
4%	6	Russell Co.	\$6,668.91	\$8,967.76	\$24,889.71
3%	8	Sherman Co.	\$25,774.33	\$17,894.24	\$64,602.25
	88	98% Total	\$151,580.72	\$157,265.50	\$545,231.93
		Total Counties	\$154,674.20	\$160,475.00	\$556,359.11
3%	6	Abilene	\$17,963.09	\$11,174.71	\$47,219.37
3%	6	Chanute	\$5,063.67	\$5,405.41	\$17,854.83
2%	8	Colby	\$15,168.39	\$13,262.64	\$44,955.83
6%	13	Dodge City	\$29,751.33	\$60,264.73	\$135,983.27
4%	6	El Dorado	\$12,982.69	\$16,356.56	\$61,009.12
3%	8	Emporia	\$29,231.41	\$28,527.63	\$105,651.68
3%	6	Fort Scott	\$8,204.08	\$6,948.52	\$25,900.88
3%	10	Great Bend	\$25,252.31	\$22,255.85	\$81,178.33
3%	11	Hays	\$57,097.87	\$54,692.48	\$177,583.71
4%	7	Hutchinson	\$43,346.85	\$50,836.25	\$162,796.70
4%	15	Kansas City	\$50,954.41	\$42,090.56	\$170,062.69
4%	12	Lawrence	\$64,055.77	\$77,441.01	\$260,402.27
4%	6	Leavenworth	\$23,267.16	\$16,319.37	\$69,222.26
4%	7	Lenexa	\$72,475.83	\$101,918.59	\$329,821.51
3%	14	Liberal	\$25,525.46	\$30,942.10	\$112,592.76
5%	8	Manhattan	\$82,443.11	\$92,060.47	\$333,335.44
2%	5	Marysville	\$2,448.16	\$2,097.78	\$8,703.72
3%	5	McPherson	\$13,524.90	\$15,372.40	\$49,315.39
5%	5	Newton	\$16,571.21	\$28,935.45	\$72,678.83
3%	5	Oakley	\$6,186.81	\$5,185.85	\$16,651.91
4%	17	Overland Park	\$357,060.32	\$499,036.67	\$1,579,951.18
2%	9	Pratt	\$5,997.30	\$6,323.97	\$22,394.35
5%	17	Salina	\$83,864.72	\$99,384.93	\$297,414.62
5%	24	Topeka	\$205,981.67	\$216,539.62	\$776,826.97
1%	5	WaKeeney	\$1,957.88	\$1,042.86	\$5,013.25
6%	80	Wichita	\$709,889.78	\$767,295.90	\$2,842,240.85
	382	98% Total	\$2,087,349.83	\$2,427,521.15	\$8,307,759.04
		Total Cities	\$2,129,948.81	\$2,477,062.40	\$8,477,305.14
		98% Total	\$2,238,930.55	\$2,584,786.65	\$8,852,990.97
		Grand Total	\$2,284,623.01	\$2,637,537.40	\$9,033,664.26



Travel  
Industry  
Association of  
Kansas

Jayhawk Tower  
700 S.W. Jackson St., Suite 702  
Topeka, Kansas 66603-3740  
913/233-9465 FAX 913/357-6629

STATEMENT

DATE: February 24, 1992

TO: House Committee on Taxation

FROM: Jean Barbee, Executive Director

RE: Uniformity of Transient Guest Tax Statutes

Chairperson Wagnon and members of the committee, my name is Jean Barbee. I am the Executive Director of the Travel Industry Association of Kansas (TIAK). TIAK is made of members which represent both the private and public sectors of tourism promotion in the state.

TIAK supports House Bill 2850 because the industry supports changes to existing statutes which would alleviate the need of cities and counties to "charter out." That practice has not historically been just for the purpose of raising the percentage rate. It has also been to get out from under the legislative intent that the funds be spent only for tourism and convention promotion.

We believe, however, that if passed in its present form HB2850 will not effect uniformity and equality of cities and counties and would not, therefore, cause the discontinuance of the practice of cities and counties to "charter out."

To do that would require that something be done with KSA 12-1699 which, according to the Attorney General in opinion 82-17, is what makes this statute not uniform and equal.

The travel industry is not out to limit home rule power as the League of Municipalities would have you believe. We are not proposing a constitutional amendment, here. Local control is very important to transient guest tax collection and expenditure. Especially so, since unlike other states, we do not have a large budget for our state Division of Travel and Tourism. In a comparison of state travel offices by the United States Travel and Tourism Administration, Kansas ranks 43rd in annual budgets. Our saving grace has been that to balance that, the Legislature authorized transient guest tax to be collected and spent at the local level. The state travel office budget is just over \$1 million. But annual transient guest tax collections are pushing \$9 million.

Isn't that the way you want it to be? We believe you want and intend that tourism and convention promotion be controlled and directed from the local level.

We do not believe the Legislatures which established this tax intended for it to be an extension of the sales tax and an addition to general funds. We believe they understood the geography of Kansas well enough to know that this tax was needed for local promotional efforts. We believe that to be your wish also.

House Taxation  
Attachment 5  
02-24-92

We believe it is simple. The Legislature has authorized a transient guest tax and said what they wanted it to be spent for. If that were the actual practice, we would not be here today. And the League of Municipalities would not be concerned with whether or not this statute gets amended.

Thank you for the opportunity to address you.



CHAMBER  
OF COMMERCE

February 24, 1992

**TO:** Representative Joan Wagnon, Members of the House Tax Committee

**FROM:** Donald R. Goss, President

**RE:** House Bill 2850, An Act concerning transient guest tax

Chairman Wagnon, Members of the House Tax Committee, Thank you for the chance to give you testimony about House Bill 2850. I am disappointed that it must be as an opponent because I am sure you feel like I do when I tell you I would rather be in favor of an issue than opposed. Unfortunately House Bill 2850 doesn't give me that choice.

