

Approved

March 14, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 9:10 a.m. on Wednesday, March 4, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. J. C. Long, 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:

The public hearing on HB 2891 was opened.

Representative Doug Lawrence testified against HB 2891 (Attachment 1).

Christy Young, Vice President of Governmental Relations for the Greater Topeka Chamber of Commerce, testified in favor of HB 2891 (Attachment 2).

Peggy Horton, School Board Member of Elkhart USD 218, testified against HB 2891 (Attachment 3). Horton said the School District Equalization Formula classed USD 218 as poor, while the new formula in HB 2892 classed it as a wealthy district.

Karen Herndon, Olathe resident, testified against HB 2891 (Attachment 4).

Pamela Huckleberry, Olathe Parent, testified in regard to financing for HB 2892 (Attachment 5).

Sonya Ramsey, Olathe Parent, testified in regard to financing for HB 2892 (Attachment 6).

Dennis Zimmerman, Grant County Chamber of Commerce, testified against HB 2891 (Attachment 7).

Dennis Thompson, Superintendent of Satanta USD 507, testified against HB 2891 (Attachment 8).

Kathy Pate, representing Raycolor, Inc. of Hugoton, testified against HB 2891 (Attachment 9).

Susan Paxon, Burlington resident, testified against HB 2891 (Attachment 10).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S,
Statehouse, at 9:10 a.m. on Wednesday, March 4, 1992.

Ethel Evans, Kansas Legislative Policy Group, testified against HB 2891 (Attachment 11).

Chuck Digby, United League of Johnson County Taxpayers, testified in favor of HB 2891 (Attachment 12).

Mark Tallman, Kansas Association of School Boards, testified in favor of a minimum statewide mill levy. (Attachment 13).

Bernie Koch, Wichita Area Chamber of Commerce, testified in favor of HB 2891 (Attachment 14).

The following provided the committee with written testimony:

Janet Stubbs, Executive Director of the Home Builders Association of Kansas (Attachment 15).

Larry Clark, Superintendent of Schools, USD #244 (Attachment 16).

Bob Corkins, Director of Taxation for the Kansas Chamber of Commerce and Industry (Attachment 17)

Gerald W. Henderson, Executive Director of United School Administrators of Kansas (Attachment 18)

Mike Reecht, State Director of Government Affairs in Kansas for A.T. & T. (Attachment 19)

Paul E. Fleener, Director of Public Affairs for the Kansas Farm Bureau (Attachment 20)

Bob W. Storey, representing DeHart and Darr Associates, Inc. and Idelman Telemarketing, Inc. (Attachment 21)

John C. Bottenberg, representing Video Lottery Consultants, Inc. (Attachments 22 through 28)

Sherry Quackenbush, Owner, Lenexa Coin Laundry (Attachment 29)

Jim Ludwig, KPL Gas Service (Attachment 30)

Ronald P. Hein, representing MESA, Inc. (Attachment 31)

Jack Glaves, The Kansas Commission on Natural Gas Policy (Attachment 32)

Denny Burgess, representing Southwest Kansas Royalty Owners Association (Attachment 33)

Donald P. Schnacke, Kansas Independent Oil & Gas Association (Attachment 34)

Art Brown, representing Kansas Lumber Dealers (Attachment 35)

Pat Hubbell, representing Santa Fe (Attachment 36)

The public hearing on HB 2891 was closed. The meeting adjourned at 10:00 a.m. The next meeting will be March 5.

GUEST LIST

COMMITTEE: House Delegation

DATE: 3/4/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Alan Steppart	Topeka	Pete Mcbill & Associates
Ethel Evans	Grant Co.	Commissioner (KLPG)
Karen Herndon	500 Anna Lane Olathe	parents
Susan Paxson	Coffey Co	
HAROLD PITTS	Topeka	AARP-CCTF
Bill Light	Rolla	Board of Education
Carol Light	Rolla	
Camie Laswell	Moscow	
Peggy Horton	Elkhart	USD 218
Julie Kottman	Olathe	parent
Mark Tallman	Topeka	KASB
Jacque Dalkes	Topeka	S&E
MIKE GASKILL	Moscow, KS	USD 209
Ruth Wilbur	Topeka	League of Women Voters
Alan Hunsaid	Mankato	
Stanley McGill	Moscow Ks	USD 209
Mike McCann	Subst	OX7
WD Clements	Wichita	Engle
Tom Whitaker	Topeka	Ks Motor Carriers Assn
GARY MARSHALL	Sublette	USD 374
Bill Grimes	Moscow	USD 209
Larry Connors	Topeka	KG & E
Phil Johnston	ELKHART, Ks	USD 218 Supt.
Larry Clark	Burlington	USD 244

GUEST LIST

COMMITTEE: House of Representatives

DATE: 3/4/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Ethel Steichen	Kansas St. Univ/Manhattan	Doc Practicum
AUSTIN NOTHEAN	Topeka	Kans Assoc Equip Distrib.
Gary Reser	Topeka	Governor
Neal Whitaker	Topeka	Ks Beer Wholesalers Assn
Christy Young	Topeka	Dr. Topeka Chamber of Com
Bob Corkins	"	KCCI
Don Lane	Olathe	Olathe Area Chamber of Comm
Don Schuck	Topeka	KIOGA
Connie Hurrell	Topeka	State Board of Ed.
Bill Musch	Manhattan	Sl. Bd of Ed
Tom Tunnell	Topeka	Ks Grain & Feed Assn
Karin Koles Tom	Topeka	Burbert Assoc.
Warren Luder	Manhattan	Ks. Farm Bureau
Gerald Henderson	Topeka	USA of Ks
T. O. Anderson	Topeka	KSCFA
SUSAN SOMERS	Topeka	KSCFA
Bob Stoney	Topeka	De Harth of De or
PAT HUBBELL	TOPEKA	KANSAS RAILROAD ASSN.
JOHN C. BOTTENBERG	TOPEKA	VIDEO LOTTERY CONSULT.
BRAAD SWOFT	"	HBA of KC
SHERBY SMITH	Wichita	KASEA
Kathy Pate	Hugoton	Recycler
John Pate	Hugoton	Recycler
Nelson Bryant	Hugoton	VSD 710

Doug LawrenceSTATE REPRESENTATIVE
902 MIAMI
BURLINGTON, KS 66839

TOPEKA

HOUSE OF
REPRESENTATIVESCOMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE AND SMALL BUSINESS
ENERGY AND NATURAL
RESOURCES
TRANSPORTATION

March 5, 1992

Thank you for this opportunity to address the committee. My name is Doug Lawrence, I represent the 60th district. My district includes Burlington.

You probably already know how the statewide 45 mill levy would affect the local school districts. There are two towns in the Burlington school district. New Strawn and Burlington. The proposed levy would increase the property tax paid by businesses and individuals in both of these cities about 80 percent. For those who live in the rural areas of the school district the increase is 300 percent.

I do not wish to belabor the point, but in my personal case, the sudden increase in the total tax burden on my business interests would be significant. The increase would be the equivalent of one year's salary for one of my five employees. That increase, with no corresponding benefit in my community makes it hard to swallow. Last year, I testified before the senate education committee. I told the senators that I was the golden goose you all seemed intent on plucking. This year is no different. My business interests can not just pass it on.

Added to this the frustration on our part ... of the apparent belief that this huge wealth ... in the form of the wolf creek nuclear power plant was somehow "given" to us, and that we are undeserving of it. The plant was built in Coffey county as a result of eminent domain. It is not an accident of birth... as some seem willing to characterize it. You work hard ... jump through the hoops, help an industry grow and meet demanding requirements. you change the very nature of your community to get that industry, then some one ... in Topeka decides ... you didn't deserve the benefit you get from that industry.

It is not equal ... to compare quality of life issues with those of people who live in Wichita. Those folks have malls, shopping resources, health care, entertainment, jobs, and income levels far beyond what is available in Burlington. It is not equal to compare ability to pay those property taxes, we do not have the jobs to provide for two earner families. Why is it equal to fix a property tax rate at the same level statewide? Without factoring for abatement of property taxes, without recognizing that some counties are appraising property lower than others, without assuring that the money lifted from one community doesn't fund pork

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barrell spending somewhere else, you do not have equal ... even if the rates are the same.

I think it is important to talk about statewide issues, and not focus on just my parochial interests. I am concerned about the fiscal responsibility issue.

What incentive is there for a school district to be frugal with its tax dollars, with a fixed mill levy where there is no control? There is none. In fact, there is incentive to spend more. Especially if you modify this plan to make it a minimum mill levy program. It makes no sense for any district, under this plan, to try to save tax dollars. We are creating a "spend it or lose it mentality" in our educational system. I believe an important factor in the quality of education in the local schools is local accountability, and that includes responsibility for the taxes collected and spent.

There may be some theoretical equivalence brought about by a statewide mill levy ... or minimum mill levy. Unfortunately, this is not a laboratory. This is a real place ... with real people ... with real problems.

The reality ... in real world ... this is a real bad idea.

**Greater Topeka
Chamber of Commerce**
Three Townsite Plaza
120 East Sixth Street
Topeka, Kansas 66603
913/234-2644
FAX 913/234-8656



Testimony before the House Taxation Committee
March 4, 1992
Christy Young
Vice President Government Relations
Greater Topeka Chamber of Commerce

The Greater Topeka Chamber of Commerce is in support of HB 2891, creating a statewide mill levy of 45 mills for the funding of Kansas public schools. Realizing the revenue shortfall that would be created with this statewide mill levy, the Topeka Chamber advocates an increase of up to 1%, in the sales tax rate and a 5% increase in income tax rates.

We oppose the removal of sales tax exemptions and additional sales tax on services. Exemptions created over the past years to preserve or enhance our competitive economic advantage are no less valid today than they were at the time they were created. Local companies, such as Goodyear, Payless ShoeSource, Santa Fe, Frito-Lay, LaSiesta, Topeka Foundry, and Seymour have expanded in the last several years, and, just recently a new company Reser's Foods, has been added to the Topeka economy. From 1983 to 1990, Shawnee County has experienced a 10% increase in manufacturing/construction jobs. Sales tax exemptions, property tax exemptions and local business incentives have been significant in the creation of these jobs.

There also has been non-manufacturing growth in Shawnee County. The most evident in the last couple of years has been in the retail sector, where we have had a 16% increase in jobs. But by far the greatest growth has been in the service sector (health, legal, repair, computer, engineering, accounting, etc.); there has been a 34% increase. Removal of some sales tax exemptions and sales taxing on professional services would certainly restrain further growth.

One industry showing great interest in Kansas and Topeka has been telecommunications. We have been able to attract telemarketing to our state in part because of the sales tax exemption. The January 27, 1992 issue of "US News and World Report" says "...seventeen states considered long-distance taxes in 1991 because the low-key levies are rarely noticed. But business, increasingly dependent upon telecommunications does notice. That's why only one of the 17 states (Pennsylvania) actually implemented such a tax."

"Wisconsin was the first to learn the hazards of telephone taxation. Callers there once paid phone taxes of more than 12%. But when state leaders realized they were driving away jobs, they phased the tax down to 5.5%. Ring Response, a Skokie, Ill. telephone service for catalogs, wanted to expand into Wisconsin, but it learned of the phone surcharges and pulled back. Now Michael Centrella, the firm's president, is being courted by other states, where he could escape the \$300,000 in phone taxes he pays in Illinois."

The question is, will Kansas be able to continue to court telemarketing companies such as Ring Response or other manufacturing and service companies which receive comparable tax treatment in other states? And will we be able to retain the companies we have? The answer lies in your hands.

The Topeka Chamber urges your approval of HB 2891 and replacement of the lost revenues with a sales tax increase and small income tax increase.

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REACH OUT AND TAX SOMEONE

In 1990, Mayor Richard Daley of Chicago and a hundred city and state officials hailed the opening of United Airlines' new O'Hare Airport reservations facility as a development coup for the Windy City. Chicago had lured the \$28 million investment—and 2,000 jobs—in part, with a promised exemption from Illinois's 5 percent tax on telephone services. For a facility expecting to handle 3 million long-distance calls each month, that meant a savings of hundreds of thousands of dollars for United.

The skies over Chicago turned less friendly this month, however, when the city imposed its own 5 percent tax on out-of-state calls to replace half of a \$49 million cutback in revenue sharing from Illinois. It is too late for United to back out of its investment, but in coming years, Chicago may find that the hidden phone tax drives businesses elsewhere.

The temptation to bridge budget gaps with a telephone tax is sweeping the nation. According to Joseph Gigliotti of AT&T, 17 states considered long-distance taxes in 1991, largely because the low-key levies are rarely noticed. But business, increasingly dependent upon telecommunications, does notice. That's why only one of the 17 states (Pennsylvania) actually implemented such a tax.

Disconnect. Wisconsin was the first to learn the hazards of telephone taxation. Callers there once paid phone taxes of more than 12 percent. But when state leaders realized they were driving away jobs, they phased the tax down to 5.5 percent. Ring Response, a Skokie, Ill., telephone service for catalogs, wanted to expand into Wisconsin, but it learned of the phone surcharges and pulled back. Now, Michael Centrella, the firm's president, is being courted by other states, where he could escape the \$300,000 in phone taxes he pays to Illinois. And if he were in Chicago? "I'd be moving out."

**TESTIMONY
OF PEGGY HORTON
USD #218 BOARD MEMBER
PRESENTED TO THE HOUSE TAXATION COMMITTEE
MARCH 4, 1992**

Good morning, Madam Chairman and Committee members. I thank you for allowing me to speak this morning on a subject about which I know you have heard a great deal. I am Peggy Horton and I am speaking as a mother of four, a farmwife and a taxpayer.

I speak in opposition to the statewide mill levy in any form. I believe in the importance of local control - not because it means local power, but because it means local awareness. Local boards, administrators and teachers know the needs of the students in their individual communities. These are the people who should be making the decisions on how to meet the goals of educating our children for a global society.

The proposal of a statewide mill levy has two major failings. First, Equal Educational Opportunity is not defined by equal dollars! Secondly, the increased taxes will pound another nail in the economic coffin of Southwest Kansas which will effect the whole state.

Equal dollars are actually inequal education. At the close of the 20th century, opportunities for education cannot be limited to the textbook. Our geographic isolation limits our ability to attract teachers that have specialty skills in high demand. Our language offerings, for example, are limited to satellite or 2-way television, which of course means additional costs, and I am not speaking of the Russian or Japanese offered in the cities - just French or Spanish.

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Our geographic isolation also means that we cannot offer our students easy access to museums, factory tours, plays, concerts or the many competitions which others take for granted. As a personal example, last week my 13 year-old daughter was in a middle school Quiz Bowl. She had a two hour bus ride each way for a one hour competition. In another instance last year, we sent four students to a State math contest which naturally was in Lawrence. For us this meant a 16 hour drive and an overnight stay for both students and sponsors at a cost of approximately \$500.00. All of these things add up to additional dollars just so that we can offer our students the same things that students in the larger or more eastern communities take for granted. None of the current or proposed weighting formulas consider the special needs that we have due to our geographic isolation. Only local awareness and local control can assess and meet this need.

I frequently hear things like - consolidate to make classes larger and more cost effective. It is true that smaller classes raise the per pupil costs and put offering special classes like technology beyond the means of our budget. But this is where local awareness comes into play. Consolidation in our area would mean transporting kids 45 - 60 miles one way to school each day. Our geographic isolation is a major factor that is not being considered.

The nail in the economic coffin, that I referred to earlier, is a very simple point. The so-called excess money that we should be sending back east is based on the gas companies in our area. Just last week I learned that two of these companies are already shutting off their wells due to the current economic situation. They have also indicated to us that an increase in their taxes will prompt them to look elsewhere to locate. This comes on top of the fact that four businesses on Main Street closed after Christmas. Not only will we be hurt by the loss of local income and population, but you will suffer too by the loss of severance tax that already comes East. Perhaps we should look into giving our gas companies industrial revenue bonds. Then, we could give away our tax base and claim state aid like

others do.

Amazingly, I find myself in agreement with Sunday's editorial in the *Wichita Eagle Beacon*. We must break away from our dependence on property tax as the main stay of educational finance. The current proposal is disastrous for my district. It does three things to us:

1. We no longer qualify for state aid;
2. We are now declared rich enough to send money East and;
3. We lose income tax rebates.

We are supposed to take in \$630,000 less and still find more money to send away. We cannot survive this triple whammy to our budget and truly be able to offer our students equal educational opportunities.

Ladies and Gentlemen, we sincerely ask that you will consider the points that we have made today and remember that the needs of Southwest Kansas are your responsibility, too. Robbing Peter to pay Paul does not help either one. Let us take another look and find a solution that is truly equitable for all.

Kansas Royalty Owners

The effect of the proposed 45 mill statewide school tax levy would be devastating to southwestern Kansas and the natural gas industry in the Hugoton field. The state severance tax is already taking a heavy toll on southwest Kansas. Below is an accounting of the mineral tax revenue raised by the state severance tax in 1990 and from 1983 through 1990 in 16 southwest Kansas counties:

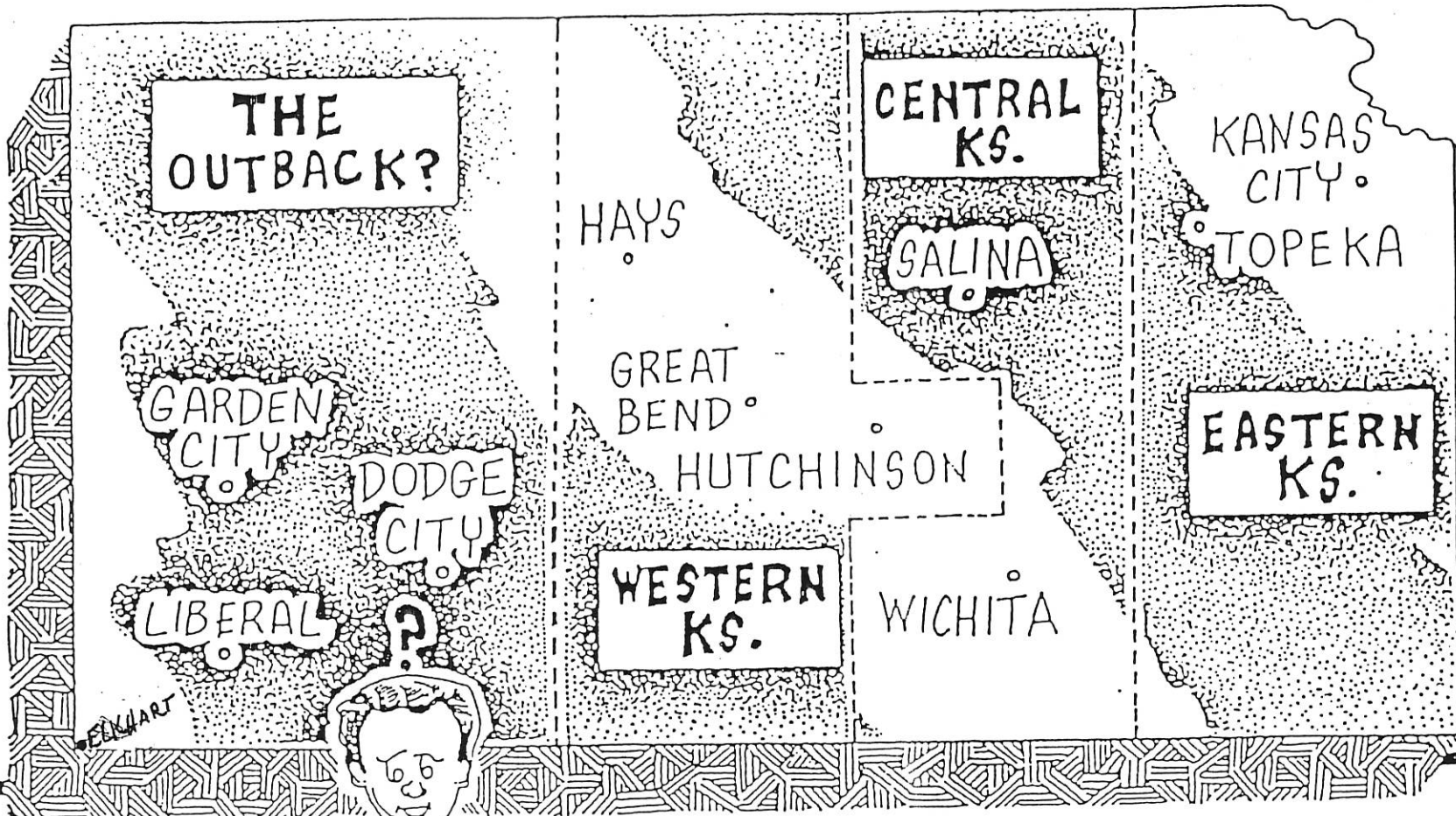
<u>County</u>	<u>MINERAL TAX REVENUE</u>	
	<u>1990 Calendar Year</u>	<u>Cumulative 1983 - 1990</u>
Finney	\$ 4,214,303.00	\$ 24,403,171.00
Ford	226,457.00	2,073,008.00
Grant	11,035,195.00	47,373,012.00
Gray	112,000.00	1,024,246.00
Greeley	516,527.00	5,333,410.00
Hamilton	758,542.00	4,551,962.00
Haskell	4,325,498.00	22,888,788.00
Kearny	6,050,146.00	40,972,348.00
Lane	601,441.00	6,445,505.00
Meade	1,536,830.00	11,232,489.00
Morton	5,526,925.00	34,521,635.00
Scott	116,843.00	904,431.00
Seward	4,223,840.00	27,356,217.00
Stanton	1,452,618.00	12,122,157.00
Stevens	17,286,624.00	73,575,446.00
Wichita	<u>\$ 44,318.00</u>	<u>\$ 276,656.00</u>
Southwest Kansas		
Total	\$58,028,107.00	\$315,054,380.00
State Total	\$87,460,587.00	\$659,734,635.00

The above 16 counties were burdened with two-thirds of the severance tax collected by Kansas during 1990. If you converted this heavy tax load into a mill levy, the \$17,286,624 collected from Stevens County during 1990 would be the equivalent of a 57 mill levy.

The below figures approximate the additional tax burden placed on seven school districts in southwest Kansas if a 45 mill school finance plan becomes law.

Additional Tax Burden Under the Proposed 45-Mill School Finance Plan

Hugoton	\$ 6,337,000.00
Moscow	2,093,000.00
Rolla	1,547,000.00
Sublette	1,405,000.00
Ulysses	3,105,000.00
Satanta	709,000.00
Elkhart	225,000.00



GARDEN CITY TELEGRAM '87 ©



**THE CURRENT STATE OF
GEOGRAPHY IN KANSAS
(CIRCA 1987)**

ALVIN SCHULTZ

March 4, 1992

Karen Herndon
500 Alta Lane
Olahte, KS 66061

Most people come equipped with certain standard equipment. We can easily move, see God's wonderful world, hear marvelous sounds, taste pizza and apples, and use our voices to talk, shout and laugh. Suppose you had to give up one of these abilities? Which one would you choose to part with?

It's hard to imagine living without one of these abilites. It's even harder to imagine being cast out of society because of a physical or mental handicap.

Good Morning, my name is Karen Herndon and I've come here today to tell you about a school district that provides education for those who do not have all the standard equipment. My son Flint attends the Developmental Learning Center (DLC) in Olathe. At this school he receives physical therapy, speech therapy and training for basic living skills.

Physical therapy was very important in Flint's early years. It helped him to gain better balance, learn to walk, run, hop, and skip. Abilities that may come natural to most children but Flint needed therapy three times a week to learn these basic functions.

Speech therapy is extremely important in Flint's developmental skills. Flint is able to make the proper sounds but it's very

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hard for him to put the sounds together to form words. At DLC Flint is able to have speech therapy three times a week, twice in group therapy and once on an individual basis. In the last year Flint now at the age of eleven, has begun saying three to five word sentences. Flint's speech can continue to improve, but only if his speech therapy is continued at the level he has now.

Parents of special needs children in Olathe are concerned that the proposed tax levy would make Olathe short of funding the special education program. This would mean a devastating cut in greatly needed teachers and paraprofessionals.

I wish you could see just once the joy in these children's faces when they have achieved a goal. The first time they say a word, or are able to walk, or drink from a cup unassisted, or make their wheelchair go where they intended.

Do consider these children when determining the amount of tax dollars allocated for education. With this continuing education program my son has a greater opportunity to become self sufficient. Please allow the Olathe schools to continue our special education program in order that these special children and all children may have the opportunity to reach their full potential.

Thank you for letting me share my concerns.

My name is Pam Huckleberry. My husband and I have 3 sons. Andy, our oldest, is 9, and is in a special education program in the Olathe School district. We also have a 6 year old in the regular classroom, and a 2 year old who will be in the school system in a few years.

We moved to the Kansas City area in 1985. When deciding which city to reside in, we remember hearing nothing but high praise for the Olathe School district. At that time, our children were not school age, but we had to consider that they would be very soon and a good educational system was very important to us. So we chose Olathe. We also, at that time, did not know that our son Andy, would require special education services, as he had not been formally tested. He is non-verbal, diagnosed with aphasia, a severe speech and language disorder, as well as being developmentally delayed. He uses sign language to communicate. When we learned of Andy's disability, our hopes for his future were shattered, and we had no idea where to be looking for answers. We were directed to the Developmental Learning Center in Olathe. After meeting with the staff at the DLC, we knew that the quality of Andy's future would be determined by the guidance and specialized education he would receive within the Olathe School system. Since he first attended the DLC at age 3, Andy has reached goals that we never dreamed were possible, such as counting in sign, adding, and reading simple words in sign language. A few weeks ago, he did something that we never thought would be possible. He took his first spelling test. It was the word "cat", and just that one simple word brought us more joy and hope that you can imagine.

This past Fall, Andy was put in a semi-independent learning program at one of the elementary schools on a full-time basis. This was a big step for him, and so far he is meeting up to the challenge.

We feel that many of Andy's accomplishments would not have been possible, or at least not within the relatively short time they were accomplished, if it were not for the dedicated teachers and therapists that have put so much time and effort into working with him.

We Olathe residents are very proud of our outstanding school system, both regular and special education, and both programs would suffer tremendously as a result of a finance plan such as the one Governor Finney has proposed. We are deeply concerned that the millions of dollars in lost revenue would result in teachers and therapists no longer having the means to work with special needs children on an individual basis, as well as the possible elimination of para-professionals in the classroom. We realize that the use of para-professionals is not mandated in the State of Kansas, however, we feel that they have become as vital to the development of special needs children as teachers and therapists, enabling teachers to spend more time meeting the individual needs of each child.

It is imperative that a method be found to finance House Bill 2892, so that the children of Olathe may continue to receive the quality education that they are currently receiving.

Whatever decision is made, remember it is the children who will benefit or suffer the consequences. They are the future of this country. Please let us as tax-paying citizens decide for ourselves whether or not our children's future is worth paying for.

Thank you.

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Mr. & Mrs. James K. Ramsey
409 N. Mesquite
Olathe, Kansas 66061

March 4, 1992

State of Kansas Taxation Committee
State Capital
Topeka, Kansas

Ladies and Gentlemen of the Kansas Taxation
Committee;

My name is Sonya Ramsey. My husband Jim, our son Daniel, and I moved from the state of South Carolina to Olathe ten months ago. My son will be five years old in two weeks. When I was five months pregnant, my doctor informed us our son would be born with Robert's syndrome. Robert's syndrome is a very rare condition, and in most cases the children are severely deformed, such as arms and legs being totally absent or flipper-like in appearance. Cleft palate, cataracts, various levels of mental impairment, and the possible involvement of any major organ are all common manifestations of this syndrome. Our son's case is even more rare, as he is so mildly affected in comparison to others with this condition. He will always be small for his age, his hearing is impaired, and he has a non-functioning kidney. His father and I live with the possibility that his developmental delay will worsen with age.

I can honestly say that I would give up 20 years of my life if the biggest worry I had right now was the possibility of paying higher taxes! My biggest worry is who will take care of my son when I am dead and gone.

My husband and I are part of a minority; we are parents of a developmentally disadvantaged child. We, like so many other parents, watch our child struggle with tasks other children of his age find easy. We moved, leaving behind family and friends, in order to find a place that offered our child a quality education without our having to resort to threats of due process hearings.

There are a significant number of parents who have done the same thing we have done. They have moved to the Olathe school district from other areas in the state, simply because more services

are available for their children. We have elected to pay the higher taxes in exchange for our children to have a better future. Our son attends the Developmental Learning Center, which provides one of the most effective special education programs in the state. Within Daniel's first two months of attending this school, he was grasping concepts that I, and a private tutor, had been trying to teach him for months. He continues to grow and develop there, at a rate I never thought possible.

I realize there are several bills being proposed right now. I am a parent, not a politician; it is not my place to stand here and tell you how to do your job. It is my job however, as a concerned parent, to assure you that I, my husband, and many other parents do not mind paying higher taxes in order to maintain the high quality of special educational services our children currently receive. A 1% rise in state income tax or a .01 increase in sales tax is a small price to pay to avoid budget cuts which would reduce a very effective program to nothing more than a state run day care. Our son is one of many; some have delays milder than his, and many have handicaps and disabilities much greater than he. All of these children have potential; they deserve to keep a school system that will bring forth this potential and give them a better chance for tomorrow.

On behalf of my son, Daniel, I would like to thank this committee for allowing me to speak today.

Respectfully,


Sonya S. Ramsey

Madam Chairwoman, and Members of the Committee:

My name is Dennis Zimmerman, and I am the Chamber CEO and the Economic Development Director for Grant County. I am here on behalf of the small businesses, industries, and property owners of Grant County.

Grant County has and continues to experience population, business and industrial sector growth. At this present time, we have a 97% occupancy rate on the main street in Ulysses, which all small businesses locally owned and operated. Our per capita is raising once again, our yearly sales tax receipts are averaging a 7% to 9% increase and home construction permits are up 22% from 1985. So, I'll be honest with you....YES....we do have growth and development taking place in Grant County. A growth that is good for both the Grant County and Kansas Economy.

Here's the rest of the story.....Our small locally owned businesses have more competition than ever before from the major retail stores in surrounding cities. The cost of merchandise and freight are constantly increasing, workers comp, FICA taxes, and utilities continue to escalate. In agriculture the cost of production continues to rise, sometimes Mother Nature is not overly kind to us, and the price of our commodities are controlled by the federal government and the world markets.

In the gas industry, the spot market price of gas is decreasing, workers comp,

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health insurance, government taxes, all are making it harder for gas companies to expand.

We are no different than any other areas of this state. The business climate is very tough. House Bill 2891 would increase our property tax burden by 15% to 22% on small retail business, 25% to 35% on agricultural land, 15% on homeowners, 25% to 44% on utilities and 22% to 30% on our gas industry. The 13 additional mills that will be raised by House Bill 2891 equates to approximately \$3,000,000. When you add in \$7 million from the present school budget, \$400,000 in severance tax, \$450,000 in income tax rebate plus 1 million in roll-back of reserved, school finance in Grant County will cost almost \$12 million. That's approximately \$7,000 per student (1700 students in U.S.D. 214) and under House Bill 2892 we will receive back approximately \$3,700 per student.

Each area of this state has its wealth, we do have natural gas, water, spacious land, beautiful sunrises and sunsets, and an independent spirit.

But we don't have the wealth of shopping malls, cultural events, interstate and major highways, major airports, four-year colleges or a diversified economy.

As we all know, the increased burden in property taxes has not been good for several areas of our state. Believe me, the people of Grant County understand that very well. So, if the property tax increases in the other areas of Kansas haven't been

good for their economy, HOW WILL IT BE GOOD FOR THE BUSINESS CLIMATE AND PEOPLE OF GRANT COUNTY?

In college, a professor of economics told our class that when Peter was robbed to pay Paul, 9 out of 10 times Paul was in favor of it. But he also said that in the long run both Peter and Paul would fail, and most importantly it WAS NOT RIGHT! THE PEOPLE OF GRANT COUNTY DON'T THINK IT IS RIGHT EITHER!

What we do think is right is:

1. Maintaining but revamping the present school formula and making it fair and fully funded as the school finance experts proposed as one of the options the state could do in school financing.
2. Increasing the sales taxes by three quarters of a cent
3. Increasing the income tax by 15%
4. Considering a statewide intangible tax
5. Implement Video Lottery and dedicate all of the aforementioned proceeds to education.
6. All school districts under 40 mills should not receive basic state aid. These school districts would only receive aid for mandated state or federal programs.
7. That cities and counties should offer tax abatement incentives but all property owners, businesses, industry, homeowners and farmers should pay school taxes.

And finally, we believe local authority and local control in our schools, cities and local counties is the most important right we as Kansans have.

Madam Chairwoman, members of the Taxation Committee, the people of Grant County don't want to secede from Kansas....what they want to do is succeed in providing their children with a quality education that will prepare them to compete with other Kansas children in our world economy.

The people of Grant County thank you for your time and dedication for the betterment of Kansas, and for this opportunity to be heard.

The people of Grant County ask you to **PLEASE VOTE NO ON HOUSE BILL 2891.**

Testimony
of
Dr. Dennis G. Thompson
Superintendent, U.S.D. 507
Presented to the House Taxation Committee
Satanta, Kansas 67870

To the Honorable Members of the House Taxation Committee.

Madam Chairperson, and Members of the Committee:

I am Dennis Thompson, Superintendent of Satanta United School District 507, appearing on behalf of the Superintendents of the Kansas Education Coalition and on behalf of the patrons of Unified School District 507 in opposition to HB 2891 providing for a statewide tax levy of 45 mills to be used for school finance.

Last year I was in Topeka during testimony on Senate Bill 26. A lobbyist from Topeka was addressing the issue of the fourth enrollment category schools being able to raise their budgets to the median level of the fifth enrollment category. He said that if the fourth enrollment category schools were allowed to increase their budgets, the increase should go to fund programs like they had in Topeka. It should not go to fund salary increases as that would make it difficult for Topeka to compete with their increased salary schedules. I looked at the list and out of the 19 programs they had available for their students, we did not have one in our school district. This year we have added two of those programs, Elementary Counseling and English as a Second Language, and because of Senate Bill 26, without any state aid. Both of these programs are in danger of being eliminated if HB 2829 is passed.

Is it an equal educational opportunity when, due to sheer numbers, the larger schools are able to offer these programs as well as numerous class offerings at the middle and high school level? Are we supposed to tell our taxpayers that their taxes are substantially increasing so we can send it to Topeka to be shared with schools

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that offer more to their students and at the same time have to cut services to our students because of where we live? Our students have needs too. "At Risk" kids do not live only in the big cities. We may not have the numbers to fill a classroom for those with special needs, but we need to serve them just the same.

In Haskell County, \$4,325,498 was sent to the state in 1990 in the form of a severance tax. Our valuation in the county was 142 million. That amounts to 31 mills that is already being sent to Topeka to share with the rest of the state. I am not aware of any other tax that is levied on a particular area that is comparable to this. Do we have to add 45 mills to that with the prospects of receiving only a portion of the 45 mills sent being returned to help with the education of our own students? Our economy is being hit, and at the same time it seems as if it is sacrilegious to mention the amount of property that is not taxed because of IRB's or tax abatements in the name of economic development. I am amazed that no one seems to even know how much is abated.

Because of the opinion of one judge, it seems everyone wants to abandon a proven method of financing schools. Including funding required with a statewide 45 mill levy, the original formula can accomplish everything expressed as needing to be accomplished. Let us look at a mixture of funding for education that includes taxes on sales, income, property, and intangibles. Let us look at the wealth of a district, including the property not on the tax rolls, before we determine how much state aid should go to that district. Let us look at how much in taxes is going to the state before we point a finger and say some are not paying their fair share.

Thank you for this opportunity to appear before you. I will entertain any questions you might have.

**PROGRAMS (IN ADDITION TO THE REQUIRED CURRICULUM) PROVIDED TO
MEET THE NEEDS OF DISADVANTAGED STUDENTS**

1. Drop-Out Prevention Coordinator
2. 10 Elementary Counselors
3. 8.5 Elementary Social Workers
4. Summer School at all levels
5. Summer School stipends
6. Behavior Intervention Units
7. Comer Project
8. Conflict Resolution Projects
9. Violence Prevention
10. Student Personal Safety Programs (Child Abuse Prevention)

11. Homebound services for partial out-patient students in chemical dependent treatment centers
12. Teen AID
13. Alternative Education Center

14. MACESA (Mid-American Consortium for Engineering and Science Achievement)
15. Outdoor Environmental Education Components
16. Registered Nurses
17. Security Force
18. Remedial Reading Program
19. English as a Second Language

**TESTIMONY
OF
KATHY PATE - RAYCOLOR, INC.
HUGOTON, KANSAS
PRESENTED TO THE HOUSE TAXATION COMMITTEE
MARCH 4, 1992**

Madam Chairman, members of the Committee, I am Kathy Pate from Raycolor, Inc. of Hugoton, Kansas. There are 36 service oriented businesses in our community. The 45 mill levy would have a devastating effect on this community, closing the doors of many of the businesses. Of the 36 businesses, 25 are 70% dependent on this community and the communities of Moscow and Rolla for their livelihood. A raise in taxes would have to be passed on to the customer in a price increase of product. The proposed levy would be a 38% increase in Raycolor's property tax and all other business properties in Stevens County.

Our low mill levy keeps our businesses in a NEAR competitive pricing bracket. Businesses in larger towns have larger taxes but they also get the price breaks in their product because of quantity ordering. In turn, our town has a lower tax but pays more for the product they order. The increase would definitely raise the cost of products in our community while the decrease in taxes would lower the cost of products in larger towns, encouraging patrons to go to the larger towns.

The 45 mill levy also takes away the only INCENTIVE we in Southwest Kansas have for economic development or an incentive for people living in our community - that being low taxes. Not everyone can live in a rural community and definitely not Southwest Kansas!

We conducted an economic development survey and one person stated it -

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the question asked "What would you do to improve Hugoton?" The answer "Get rid of the wind and the monotony!" Funny? No! A lot of people feel this way. Apparently businesses also - because even the lowest tax levy in the state can't attract new business. Take away our low tax base and here's what will happen:

1. People will leave - they can commute to their jobs.
2. Businesses will close.
3. Our schools won't receive the funding needed to keep our schools at top or near top rate.

Our school district is very supportive of our businesses knowing they pay the taxes that keep them going. The school district always tries to do business locally whenever possible. When Topeka is in charge this will be lost - no doubt. Repairs and purchasing will be decided in Topeka and the jobs and merchandise will go to the lowest bidder - promoting "Big Business" and ousting small business.

Enclosed is an article from the *Hugoton Hermes* concerning the gas production of Mobil Oil. The Hugoton Gas Field contributes a lot to Stevens County and the state of Kansas. In Stevens County gas and oil pays approximately 80% of our taxes. For our state the 10 counties in the Hugoton Gas Field paid 44% of the total severance tax collected from 1983 - 1990. This increase in taxes plus the severance tax would make natural gas economically unfeasible to produce.

When it was economically unfeasible to produce oil, reduction was cut; it hurt other businesses - even businesses 150 miles away. The crunch hit us then as it will if gas production is decreased.

With the decrease of gas production will come eventual lay offs or transfers. As for the severance tax that the state will lose, it will have to be made up somewhere.

From first hand experience this proposal will diminish the quality of schools in rural communities. Seventeen miles south is Oklahoma sitting on top of the Hugoton Gas Field. They have a similar system for their school finance - basically all money is sent to Oklahoma City and it is dispersed accordingly. Before this system was adopted Tyrone, Hooker and Yarbrough Schools had enough money for janitors, repairs, maintenance, etc. The schools had a clean and repaired atmosphere. Now Tyrone has leaky ceilings, stage curtains in need of repairs, etc. Hooker doesn't have enough money for janitors, there one gym is not cleaned, has broken windows, the benches for seats are broken and people sit on the cement instead - Yarbrough has a clean, kept facility for now. They cut expenses by having two grades in a classroom.

Last of all, as a parent - for parents to support their children at athletic events they must take off work early 75% of the time to travel to the activities.

The week of February 17 - 21, our middle school was involved in their league tournament. It took an average of 1 1/2 days off work to support our teams. For three games parents travelled 488 miles. High school travelled an additional 161 miles this week. Activities travel totaled 649 miles times 2 buses or 1298 miles of travel. May I remind you activity travel is not reimbursed.

Should children be denied just because they live in a rural community? It is up to you.

Mobil Plans To Cut Back Production, Exploration

The prospect of losing 20 to 30 per cent of the Mobil Exploration and Production, U.S. Inc. in Hugoton has been announced by the president of the firm speaking in Liberal recently.

Darlene Taylor, in charge of Exploration and Production Public Affairs in Dallas, confirmed the news as she affirmed that the officer talked to the employees concerning what the firm was looking at in operation and structure. A study has been begun to analyze their current structure and make changes to make their operation more efficient. Taylor indicates that the study has not been completed yet. No final decisions will take place before the second quarter of this year, she adds.

No matter what the final plans are, Taylor concedes that the operation here "will be quite smaller. As far as the impact on any particular area - it isn't firm yet." Beyond the production reductions, the exploration phase of their operation is expected to be trimmed by a larger amount.

Mike Schechter, who is in charge of the Mobil operation here, reports that there are 21 employees reporting to their office at this time.

Perhaps a strong factor in this development, besides the threat of much higher taxation, is the price of gas now. At \$1.00 mcf, the price is the lowest it has been in three years. The highest price recorded in this same time period is around \$2.30 mcf.

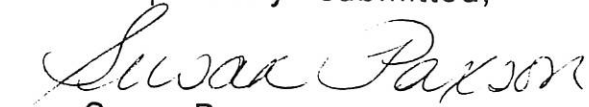
The proposed education plan has too much emphasis on too few large income producers. The "what if" game has not been played out. What if the gambling program doesn't reap the profits as expected? What happens when Wolf Creek doesn't produce as much electricity and its' evaluation goes down. Oil and gas wells do not produce infinitely.

If we want equal education for our children, we first need to determine what equal education is. What does it take to graduate a functionally literate child from high school? What is the norm for class room activities? There has been very little talk about student/teacher ratios, curriculum, the school work week and teacher pay. I do not think you can take from one district and give to another without determining what the real and viable costs of education are. What is each school district responsible for? Equal mill levy does not mean equal education because it costs more to educate students in some areas than it does in others. Just as food and doctor bills are not the same across the state, neither is the cost of educating a child through high school.

I think the education committee has used Judge Bullock's order as an easy means to lower property taxes in their own districts with little regard for what it will do in other districts. USD 244 may be a rich district, but this district is comprised of a high percentage of low-income wage earners. I won't go into the economic and psychological impact Wolf Creek has had on our community, but I will say that my clothing business income did not go up because of Wolf Creek and during Operation Desert Storm my first grader was concerned if they were going to bomb the nuclear power plant.

If the people of this state are truly committed to the education of our children, then the word "equal" needs to be defined and we should then fund that equality. No one individual or business should be exempt from that education tax.

Respectfully submitted,


Susan Paxson

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TESTIMONY
OF
ETHEL EVANS
ON BEHALF OF
THE
KANSAS LEGISLATIVE POLICY GROUP

PRESENTED BEFORE
THE
HOUSE TAXATION COMMITTEE
9:00 AM

March 4, 1992

RE: HB 2891

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Chairwoman Wagnon and Members of this Committee:

I am Commissioner Ethel Evans. Today I appear on behalf of the Kansas Legislative Policy Group (KLPG), which is an organization of County Commissioners representing 22 counties. The Board of Directors voted unanimously to oppose any bill that contains a uniform statewide property tax mill levy.

We have numerous concerns. The first of these is local governments' control. If the state mandates a uniform school levy, it places the rest of the local taxing entities in direct competition with the state for the local property tax dollar. Property tax has always been the source of revenue for local governments. Because they tax themselves, balance their needs while taking into consideration their unique diversities, this has made them known as the most effective and efficient level of government. This bill will jeopardize the local services' tax structure.

Onto another concern - this bill will amplify the inequities of appraised properties across this diverse state, resulting in another statewide re-appraisal. Back again to the loss not only of local control, but legislative state control under the watchful eye and the ticking stop watch of the courts.

Another fact to be considered - education will have to be defined in order for it to be affordable. As with reappraisal the inequities will be enormous. Once again, back to the courts we go.

To maintain our quality of education in Kansas, which rates high in our nation, I feel it is a tragedy that we have chosen a political solution -- a temporary property tax reduction for many Kansans during an election year. This political solution creates an even greater shortfall in the funding of education.

In the Judge's opinion he points out four essential mandates ratified by the people.

1. The legislature shall provide for intellectual, educational, vocational and scientific improvement....
--Let me emphasize the work "improvement". Not a mediocre educational system which would be created by the bill.
2. The legislature shall provide general supervision of public schools and all the educational interests of the state....
--Not a statewide mill levy which forces consolidation, closing of some schools while slashing budgets in others.
3. Local public schools shall be maintained, developed and operated by locally elected boards under the general supervision of the state.....
--The needs that vary from child to child and from place to place can best be addressed by local elected government.
4. The legislature shall make suitable provisions for financing schools.....
--A statewide mill levy is not suitable when it pits Kansans against one another, counties against counties, cities against towns, school children against other school children, industry against another industry and legislators against legislators.

This current "bashing", another by-product of this bill, should tell you something. It is not good for the future of Kansas nor for her most important product, "her children".

I ask you to oppose HB 2891. I thank you for this opportunity.

FINANCING OF PUBLIC SCHOOLS

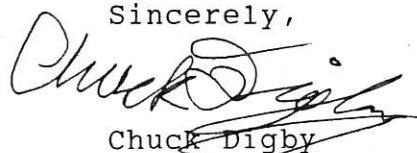
3/3/92

This organization Supports the forty five Mil levy proposal made by Governor Joan Finney pertaining to limits on spending of public money for public schools. We feel that all governmental bodies with home rule authority should be limited on the levying of public money due to the lack of public input on spending of funds.

¶ On february first of this year our organization requested copies of detailed budget expense reports from all five school districts in Johnson county, and as of March 3,1992 we have only received two reports. the first one was received from De Soto with out problems, and the second report was received from the Shawnee Mission School District on March First with mush resentment from them. The other three school districts have failed to provide us with this public information. We have been told that this data was not available at this time, but the school districts are able to create shocking financial projections during this time to the news media and I wonder why? We feel that the school districts have something to hide from us other wise the information would have been provided. We have been told that the Shawnee Mission school district purchased \$3.5 Million dollars in furniture for school building that no longer existence after a major fire (Prairie Elementary).