A lot of time and consideration has gone into our community's decision of how to best use our transient guest tax. We have been able to build a convention and visitors bureau that meets the needs of our attractions, motels and their visitors. The dollars our community spends from the transient guest tax, however, does more than just promote tourism and conventions. Many of the dollars have been instrumental in helping our convention and visitors bureau gain attractions and businesses to promote their services. Because economic development is so closely tied to promotion of tourism and conventions, we believe, the House Tax Committee needs to be very careful not to draw a black and white distinction of promotion of tourism and conventions.

As will be explained to you, by another conferee from Olathe, our dollars go to promotion of tourism as well as development of the tax base of the community through economic development. There are examples I will use to clarify why we feel caution must be used in defining this issue. Before I address those examples, however, I want to ask you to consider the question of who introduces and brings to a community the properties a convention and visitors bureau promotes?

The answer to this question in Olathe is the economic development department of our chamber of commerce made possible through a contractual agreement with the city. It was our economic development department that facilitated negotiations between our community and Golfland Sunsplash, an Arizona corporation, that will begin providing leisure entertainment to visitors as well as residents in 1992. It is a facility that will give our convention and visitors bureau a location to promote to area residents as well as prospective conventions and visitors.

128 S. CHESTNUT  
P.O. BOX 98  
OLATHE, KANSAS  
6 6 0 6 1  
913 • 764 • 1050

House Taxation  
Attachment 6  
02-24-92



Testimony before the  
House Committee on Taxation  
Representative Joan Wagnon, Chairperson

by  
Tom Riederer, Acting Executive Director  
Lenexa Chamber of Commerce  
February 24, 1992

Representative Wagnon and Members of the Committee, I am here today to discuss House Bill No. 2850, as it pertains to the current transient guest tax statute.

The impact of this Bill is significant in two ways. First, it will expand the amount of money available to communities for promotion, without the use of home rule. Second, it revokes the home rule authority. While the first is good news to communities, the second is a concern.

The current statute allows communities to evaluate their needs and use their authority to address those needs. No two communities in Kansas are exactly alike. This Bill attempts to take away local input and make us all the same. Local elected officials and volunteers work very hard to promote their communities and their economies. They know what their needs are and are in a position to decide how resources should be used.

I would ask you to consider the needs of the communities and not take away their ability to make decisions for themselves.

House Taxation  
Attachment 7  
02-24-92

TESTIMONY TO HOUSE COMMITTEE ON TAXATION

MONDAY, FEBRUARY 24, 1992

RE: HOUSE BILL 2850

Chairperson Wagon and Members of the Committee:

I am Art Davis, Assistant to the City Administrator, for Lenexa, a city of approximately 35,000 residents located in Johnson County. On behalf of Mayor Rich Becker and the Lenexa City Council, I appear before you today to testify in strong opposition to HB 2850 which eliminates this state's constitutionally adopted "Home Rule" concept that currently allows cities a greater role in governing their own affairs with respect to the transient guest tax. Lenexa is currently chartered out of this existing state statute. The proposition of raising the existing statute's limitation from 2% to 6% is of no consequence since local governing bodies have the ability to do it now if they so choose.

There is no compelling argument that can be made to take this authority from locally elected officials who know and understand their respective communities and are just as responsive to the needs of the community as state elected officials are.

Lenexa uses transient guest tax monies for two purposes. One is to fund the Lenexa Convention and Visitor's Bureau and the other is to partially fund the Lenexa Economic Development Council.

This issue is continually re-visited year after year and I would urge this committee to allow your locally elected officials to be accountable for their own actions. All communities are unique and different, and local governing bodies are facing the same fiscal constraints this state legislature does. Please allow cities to balance their needs without interference by the state of Kansas on behalf of certain special interest groups.

I would be pleased to answer any questions you might have.

House Taxation  
Attachment 8  
02-24-92



HOUSE COMMITTEE ON TAXATION  
MONDAY, FEBRUARY 24, 1992  
9:00 A.M.

TESTIMONY OF CURT WOOD  
DIRECTOR OF FINANCE  
CITY OF MANHATTAN

Chairperson Wagon and Honorable Members of the House Committee on Taxation:

My name is Curt Wood. I am Director of Finance for the City of Manhattan. On behalf of the City of Manhattan Governing Body, I would like to go on record as opposing House Bill 2850. This bill, if passed, will establish a uniform Transient Guest Tax rate, and essentially eliminate Home Rule authority for all Kansas cities and counties in determining Transient Guest Tax rates above six percent (6%).

Members of the Committee, we have for many, many years had constitutional Home Rule in Kansas. The basic premise of Home Rule is that local elected governing bodies are in the best position to determine what is best for local communities. Clearly what is good for Tourism in Dodge City may not be good in Overland Park. What Manhattan City officials determine is good for the convention and visitor trade may not be the same as the Coffeyville Governing Body.

For example, in Manhattan, the City Commission, in conjunction with the Manhattan Area Chamber of Commerce and our joint Convention and Visitors Bureau Committee, has made a commitment to use one percent (1%) of the five percent (5%) guest tax monies to help offset costs on a new airport

House Taxation  
Attachment 9  
02-24-92

terminal. Many, many conventions use the airport and we all believe this to be a wise decision in the public interest. The Manhattan Governing Body is in the best position to determine what's appropriate and best for Manhattan, and they should retain the right to determine the local Transient Guest Tax rate by Charter Ordinance.

Is this partial funding of an airport terminal appropriate elsewhere? Perhaps, but perhaps not. My point is this; these are local decisions, best made locally, by locally elected officials.

A vote against House Bill 2850 is a vote for maintaining Home Rule Authority for all Kansas cities and counties. Please support local government by voting against HB 2850.

Thank you. I would stand for questions.

ls

92021

9-2



City of Olathe

MEMORANDUM

**TO:** Members of the House Committee on Taxation

**FROM:** Donald R. Seifert, Assistant Director,  
Administrative Services

**SUBJECT:** House Bill No. 2850, Transient Guest Tax

**DATE:** February 24, 1992

On behalf of the Olathe City Council, thank you for the opportunity to appear today in opposition to HB 2850. Section two of this bill appears to void an existing charter ordinance which governs the collection and use of transient guest taxes in Olathe. The effect of this would be to destroy a longstanding partnership between the city, the Olathe Area Chamber of Commerce, and the private sector in encouraging both visitor attraction and economic development.

The transient guest tax has been collected in Olathe since 1980. Under a charter ordinance, revenues from the tax at a 4% rate are distributed equally by the city for both visitor attraction and economic development. The city contracts with the Chamber of Commerce to carry out these important functions. Budgets and audits for these activities are reviewed annually by the City Council. Two advisory bodies, consisting of both public and private sector representatives, including elected officials, provide direction and accountability for both programs. We believe this system serves our community well. It is a locally determined partnership, responding to our local needs within the framework of the charter ordinance.

The intent of this bill is apparently to exclude any local economic development effort from using the transient guest tax. We fail to see the logic of this. We suggest to the Committee that economic development and visitor attraction are not mutually exclusive, but complement each other. An excellent example of this is occurring right now in Olathe. Throughout much of 1991, both the economic development and visitor attraction programs were involved in an effort to locate a water theme park known as Golfland/Sunsplash in Olathe along I-35. The project will provide jobs and expand the tax base, as well as fill local motel rooms. It would

House Taxation  
Attachment 10  
02-24-92



House Committee on Taxation  
February 24, 1992  
Page 2

not have happened without the assistance of both programs. Because of this project, a KDOT visitor center may someday be located in Olathe.

In summary, both visitor attraction and economic development are very important to our community. We oppose this bill because the city wishes to retain its ability under home rule to partially fund economic development through the guest tax, as it has done for the past 12 years. We suggest that critics of the guest tax should resolve their problems where the tax is imposed-- at city hall or the courthouse-- not in Topeka. We respectfully urge the Committee to kill HB 2850.

# RESEARCH / INFORMATION BULLETIN

League of Kansas Municipalities / 112 West Seventh Street / Topeka, Kansas 66603 / 913-354-9565

Vol. XIV, No. 578  
January 31, 1992

## Local Transient Guest Taxes Levied in Kansas

### Introduction

Kansas cities and counties are specifically authorized by state law to levy a transient guest (hotel-motel) tax. There are currently 50 cities and 20 counties in Kansas with a transient guest tax. During 1991, these local units received about \$8.5 million from this revenue source.

Under Kansas state laws, the amount of the statutory tax rate may not exceed two percent of the gross receipts received for sleeping accommodations and the revenue must be credited to a "convention and tourism promotion" fund. In addition, the city or county levying the tax must create a 10-member committee to make recommendations concerning the programs and expenditures for promotion of conventions and tourism. However, certain home rule modifications may be made to these statutory rates and purposes, as later explained. The tax is collected by the Kansas Department of Revenue, with two percent of the revenue retained by the state to defray the expense of administration, and then returned to the levying unit.

### Extent of Use

In 1975, Wichita became the first city to levy a transient guest tax, enacted under the provisions of K.S.A. 12-1692 *et seq.*, which applies only to Sedgwick County and the cities therein. Since the general statute (K.S.A. 12-1696 *et seq.*) took effect in April of 1977, 69 other cities and counties have enacted the tax.

First action preempts the tax. A county levy does not apply in cities where a city tax is levied. A city cannot levy the tax if the county has already levied it. Under the general statute, the tax is levied by resolution of the governing body and a voter referendum is not required.

### Tax Rates

As noted above, the statutory maximum transient guest tax rate is set at two percent. The only way a city or county may levy a tax in excess of two percent is by a home rule charter ordinance or resolution.

By home rule charter ordinance, the City of Wichita exempted itself from the two percent rate limit of K.S.A. 12-1693 and increased the rate of the city's transient guest tax to four percent, effective December 3, 1980. (The tax was further increased to five percent and then six percent subsequently by charter ordinance.) In January 1982, the Kansas Attorney General issued an opinion (No. 82-17) in which he concluded that the provisions of the general transient guest tax act, K.S.A. Supp. 12-1696 *et seq.*, are non-uniform in application to cities and are subject to charter ordinance. While the attorney general concluded that the transient guest tax act is subject to charter ordinance, he also stated that a city which passes such a charter ordinance "may not impose administrative duties upon a state agency." Since the initial Wichita action in 1980, approximately 30 other cities and four counties have "chartered" the applicable statute. As a result, the applicable rate is over two percent in 35 of the 70 cities and counties.

House Taxation  
Attachment II  
02-24-92

## Revenue

The revenue received by cities and counties from transient guest taxes are shown in the accompanying tables. The information is based on reports of distributions made in calendar year 1991 by the Office of the State Treasurer.

While transient guest tax collections by cities tend to vary with population, the number, occupancy and price of hotel and motel rooms determine the revenue. The amount of revenue received from a transient guest tax depends on the volume of gross receipts which result from the rental of hotel and motel rooms. Cities which serve as business, conference and tourist centers receive the largest amounts on a per capita basis. The total distributed to local units in 1991 was \$8.5 million, of which about \$2.7 million was paid to Wichita under its six percent tax.

## Budgeting

In some cities, local chambers of commerce, the hotel-motel industry or other business groups assume a "proprietary interest" over the resulting tax revenue. However, the law is clear that the receipts are public funds and their disbursement may only be made by the city or county government. The tax is levied on the "consumer or user", not on the hotel or motel, in the same manner as retail sales taxes are collected by retailers. While a statute requires that the money be credited to a "tourism and convention promotion fund", the money must still be budgeted, in the same manner as other public funds. Since the act is not uniformly applicable, it appears that a charter ordinance or resolution may be used to define the purposes for which the revenue is used.