¶ At this time their is no proof that a forty five mil levy cap would hinder the education that the students are to receive in Johnson County school districts. We have theorized that other school districts in the state would have to consolidate with other districts with in their county to reduce spending and overhead. We know that their are too many districts in many Kansas counties like in Butler, Sumner, and Jefferson Counties. Spending lots of public money does not guarantee high quality education. I think it should be noted that many school districts have threatened to do a way with important programs like art,gym, and music but they never looked at reducing overhead and salaries for administration in any district that we know of.

Sincerely,


Chuck Digby

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KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony on H.B. 2891
before the
House Committee on Taxation

by

Mark Tallman, Coordinator of Governmental Relations
Kansas Association of School Boards

March 3, 1992

Madam Chairman, Members of the Committee:

KASB urges you to recommend a bill that will change the funding sources of Kansas school districts. We do so because current sources cannot provide an equitable funding foundation for the education of Kansas school children. This situation is flawed by over dependence on local revenue sources that are inherently unequal among districts; and particularly by property taxes, the most unpopular tax in the state.

The result is a system that places some districts in an unacceptable dilemma: either impose increasing property taxes that discourage business and burden homeowners to the detriment of the community; or erode the quality of the school system, which will have the same negative effect. At the same time, other districts can offer first class schools at tax rates well below average. This system must be changed to provide fairness for children, fairness to taxpayers, and a better climate for economic development. School finance may well have to be changed to satisfy the Constitution; it should be done anyway, because it is the right thing to do.

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H.B. 2891 contains a 45 mill statewide property tax levy. As we stated in previous school finance testimony, we can support this concept if it is a minimum levy, with school districts retaining the authority to exceed this rate to enhance their budget. We also believe that funds raised by this levy should be retained with the local school district up to the point they exceed the local budget requirement, with funds over that amount sent to the state for distribution. Finally, we believe that such a statewide minimum levy should be set as low as possible by increasing other tax sources.

Although H.B. 2891 and the school finance bill recommended by the House Education Committee, H.B. 2892, were designed as a package, they are not necessarily dependent on each other. As a package, however, the two bills would have the advantage of requiring a minimum level of education support by all Kansas taxpayers, and providing a basic level of educational resources for all Kansas school children, regardless of district wealth.

KASB supports a tax plan that provides increases for lower spending districts without requiring reductions in higher spending district budgets. Obviously, this approach to equalization requires additional spending authority. But the additional spending required by H.B. 2892 is essentially provided to "hold harmless" higher spending districts, rather than requiring those districts to reduce their budgets. We believe equity requires that all districts be able to adopt additional local option budget enhancement, with state equalization aid available where needed. As a practical matter, however, we believe that most such authority will be used by those districts which need it to maintain current levels of spending.

Property tax relief provided by a 45 mill statewide levy totals \$217 million, and could be increased by a lower levy. Another \$30 million in property tax relief would be provided by state equalization aid for bonded debt service as proposed in H.B. 2835, which was recommended by the House Education Committee yesterday.

KASB will support any combination of changes in income tax, sales tax rates or removal of exemptions that will produce the revenue needed to fund this plan. We realize tax changes of this magnitude are never easy. But we believe that the public will support such a package. There is clear, strong public support for reducing property taxes. We believe that most Kansans would prefer a shift from property taxes to sales taxes, or even income taxes, which people find easier to pay.

Kansans have always been willing to support the public school system. We think this is especially true if such spending is used to correct funding inequities, and is tied to school improvement and accountability.

Thank you for your consideration.

House Taxation Committee

March 3, 1992

Testimony of Bernie Koch
Wichita Area Chamber of Commerce
House Bill 2891

Representative Wagnon, members of the House Tax Committee, I'm Bernie Koch with the Wichita Area Chamber of Commerce.

As the discussion has involved on school finance and how to pay for it, the term "Robin Hood plan" has been used frequently. Any way you look at it, it's taking from the rich and giving it to the poor. This is not a new concept for us in Wichita and Sedgwick County. As we travel the pathways of Sherwood Forest this legislative session, we know Robin Hood's scouts are sizing us up, and with good reason.

In Sedgwick County, we have over 16% of the state's population, 16% of the business establishments in the state, and about 23% of the employment.

About 19% of the sales tax collected in Kansas comes from Sedgwick County. We have the highest earnings in the state, over 21% of the total. Over 17% of the personal income of Kansas is in Sedgwick County. That translates to 20% of the state income tax collected.

In the area of earnings from services, over 22% comes from our County. A whopping 38% of the earnings from manufacturing in Kansas are from paychecks issued to workers in Sedgwick County businesses.

But our impact on the economy goes far beyond that. Did you know that earnings from government and government enterprises in Sedgwick County exceed those here in Shawnee County? Over 13% of government earnings are in Sedgwick County, while a little over 10% come from Shawnee County.

Earnings from agricultural services in Sedgwick County are 10% of the state total.

Earnings from transportation, communication and public utilities are 14% of the state total.

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Earnings from retail trade are 20%, earnings from wholesale trade are nearly 19%, earnings from finance, insurance and real estate are 17%, earnings from construction are 17%, earnings from mining are 18%.

I think the conclusion is inescapable. In anything you do this session on school finance, Sedgwick County will pay out more than we take in. We recognize that as a reality, as a fact of life.

So, what do we want? Very simply, two things. We don't want a continuation of the inequities of the past in the area of school finance, and we want a tax structure which allows us to continue our healthy economy. I think you want that, too. It means a continuing flow of revenue to the state to the benefit of all Kansans.

What's the best way to do that? How do you find the revenues to buy down the mill levy with the least amount of damage to the economy?

We believe the revenue source with the most wiggle room is the sales tax. In comparing total sales tax rates with our surrounding states, we seem to have room for growth without hurting our competitiveness. This doesn't mean we are close-minded on individual income tax rates, but large rate increases in any one bracket make us nervous.

We are high in the region on corporate income taxes, as we are on property taxes.

Removing sales tax exemptions is of great concern. Many of these exemptions have contributed to our healthy economy and are matched by our surrounding states. All of our surrounding states have a sales tax exemption for manufacturing machinery and equipment.

I can't stress enough the importance of investing in new technology and the machinery and equipment to manufacture it.

Just last week, General Motors announced that it lost \$4.5 billion in 1991. GM is closing 12 plants and laying off 16,000 people. By 1995, the company will eliminate 74,000 jobs. What's caused the big three automakers to lose \$7.7 billion last year? They did not invest in new technology and equipment when the Japanese did. They lost their share of the market.

We want to encourage our healthy Kansas manufacturers to keep their share of the worldwide market. One major way to do that is

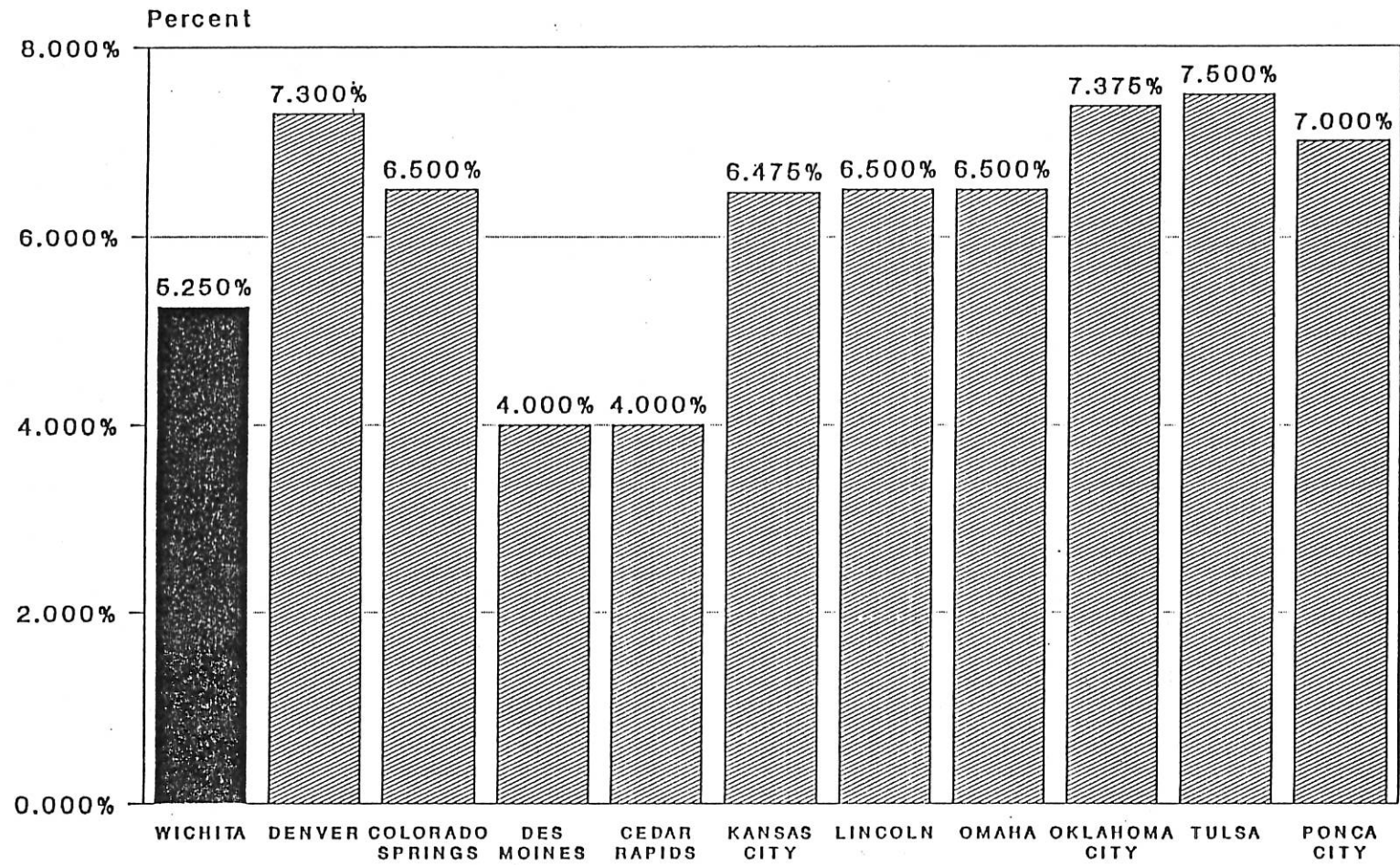
to offer incentives to stay on the cutting edge with their products. The sales tax exemption for machinery and equipment has done that.

We see the discussion of school finance as a delicate balance. We want well-educated young people. We all do. When those young people are ready to leave school and enter a new phase of life, we want them to be able to find jobs in healthy businesses.

Business need the people and the people need the businesses. Let's not sacrifice either at the expense of the other.

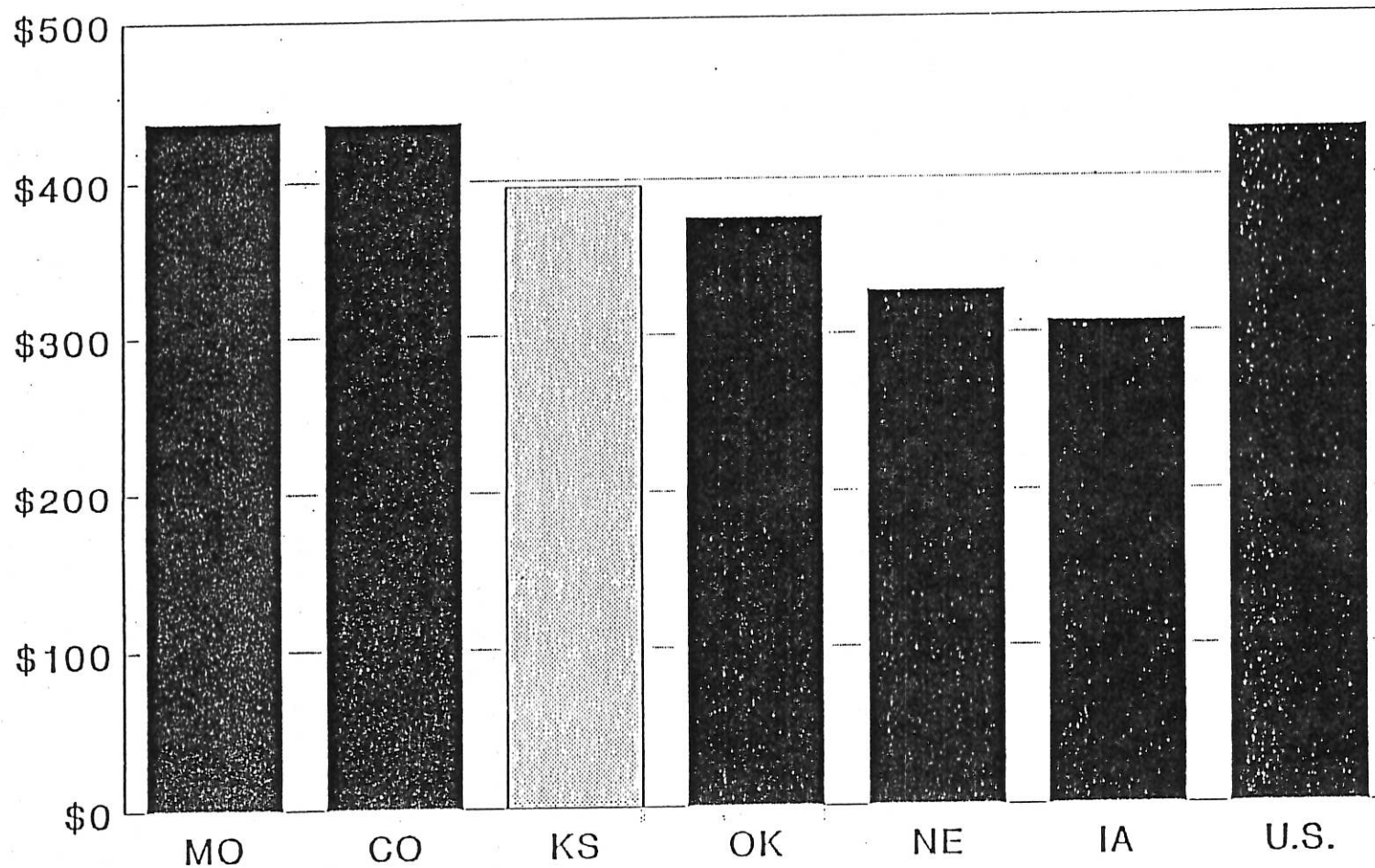
Thank you for the opportunity to testify.

TOTAL SALES TAX RATE IN LARGEST CITIES OF SURROUNDING STATES (1/92)



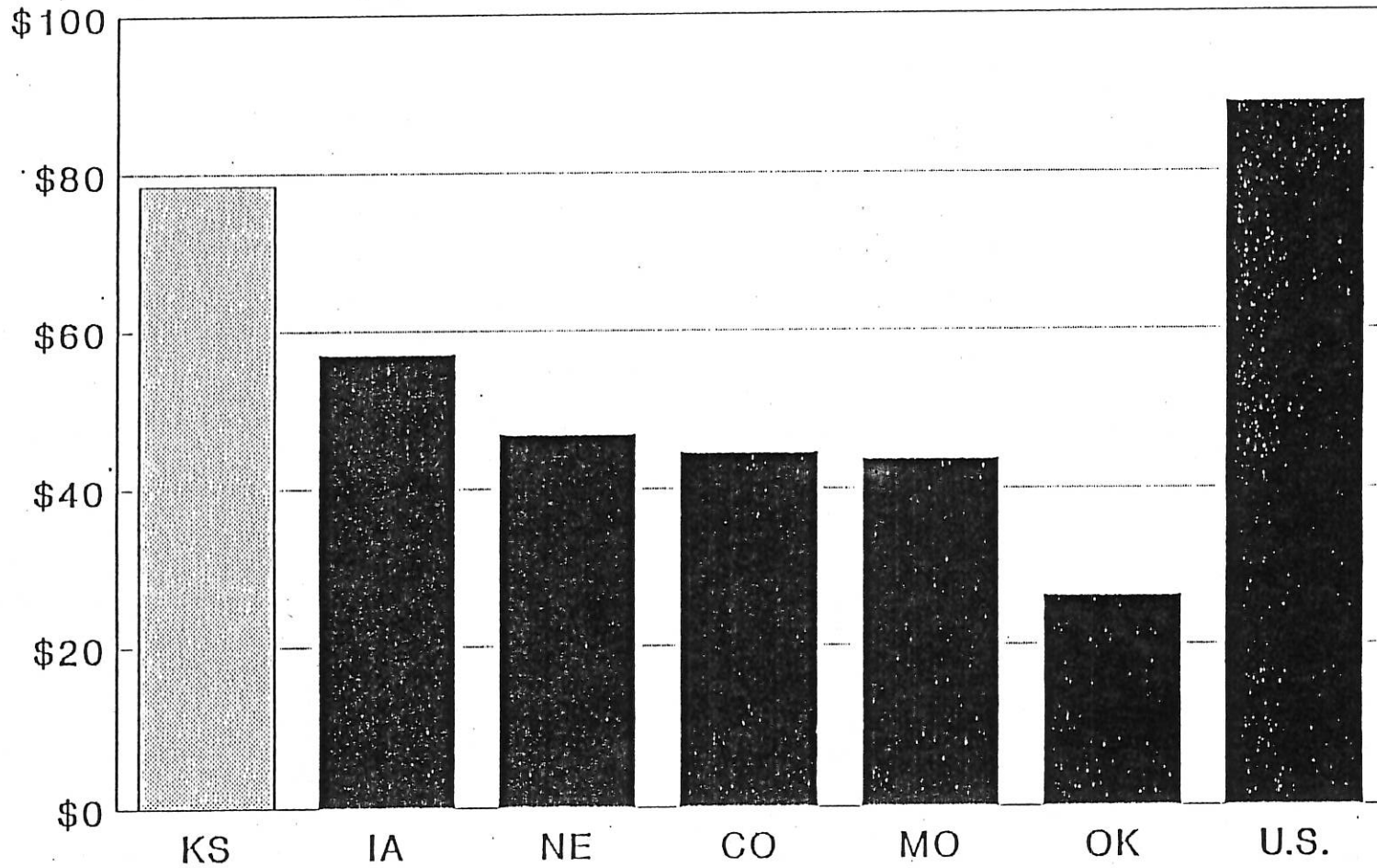
Source: Individual state departments of revenue

1988 PER CAPITA STATE & LOCAL SALES TAX



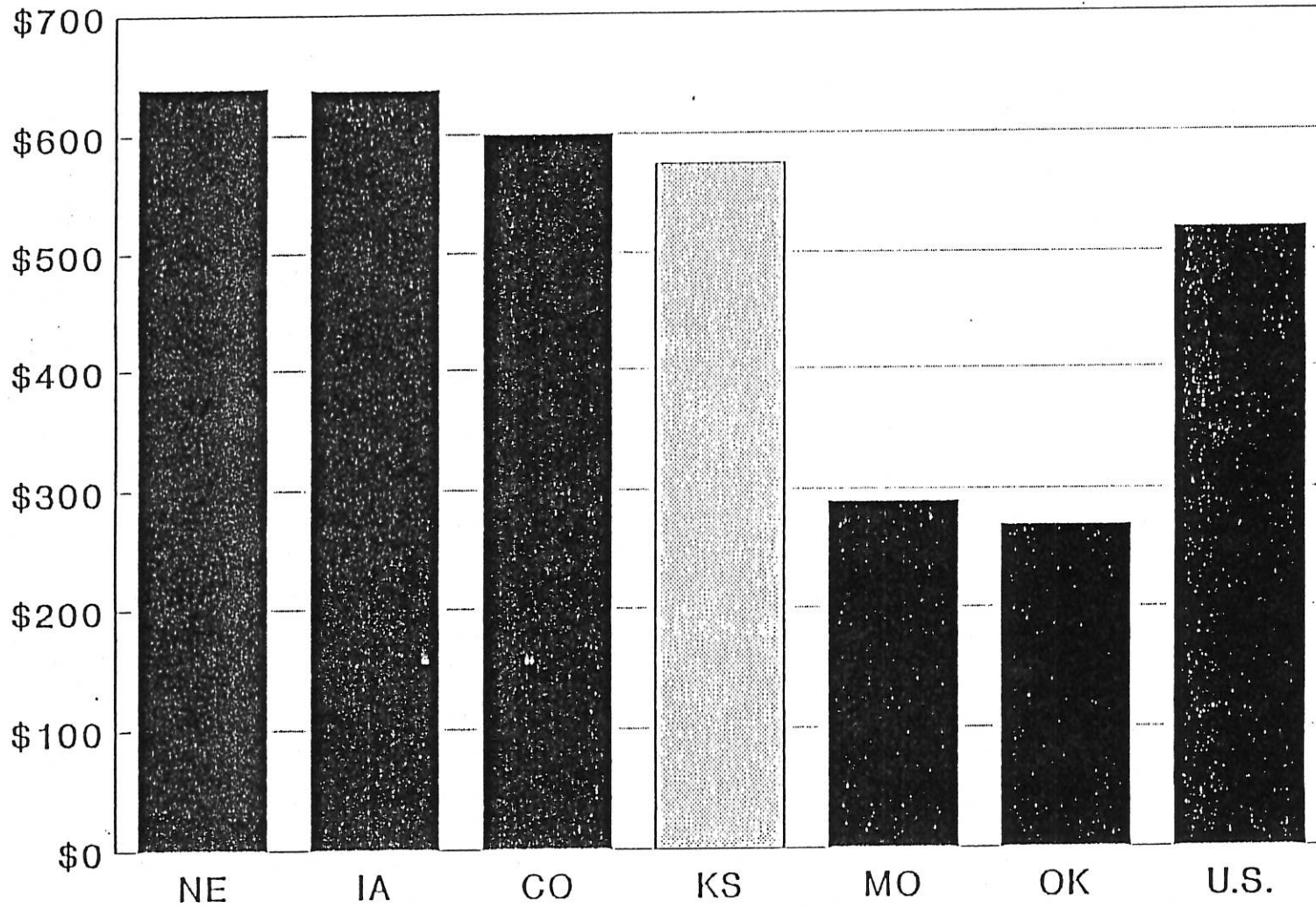
Source: IPPBR/Kansas Inc.

1988 PER CAPITA CORPORATE INCOME TAX



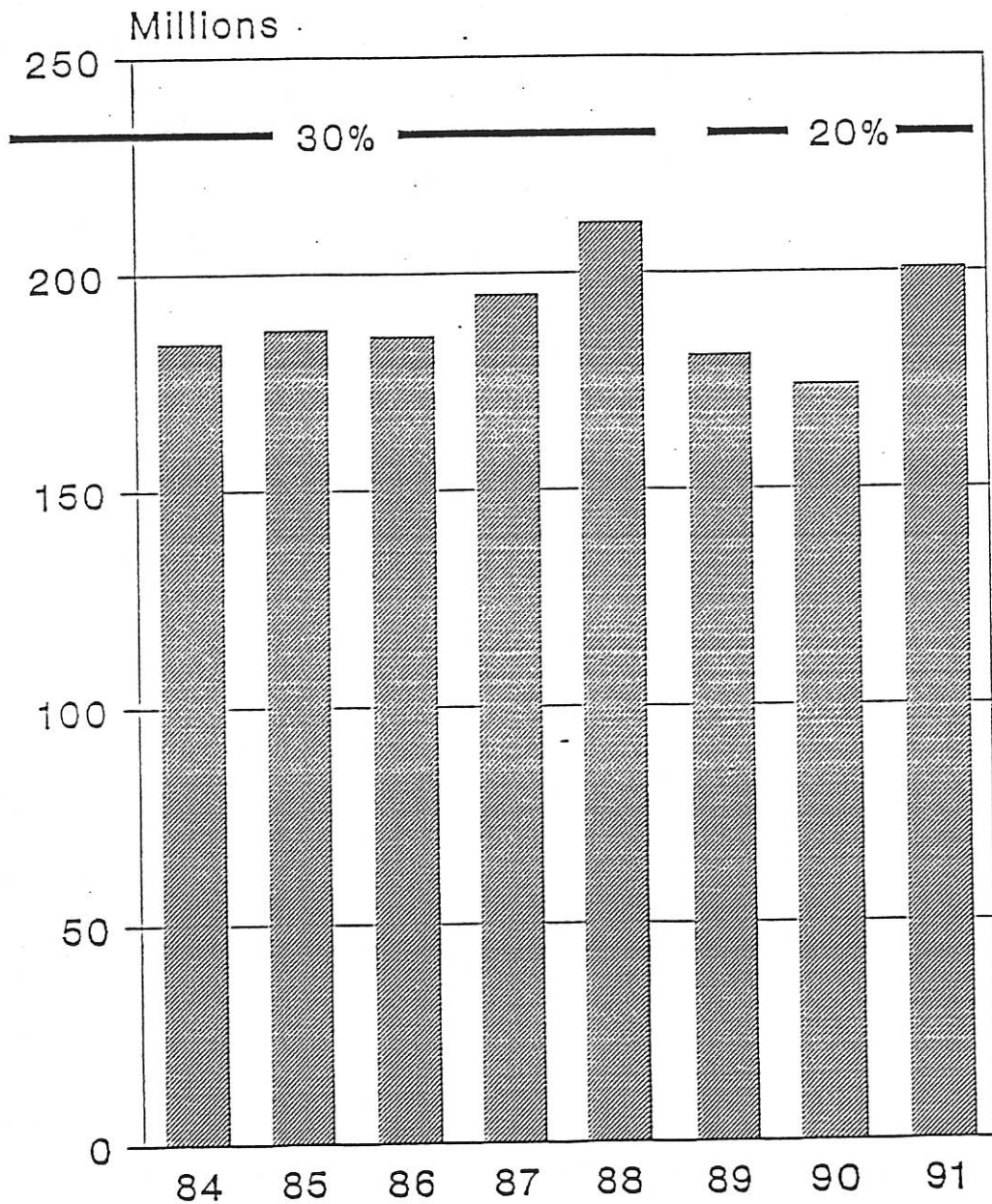
Source: IPPBR/Kansas Inc.

1988 PER CAPITA PROPERTY TAX



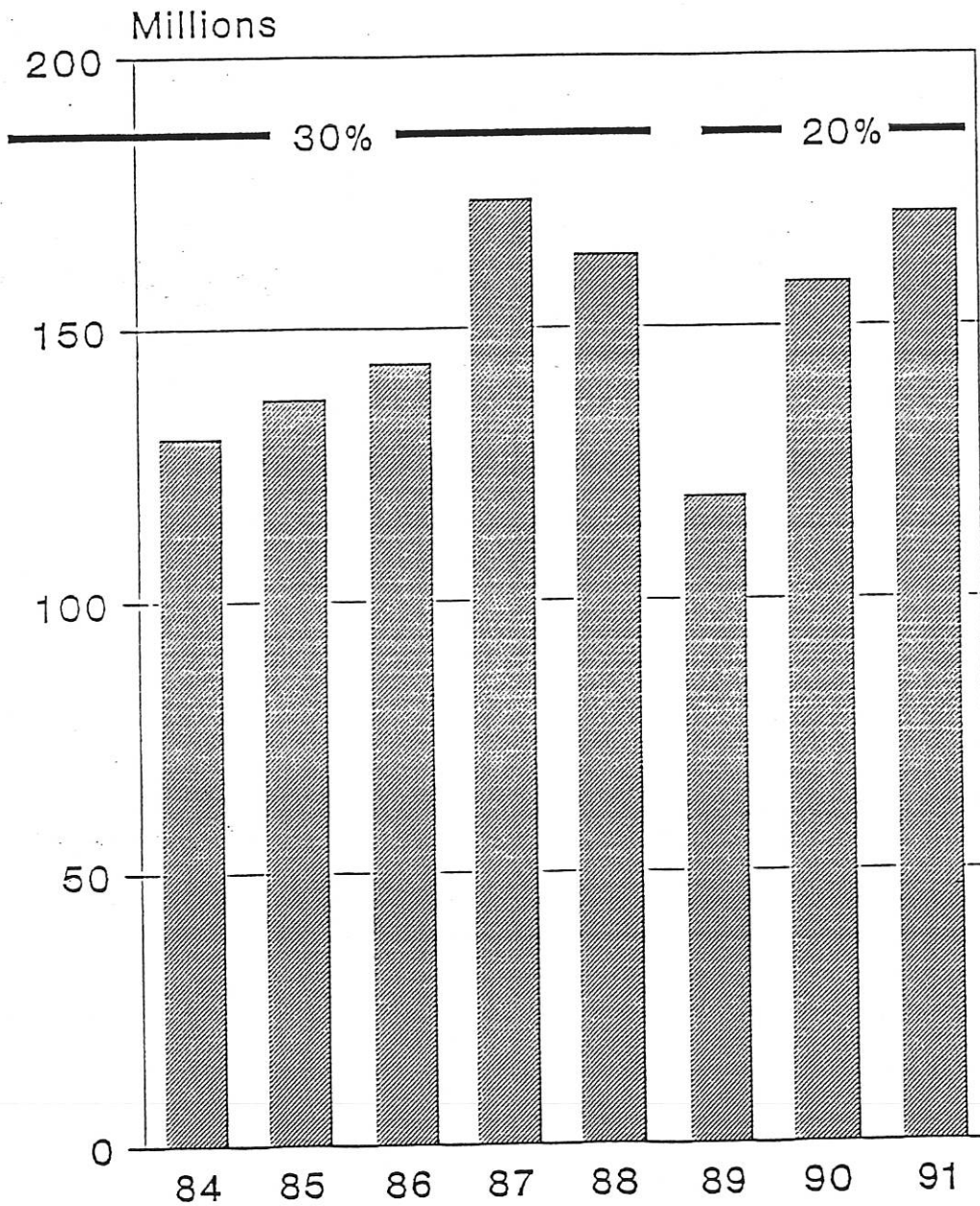
Source: IPPBR/Kansas Inc.

ASSESSED VALUE MACHINERY & EQUIPMENT SEDGWICK COUNTY



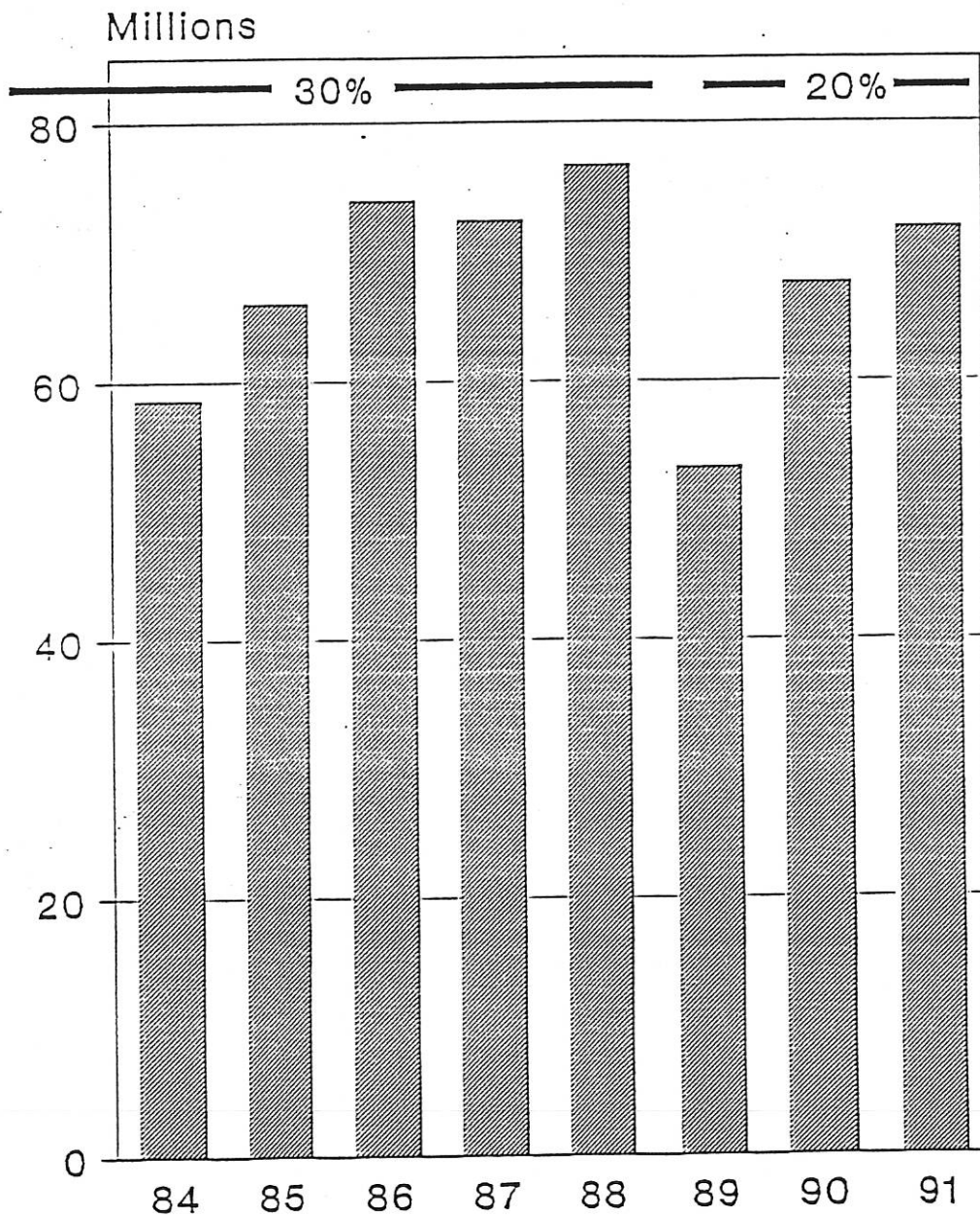
Source: Sedgwick County Clerk

ASSESSED VALUE MACHINERY & EQUIPMENT - JOHNSON COUNTY



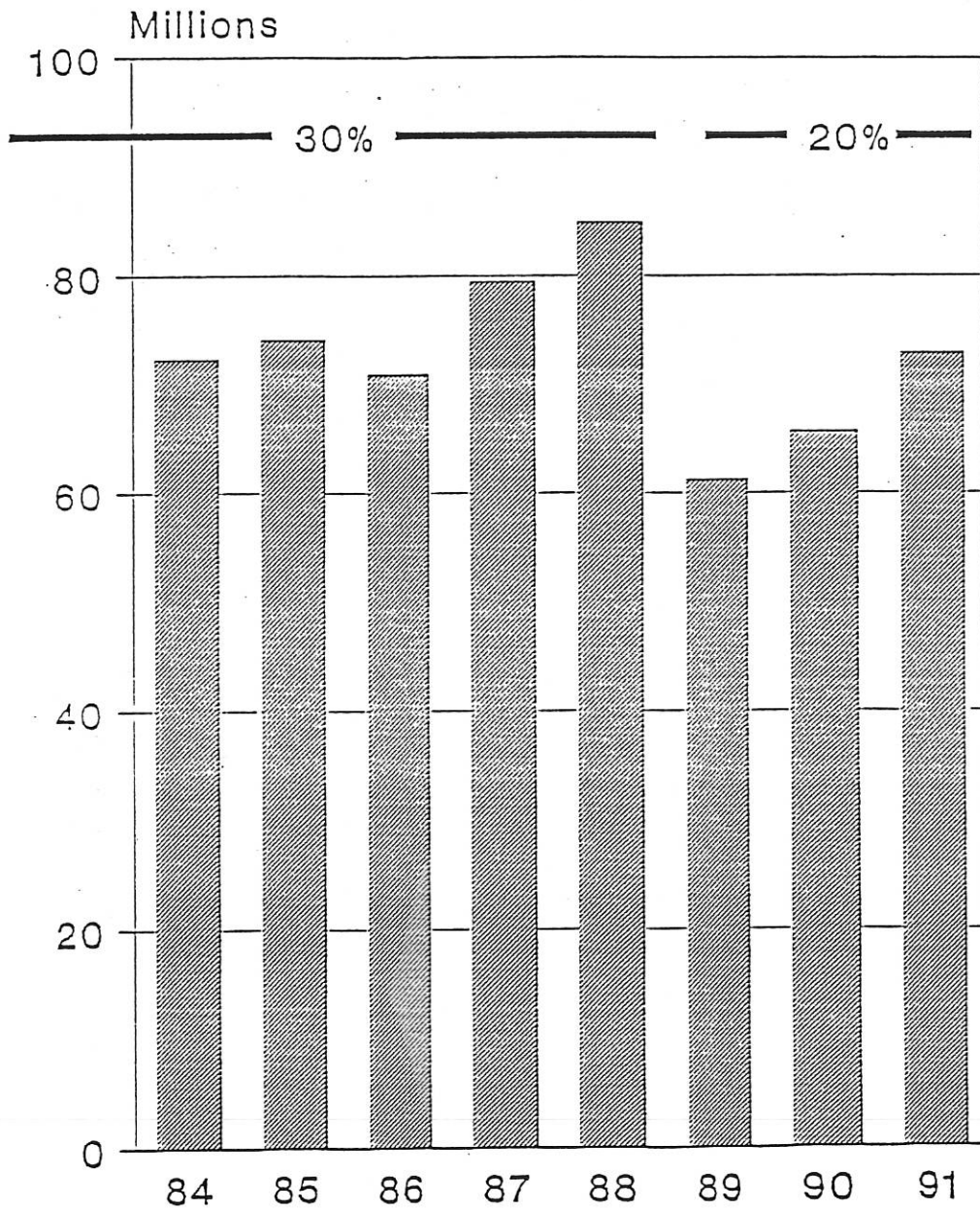
Source: Johnson County Clerk

ASSESSED VALUE MACHINERY & EQUIPMENT - WYANDOTTE COUNTY



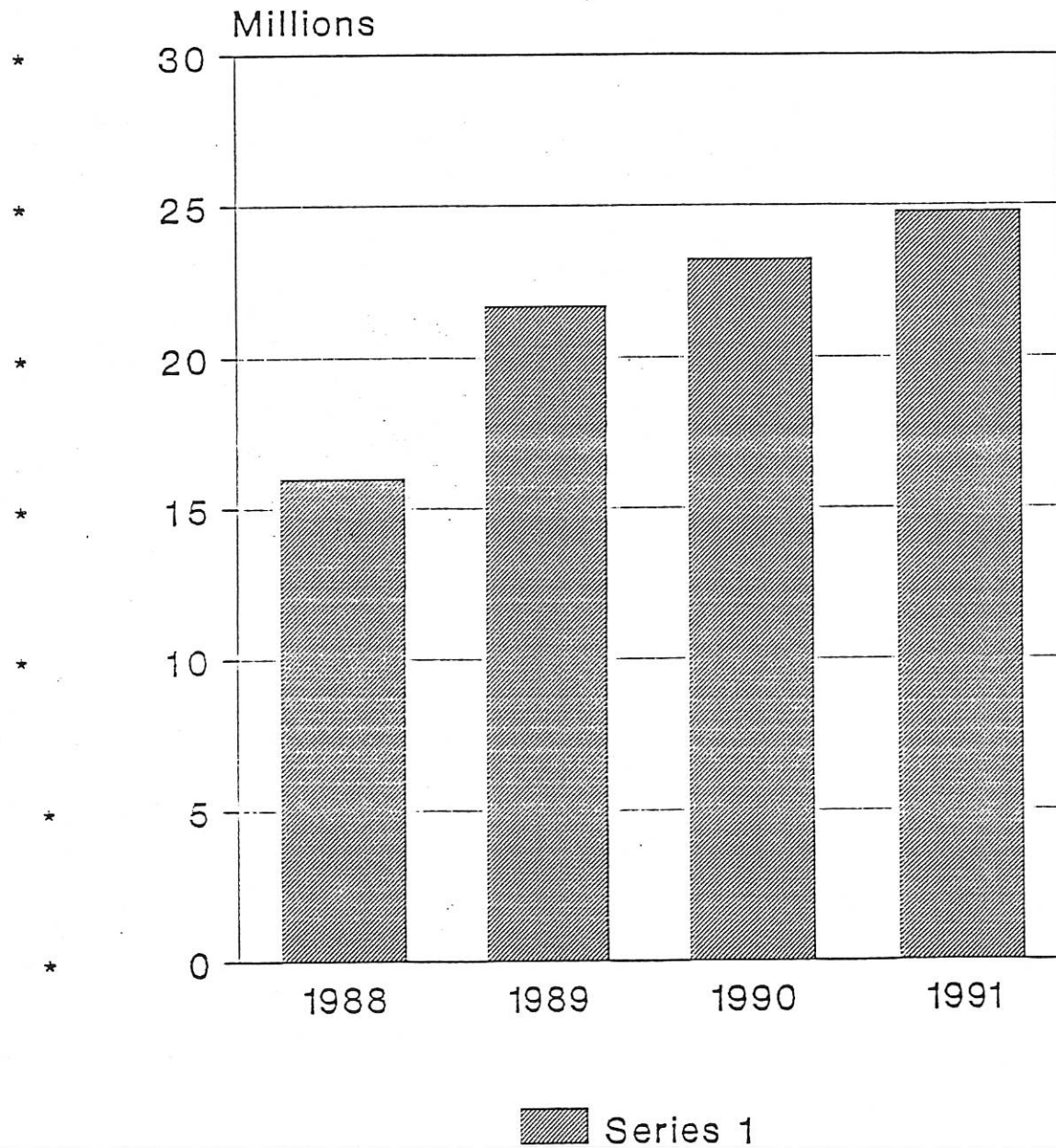
Source: Wyandotte County Clerk

ASSESSED VALUE MACHINERY & EQUIPMENT SHAWNEE COUNTY



Source: Shawnee County Clerk

ASSESSED VALUE MACHINERY & EQUIPMENT DOUGLAS COUNTY



ASSESSED VALUE OF COMMERCIAL MACHINERY AND EQUIPMENT PER COUNTY
1984-1991

Reno

1984	\$20,579,489
1985	\$19,544,531
1986	\$17,618,588
1987	\$19,730,665
1988	\$20,051,026
1989	\$14,689,867
1990	\$14,268,540
1991	\$14,699,673

Wvandotte

1984	\$ 58,573,685
1985	\$ 65,974,605
1986	\$ 73,969,190
1987	\$ 72,397,029
1988	\$ 76,677,786
1989	\$ 53,328,666
1990	\$ 67,532,666
1991	\$ 71,839,539

Harvey

1984	\$12,081,095
1985	\$ 8,545,905
1986	\$ NA
1987	\$ 7,558,200
1988	\$ 8,151,900
1989	\$ 6,932,946
1990	\$ 6,933,354
1991	\$7,460,328

Sedgwick

1984	\$183,930,207
1985	\$187,085,820
1986	\$185,445,528
1987	\$195,126,906
1988	\$211,576,704
1989	\$180,826,219
1990	\$173,948,298
1991	\$200,900,750

Shawnee

1984	\$72,262,570
1985	\$74,078,765
1986	\$70,880,075
1987	\$79,480,510
1988	\$84,894,630
1989	\$61,203,604
1990	\$65,600,498
1991	\$72,838,818

Johnson

1984	\$130,055,746
1985	\$137,063,805
1986	\$143,508,425
1987	\$173,575,780
1988	\$163,457,805
1989	\$118,900,057
1990	\$158,202,315
1991	\$170,891,812

FIGURE 1
KANSAS EARNINGS BY INDUSTRY, 1989
(PERCENT OF TOTAL EARNINGS)

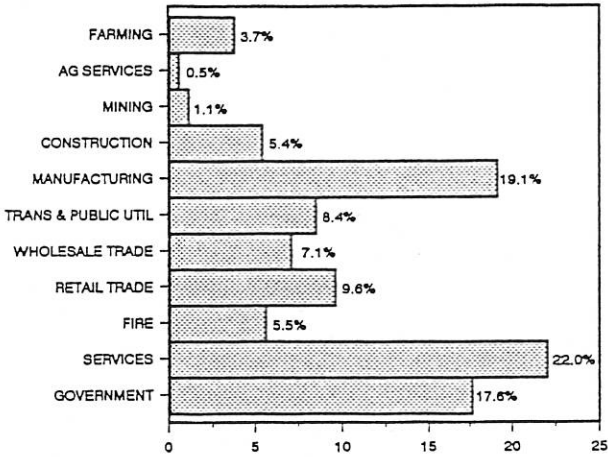


FIGURE 2

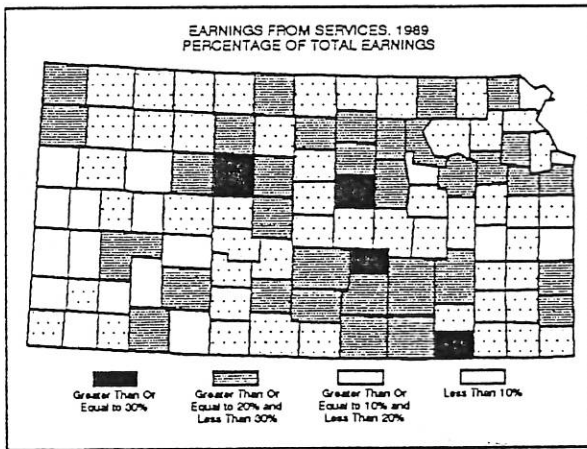


FIGURE 3

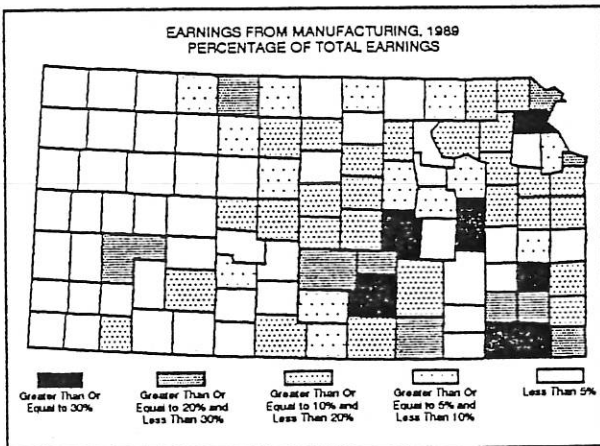


TABLE 1
EARNINGS BY PLACE OF WORK, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	28,578,843	--	--
Sedgwick	6,085,399	21.3	21.3
Johnson	5,250,902	18.4	39.7
Shawnee	2,375,229	8.3	48.0
Wyandotte	2,239,864	7.8	55.8
Douglas	740,388	2.6	58.4
Reno	638,005	2.2	60.6
Saline	610,334	2.1	62.8
Leavenworth	592,894	2.1	64.8
Geary	527,527	1.8	66.7
Riley	443,454	1.6	68.2

TABLE 2
EARNINGS FROM SERVICES, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	6,278,224	-	-
Johnson	1,459,999	23.3	23.3
Sedgwick	1,417,596	22.6	45.8
Shawnee	577,019	9.2	55.0
Wyandotte	370,633	5.9	60.9
Saline	190,583	3.0	64.0
Douglas	177,189	2.8	66.8
Reno	145,205	2.3	69.1
Riley	101,052	1.6	70.7
Cowley	98,325	1.6	72.3
Harvey	89,633	1.4	73.7