The statutory purpose of a local transient guest tax is to "promote tourism and conventions." K.S.A. 12-1698(3) provides that money in this special fund "shall only be expended for convention and tourism promotion." An example of home rule action to modify this broad statutory purpose is a charter ordinance of the City of McPherson, passed on October 28, 1985. The charter ordinance authorizes a transient guest tax rate of not to exceed five percent (the current tax rate is three percent) and provides that, with the advice of the city's convention and tourism committee, moneys in the fund may be used to:

Contract with any agency, organization or group of firms to promote conventions and tourism within the city and its environs.

Provide for the operation, maintenance, expansion or development of city facilities connected with conventions and tourism.

Defray the cost of providing municipal services to convention and tourism functions, including police, fire, street department or park and recreation department functions.

Create innovative projects and activities promoting conventions and tourism.

Promote the general economic welfare of the city and its environs, including the attraction of industry.

## Sample Resolution

Following is a sample resolution prepared for use by a city in levying a transient guest tax pursuant to K.S.A. 12-1696. The same basic form may be used for the adoption of a county resolution. The amount of the tax is set at two percent in this form. A lower rate may also be used. (To levy a tax at a higher rate than two percent requires a charter ordinance or resolution.) The actual collection of the tax commences on the first day of the calendar quarter next following the 30th day after the date of the receipt by the department of revenue of the resolution or ordinance authorizing the levy of such a tax.

**Resolution No. \_\_\_\_\_**

A Resolution Levying A Transient Guest Tax Of Two Percent (2%) Upon The Gross Receipts Paid For Sleeping Accommodations Within The City Of \_\_\_\_\_ And Providing For The Appointment Of A Convention And Tourism Committee.

Be It Resolved by the Governing Body of the City of \_\_\_\_\_, Kansas:

Section 1. There is hereby levied, effective on the 1st day of \_\_\_\_\_, 19\_\_\_\_, a transient guest tax of two percent (2%) upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services and facilities in any hotel, motel or tourist court located within the City of \_\_\_\_\_, Kansas.

Sec. 2. The tax hereby levied shall be administered and collected by the Kansas Department of Revenue, and the revenue therefrom shall be distributed in accordance with the provisions of K.S.A. 12-1696 *et seq.* All moneys received from such tax shall be credited to a tourism and convention promotion fund of the city.

Sec. 3. There is hereby established a committee to be known as the "Convention and Tourism Committee," to be appointed by the Governing Body of the city, in accordance with the provisions of K.S.A. 12-16,101, which shall make recommendations to the City concerning programs and expenditures for the promotion of conventions and tourism.

Sec. 4. This resolution shall take effect upon its publication in the official city newspaper and the tax herein levied shall take effect as provided in Section 1.

Passed by the Governing Body of the City of \_\_\_\_\_, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

**City Transient Guest Tax Rates**  
January, 1992

Cities (50)	Rate	Effective Date	1991 Revenue
Abilene	3%	8-1-86*	\$49,825
Andover	5%	1-1-91**	3,843
Arkansas City	4%	10-1-86*	40,191
Atwood	2%	4-1-90	1,401
Belleville	2%	4-1-85	5,775
Chanute	3%	1-1-91**	12,449
Colby	2%	1-1-87	43,351
Dodge City	6%	2-1-91*	109,486
El Dorado	4%	2-1-89*	53,547
Ellsworth	3%	1-1-90**	
Emporia	3%	1-1-89*	104,045
Eureka	2%	1-1-88	3,511
Fort Scott	3%	1-1-88*	25,832
Great Bend	3%	4-1-90*	81,506
Greensburg	2%	3-1-82*	10,114

(50)	Rate	Effective Date	1991 Revenue
Hays	3%	10-1-89*	172,440
Hiawatha	2%	5-1-84	9,802
Hutchinson	4%	10-1-87**	161,482
Iola	3%	1-1-90*	15,187
Kansas City	4%	10-1-89*	170,841
Kinsley	2%	7-1-91	113
Lansing	2%	4-1-91	2,870
Larned	2%	10-1-91	4,569
Lawrence	4%	10-5-85*	258,254
Leavenworth	4%	11-1-87*	75,001
Lenexa	4%	8-1-82	324,724
Liberal	3%	5-1-88*	111,841
Lindsborg	2%	10-1-82	6,350
Manhattan	5%	7-1-89*	329,934
Marysville	2%	10-1-86	8,493
McPherson	3%	3-1-91*	44,206
Merriam	4%	1-1-92*	56,366
Newton	5%	9-5-90*	56,402
Norton	2%	2-1-86	10,316
Oakley	2.5%	4-1-91*	13,344
Oberlin	2%	2-1-86	5,485
Olathe	4%	7-1-87*	117,499
Osawatomie	2%	2-1-86	4,965
Overland Park	4%	9-1-89*	1,459,077
Park City	5%	11-1-87*	104,611
Pratt	2%	12-1-82	21,775
Salina	5%	10-1-91*	261,273
Scott City	2%	9-1-89	8,759
South Hutchinson	4%	12-1-87**	32,154
Topeka	5%	1-1-87*	766,442
WaKeeney	1%	9-1-84	5,292
Wamego	2%	1-1-91	1,848
Wellington	2%	10-1-87	10,097
Wichita	6%	7-1-90*	2,782,552
Winfield	4%	1-1-91*	8,307
Total			\$7,967,541

\*Effective date of current tax rate; prior rate was increased by charter ordinance.

\*\*Initial rate set by charter ordinance.