TABLE 3
EARNINGS FROM MANUFACTURING, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	5,452,838	-	-
Sedgwick	2,075,974	38.1	38.1
Johnson	578,952	10.6	48.7
Wyandotte	577,167	10.6	59.3
Shawnee	302,889	5.6	64.8
Reno	148,604	2.7	67.6
Douglas	130,326	2.4	69.9
Saline	121,076	2.2	72.2
Montgomery	120,695	2.2	74.4
Lyon	117,985	2.2	76.5
Finney	97,383	1.8	78.3

FIGURE 4

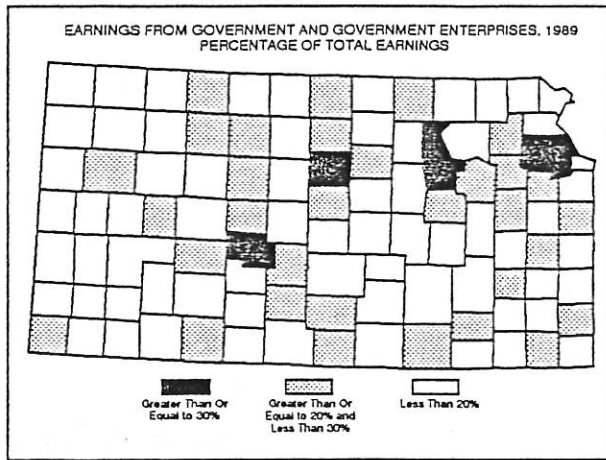


TABLE 4
EARNINGS FROM GOV & GOV ENTERPRISES, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	5,022,172	-	-
Sedgwick	663,913	13.2	13.2
Shawnee	515,737	10.3	23.5
Johnson	495,080	9.9	33.3
Wyandotte	439,058	8.7	42.1
Geary	403,318	8.0	50.1
Leavenworth	358,902	7.1	57.3
Douglas	208,104	4.1	61.4
Riley	188,708	3.8	65.2
Reno	94,029	1.9	67.0
Cowley	75,198	1.5	68.5

FIGURE 5

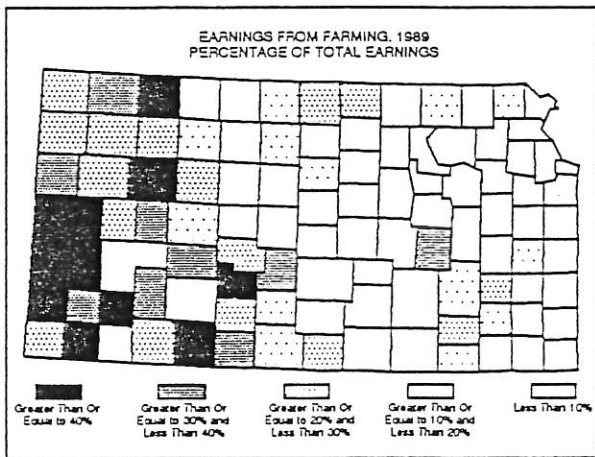


TABLE 5
EARNINGS FROM FARMING, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	1,065,493	-	-
Stevens	43,254	4.1	4.1
Grant	34,890	3.3	7.3
Thomas	28,116	2.6	10.0
Wichita	27,918	2.6	12.6
Decatur	26,893	2.5	15.1
Seward	23,411	2.2	17.3
Finney	22,840	2.1	19.5
Kearny	22,578	2.1	21.6
Haskell	22,420	2.1	23.7
Reno	21,419	2.0	25.7

FIGURE 6

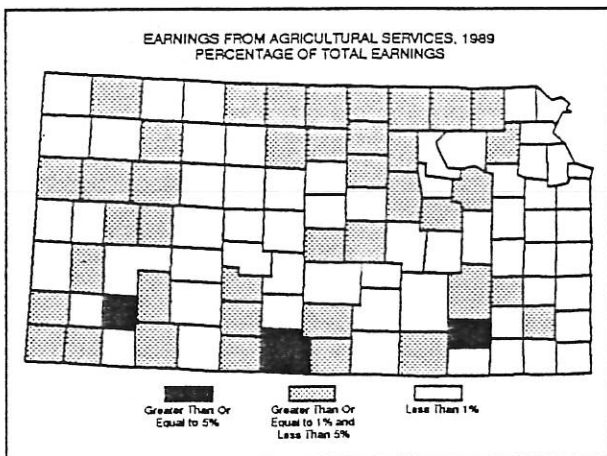


TABLE 6
EARNINGS FROM AGRICULTURAL SERVICES, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	156,030	-	-
Johnson	36,552	23.4	23.4
Sedgwick	16,155	10.4	33.8
Shawnee	6,334	4.1	37.8
Wyandotte	5,165	3.3	41.1
Leavenworth	4,545	2.9	44.1
Cowley	3,452	2.2	46.3
Barber	3,442	2.2	48.5
Finney	3,406	2.2	50.7
Haskell	2,698	1.7	52.4
Douglas	2,559	1.6	54.0

FIGURE 7

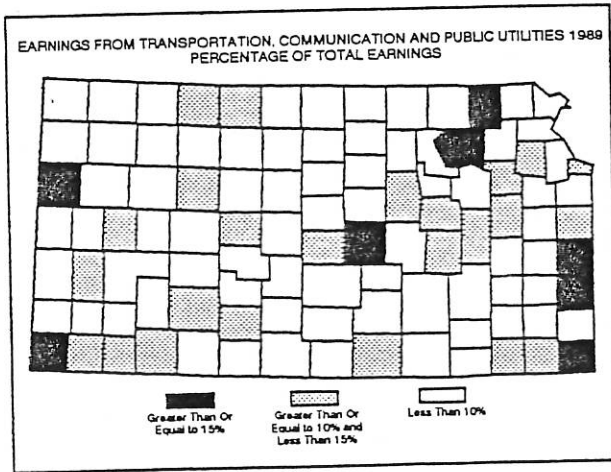


TABLE 7
EARNINGS FROM TRANS, COMM, AND PUBLIC UTIL, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	2,411,214	--	--
Johnson	465,562	19.3	19.3
Sedgwick	351,445	14.6	33.9
Shawnee	296,741	12.3	46.2
Wyandotte	269,734	11.2	57.4
Montgomery	50,511	2.1	59.5
Lyon	41,670	1.7	61.2
Ford	33,445	1.4	62.6
Douglas	32,694	1.4	63.9
Saline	32,316	1.3	65.3
Reno	32,167	1.3	66.6

FIGURE 8

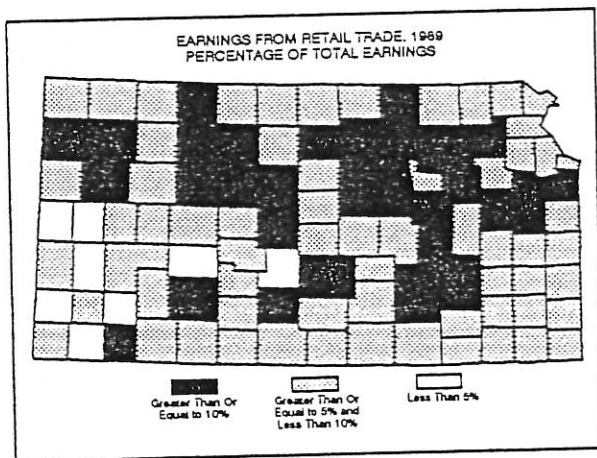


TABLE 8
EARNINGS FROM RETAIL TRADE, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	2,730,820	--	--
Johnson	599,742	22.0	22.0
Sedgwick	557,813	20.4	42.4
Shawnee	236,255	8.7	51.0
Wyandotte	145,927	5.3	56.4
Reno	99,771	3.7	60.0
Douglas	85,727	3.1	63.2
Saline	70,190	2.6	65.7
Riley	45,118	1.7	67.4
Ford	36,144	1.3	68.7
Finney	36,070	1.3	70.0

FIGURE 9

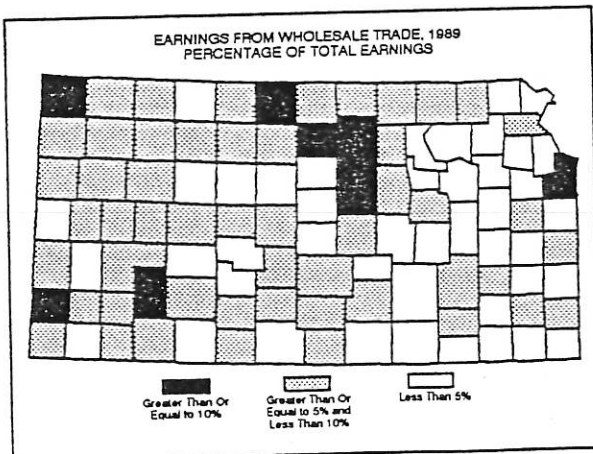


TABLE 9
EARNINGS FROM WHOLESALE TRADE, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	2,016,644	--	--
Johnson	669,837	33.2	33.2
Sedgwick	377,056	18.7	51.9
Wyandotte	241,186	12.0	63.9
Shawnee	107,214	5.3	69.2
Saline	67,313	3.3	72.5
Reno	34,893	1.7	74.3
Barton	25,118	1.2	75.5
Finney	20,718	1.0	76.5
Douglas	20,370	1.0	77.5
Ford	19,801	1.0	78.5

FIGURE 10

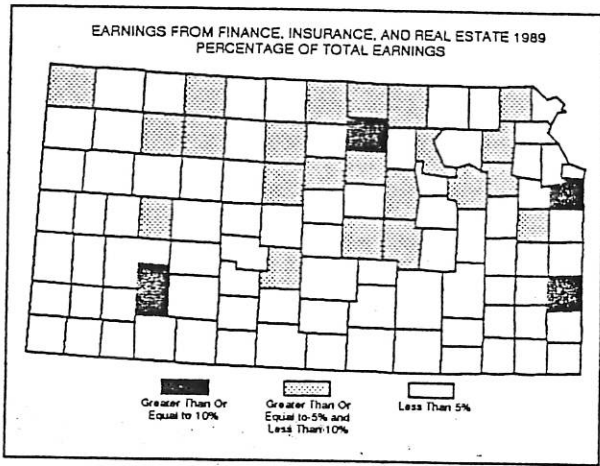


TABLE 10
EARNINGS FROM FINANCE, INS, AND REAL ESTATE, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	1,584,283	-	-
Johnson	557,839	35.2	35.2
Sedgwick	278,313	17.6	52.8
Shawnee	183,936	11.6	64.4
Wyandotte	59,272	3.7	68.1
Riley	34,065	2.2	70.3
Douglas	29,071	1.8	72.1
Reno	27,423	1.7	73.8
Saline	20,928	1.3	75.2
Bourbon	16,717	1.1	76.2
Leavenworth	15,944	1.0	77.2

FIGURE 11

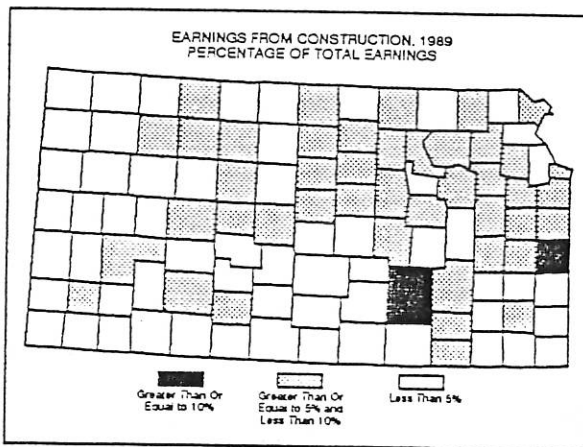


TABLE 11
EARNINGS FROM CONSTRUCTION, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	1,536,618	-	-
Johnson	354,178	23.0	23.0
Sedgwick	269,335	17.5	40.6
Wyandotte	129,710	8.4	49.0
Shawnee	124,939	8.1	57.1
Douglas	50,166	3.3	60.4
Butler	40,158	2.6	63.0
Saline	35,612	2.3	65.3
Riley	32,779	2.1	67.5
Leavenworth	27,495	1.8	69.3
Reno	26,559	1.7	71.0

FIGURE 12

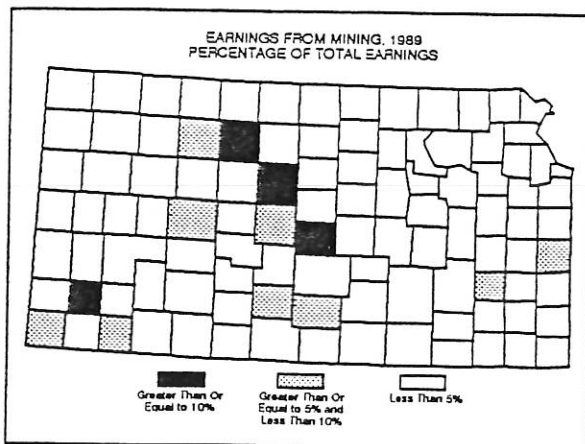
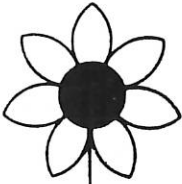


TABLE 12
EARNINGS FROM MINING, 1989
IN THOUSANDS OF NOMINAL DOLLARS

	LEVEL	PERCENTAGE OF TOTAL	CUMULATIVE % OF TOTAL
Kansas	324,507	--	--
Sedgwick	60,465	18.6	18.6
Barton	27,847	8.6	27.2
Johnson	25,837	8.0	35.2
Seward	18,236	5.6	40.8
Grant	12,615	3.9	44.7
Ellis	10,131	3.1	47.8
Russell	10,089	3.1	50.9
Shawnee	9,012	2.8	53.7
Rice	8,796	2.7	56.4
Crawford	8,259	2.5	58.9



HOME BUILDERS ASSOCIATION OF KANSAS, INC.

Executive Director
JANET J. STUBBS

TESTIMONY

HOUSE TAXATION COMMITTEE
HB 2891
March 4, 1992

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Salina, Ks. 67401
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316-662-7616

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7247 Oxford Ct.
Wichita, Ks. 67226
316-685-2025

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Robert Hogue 1989
Jim Miner 1990
Elton Parsons 1991

MADAM CHAIR AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs, Executive Director of the Home Builders Association of Kansas, a trade association with membership representing contractors and sub-contractors of the residential and light commercial industry. I am appearing today in opposition to funding of the schools of Kansas by removing the sales tax exemption on new construction labor.

The Home Builders Association of Kansas supports the efforts of this administration to provide affordable housing for ALL Kansas citizens. We work at the local, state, and national level to prevent unnecessary costs to housing through the promulgation of rules and regulations or passage of laws. Today it is popular to speak in support of "affordable housing" and for assistance to the low income and the homeless. Yet it has been proposed that we remove the sales tax exemption on new construction which will have the effect of pricing more families out of the housing market and will decrease the revenue to the State via income and sales taxes generated by the construction of residential property. In the calculations of the fiscal note, were these issues considered? SB 604 in the Senate Local Government Committee was requested by HBAK and would require such an analysis.

KNEA believes they are justified in requiring families who want to purchase a new home to pay more for the structure, save a larger down payment and make more salary per month in order to qualify for a loan. In addition to these additional requirements, the purchasers would be required to pay slightly more in closing costs since some items are based upon the selling price of the structure. The seller will also be charged more for a real estate commission due to the increased cost of the house.

Does the education community believe they should be afforded the luxury of operating a system with the latest in equipment throughout, at the expense of the taxpayer who is then required to deny themselves because they must pay more in monthly homeowner's expenses? Businesses must operate efficiently and, sometimes without the latest technology, in order to



page 2

survive. The leadership of the HBAK believes that government, including schools, should operate as efficiently and economically as the businesses do in order to survive. Business must be competitive and cannot increase revenue by increasing the mill levy from the taxpayer they choose to ignore.

HBAK is concerned that we hear now that 45 mills is a "floor" and the schools still want the authority to levy additional mills at the local level. We question whether this will lower taxes or actually give schools the opportunity to obtain more revenue.

TESTIMONY FOR THE HOUSE TAXATION COMMITTEE

Opposing House Bill 2891

by

Larry Clark, Superintendent of Schools

Burlington U.S.D.No. 244

March 4, 1992

The Burlington Unified School District No. 244, on behalf of its taxpayers wishes to protest the concepts of House Bill 2891. We appeal to the members of this committee to consider the ramifications of a bill that; 1. is considered to be a state tax rather than a local tax, 2. requires a uniform mill levy, 3. assumes no other taxing unit will increase taxes where there is a reduction in the U.S.D. tax, 4. takes resources from one school district to aid another school district and 5. restricts the home rule decision-making process of the local Boards of Education.

The basis of this bill changes the long time philosophy that the property tax is a local tax; a tax that the local people have full control over to use as they feel the need to better themselves or to keep the status quo. The change in this philosophy will hurt community morale and stifle local pride.

The funding of education with a uniform mill levy is suspicious. As outlined by the Governor, there seems to be a shortage of between two to three hundred million dollars to fund either HB 2892 or HB 3075. The tie to a uniform mill levy raises many future questions especially when the Division of Budget is projecting an increase of over 50 mills by the year 1997. We cannot support a bill that sets a uniform mill levy not knowing if the mill levy will remain at the initial level or be increased as there is a need for additional money.

The basic concept of the uniform 45 mill levy is to give property tax relief to the people. Will there be assurances that other taxing units will not increase taxes where there is a reduction in the USD tax levy? The committee needs to address this issue, otherwise there may not be tax relief to the people. This bill doesn't address communities that give tax abatements to business and industry. If a uniform mill levy is implemented it should be levied on all property within the community; otherwise communities with a liberal practice of issuing tax abatements are taking advantage of taxpayers across the state. If you want to be fair and provide tax relief put everyone on the tax rolls.

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The HB 2891 will have a drastic monetary effect on the patrons of some Kansas school districts. We believe in the free enterprise system and capitalism as an American way of life. The funding recapture concept of HB 2891 goes against this basic American ingenuity concept. House Bill 2891 will destroy enthusiasm and community pride if economic development improvement means sending the improvement effort to Topeka. Communities will stop looking for ways to improve themselves. And worst yet, the "spend it or lose it" mentality will drive expenditures higher. The long term effect of this bill will produce mediocrity in Kansas education and the lack of fiscal responsibility.

The home rule decision-making authority of the local boards will be eroded with the implementation of HB 2891. The uniform mill levy will eliminate the local input through the first 45 mills, thus leaving local patrons or elected officials without a voice in a very important part of running a school district. The local people of each school district make the best decisions for their students.

In conclusion, we want to emphasize that House Bill 2891 will have a negative effect on all taxing units. It is not a long term solution to the current funding dilemma. This bill will cost the state more money in the long run because communities will stop trying to help themselves while waiting for their state equalization check. The legislature rushed into classification and reappraisal with very little understanding of the effect on the taxpayers. There is still a question of fairness in a system that cannot guarantee that appraisals are uniform from county to county. We urge the House Taxation Committee to not rush into HB 2891 without fully understanding and explaining the long term effects on taxpayers and taxing units.

Thank you for your time and consideration. If you have questions please feel free to contact Larry Clark; (316) 364-8478.

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

HB 2891

March 3, 1992

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Committee on Taxation

by

Bob Corkins
Director of Taxation

Madam Chair and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry. I appreciate the chance to present our organization's views today on the subject of elementary and secondary education funding in Kansas.

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.

KCCI acknowledges the importance of pending litigation on this matter and believes that HB 2891 proposes a viable response to that dispute. Past KCCI efforts have promoted

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03-04-92

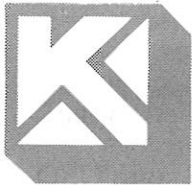
the need for a greater state share of overall USD budgets. KCCI has also supported state funded property tax relief with the proceeds distributed "equitably" to local school districts. That has been the extent of our involvement in this matter.

A uniform statewide property tax levy for USDs is consistent with such views and KCCI now supports that approach. This is not a position which was casually decided by our board of directors. The number of our members who have either a philosophical or fiscally-based opposition to that concept are not insignificant. Nevertheless, the overwhelming consensus of our board favors the statewide levy approach...providing KCCI's other related tax concerns are satisfied.

The conditions which KCCI places on its support for a uniform USD levy are of critical importance. For example, the way in which new state revenues are raised to "buy down" the levy to an acceptable level will distinguish whether it results in meaningful property tax relief, or whether it multiplies Kansas' unemployment rate. KCCI supports a state USD rate of 40 mills, funded through our own tax recommendations, together with other long overdue reforms. An outline of our complete package of recommendations accompanies this testimony.

A strong element of our proposal calls for the maximum degree of local control over education which Kansas' Constitution will permit. This element includes all current decision making power now vested in local school boards and the allowance of as much local taxing authority, consistent with the Constitution, that any school district may use to supplement their state appropriation.

Thank you for your time and consideration of these views.



KCCI



TAXES



SERIES

KCCI PROPOSAL - OUTLINE

The KCCI board of directors on February 4 approved, as one of its major legislative objectives for 1992, the following package proposal which we actively promote:

Overview of Proposal

- A. A uniform statewide USD property tax levy at the rate of 40 mills, retaining the highest Constitutional level of local control.
- B. Recommended funding for the uniform USD levy.
- C. Specified changes to our Constitution's classification rates for determining assessed property value.
- D. An annual state general fund spending restriction.
- E. Education reforms based upon forthcoming legislative recommendations.

Specific Elements

A. Uniform USD levy

KCCI endorses the concept of a uniform state property tax levy for local school districts to replace their current disparate levels of taxation. However, we do support the highest degree of local control over education that is consistent with the Kansas Constitution, which may include local taxing authority to supplement state financing. Estimates indicate that roughly \$270 million in additional state revenues would be needed, plus revenue from a state uniform USD property tax rate of 40 mills, to replace current aggregate USD general fund property tax collections.

B. Recommended additional state revenues

1. **Sales Tax.** Increase the state sales tax rate by three-quarters of a cent, thereby bringing the rate to five percent. Estimated annualized revenue, \$164 million.
2. **Personal Income Tax.** Alter the brackets and increase the tax rates on personal income in a manner similar to that vetoed last year in HB 2122. However, KCCI supports no more than a 10% increase in the rate applied to any given tax bracket. Corporate income taxes would remain unchanged. Estimated annualized revenue, \$60 million.
3. **Video Lottery.** KCCI supports all procedural steps necessary to enable the implementation of video lottery as promoted by the Kansas Lottery Commission. Estimated annualized revenue, \$50 million.

(Over, please)

C. Classification changes:

KCCI proposes the following changes to the Constitution's assessment rates applied to the following classes of property. No redefinition of classes or other alteration of that Constitutional section is supported by KCCI. Our support for the above outlined state USD levy and its funding is expressly conditioned by the legislative passage of these classification changes. Furthermore, KCCI maintains that the school finance proposal should not become law unless Kansas voters ratify this Constitutional change in a statewide election.

1. Commercial/industrial realty, 25% (now 30%)
2. Machinery and equipment, 25% (now 20%)
3. Oil and gas leaseholds, 25% (now 30%)
4. Single-family residential realty, 11.5% (now 12%)
5. Fraternal benefit realty, 12% (now 30%)

D. State expenditure limit

KCCI supports the enactment of a limit on aggregate state general fund expenditures. The limit we support would restrict annual increases in general fund spending to the percentage growth in Kansans' personal income.

E. Education reforms

As a corollary to school finance reforms, KCCI supports measures aimed at improving the effectiveness of those expenditures by improving the quality of the education it funds. We support the proposed Kansas Commission on Education Restructuring and Accountability and will rely on its eventual recommendations as the basis for KCCI's further efforts in this regard.

Additional Requirements

KCCI support for elements A through C (above) of this package is expressly conditioned upon the avoidance of the following tax options. These taxes, should they be enacted as part of school finance reform or for any other reason, would be considered by KCCI as "deal breakers" which would cause us to withdraw our support.

- A. Any inventory tax, regardless of its degree or form.
- B. Any increase in the assessment rate applied to public utilities.
- C. Any intangibles tax beyond the local option now permitted by law.
- D. Any broadening of the current sales tax base.



HB 2891

March 3, 1992

Testimony presented before the House Committee on Taxation
by Gerald W. Henderson, Executive Director
United School Administrators of Kansas

Madam Chairperson and Members of the Committee:

United School Administrators of Kansas appreciates this opportunity to speak in support of **HB 2891**. Our support is based on three long held belief statements:

1. Education of Kansas children is a function of the state as a whole.
2. All Kansas children have a right to an equal opportunity for a suitable education.
3. Equal opportunity should be provided with similar effort by Kansas taxpayers regardless of location within the state.

HB 2891 along with its companion legislation **HB 2892** and **HB 2835** addresses all three belief statements.

We encourage the committee to use all available revenue sources to raise the approximately \$340 million needed to fully fund the provisions of **HB 2892** and **HB 2835**. We will support a raise in the sales tax. We can support a raise in the state income tax. We believe that to provide the stable revenue necessary to guarantee a suitable education for all Kansas children raising tax rates will be required. We support such raises. In addition, if the removal of selected sales tax exemptions is deemed appropriate by this committee, then we support such action.

In short, Madam Chairperson, we believe that the school funding package now before this legislature not only will satisfy the court, but will satisfy what we believe is right for the children of Kansas and for Kansas taxpayers. A look at the printout for **HB 2892** with its narrowed range of expenses per pupil and local mill levies indicates to my members that you are on the right track.

GWHLEG/HB2891

House Taxation
Attachment 18
03-04-92



Mike Reecht
State Director
Government Affairs
Kansas

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**TESTIMONY OF MIKE REECHT
ON BEHALF OF AT&T
REGARDING HOUSE BILL 2891
MARCH 4, 1992**

Good morning, Madam Chairperson and members of the committee. My name is Mike Reecht. I am State Director for AT&T in Kansas. I appear before you today to testify regarding the elimination of certain sales tax exemptions as a source of financing for public schools. AT&T opposes the elimination of one such exemption - interstate long distance telephone service.

The information age has become a part of our corporate and personal lives. There has been an explosion of technological changes in the telecommunications industry to accommodate this new information age. AT&T and other carriers are trying to insure that the telephone infrastructure, not only on an international and interstate basis, but also within the state of Kansas, is sophisticated enough to handle the growth of the new telecommunications requirements. As the cost of energy increases, I see a tremendous growth in the area of telecommunications. Cost of travel will become prohibitive for many small firms. There will be a greater reliance on long distance to handle sales contacts as well as to exchange data with the home office. Small businesses, through industry associations, will rely upon long distance to remain informed on issues that affect them.

We have already seen in Kansas the introduction of video teleconferencing technology. This technology, as it is improved and as more fiber cables are added, will provide a real alternative to costly travel. It is important, with these events on the horizon, that Kansas establish a telecommunications tax policy that will encourage firms to locate and expand in Kansas.

House Taxation
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We have recently seen a tremendous growth in the telemarketing industry, brought about by many services now offered on a more sophisticated telecommunications network. The telemarketing industry has blossomed in Kansas and reportedly has expanded to more than 10,000 jobs statewide. One of the reasons firms have located in Kansas rather than other states is due to favorable tax policy. A February, 1991 article in the Topeka Capital Journal, announcing the grand opening of a telemarketing company, reflect the fact that lack of a sales tax on long distance interstate calls was an incentive. (see attachment)

As telecommunications technology increases and the associated costs decrease, firms will examine more and more how telecommunications can serve their needs. Kansas should be in a position to provide the lowest cost telecommunications service in order to attract business. Tax on interstate long distance will flow to the bottom line and drive costs up. When bordering states do not implement the same tax structure, any competitive edge Kansas might have would be lost. I am attaching an article from the New York Times dated July 20, 1991, discussing Nebraska's rapid expansion into the telemarketing industry. This illustrates the competition between states for telecommunication's related industries.

In a recent U.S. World & News Report article dated January 27, 1992, entitled "The 10 Worst Economic Moves", the second item listed in the article is labeled "Reach Out and Tax Someone". The article demonstrates that telemarketers, reservations centers and ordertaking facilities are looking for the lowest cost operations. Telecommunications represents a very large share of this industry's expense statement, and the imposition of a state sales tax has significant negative implication on this industry's jobs.

I therefore urge your careful consideration before recommending a tax that creates an economic disincentive for business development and an additional economic hardship on those residential customers who need to make long distance interstate calls. The Kansas legislature should endorse a tax policy that ensures the latest in telecommunications network technology and will not restrict business expansion into our state.

Telemarketing company plans grand opening

■ New Topeka office will be open for business by Friday, officials say

By ANITA MILLER
The Capital-Journal

Pro Tel Marketing Inc., a marketing and telemarketing company, is putting the finishing touches on its new offices in Topeka and will open for business this week, a company official said Monday.

The grand opening will be at 5 p.m. Wednesday in Pro Tel's new 11,000-square-foot facility at Fairlawn Plaza Mall, 5341 S.W. 22nd Place. State and local public officials, including Gov. Joan Finney, will participate.

"Right now we're putting the finishing touches on it," said Allen Wolf, senior vice president for the company. "By the grand opening on Wednesday, except for some odd things left, we should be in real good shape."

He said the Topeka office will begin operations Friday.

Wolf said 25 Topekans have been hired by the Lansing, Ill.-based company and another 60 people are scheduled to be interviewed. The company plans to hire 135 employees in the first year of the Topeka operation and build up to more than 200 employees by the end of 1992.

Pro Tel's Lansing office employs about 200 people, Wolf said. The

company is privately owned, and the sole shareholders are Ruth Wolf, president, and her daughter, Janice Katz, executive vice president. Allen Wolf is Ruth Wolf's husband.

Allen Wolf said Pro Tel was formed in 1988. He said Ruth Wolf has been in telemarketing for 23 years and started as a telemarketer out of her home.

The manager of the Topeka office is Roger Price, who formerly worked in telemarketing for Sears.

Pro Tel serves clients who want telemarketing services but don't have their own organization, Allen Wolf said.

"They may want us to sell something, they may want us to do research, they may want us to do charity raising, just a variety of things," Allen Wolf said. "They will come to us and contract for us to do that work for them by phone. We supply a total package. We help with marketing language, target marketing, and give them suggestions as to what might work for their program."

Pro Tel officials announced in December they had selected Topeka after looking at locations in five states.

Allen Wolf, a graduate of the University of Kansas, said several things lured the company to Kansas. He cited the work ethic, business environment for the telemarketing industry and economic development efforts of the state of Kansas and the Greater Topeka Chamber of Commerce. He said the lack of sales tax on long-distance interstate calls also was an incentive.

Omaha: Talk, Talk, Talk of Telemarketing

By BARNABY J. FEDER

Special to The New York Times

OMAHA — If Detroit is the Motor City, then Omaha must be the Motor Mouth City. This low-key community of 350,000 people on the western bank of the Missouri River would never embrace such a saucy slogan, but the fact is that Omaha sets the pace for the world when it comes to making a living on the telephone. And that's just how the city's leaders planned it.

"They put together an exceedingly effective economic development program to attract telecommunications companies at a time when everyone else was concentrating on industry," said Robert Ady, president of the PHH Fantus Corporation, a Chicago-based corporate relocation consulting concern.

Cheap real estate, relatively low wages and living costs and a well-educated, reliable work force are also among Omaha's major selling points. Omaha has shown that state-of-the-art telecommunications can be a 20th-century advantage comparable to sitting aside a railroad line in the 19th century. The city best known for its slaughterhouses now has well over 10,000

City Setting the Pace for Making a Living on the Telephone

jobs in telecommunications — more than double the number of meatpackers — and an unemployment rate below 3 percent.

During the 1980's, the city's telemarketers gained a nationwide reputation for their ability to handle any special event, any crisis. After Johnson & Johnson found that some of its Tylenol capsules were laced with cyanide, the company chose Omaha as the communications center for its program to exchange capsules for tablets. The Eastman Kodak Company did the same for its instant camera exchange and refund program after a Federal judge ruled that the company had infringed the Polaroid Corporation's patents. And Omaha telemarketers have handled fund raising for the Farm-Aid and Live-Aid rock concerts.

Omaha today is home to a number of large hotel and travel reservation operations, including those

for Marriott, Hyatt, Radisson and Westin hotels, as well as the traffic information center for Greyhound bus lines.

It is also the base of operations for three of the nation's five largest telemarketers, as enterprises that sell products and serve consumers over the phone are known. And First Data Resources, a local subsidiary of the American Express Company, is the largest contract processor of credit-card transactions for the nation's banks, handling tens of thousands of charge authorization calls and telephone data transfers daily.

Other Successful Uses

Omaha's use of telecommunications as an economic development tool is hardly unique. Britain has used the privatization and decontrol of its telecommunications industry to help London stay ahead of Frankfurt, Zurich and Paris in the competition to be Europe's financial capital.

New York City and the Port Authority of New York and New Jersey are partners with private investors in Teleport, a real estate development on Staten Island link-

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Omaha Earns Living on Phone Talk

Continued From Page 1

offices there to a satellite transmission park and fiber optic telecommunications systems.

The developers of the planned community of Heathrow, Fla., teamed up with Northern Telecom and the Southern Bell Telephone Company to install fiber optic and digital phone lines to help lure the wealthy to its home sites and businesses to its industrial park. The American Automobile Association said the town's telecommunications helped persuade it to move its headquarters from Fairfax, Va., to Heathrow.

Even tiny Breda, Iowa, a town of 500 that lost its only rail connection to the outside world during the 1960's, managed to attract new business after the privately owned Breda Telephone Corporation built 13 miles of fiber optic lines as links to the A.T.&T. and U.S. West fiber optic networks. A transportation broker who specializes in helping companies move electronics equipment around the nation now employs 24 residents, and the phone company itself has 100 part-time workers handling calls subcontracted to it by the Omaha-based Sitel Corporation, the nation's fifth-largest telemarketer.

Omaha's drive to make a name for itself as a telecommunications center seems like an obvious strategy in retrospect. The decision of the Federal Government to locate the Strategic Air Command here after World War II made Omaha home to one of the world's most advanced and secure phone systems. That endowed the region with engineers and workers who

Twice as many communications jobs as in meatpacking.

could also apply their knowledge to local public service.

Two other key advantages were already in place. Because of Omaha's location in the central time zone, it is more convenient to call either coast during the work day than to call from one coast to the other. And the local speech is described by consultants like Mr. Ady as "pure American," easily understood everywhere.

As Steven Kleinman, chief executive of Midwestern Telemarketing Inc., said, "It's no accident that Johnny Carson, Tom Brokaw and Walter Cronkite all come from this region of the country."

Some Added by Design

Other elements were added by design. Over the years, state regulators granted local phone companies wide latitude to deploy new services rapidly. Metropolitan Community College developed telecommunications-related courses and training programs. The Chamber of Commerce decided to keep track of the telecommunications capacity of every office building in the city.

The city also benefited from phone companies' investments in switches that protect the area's networks from service interruptions. And North-

western Bell, the local operating company of U.S. West, has long made rapid customer service one of its highest priorities.

"We can get a WATS line installed in 20 minutes," said Timothy Placzek, senior vice president of client services at First Data Resources. Mr. Placzek recalled that within four hours Northwestern Bell repairmen wired new lines directly to all 60 desks normally served by an automatic call distributor that had broken down. The major telemarketing companies say Northwestern Bell routinely gives them the home phone numbers of the repairmen who service them.

Omaha's telecommunications drive became so intense during the early 1980's that one American Telephone and Telegraph survey concluded that telemarketing call volume was eight times higher here than in Atlanta, the next most active city. After the A.T.&T. breakup, U.S. West, the phone company whose 14-state territory includes Nebraska, adopted the slogan "Dial 800 and get Omaha" to promote its services.

Some Advantages Gone

Some of Omaha's advantages have been lost in recent years. New tariffs since the A.T.&T. breakup have evened out long-distance billing rates, which once favored Omaha and other Midwestern cities. The city sat astride one of the first junctions of east-west and north-south fiber optic lines; now most major cities have their own fiber optic hubs.

The loss of these advantages has hurt. "Charles Schwab recently chose Indianapolis over us for its communications center when it decided to move out of Chicago," said Red Keenan, director of marketing and business development for Omaha. "Ten years ago, they would have come here."

More important, perhaps, companies looking for the most modern telecommunications are more likely to be looking just as hard for broad computer skills as well. In this area, Omaha has far less to offer than communities with big universities or major computer companies.

Companies Continue to Come

Nevertheless, companies like the Ford Motor Company's credit subsidiary continue to arrive. Ford chose Omaha last year to consolidate 132 offices that answer consumer questions about Ford loans. It will eventually have 325 employees here handling six million calls annually, according to Susan Seidenfeld, director of employee relations.

Meanwhile, established telemarketers seeking low-cost labor have been moving some of their operations out to neighboring Kansas, Iowa and Colorado. But they are adding more advanced services here to exploit Omaha's phone structure. Today, the city boasts more than 25 telemarket-



Bernady J. Fisher/The New York Times

Factors like reasonably priced real estate, low wages and living costs and an excellent telecommunications system have drawn numerous telecommunications companies to Omaha. Mary Swenson, left, is senior

vice president in charge of operations for Utell International, a British-owned reservations company that specializes in booking hotels overseas for travel agents. It moved to Omaha from New York in 1986.

The region's 'pure American' speech is one advantage.

ing and reservations companies. Related industries, like printing brochures or making credit cards, have sprung up to serve consumers who respond to telemarketing.

Many more Omahans work at insurance companies or companies like the Union Pacific Railroad. For these companies, the city's superior telecommunications are a secondary but important attraction.

City officials concede that many of the telecommunications jobs offer lower wages than the declining, unionized sectors of the local economy, like meatpacking. Reservations clerks, most of them women or students, earn about \$5 an hour, and job turnover is about 50 percent annually. Those with more difficult telephone sales jobs can earn as much as \$13 an hour, plus benefits and bonuses. The trend, telemarketing executives here say, is toward more extensive services, higher wages and benefits and less staff turnover.

At WATS Marketing of America Inc., a calling program to generate lists of consumers who want American Express card applications mailed to them has been supplanted by a program in which WATS em-

ployees fill out the applications while callers are still on the line. The employees must be able to answer a wide range of questions about the cards' benefits and limits.

"Our work is getting much more interactive," said Charles Brooks, president of American Express in 1990. "We are 75 percent full time now, compared to less than 50 percent just five years ago."

Supporting such businesses is a reservoir of telecommunications engineering talent that telemarketing executives say is unmatched by any other small city in the nation.

"It's not just the equipment but the concentration of know-how that makes a difference," said Mary Swenson, senior vice president in charge of operations for Utell International, a British-owned reservations company that specializes in booking overseas hotels for travel agents. Utell moved to Omaha from New York City in 1986. "The vendors have seen so many telecom centers that they understand the nuances and can give you helpful advice," she continued. "And when we go out to recruit a telecommunications manager, we get twice as many qualified applicants as in comparable cities."

19-5

THE 10 WORST ECONOMIC MOVES

Shattered by the recession, desperate state and local governments are committing major fiscal blunders and rolling the dice on their future



Congress returns from a long winter's nap this week in an effort to rouse the dormant American economy, which has been in deep hibernation for the past 19 months. Meanwhile, George Bush is desperately seeking fiscal salvation as he trudges through New Hampshire's freezing snow and cold to save his increasingly unpopular presidency. But before they start tinkering with taxes and busting the budget in Washington, Bush and the members of Congress ought to carefully examine balance sheets in statehouses and city halls around the nation—especially if they want to know what *not* to do.

Local government officials from coast to coast, besieged by the demands of financially ailing citizens who want more services but fewer taxes, are hitting the economic panic button in order to retain their jobs. This hysteria has resulted in a series of wrongheaded and shortsighted decisions that could exacerbate the longest recession since the Great Depression of the 1930s. Excessive expenditures have been concealed in complicated footnotes to budget documents, for example; additional taxes have been heaped upon

the nation's struggling poor; jobs have been purchased at exorbitant prices, and all-important business growth has been snuffed out by ill-conceived fiscal legislation.

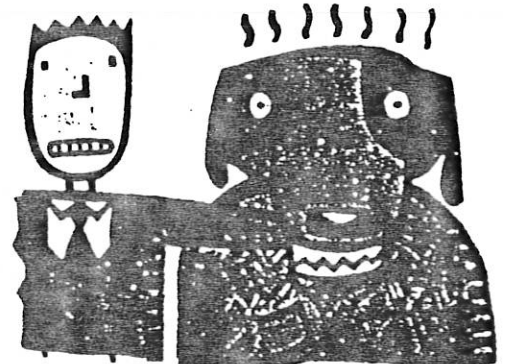
The long-term impact of these blunders is frightening. Budgetary quick fixes are driving herds of companies from high-tax cities and states to more inviting economic pastures. This stampede will ultimately burden the next generation of citizens with even more intractable deficits.

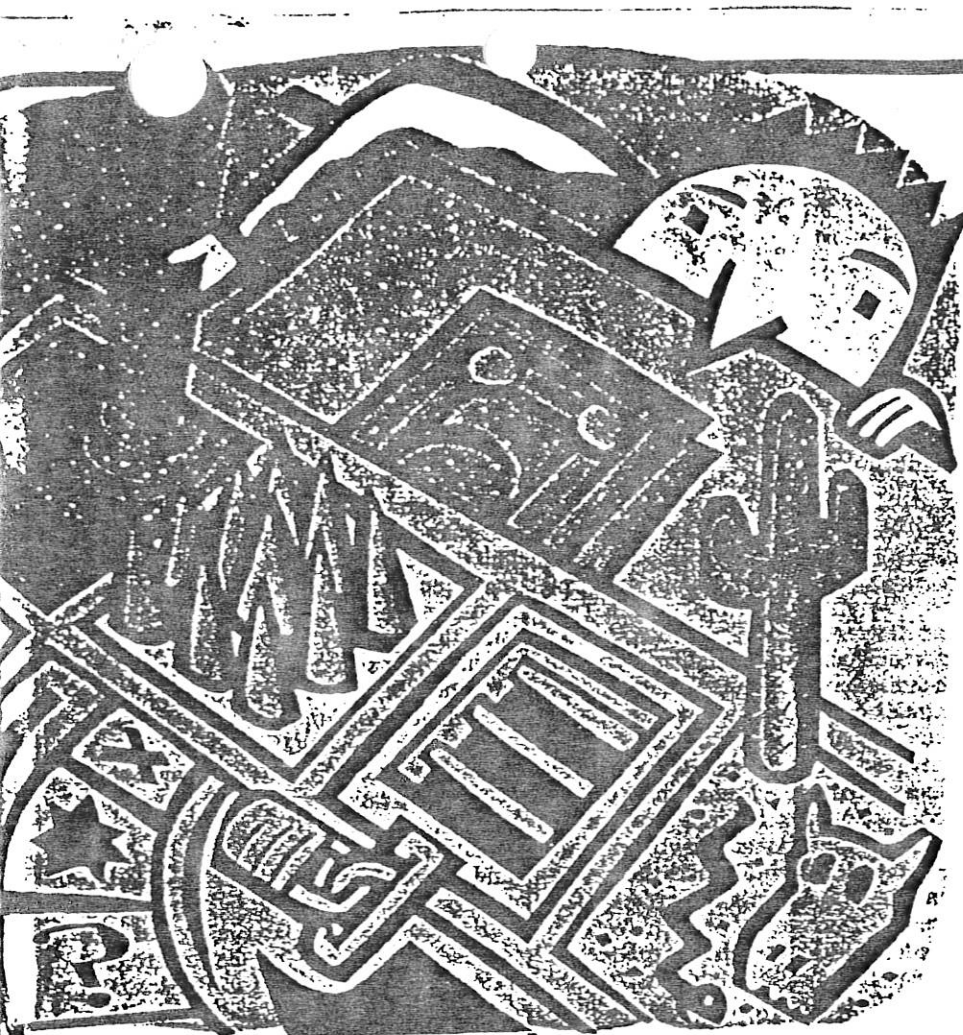
After canvassing the country and talking with scores of policy makers, business executives and fiscal experts, *U.S. News* has selected 10 of the worst economic moves by local government in this downturn. Listed in no particular order, they range from taxing Twinkies in California to assuming risky corporate debt in Minnesota. It might seem unnecessarily cruel to kick government when it's on the ground—the most misguided moves often take place when the deficits are deepest—but the states and cities analyzed in the following pages really kicked themselves first.



A PAINFUL BITE FOR BUSINESS

For more than a decade, the Pennsylvania state government in Harrisburg has tried to enhance its relationship with business, paring down its corporate income tax from 11.5 percent to 8.5 percent. True, that still left the Keystone State with above-average business levies, but with high-tax neighbors like New York, you don't have to be a tax haven to keep the bakers and boilermakers from straying across the border. That





REACH OUT AND TAX SOMEONE

In 1990, Mayor Richard Daley of Chicago and a hundred city and state officials hailed the opening of United Airlines' new O'Hare Airport reservations facility as a development coup for the Windy City. Chicago had lured the \$28 million investment—and 2,000 jobs—in part, with a promised exemption from Illinois's 5 percent tax on telephone services. For a facility expecting to handle 3 million long-distance calls each month, that meant a savings of hundreds of thousands of dollars for United.

The skies over Chicago turned less friendly this month, however, when the city imposed its own 5 percent tax on out-of-state calls to replace half of a \$49 million cutback in revenue sharing from Illinois. It is too late for United to back out of its investment, but in coming years, Chicago may find that the hidden phone tax drives businesses elsewhere.

The temptation to bridge budget gaps with a telephone tax is sweeping the nation. According to Joseph Gigliotti of AT&T, 17 states considered long-distance taxes in 1991, largely because the low-key levies are rarely noticed. But business, increasingly dependent upon telecommunications, does notice. That's why only one of the 17 states (Pennsylvania) actually implemented such a tax.

Disconnect. Wisconsin was the first to learn the hazards of telephone taxation. Callers there once paid phone taxes of more than 12 percent. But when state leaders realized they were driving away jobs, they phased the tax down to 5.5 percent: Ring Response, a Skokie, Ill., telephone service for catalogs, wanted to expand into Wisconsin, but it learned of the phone surcharges and pulled back. Now, Michael Centrella, the firm's president, is being courted by other states, where he could escape the \$300,000 in phone taxes he pays to Illinois. And if he were in Chicago? "I'd be moving out."