**County Transient Guest Tax Rat**  
January, 1992

Counties (20)	Rate	Effective Date	1991 Revenue
Cherokee	2%	6-1-83	\$1,091
Cloud	2%	7-1-91	2,389
Crawford	2%	12-1-86	32,223
Finney	2%	1-1-78	79,839
Franklin	2%	11-1-84	22,838
Geary	5%	4-1-90*	191,280
Grant	2%	4-1-92	
Labette	2%	7-1-87	15,480
Lyon	2%	7-1-83	2,130
Marshall	2%	9-1-87	785
Mitchell	2%	10-1-91	114
Montgomery	2%	6-1-84	57,917
Morris	2%	10-1-85	6,280
Phillips	2%	1-1-87	5,927
Rice	2%	4-1-92	
Russell	4%	12-1-90*	19,944
Sedgwick	5%	7-1-85*	12,686
Sherman	3%	1-1-91*	59,760
Wilson	2%	2-1-86	2,107
Woodson	2%	11-1-82	3,053
<b>Total</b>			<b>\$515,843</b>

\*Effective date of current tax; prior rate was increased by charter resolution.

\*\*Initial rate set by charter resolution.

HOUSE TAXATION COMMITTEE  
REGARDING HOUSE BILL 2850  
MONDAY, FEBRUARY 24, 1992

CHAIRMAN WAGNON, AND MEMBERS OF THE HOUSE TAXATION COMMITTEE, I AM CATHY HOLDEMAN, INTERGOVERNMENTAL RELATIONS DIRECTOR FOR THE CITY OF WICHITA. I APPEAR BEFORE YOU TODAY IN OPPOSITION TO HB 2850, A BILL WHICH CONCERNS THE TRANSIENT GUEST TAX.

THE CITY IS OPPOSED TO HB 2850 BECAUSE IT PLACES A CAP ON THIS TAX AT 6 PERCENT, THE RATE CURRENTLY BEING LEVIED BY OUR CITY. THIS TAX GENERATES APPROXIMATELY \$2.8 MILLION DOLLARS EACH YEAR. THE DOLLARS ARE SPENT IN ACCORDANCE WITH THE PRIORITIES OUTLINED IN CHARTER ORDINANCE 83 WHICH ARE INTENDED TO PROMOTE TOURISM AND CONVENTION ACTIVITIES WITHIN OUR CITY. THOSE PRIORITIES INCLUDE THE FOLLOWING:

1. TO PAY ANY OBLIGATIONS, INCLUDING BUT NOT LIMITED TO BONDS, LEASES OR CONTRACTS FOR THE CONSTRUCTION OF CONVENTION OR EXHIBITION PURPOSES.
2. TO PAY ANY DEFICIT INCURRED IN THE OPERATION OR MAINTENANCE OF SUCH FACILITIES.
3. TO PAY FOR CONVENTION AND TOURISM ACTIVITIES AS REQUESTED ANNUALLY BY THE TOURISM AND CONVENTION COMMITTEE.
4. ANY FUNDS REMAINING SHALL BE HELD IN RESERVE TO PAY ANY DEFICIT INCURRED IN THE OPERATION AND MAINTENANCE OF CENTURY II; ESTABLISH A BUILDING FUND FOR FUTURE FACILITIES. TO PAY FOR EXTRAORDINARY FACILITY REPAIRS OR REPLACEMENT AND TO FUND ATTRACTIONS DEEMED TO HAVE ADVANTAGE OR INTEREST TO THE CITY.
5. NONE OF THE TRANSIENT GUEST TAX DOLLARS CAN BE EXPENDED FOR PROMOTION OF CONVENTION AND TOURISM FACILITIES OR ACTIVITIES OUTSIDE THE CITY LIMITS.

THE CITY OF WICHITA IS EXPENDING THESE DOLLARS IN ACCORDANCE WITH THIS ORDINANCE. THE BUDGET FOR TRANSIENT GUEST TAX DOLLARS INDICATES THAT OVER \$1 MILLION IS SPENT ON SERVICING DEBT ASSOCIATED WITH EXPO HALL. THE NEXT MAJOR DOLLAR EXPENDITURE IS TO THE WICHITA CONVENTION AND VISITORS BUREAU WHOSE PURPOSE IS TO PROMOTE CONVENTIONS AND TOURISM AND ATTRACT VISITORS TO WICHITA. THE OTHER MAJOR USES FOR THESE DOLLARS INCLUDE FUNDING TO THE HISTORIC WICHITA (COWTOWN); THE MID-AMERICA ALL INDIAN CENTER; WICHITA CHILDREN'S MUSEUM; THE WICHITA ARTS COUNCIL; THE MISS USA PAGEANT; AND DEBT SERVICE ON IMPROVEMENTS TO LAWRENCE-DUMONT STADIUM.

AS SET FORTH IN STATE STATUTE, THE PURPOSE OF THIS TAX IS TO PROMOTE TOURISM AND CONVENTIONS, AND THUS IT IS THE CITY OF WICHITA'S BELIEF THAT WE ARE USING THIS TAX IN ACCORDANCE WITH THE LAW. THEREFORE, OUR OPPOSITION TO HB 2850 RESULTS FROM A CAP BEING PLACED ON THIS TAX AT SIX PERCENT. WE BELIEVE LOCAL DECISION MAKERS SHOULD HAVE THE ABILITY TO DETERMINE THE APPROPRIATE LEVEL OF TAXATION IN ACCORDANCE WITH NEED FOR SUCH DOLLARS.

House Taxation  
Attachment 12  
02-24-92

# MEMORANDUM

## Kansas Legislative Research Department

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

January 24, 1992

### PROPERTY TAX CIRCUIT BREAKERS IN KANSAS AND ITS NEIGHBORS

#### Introduction

Many kinds of state programs offer property tax relief. Commonly listed examples of such programs would include classification, financial aid to local units, circuit breakers, homestead exemptions, tax deferral programs, and tax freezes. A discussion of classification and financial aid is beyond the scope of this memo. However, the other types of programs offering potential targeted tax relief and a new program called a "tax work-off," will be discussed briefly. The paper will conclude with a more detailed discussion of circuit breakers especially for Kansas and its neighbors.

**Circuit Breakers.** One prominent type of property tax relief is known as a "circuit breaker." A circuit breaker is a form of property tax relief in which the benefit is dependent upon income or other criteria of need and the amount of property taxes paid. The name apparently developed as an analogy to the device that breaks an electrical circuit when an overload occurs -- thus, when a person's property tax becomes "overloaded" relative to income, a benefit will accrue and help relieve the overload.