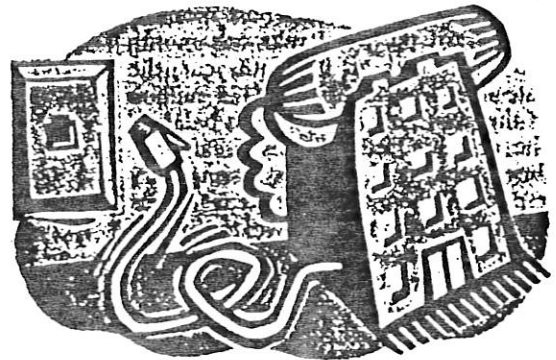
was until last summer, when Democratic Gov. Robert Casey and the state legislature raised Pennsylvania's business taxes by well over \$1 billion, hiking the corporate rate to 12.25 percent—the highest in the nation—while heaping sales taxes upon services. A typical struggling manufacturer in Pennsylvania might see its tax bill rise 40 percent, from \$48,600 to \$68,400. And a survey by SMC, a small business trade group in Pennsylvania, shows that more than a quarter of the small enterprises in the state are contemplating a move to friendlier climes. Pennsylvania may soon learn that making companies pay their fair share of taxes is no capital crime, but putting undue burdens on business is a punishable offense.

Leo McDonough, president of SMC, admits that most threats to leave Pennsylvania amount to more talk than action, but a small exodus has already begun. Since the tax package passed, neighboring states have received hundreds of inquiries from tax-hassled Pennsylvania businesses, including several computer companies.

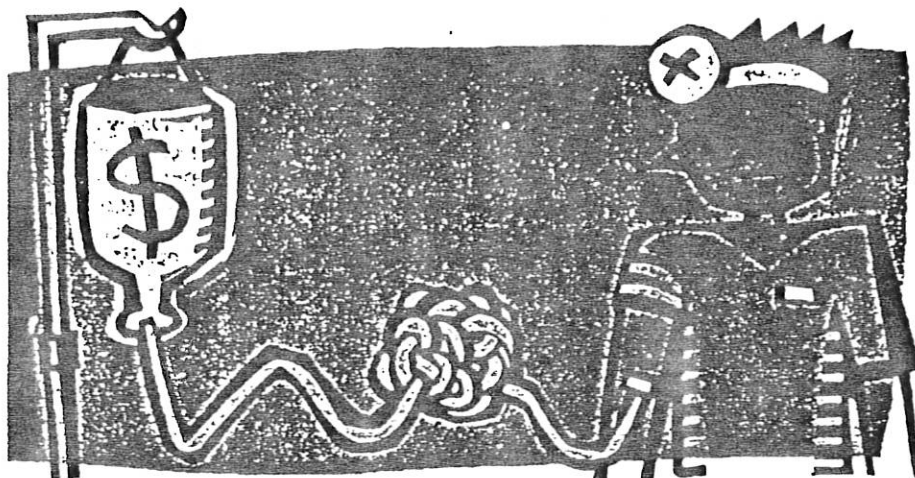
Pennsylvania's new service-sector tax seems random and arbitrary to some business leaders. Howard Seiverd of Upper Darby wants to know why his debt-

collection agency must charge clients a 6 percent sales tax while the law firm down the street performs the same service tax-free. Seiverd has been forced to lay off 12 of his 33 employees because clients have fled since the tax went into effect. He may move his business to Delaware.

Executives also complain that the burden on citizens and companies is not equitably shared in Pennsylvania. Though the personal income tax rate rose from 2.1 to 3.1 percent to help close the state's budget gap, it remains among the nation's lowest and will partially roll back next year. Meanwhile, the high business taxes are hitting just when the recession has left companies with little breathing room. Newlon Personnel Services in Pittsburgh, for example, had already been forced to strip its payroll from a permanent staff of 14 to a smattering of temporary help early last year. "When the new tax law was passed, I realized I should start looking for a job," says company founder Elizabeth Newlon. "If the recession doesn't get us, the taxes will."



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3 DOCTORING THE BUDGET NUMBERS

It was headline news when New York balanced its budget by selling Attica prison to its own Urban Development Corp. and then leasing it back. And when New Jersey sold 4.4 miles of its turnpike to a state authority to raise money, a blizzard of publicity followed. But Illinois has attracted little notice over the past few years while papering over budget deficits with an array of equally fancy fiscal gimmicks.

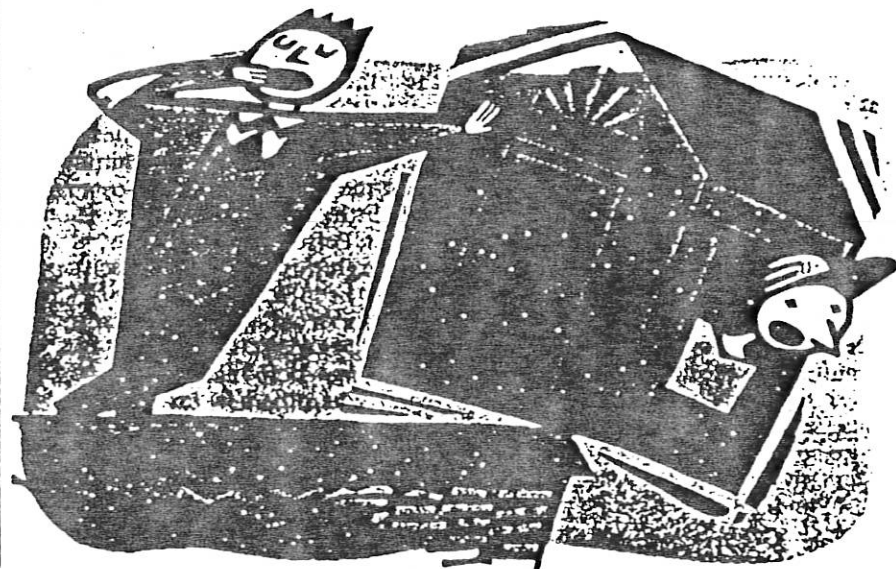
Illinois's theory of cash management is simple: If there's going to be a cash-flow problem, make sure it's somebody else's. Hospitals, for example, must now wait more than 100 days to be reimbursed for treating Medicaid patients; in the meantime, the \$660 million owed to the health-care community keeps coursing through the state's fiscal arteries.

On another front, service station operators and retailers in Illinois have been given new instructions to rush their sales and gas tax payments to the state 10 days faster than before, to push \$111 million more in revenues into the current fiscal year. And schools have been told to expect their last monthly payment of the fiscal year one month late. Thus, with an 11-month year, the state keeps an additional \$175 million on the positive side of its cash balance. The problem with all this fiscal finagling is that it only offers a temporary respite. "When the next year comes around, you not only have to fix the new problems," says George Leung of Moody's, "but also the old ones that weren't dealt with."

Illinois, like many states, is also play-

ing a shell game with Medicaid. In 1991, the state imposed an assessment on hospitals and nursing homes that treat Medicaid patients. The money is eventually paid back by the state to the providers so that they lose nothing in the process. But the federal government matches both the state's own funds spent on Medicaid bills and the assessment dollars, leaving Illinois's coffers richer.

Federal Budget Director Richard Darman has vowed to end this "sleight of hand," and by this October, Illinois will have to forgo the extra dollars or, more likely, impose an honest tax on all hospitals and nursing homes, which for many health-care providers will be a real expense. Illinois's political leaders knew the rules were about to change when they first levied the Medicaid assessment last year, but faced with a \$1.5 billion budget shortfall, it's easier to play than pay.



4 PUSHING REAL ESTATE OFF A CLIFF

During the late 1980s, Maryland's Montgomery County, located outside the nation's capital, was a real-estate paradise. Between 1988 and 1989, for example, median home prices rose 19.3 percent. But today, Montgomery has become purgatory for property owners, developers and construction workers. Single-family-home sales fell 45.3 percent from 1988 through October 1991, and thousands of construction-related jobs have been lost.

In the midst of this downturn, Montgomery officials have only made a bad situation worse. A month ago, they voted to impose a stiff excise tax on new-construction permits that, according to the Suburban Maryland Building Industry Association, will add some \$5,000 to \$6,000 to the cost of a typical new house. This extra expense is likely to squeeze developers out of Montgomery, reduce construction jobs and choke off growth and revenues at a time when the county is trying to escape recession.

Housing lows. Montgomery officials say they have taken the real-estate bust into account by phasing in the tax. But Robert Manekin, a commercial builder, says it will take two to three years for the building industry to turn around anyway, meaning the tax will weigh down construction just as it tries to get back on its feet. Manekin, who built 187,000 square feet of commercial space in Montgomery in the past decade, isn't developing in the county right now. He estimates the tax will add 4 to 5 percent to his project costs and 5 to 6 percent to the

rent he charges to recoup those costs. Steve Eckert, a home builder, adds that the tax could result in 1,000 fewer county housing starts.

Montgomery may still mend its ways. County Executive Neal Potter, who sponsored the tax, proposed several ideas last week to improve real estate, including speeding up the approval of development plans and creating a capital fund for housing construction. Eckert calls the news "a good first step." But he would have preferred that Montgomery follow neighboring Prince George's County, which in 1990 passed up the opportunity to levy a state-authorized \$1,100 per home construction impact fee for fear it would cripple the faltering real-estate market. Unfortunately, that may be happening in Montgomery today.

5

THE TROUBLESOME TWINKIE TAX

In 1990, Brad Sherman campaigned for a spot on California's Board of Equalization, the state's chief taxing authority, by touting his experience as a tax law expert. "Now I feel I've defrauded the voters," Sherman confesses. "They should have elected Julia Child."

Over the past two years, the California Democrat has been forced to study the distinctions between cupcakes and muffins and contemplate the subtleties of pork-rind flavorings as he implements the state's much derided "Twinkie tax." This effort by Republican Gov. Pete Wilson to expand California's sales tax to cover snack foods (all food was previously exempted) has led to confusion among food manufacturers, whole-

salers and retailers, not to mention tax collectors. The gain from this costly administrative headache is just over \$200 million, a mere 1.4 percent of the \$14.3 billion budget gap it helped overcome.irate grocers are well on the way to collecting enough signatures to put its repeal on the November ballot. The Twinkie tax is proving that nuisance taxes can be a nuisance to those who collect them as well as to those who pay them.

Stamping snack sales. The laughable levy is causing California more than just headaches. Sherman estimates that state tax collectors are spending millions of dollars categorizing more than 20,000 food items and deciding which qualify as snacks. One store owner estimates that his snack sales have dropped 10 percent since he began collecting the steep 8 1/4 percent tax. Grocery chains with laser scanners spent up to \$15,000 per store reprogramming computer systems to separate the granola (not taxable) from the granola bars (taxable). And costs will be higher, but harder to measure, for the 16,000 California grocers lacking the sophisticated scanners; their cashiers must memorize which items to tax. Don Kaplan of Bonfare Markets in San Ramon has told cashiers that if they are in doubt as to whether to tax the pork rinds (yes, if they are artificially flavored; no, if natural) or the saltine crackers (only if they are in bite-size form), they should collect the tax.

It would be nice to believe that the snack tax is improving the health of Californians, but its arbitrary nature makes that unlikely. Rice and whole-wheat crackers are taxed while chocolate-covered ice-cream bars and doughnuts go untaxed. "If you want to know what's good for you," quips Sherman, "ask your mother, not your government."



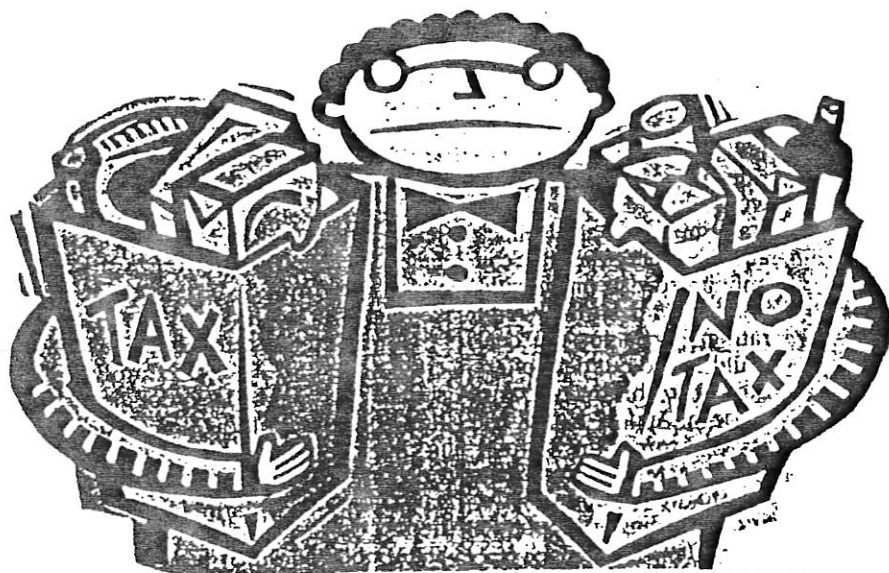
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SEARCHING FOR A FISCAL ANCHOR

Business leaders in New Jersey have been asking themselves what it takes to generate economic growth. Guess what? The answer isn't lower taxes. Staring down a tax repeal measure that threatened to plunge the state into fiscal chaos, corporations have stood behind a tax hike they once opposed. "We were not thrilled when the [1990] tax increase went into effect," admits Elissa McCrary of the New Jersey Business and Industry Association, "but business people don't want things changed every six months; they want to know what's coming in and what's going out." New Jersey executives have already learned this lesson, but the state's politicians have been slow to catch on.

Political poker. Last fall, Republicans campaigned relentlessly against the tax increase passed by Gov. James Florio and the Democratic legislature. When the voters threw the taxing legislators out—installing vetoproof Republican majorities in both houses—bitterly defeated Democrats called their rivals' bluff. In December, the New Jersey Senate voted to let all the new taxes expire on June 30, leaving it to the Republicans to show how painlessly they could replace the \$2.8 billion in revenues.

The cost of such political retribution could have been a drop in the state's credit rating, drastic cuts in education and new taxes—perhaps more burdensome for business. And even the most ardent bureaucracy bashers were unwilling to sanction the brutal spending cuts needed to cover the tax shortfall. If New Jersey had laid off all 65,000 state



■ BUSINESS

employees, for example, it would have saved \$2.3 billion, but a \$500 million fiscal gap still would have remained.

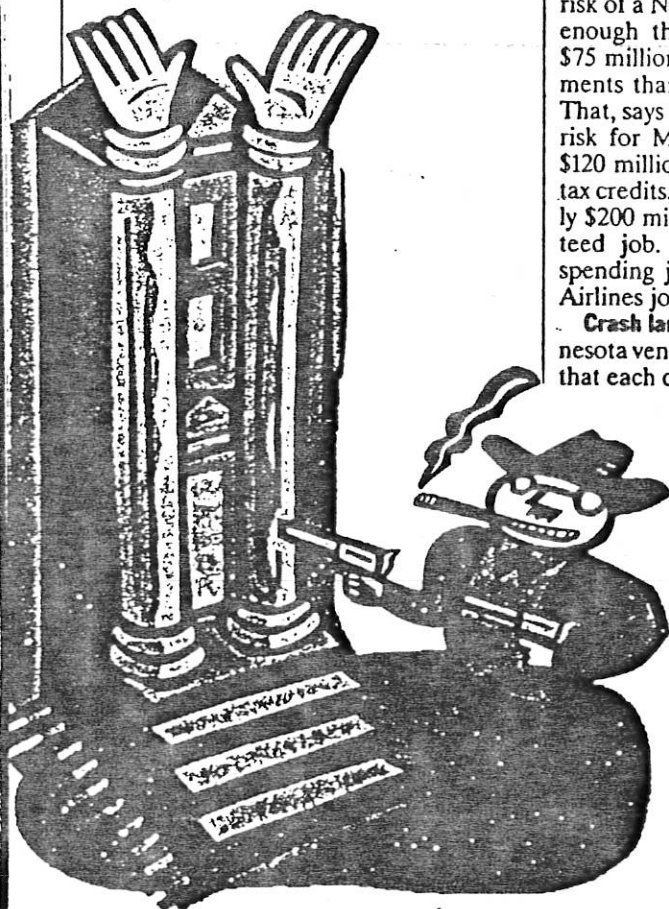
The repeal movement died two weeks ago, when the state Assembly failed to revoke the taxes. It's hard to gauge how much the fiscal turmoil has hurt New Jersey, but corporate location experts recently have been loath to recommend the state. "New Jersey had been an attractive state to business, but the situation became unstable," says consultant Doane Kelly. "It's an unhealthy environment."

7

ROBBING THE STATES BLIND

If Minnesota invested \$600 million in junk bonds, would the governor brag about it in public? That, say critics, is almost what the state did last month in a desperate, \$820 million bid to snag a Northwest Airlines maintenance facility that will provide 1,500 to 2,000 jobs.

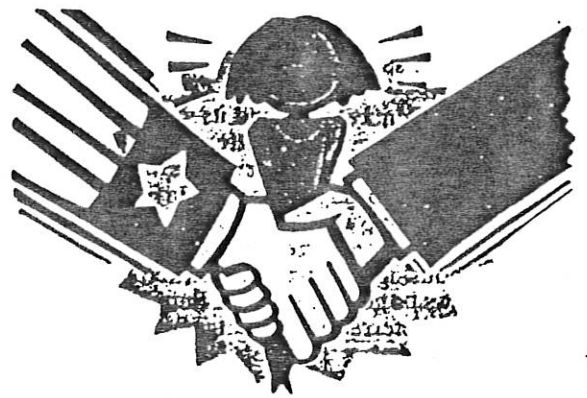
Corporate subsidies are constantly proffered by cities and states looking to boost growth. Arlington, Texas, for ex-



ample, is currently planning to offer General Motors up to \$10 million in incentives to keep 3,750 jobs in town. And Indiana last year promised some \$400 million to persuade United Airlines to locate more than 6,000 jobs in Indianapolis. But Minnesota has surpassed all precedent, offering a two-part package that not only subsidizes new Northwest facilities but also lends the deeply indebted airline operating capital. The deal, which makes Minnesota Northwest's lender of last resort, means that 4 million state residents have just provided a \$600 million low-interest loan that most banks would turn down in a second.

Because the vast majority of the total package comes in the form of state and local bonds and loans that Northwest is required to pay back, the whole deal has been presented to Minnesotans as a low-cost jobs program. But on closer inspection, it's no bargain. Economist Art Rolnick of the governor's Council of Economic Advisers notes that in the private market, where Northwest is listed as a "junk" credit, investors consider the risk of a Northwest Airlines default high enough that they would charge some \$75 million more a year in interest payments than the state's bonds will yield. That, says Rolnick, is the real cost of the risk for Minnesota. In addition to the \$120 million in direct subsidies, such as tax credits, residents will be paying nearly \$200 million, or \$130,000 per guaranteed job. Indiana, by comparison, is spending just \$69,000 for each United Airlines job.

Crash landing? Supporters of the Minnesota venture defend the costs by saying that each dollar invested is multiplied as the new workers spend their salaries in the North Star State. But a recent survey indicated that fewer than half of Minnesota's corporate leaders think Northwest should receive any state money at all. Rolnick adds that since the state can only borrow so much without jeopardizing its credit rating, bonds for the deal could crowd out debt offerings for highways and schools. And if Northwest goes the way of Eastern and Pan Am, Minnesotans may have to brace themselves for a crash landing on the state's fiscal runway.



8

SQUEEZING AMERICA'S POOREST CITIZENS

During the Depression years of the early 1930s, the tax structure of North Carolina was so progressive that even the governor made too little money to pay taxes. In this downturn, however, the Tar Heel State is moving in the other direction. North Carolina recently raised taxes that will hit families that earn \$20,000 a year twice as hard as those earning \$90,000. This is in a state that has the fourth lowest manufacturing wages in the nation and some 13 percent of its population living below the poverty line. The culprit is the sales tax, which is considered the most regressive of the major revenue sources used by states, since the poor spend a greater portion of their incomes in stores.

North Carolina's sales tax, which has been increased from 5 to 6 percent, is even more burdensome to the poor than are equivalent taxes elsewhere because it is one of the minority of states that taxes food. "It's very regressive to tax such a basic item of life," says Ran Coble, executive director of the North Carolina Center for Public Policy Research. A further drawback to sales taxes is that they are less dependable for a steady stream of revenue. Dave Crotts, a fiscal analyst for North Carolina's state legislature in Raleigh, notes that sales tax receipts have fallen 2 percent in real terms this fiscal year, while income tax revenues have kept up with inflation.

Despite the recent decision to increase sales levies, North Carolina's tax system has hurt the poor less than those in some other states. Top honors in that dubious category, according to Citizens for Tax Justice, a watchdog organization that monitors national tax trends, go to Texas and Washington State, both of which have even higher

sales taxes. And North Carolina did make a gesture toward progressivity, by raising from 7 to 7.75 percent the marginal income tax rate on the wealthiest 1 or 2 percent of its citizens.

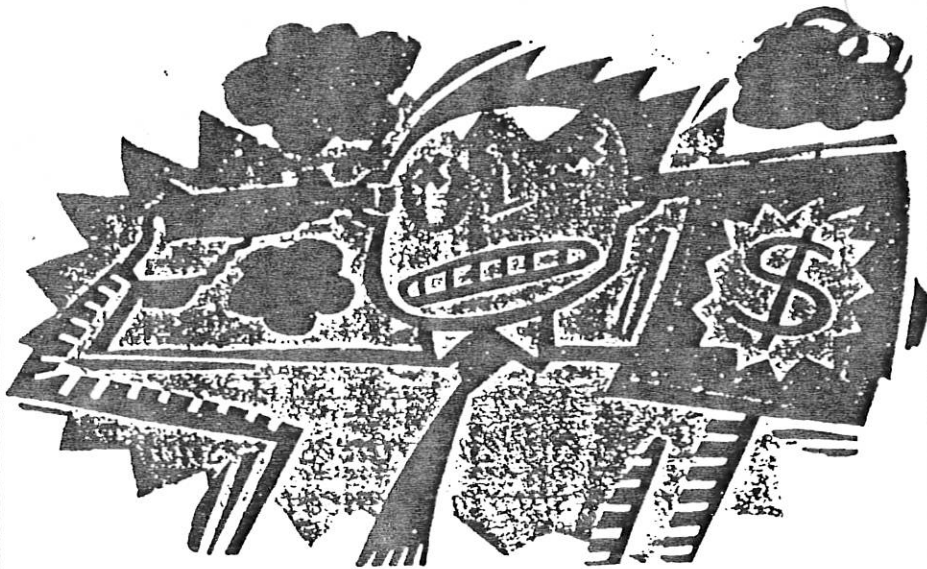
But the income tax rate increase accounts for only \$51 million out of \$657 million in new state tax revenue. The sales tax hike makes up most of the balance. On April 15, the wealthier residents of North Carolina will notice that last year's taxes were not especially friendly to them. But in grocery stores, the struggling poor realize it every day.

9

LOCKED IN BY LOWER PROPERTY TAXES

When the folks in the Echo, Ore., City Hall decided they needed to replace their 1952 dump truck, a new \$50,000 hauler was out of the question. Property values in the town of 500 have been falling for three years, straining its \$100,000 general fund budget. Instead, Echo picked up a 1978 dump truck for \$4,300 from state surplus and drove it home to eastern Oregon. The vehicle already has 100,000 miles on it, but it had better last. Echo and the entire state of Oregon are in for a potentially catastrophic squeeze from a property tax relief referendum passed in the early months of the recession. Echo is losing nearly 10 percent of its budget immediately, and an additional 30 percent is at risk. Says City Administrator Diane Berry, "This will be the final blow for a lot of cities."