The first circuit breaker was enacted by Wisconsin in 1964. By 1991, 32 states and the District of Columbia had enacted circuit breakers. The Kansas Homestead Property Tax Refund Act (discussed below), despite the word "homestead" in the title, is a circuit breaker program.

**Homestead Exemptions.** Another prominent type of targeted property tax relief that has been enacted by several states is the homestead exemption, which typically exempts a specified portion of the value of a home from property taxation. Many such exemptions were enacted initially in the 1930s and by 1989, 46 states and the District of Columbia had enacted homestead exemptions or credits. In some of the programs, states reimburse the local units, but most are funded from local revenues. Closely related to the homestead exemption is the homestead credit, under which a governmental entity (typically the state) pays a certain amount of the property tax or the tax on a certain amount of the value of a homestead.

Washington and Nebraska have homestead exemptions which vary by household income. These programs are sometimes described as hybrids between homestead exemptions and circuit breakers. For purposes of this memorandum they are categorized as homestead exemptions.

A similar program is the renters' credit. These programs sometimes supplement a homestead exemption or credit; most poor are renters. However, these programs, like homestead

House Taxation  
Attachment 13  
02-24-92

exemptions, usually are considered poorly targeted to the poor and thus are very expensive or offer only modest relief.

**Tax Deferrals.** Property tax deferral programs extend the time for paying property tax. Deferred taxes are treated as a loan, with a lien being placed against the property. The loan is due when the owner dies, no longer occupies the property, or when the tax owed approaches the value of the property. As of 1979, only nine states had a tax deferral program, all limited to the elderly. By 1989, 23 states had such a program, and many are available to a wider range of taxpayers.

One shortcoming of tax deferral plans is poor participation rates. Many taxpayers are reluctant to allow a lien to be placed on their properties.

**Tax Freeze.** A tax freeze prohibits increases in the property taxes of qualifying taxpayers. This type of program is intended to protect targeted taxpayers from inflation, the increasing cost of government, and increasing property values, thus permitting them to plan their property tax expenses. Only three states, Connecticut, South Dakota, and Texas had such a program in 1985. (Tennessee passed a plan for 1979 but it was ruled unconstitutional.) Connecticut dropped its plan in 1980 but "grandfathered in" those who were then using it. The Texas program freezes only school taxes. Clearly, tax freeze plans have not enjoyed the popularity of other forms of property tax relief.

**Work-Off Program.** In 1991, Colorado enacted a program which could be considered another form of targeted property tax relief, although we have not seen it so described in any of the literature as yet. The "Property Tax Work-Off Program" permits any taxing entity which levies and collects real property taxes to establish such a program. Any taxpayer 60 or older is allowed to perform work for the taxing entity in lieu of paying all or part of the property tax on a homestead owned and occupied by the taxpayer. The law calls for work to be credited against the tax at the minimum wage as set by federal law.

**Forthcoming Major Work.** The National Conference of State Legislatures (NCSL) is finalizing a book for Scott Mackey, to be titled *State Property Tax Relief Programs for Homeowners and Renters*. The book promises to be the standard reference on this subject, and will cover most of the material contained in this memorandum. Publication is expected in late January.

### **The Kansas Homestead Property Tax Refund Act**

The Kansas Homestead Property Tax Refund Act, K.S.A. 79-4501 *et seq.*, was enacted in 1970 following the passage of a bill by the House in 1969 and a recommendation for passage of a revised bill by the Joint Committee on State Tax Structure (The "Hodge Committee"). Kansas was the sixth state to enact a circuit breaker. In the decade of the 1970s, half the states enacted circuit breakers. Only two have been enacted since; by Montana in 1981 and by New Jersey in 1990, for a total of 32 state programs currently in place. See Table 1, below.



Table 1

States Enacting Circuit Breakers

<u>Year</u>	<u>States</u>	<u>Cumulative Total</u>
1964	Wisconsin	1
1967	California, Minnesota	3
1969	North Dakota, Vermont	5
1970	Kansas	6
1971	Colorado, Maine, Ohio, Oregon, Pennsylvania	11
1972	Illinois, Washington	13
1973	Arizona, Arkansas, Iowa, Missouri, Nevada, Tennessee	19
1974	Connecticut, Idaho, Oklahoma	22
1975	Maryland, Wyoming	24
1976	South Dakota	25
1977	Hawaii, New Mexico, Rhode Island, Utah	29
1978	New York	30
1981	Montana	31
1990	New Jersey	32

Note: Alaska and Delaware have local-option circuit breakers which are not included above.

Source: ACIR, *Significant Features of Fiscal Federalism*, 1991, T. 41.

States typically revise circuit breaker programs periodically. Several factors could explain the frequent revisions. First, estimating the cost of programs is difficult, and errors, especially with new programs, are common. Reactions to changing fiscal and economic conditions, such as inflation, explain many changes. Finally, some revisions reflect major policy changes. Table 2, below, summarizes the changes in the Kansas program, which would reflect a fairly typical pattern of revisions since 1970.

Table 2

**Summary of the History of the Kansas Homestead  
Property Tax Refund Act,\* K.S.A. 79-4501 *et seq.***

	<u>1970 Law</u>	<u>1972 Law</u>	<u>1973 Law</u>	<u>1975 Law</u>	<u>1978 Law</u>	<u>1979 Law</u>	<u>1989 Law</u>
<b>Qualifications</b>							
Age	65	65	65 (widows-50)	60 (widows-50)	55**	55**	55
<b>OR</b>							
Disabled or Blind	No	Yes	Yes	Yes	Yes	Yes	Yes
<b>OR</b>							
With Dependent Under 18	No	No	No	No	Yes	Yes	Yes
Renter and Percent of Rent Allowed	No	No	No	Yes-12%	Yes-12%	Yes-15%	Yes-15%
<b>Benefits</b>							
Maximum Household Income Qualifying (minimum benefit)	\$ 3,620	\$ 5,900	\$ 8,150	\$ 8,150	\$ 9,200	\$ 12,800	\$ 15,000
Property Tax Maximum	330	330	400	400	400	400	500
Maximum Benefit	247.50	330	400	400	400	400	500
Minimum Claim Payable	5.00	5.00	5.00	5.00	5.00	5.00	5.00

\* Definitional or administrative changes are not summarized in this table.

\*\* Reduction to age 55, and raising to age 55 for unmarried widows, were phased-in over a five-year period, as follows:

<u>Refund of Taxes For Year</u>	<u>General Age Requirement (As of Jan. 1)</u>	<u>Unmarried Widows (As of Jan. 1)</u>
1978	59	51
1979	58	52
1980	57	53
1981	56	54
1982 and thereafter	55	55

The Kansas Act currently allows a refund of either property tax paid, or rent assumed to be taxes, that is in excess of various percentages of household income, with a maximum benefit of \$500. Eligible persons with a household income of \$3,000 or under receive a full refund of property taxes up to the \$500 limit. The amount of refund decreases as household income increases; persons with household incomes of more than \$15,000 are ineligible for a refund. In addition to meeting the income limitation, claimants must be either: (1) age 55 or above; (2) disabled or blind; or (3) a household head with a dependent under age 18. Income is defined broadly, including items not subject to income taxes, such as Social Security benefits, railroad retirement benefits, veteran's disability pensions, workers' compensation, and interest from tax exempt securities.

In the early years, refunds could be taken as credits against Kansas income tax, or as refunds if credits exceeded liability. The program was soon separated from the income tax. A summary of claims paid (which includes for this table those processed as income tax credits), the total amount refunded (or allowed as a credit), and the average per claim for the life of the program is shown below in Table 3.

Table 3

**Summary of Homestead Property  
Tax Refund Claims Data by Process Year**

<u>Calendar Year Processed</u>	<u>Total Claims "Paid"</u>	<u>Amount Allowed (Millions)</u>	<u>Average Per Claim</u>
1971	15,129	\$1.0	\$ 66
1972	15,358	1.1	71
1973	30,416	3.1	104
1974	57,576	8.3	144
1975	63,882	9.4	147
1976	67,056	9.6	143
1977	61,628	8.6	140
1978	56,587	8.1	143
1979	62,233	9.3	150
1980	70,944	10.3	146
1981	67,429	9.8	145
1982	60,478	9.0	149
1983	53,789	8.0	149
1984	52,994	8.3	158
1985	49,286	7.9	160
1986	46,721	7.7	164
1987	46,930	7.4	157
1988	46,628	7.3	157
1989	44,255	7.0	157
1990	46,680	9.0	194
1991	44,846	8.6	191

Source: Department of Revenue.

**Reappraisal Circuit Breaker.** In 1989 Kansas enacted a temporary reappraisal circuit breaker which provided refunds of part of residential property tax increases attributable to reappraisal and classification. Qualifications included household incomes of less than \$35,000, property tax increases of more than 50 percent, and the household had to meet qualifications for the homestead property tax refund program (elderly, disabled, or dependent child under 18). Maximum refunds were 50 percent of the increase or \$500 for taxes levied in 1989 and 25 percent of the increase or \$250 for taxes levied in 1990. Refunds under the temporary circuit breaker were an

alternative to the "homestead" refunds; taxpayers could not claim both. Refunds under the temporary circuit breaker totaled \$1.356 million for 1989 taxes processed in 1990 and \$0.391 million for 1990 taxes processed in 1991. A few returns will be processed in 1992.

### Neighboring States

This section will consist of a narrative description of the circuit breaker program in neighboring states. It will conclude with a summary table comparing major features of those programs.

**Nebraska.** Nebraska's targeted property tax relief program is a homestead exemption for those 65 or older or physically disabled with a low-income qualification. Homesteads of the elderly and disabled persons with household incomes of not more than \$10,400 are exempt on the first \$35,000 of "actual value" of the homestead.

For totally disabled veterans and their unremarried widows, and the unremarried widows of servicemen who died during wartime or whose deaths were service-related, a variable percentage of the first \$35,000 of "actual value" is exempt, according to the following schedule:

<u>Household Income</u>	<u>Percentage of Relief</u>
\$0 through \$15,000	100%
15,001 through 16,000	80
16,001 through 17,000	60
17,001 through 18,000	40
18,001 through 19,000	20

This "phased-out" homestead exemption shares features of a circuit breaker, but is in fact a graduated homestead exemption.

**Colorado.** Colorado enacted its property tax circuit breaker program in 1971, just one year after Kansas. Homeowners and renters who are 65 or older, and widows, widowers, and the disabled who are 58 or older are eligible. The maximum claim is \$500, and benefits "phase out" at income of \$7,500 for single individuals and \$11,200 for married couples. Income is defined broadly so as to include "all sources." Twenty percent of rent is considered the property tax equivalent. The average claim for 1989 was \$381.

**Missouri.** Missouri's circuit breaker program dates from 1973 and is for homeowners and renters age 65 and over with incomes not exceeding \$14,000 for single persons or \$16,000 for married couples. Income is defined broadly, to include Social Security, pensions, and other benefits. Twenty percent of rent is considered the property tax equivalent. The maximum property tax eligible for the calculation of benefits is \$750, and the average refund in 1989 was \$235.

**Oklahoma.** Oklahoma's circuit breaker program was enacted in 1974 and is for elderly and disabled homeowners with incomes not exceeding \$10,000. Claims may be made for the amount by which property taxes paid exceed 1 percent of household income, but the maximum refund is \$200. Income is defined broadly so as to include all types of income received by all persons occupying the homestead. In 1989 the average refund was \$110.



Table 4

**Summary of Provisions of Property Tax Circuit-Breakers in Kansas  
and Neighboring States – Current Provisions of 1989 Average Claims Paid**

<u>State</u>	<u>Year Enacted</u>	<u>Age</u>	<u>Renters</u>	<u>Widow(ers) and Age</u>	<u>Disabled</u>	<u>Dependent Children</u>	<u>Income Ceiling</u>	<u>Maximum</u>	<u>Claims in 1989</u>	<u>Average 1989 Claim</u>
Kansas	1970	55	yes - 15%	yes - 55	yes	yes	\$15,000	\$ 500	44,255	\$ 157
Colorado	1971	65	yes - 20%	yes - 58	yes - 58	no	single - \$7,500 married - \$11,200	500	42,000	381
Missouri	1973	65	yes - 20%	no	no	no	single - \$14,000 married - \$16,000	750	59,000	235
Oklahoma	1974	65	no	no	yes	no	10,000	200	4,792	110
Nebraska					Not comparable; see text.					

## SELECTED AND ANNOTATED BIBLIOGRAPHY

- Aaron, Henry. "What Do Circuit-Breaker Laws Accomplish?" in George Peterson, Ed. Property Tax Reform. Washington, D.C.: The Urban Institute. 1973. Pages 53-64. Theoretical analysis -- under "modern" incidence theory a circuit breaker operates like a negative income tax.
- Bergschneider, Corina. Illinois Legislative Research Unit. "Some Circuit Breakers Adjust for Inflation." First Reading. Vol. 6. No. \_\_. June, 1991. Pages 7-8. Indexing in Utah, Idaho, Pennsylvania. Illinois interim study.
- Eckl, Corina. State Tax Relief for the Elderly. Denver: NCSL. [unpublished]. This report has been cited in other works but NCSL no longer plans to publish it, see the forthcoming work of Scott Mackey, below.
- Ebel, Robert D., and James Ortbal. "Direct Residential Property Tax Relief." Intergovernmental Perspective. (Spring, 1989) Vol 15, No. 2. Pages 9-14. Good, short, general article. Good re tax deferrals.
- Florida Advisory Council on Intergovernmental Relations. Elderly Homeowners and the Property Tax: An Examination of the Issues. Tallahassee, Florida: FACIR, 1989.
- Gold, Steven D. An Overview of Property Tax Relief for Homeowners. Denver: NCSL, 1981.
- Gold, Steven D. Property Tax Relief. Lexington, Massachusetts: D. C. Heath & Company 1979. This is a seminal work with much detail about designing circuit breaker programs.
- Gold, Steven D. State Tax Relief for the Poor. Denver: NCSL, 1987.
- Gold, Steven D. "Property Tax Deferral Programs: Description, Analysis and Evaluation." Legislative Fiscal Paper No. 3. Denver: NCSL. May, 1981.
- Gold, Steven D. "Property Tax Relief Trends in the Midwest: Where It All (Or Most of It) Began." Unpublished paper presented at a conference on Financing State and Local Governments, Chicago, Illinois. January 16, 1981.
- Greenfield, Margaret. Property Tax Exemptions for Senior Citizens. Berkeley: University of California Institute of Governmental Studies. 1966. Dated study concentrating on homestead exemptions.
- Greenstein, Robert, and Frederick Hutchinson. "State Tax Relief for Low-Income People." In Steven D. Gold, Ed., The Unfinished Agenda for State Tax Reform. Denver: NCSL, 1988. Very brief coverage of circuit breakers. Deals mostly with other taxes.
- "Homestead Tax Credit Program." *The Wisconsin Taxpayer*. December, 1988. Vol. 56. No. 12. Much information specific to Wisconsin, e.g., applicant cannot be claimed as a dependent on another person's federal income tax return.
- [Dornfest, Alan]. "Comparative Circuit Breaker Programs." Unpublished paper. Idaho Department of Revenue and Taxation. 1983. Summary of a May, 1983 survey of states.

Illinois General Assembly Legislative Research Unit. "Elderly Deferral." First Reading. Vol. 6. No. \_\_. October, 1991, page 25.

Kahan, David, with Robert Greenstein. *The Next Frontier: Relieving State Tax Burdens on the Poor*. Washington, D.C.: Center on Budget and Policy Priorities. 1987. Circuit breaker in context of all kinds of tax relief. 1985 data. Emphasizes importance of promotion activities.

Kansas Legislative Coordinating Council. *Report on Kansas Legislative Interim Studies to the 1984 Legislature. Proposal No. 2: Homestead Property Tax Refund Program*. Topeka: State Printer, 1983. Pages 28-46.

Mackey, Scott. *State Property Tax Relief Programs for Homeowners and Renters*. Denver: NCSL. (Forthcoming). Scheduled for publication in January, 1992. This will become the standard reference on direct tax relief measures. Will contain data on 1991 circuit breaker programs and current provisions of state law.

McGuire, Theresa J. "Property Tax Relief Mechanisms: Should States Get Out of the Business?" *Government Finance Review*. June, 1991. Pages 26-52 passim. Examines state-financed property tax relief, pointing out weaknesses and limitations from a theoretical perspective. Circuit breakers "tend to be a good mechanism for providing targeted relief [if] the set of taxpayers who qualify . . . is small."

Shannon, John. "The Property Tax: Reform or Relief?" in George Peterson, Ed. *Property Tax Relief*. Washington, D.C.: The Urban Institute, 1973. Pages 25-52. Concentrates on homestead exemptions and credits.

U.S. Advisory Commission on Intergovernmental Relations. *Significant Features of Fiscal Federalism*, 1991. Washington, D.C.: ACIR. Tables 40, 41, and 42. Comparative 1989 data for most states.

Zahn, Mitchell A., and Steven D. Gold. *State Tax Policy & Senior Citizens: A Legislative Guide*. Denver: NCSL. 1985. Pages 71-105. Characteristics of relief measures, including deferrals and circuit breakers, for 1985. Discusses renter credits.