The property tax rollback, known locally by its ballot name, Measure 5, or-



ders school-district property taxes to be phased down from their pre-referendum average of \$18 per \$1,000 of assessed value to \$5 over five years. And because Measure 5 requires the state to replace lost school revenues, Legislative Revenue officer James Scherzinger estimates the government is careening toward a potential \$2.3 billion shortfall in the \$7 billion budget that begins in 1995—proportionally far larger than the budget gap confronted by California this year. Schools will not be as immune as Measure 5's proponents once claimed either. Portland, for example, faces teacher layoffs and crowded classrooms in two years as the state cuts back on other forms of aid.

Tax politics. Most of the pain could be alleviated if alternative tax measures are found. But in the state of Oregon, every major tax decision is made at the ballot box, where voters have demonstrated a loathing for levies. And in the heavily populated boomtowns of western Oregon, Measure 5 has probably not yet inflicted enough damage to change people's minds. The move toward fiscal stability may only begin after all of Oregon knows the trouble Echo has seen.

10

COMMITTING ECONOMIC SUICIDE

You've hit bottom when you declare bankruptcy. Or so it would seem. But last June, when Bridgeport, Conn., became the largest city in the United States ever to file for bankruptcy protection, it dragged the local economy down even further. Real-

tor Sam Vimini says the bankruptcy claim dealt the *coup de grâce* to Bridgeport real-estate values, which have plummeted 10 to 25 percent since 1989. Paul Timpanelli, president of the Bridgeport Regional Business Council, adds that phone inquiries from companies thinking of moving to the city have fallen by approximately 50 percent since the bankruptcy announcement created such uncertainty. The Chapter 9 filing did succeed in focusing national attention on the plight of decaying urban areas. But while other cities may enjoy the sympathy, Bridgeport must endure the stigma.

The Connecticut city's finances also did not receive a boost from bankruptcy court. The state defeated the filing on the grounds that Bridgeport still had \$25 million left over from a bond offering. Last week, Mayor Joseph Ganim dropped the appeal he had inherited from his predecessor. Though the city could more easily prove insolvency now, the conciliatory new mayor has no intention of giving the city's economy another black eye.

The only bankruptcy benefit likely to reach Bridgeport is that its sinking economy may now attract more bottom-fishing businesses. After a long exodus of companies, factory leases in Bridgeport are cheaper than anywhere else in Connecticut today. George Bellinger, a local businessman, also stands to make thousands of dollars from the city's bad reputation. The president of Bar-Pat Manufacturing says he was recently asked to bid on a contract to make steel cable simply because the customer figured any company associated with Bridgeport might be desperate enough to shave a few dollars off its price. ■

BY DON L. BOROUGHS WITH SARA COLLINS





PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

RE: H.B. 2891 -- Revenue for Financing School Districts

March 3, 1992
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Madam Chair and Members of the Committee:

Thank you very much for the opportunity to address your committee concerning H.B. 2891, legislation designed to provide revenue for the financing of school districts in Kansas.

We are **OPPOSED** to H.B. 2891. We will describe why.

For the record, this testimony is prepared by Paul E. Fleener. I am the Director of Public Affairs for Kansas Farm Bureau. We will welcome the opportunity in the weeks to come to respond to your questions about our opposition to H.B. 2891. Your admonition, Madam Chair, was for conferees ... proponents or opponents ... to express views on alternative sources of revenue for the funding of elementary and secondary schools in Kansas.

We had the opportunity to tell your committee and the Education Committee on February 12 of our strong interest in **proper funding** of elementary and secondary schools. Our farmers and ranchers throughout the state have long been supportive of equitable, adequate, suitable funding for elementary and secondary schools in this state.

House Taxation
Attachment 20
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Our policy positions on (1) School Finance; (2) The Sales Tax; and (3) State and Local Governmental Budgeting, Spending and Taxation are attached to this statement. By means of this testimony we would highlight for you some very basic ingredients in those policy positions which were discussed, debated and ultimately adopted at our most recent (Nov. 21-23, 1991) Annual Meeting. There were delegates from each of the 105 counties in Kansas representing the farmers and ranchers who are our members in those counties.

We should indicate this statement (from the School Finance resolution) that:

We have opposed in the past, and we continue to oppose efforts to establish a statewide property tax levy.

Our policy on this particular issue goes ahead to say: **We oppose any efforts to abolish the taxing autonomy of school districts and any efforts to place all spending control with the state. We believe school district finances should remain under local authority.**

So, if we are opposed to H.B. 2891 which would impose "a state tax of 45 mills," what are the appropriate taxes? What would Farm Bureau support? Our School Finance resolution speaks to that. It says this:

We continue to believe state aid, or school finance legislation, should provide for:

- 1) Minimal reliance on the property tax for support of our elementary and secondary schools;**
- 2) Creation of a "school district income tax," collected and returned by the state to the school**

district of origin ... the district of residence of the individual taxpayer; and

- 3) Increased reliance on the state sales tax for financing elementary and secondary education in order to reduce reliance on property taxes now levied for school finance.

In our policy position on State and Local Governmental Budgeting, Spending and Taxation there is this sentence:

We strongly support reducing the reliance on the property tax, and we likewise support increasing reliance on sales and income taxes for the support of state and local governmental units.

Your review of our **Sales Tax** resolution will provide you with information showing our support for existing sales tax exemptions. Our people believe they were created for justifiable reasons to "assist economic development and state competitiveness with our neighbors."

We believe the spirit and intent of the Kansas Constitution can be met by fully funding programs that are mandated at the state level for our school children. We believe the intent of the constitution ... Article 6 - The Education Article ... is fully addressed by recognizing the ability of patrons to provide for the students in their school districts through a balance of revenue sources. The most appropriate one of these is the income tax. There can certainly be balance. We're not asking you to eliminate the use of the property tax, though some may feel that to be appropriate. But what we do ask is you **reduce reliance on the property tax**. It is something that has grown and grown and grown over the course of the years from \$257.9

million in the year immediately prior to the SDEA (1972-73), to an amount of \$976.2 million for the 1991-92 school year. All the while our income tax component is being diminished by not even considering it at full strength ... a 100% ... in determining district wealth. In truth and in fact, taxable income ... \$19.2 **BILLION** for resident individuals only, for the most recent tax year, would yield significantly for the support of our education K-12.

We thank you for the opportunity to hear and review our thoughts and the policy positions of the farmers and ranchers in 105 Kansas counties who sincerely believe in an appropriate school funding mechanism. Equally as strongly and sincerely we do not believe the methodology outlined in H.B. 2891 is appropriate. We ask you to amend this legislation or dispose of it and start over again. If you want to require some **modest**, minimum effort on property, and are willing to mandate the same multiplier times taxable income and then impose a sales tax increase to provide the funding necessary you will, in our opinion, be moving in the right direction for funding 304 school districts in Kansas.

Sales Tax**AT-3**

Kansas has appropriately created justifiable sales tax exemptions for agriculture, business, industry, and many not-for-profit groups. This has been done to assist economic development and state competitiveness with our neighbors. We believe existing exemptions should remain in place.

The sales tax should not be imposed on services. Those who provide the service would not pay the tax. Those of us who use the service would pay.

In agriculture we cannot pass our taxes on to someone else. Grain prices are disastrously low, while our costs — particularly for fuel and petroleum-based inputs — are soaring. We oppose taxing inputs or raw agricultural products, whether by removal of sales tax exemptions or by the imposition of an excise tax, a value-added tax or a transaction tax.

All citizens are consumers of food and are uniformly taxed on the food they purchase. We oppose legislation to exempt food from the state sales tax.

Kansas should require out-of-state mail order companies to collect and remit to Kansas the sales or use taxes applicable within Kansas.

State and Local Governmental Budgeting, Spending and Taxation**AT-4**

It is time in Kansas to write a basic tax policy of taxing people for services to people, and taxing property for services to property. We strongly support reducing the reliance on the property tax, and we likewise support increasing reliance on sales and income taxes for the support of state and local governmental units.

Expenditures by the State of Kansas and by local units of government in Kansas in any fiscal year should never exceed projected revenue receipts for that fiscal year.

Zero-based budgeting is essential to fiscal planning and should be required for all state agencies as well as all local units of government.

We support property tax replacement revenues for our elementary and secondary schools through a school district income tax and additional state aid.

We support adequate funding for agricultural programs in Kansas which have been underfunded in the past.

The State General Fund should have adequate balances or reserves.

School Finance**ED-7**

We believe the Kansas Legislature should develop a school finance formula which will assist in funding a "basic education" for every child enrolled in the public schools in Kansas. A "basic education" should consist only of those courses required by the State Board of Education to be successfully completed during the K-12 education years in an accredited Kansas Unified School District.

In order to facilitate timely preparation of budgets by Unified School Districts in Kansas, we urge the Legislature to set and to meet an appropriate early deadline for passing school finance legislation.

We continue to believe state aid, or school finance legislation, should provide for:

- 1) Minimal reliance on the property tax for support of our elementary and secondary schools;
- 2) Creation of a "school district income tax," collected and returned by the state to the school district of origin ... the district of residence of the individual taxpayer; and
- 3) Increased reliance on the state sales tax for financing elementary and secondary education in order to reduce reliance on property taxes now levied for school finance.

We believe that federally and state-mandated programs should be fully funded by the federal or state government, whichever mandates a given program.

We will oppose the application or use of a local income or earnings tax by any other local unit of government.

We have opposed in the past, and we continue to oppose efforts to establish a statewide property tax levy. We oppose any efforts to abolish the taxing autonomy of school districts and any efforts to place all spending control with the state. We believe school district finances should remain under local authority.

TESTIMONY OF BOB W. STOREY
HOUSE BILL NO. 2891
HOUSE TAXATION COMMITTEE

Members of the House Taxation Committee:

I represent DeHart and Darr Associates, Inc. and Idelman Telemarketing, Inc.

My purpose in appearing here is to oppose any attempts to repeal the exemption from sales tax that the telecommunications industry in Kansas has at the present time.

I am also here to speak on behalf of the Kansas members of the Direct Marketing Association ("DMA"). Every company with a telemarketing operation in Kansas would be adversely affected and forced to seek options. This will be particularly true for companies whose sole business purpose is interstate telemarketing sales operations.

Idelman Telemarketing, Inc. ("Idelman Telemarketing") opened its first Kansas operation in Wichita in March of 1987, and today they have 485 employees in Wichita. Since that time, they have expanded and opened the following additional offices in Kansas:

Hutchinson (163 employees)
Newton (73 employees)
Salina (121 employees)
Emporia (218 employees)
Manhattan (148 employees)

Idelman Telemarketing is proud to employ 1208 Kansas citizens and hopes to employ more in the future; its estimated payroll for 1992 is approximately \$8,500,000.00.

It contributes its fair share of taxes paying personal property tax, sales and use tax, and shareholder tax on corporate earnings.

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Idelman Telemarketing markets goods and services produced and provided by its clients, including other Kansas companies such as Kansas Power and Light ("KPL").

It rents space at 6 locations.

Idelman Telemarketing believes it is an asset to Kansas. If the exemption is repealed, the revenue used to finance school districts as proposed in House Bill No. 2891 would cost Idelman Telemarketing an estimated thousands of dollars per year in additional tax and would raise its cost of doing business. Passed on to its customers, this would directly affect its ability to be competitive in the marketplace.

Permit me to share with you the considerations and actions of Idelman Telemarketing if the sales tax exemption is repealed.

1. It could very well take steps to shift its call volume to a neighboring state. Missouri, Colorado and Nebraska do not impose a sales tax on interstate calls.
2. It would aggressively investigate relocation options.
3. It could redirect any future plans to expand in Kansas to another state. (This is no different than when Kansas was selected. It opted not to go to Duluth, Minnesota or Moline/Rock Island, Illinois because of economic disincentives.)

The same may well be true for other telemarketing operations in Kansas. Idelman Telemarketing is proud to be a forerunner in Wichita. Sears Catalog, Best Western Inbound, and Pioneer Teletechnologies set up operations as a result of Idelman Telemarketing's success in the Wichita labor market.

Let me tell you about Idelman Telemarketing's employees. They are women and men, span all ages, work part-time and full-time, are

tackling first jobs or are returning to the work force. They train young people; they retrain others. They pay wages and benefits.

Idelman Telemarketing is a good citizen for the State of Kansas. It has been the primary statewide sponsor of Special Olympics Torch Run through 1991 and will most likely continue the support. Idelman is a Pacesetter organization for the United Way and sponsors a food drive through the food bank. It is a major supporter and sponsor of the Wichita Wings and supports the Wranglers. It also supports baseball and basketball at Wichita State University and contributes to numerous school programs in areas where it does business.

Telemarketing is an effective and efficient way to contact former customers and to find new customers.

Telemarketers in Kansas already pay a 3% federal excise tax. Imposing Kansas sales tax would raise that by over 140%! You can understand that Idelman Telemarketing owes it to their customers to seek other alternatives should the exemption on sales tax be repealed. Others would be forced to act similarly. So would businesses considering locations in Kansas. We urge you to vote "no"--for Kansas now and in the future.

I want to repeat that I am also appearing on behalf of 21 Kansas members of the Direct Marketing Association headquartered in 12 Kansas cities and numerous other DMA members who have operations in Kansas.

I know this committee and the legislature is concerned about school financing and seeking revenues with which to provide adequate financing. At the same time, you should be very conscious

of the fact that we are in a deep recession not only in this state but in the entire United States. The economic levels for businesses are at an all-time low for Kansas and our state imposes some of the heaviest taxes on small business throughout the country and one more tax could very well be the catalyst that discourages new businesses from coming to Kansas and existing businesses from remaining in Kansas. Perhaps this committee should consider, as should the entire legislature, a reduction in spending rather than seeking revenues from those industries which have the ability to pay but do not have to remain in this great state.

Thank you very much for allowing me the opportunity to participate in these hearings.

BOTTENBERG & ASSOCIATES

JOHN C. BOTTENBERG

Statement of
Video Lottery Consultants, Inc.

Presented to the House
Taxation Committee
The Honorable Joan Wagnon, Chairman

Statehouse
Topeka, Kansas
March 4, 1992

Madam Chairman and Members of the Committee:

I am John Bottenberg, lobbyist for Video Lottery Consultants, Inc. VLC is a manufacturer of video lottery terminals.

We encourage you to consider video lottery as a possible source of additional revenue for Kansas for two reasons.

First, illegal or "gray area" video gaming activity exists in Kansas and virtually every state and province in North America and is growing. Law enforcement agencies faced with more urgent priorities and budget constraints are unable to allocate the resources necessary to eliminate this activity. Even when the machines are seized and destroyed, they typically reappear.

Unregulated video gaming activity has become so established that the cost of prohibition would be staggering. By legalizing video gaming, we would dramatically reduce the incidence of "gray area" activity in Kansas and we would subject the proceeds from video gaming activities to taxation which they currently evade. Polling indicates clear public acceptance when the activity is regulated by government.

Second, economic development and other programs in our state have received at least \$20 million dollars annually on average from the existing lottery. The current lottery may have reached maturity. We should consider expanding if we want to maintain or increase these revenues.

By including video lottery in Kansas games, experts estimate state revenues of \$50-75 million dollars annually above current lottery receipts.



VLC, Inc., is the only business today totally dedicated to Video Lottery. Our experience is derived from direct involvement in the statutory and regulatory development as well as operations in Montana, South Dakota, New Brunswick, Newfoundland, Nova Scotia and Prince Edward Island. VLC manufactures Video Lottery Terminals (VLTs) for all these markets and designed, built and installed the central control systems used in South Dakota and the Canadian Provinces.

Video Lottery Consultants, Inc., has spent six years and devoted millions of dollars to the development and enhancement of the world's first comprehensive Video Lottery system. As the first business to create a complete system and the only company dedicated to a system which specifically serves government entities -- not casinos -- we have become the industry leader in Video Lottery. The system is unique because it is the first proven system capable of providing complete statewide/provincewide control of Video Lottery using dial-up, rather than on-line, communications.

The industry standards for security, control, communications and reliability were developed by VLC engineers who were also pioneers in industrial automation engineering (robotics). It is this expertise that made possible automated, comprehensive central control and high-quality VLTs with the lowest down-time and the highest average return on investment in the industry.

Of the 6,000 VLTs currently serving the sixteen month old South Dakota Video Lottery, approximately 60 percent were built by VLC. In Atlantic Canada, VLC VLTs constitute the majority of the VLTs on the new system operated by the Atlantic Lottery Corporation since December 1990. In addition, about 2,400 VLC video gaming terminals are in operation in Montana's video gaming program.

VLC is the company in the lottery industry with complete Video Lottery systems experience -- from hardware and software engineering, to distribution, marketing, consulting and systems implementation.

VLC's professional staff includes personnel with experience in legislation, regulation and implementation of both stand-alone and central control video systems. VLC also provides services to regulators in jurisdictions trying to control gray-area gaming.

In fact, VLC has the only actual Video Lottery experience and knowledge available. No other company has demonstrated a system expressly designed to provide the security, control and reporting necessary for a government operated Video Lottery. We are pleased to share this experience and to assist any jurisdiction considering Video Lottery.

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A PRIMER TO VIDEO LOTTERY

Prepared
by

VIDEO LOTTERY CONSULTANTS, INC.

For

LEGISLATIVE, EXECUTIVE AND REGULATORY OFFICIALS

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House Taxation
Attachment 24
03-04-92

I. BACKGROUND

Illegal or "gray area" video gaming activity has taken root in virtually every state and province in North America and all indications are it is growing with dramatic speed. Law enforcement agencies, faced with more important priorities and budget constraints, are unable to allocate the resources necessary to eliminate the activity. Even when machines are seized and destroyed, they typically reappear.

A growing number of states and Canadian provinces are looking for ways to check this uncontrolled "gray area" activity which escapes public control as well as taxation.

So far, the states of South Dakota and Montana and the Canadian provinces of New Brunswick and Newfoundland, have chosen to legalize and control video gaming as a more realistic and practical alternative to attempting eradication. Video gaming activity has become so established in most states that "prohibition" would be a dubious public policy. Significant numbers of livelihoods are now dependent on this emerging industry and polling indicates clear public acceptance when the activity is tied to government control and deposits to public coffers.

Video Lottery is especially attracting public officials' attention as a lucrative new source of revenue. While gray area games generate no public revenues to states or provinces at present, the Montana and South Dakota experience indicates the potential to earn \$102.75 in net, per capita revenue the first year of operation.

Montana

Montana became the first jurisdiction to implement a state **video gaming** program in 1985. Gaming operations there are subject to the licensing, regulation and taxing authority of the state as administered by the Department of Justice. Game terminals, however, operate in a "stand-alone" mode which means they are not subject to any central computer control or regular monitoring. Financial reports are prepared by the owners (usually coin-operators) of the machines, sent to the state once a quarter and, entered into a state data base. Reported revenue can only be confirmed through on-site audits (about 5%-6% of all machines per year) and then only to the extent that the terminal was fully operational and without interruptions.

South Dakota

In 1989, the South Dakota Lottery implemented the first state **Video Lottery** system where all Video Lottery Terminals, called "VLTs" in the industry, operate under round-the-clock control and daily monitoring of a central computer using dial-up communications. Daily financial reporting, auditing, and systems management occur automatically, allowing 100% control of VLTs. Any financial discrepancies, operating failures or attempted VLT tampering are detectable at the central site. The central computer documents how much each VLT earned and how much is owed to the state and then electronically transfers funds into the state account every two weeks. Over 5,000 VLTs are now on the South Dakota system.

Roughly 90% of the state's VLTs are owned and serviced by coin operators and placement is restricted on to businesses licensed for on-premise consumption of alcoholic beverages.

New Brunswick and Newfoundland

Late in 1990, The Atlantic Lottery Corporation implemented the world's first multi-jurisdictional **Video Lottery** system using a multiple data base adaptation of the South Dakota dial-up system. In addition to performing all the functions of the South Dakota application, the multitasking system also is able to totally segregate New Brunswick operations from those of Newfoundland without duplicating computer hardware.

The system is designed to allow easy addition of the provinces of Nova Scotia and Prince Edward Island, Also clients of the Atlantic Lottery Corporation, should the provinces decide to implement video lotteries.

In New Brunswick, all VLTs are owned and serviced by coin operators under an agreement with the New Brunswick Lotteries Commission. Placement is restricted to five machines in a business licensed for on-premises consumption of alcoholic beverages and two machines in convenience stores. In Newfoundland, all VLTs are owned and serviced by the Atlantic Lottery Corporation itself.

II. VIDEO LOTTERY INTRODUCTION

Video Lottery, as envisioned by VLC, Inc., is a government regulated and controlled program whereby the government jurisdiction is responsible for ensuring fair play, that all public funds are fully accounted for and that the common public interest is being protected.

To provide this control and protection, three essential ingredients are necessary. First, game terminals must be designed to perform reliably and with safeguards against manipulation. Second, a centralized computer system must be capable of fully managing, auditing and detecting discrepancies in each terminal. Third, program policies must be socially acceptable and in the public interest.

Typically, gray area game machines have mechanisms which allows one to change the winning odds, do not provide accounting data or audit trails and, are unable to work as part of a central control and management system. Video Lottery terminals are substantially different; they are manufactured to work as part of a system controlled and audited by a central computer. Each terminal communicates with the system over standard telephone lines using "dial-up" technology.

Game terminals also meet performance and operating standards such as a guaranteed fixed minimum payback percentage, random game play and the electronic and paper recording of accounting and operating data.

Full public accountability is achieved through a comprehensive central control system which accounts for and audits every quarter, credit and game played, won or lost. All data is communicated directly to the system without opportunity for corruption. Inaccurate reporting (intentional or otherwise) or loss of data are precluded through computer safeguards.

Social acceptability of video games is especially important for a public lottery program. Discouraging compulsive behavior personalities is especially important and achieved through low prize and cost structures. Cost per game is typically 25 cents with ceilings on bets and prizes set by each state or province (e.g. \$100-\$125 maximum prize per 25 cent bet; \$2.00 bet limit).

In addition, it is important to prohibit progressive jackpots and limit the number of terminals (5-10) allowed at each licensed establishment. These measures keep the game in the realm of entertainment rather than becoming opportunities for high stakes gambling or environments for the proliferation of casinos.

Restricting play by minors is also important to control by allowing placement of games only in age controlled environments, such as licensed taverns.

Video Lottery revenues are generated from a high volume of play due, in large part, to payback percentages above 80%. During a play cycle an individual has a tendency to play back some of his original investment/winnings. The result, or "net revenue" is what is left in the machine after prizes are paid out.

Net revenues are then split among the vested parties, such as the state or province, coin operators and the retail locations. The government's share is usually set in law (15% in Montana) or by regulation (25% in South Dakota) and the remainder is split between the private sector parties as they determine.

III. OPERATING REQUIREMENTS

Unlike traditional lottery games, which earn revenues based on low volume and high margin, Video Lottery generates very substantial revenues from high volume, low margin games. The sheer number of games played are far greater than in conventional lottery games--consider that same two dollars that buys two conventional lottery games generates, on average, more than thirty Video Lottery games.

The number of Video Lottery terminals necessary to serve any given market are greater than the number of "on-line" lotto terminals for the same market. And, where conventional on-line capabilities are generally limited to about one-million transactions per hour, a Video Lottery program in a medium sized state will be managing more than 24 million transactions during peak hours.

This requires an operating, distributing and servicing system which is markedly different from anything now in operation in most state gaming and lottery programs.

Video Lottery requires its own central control system and game terminals and has some unique terminal distribution, terminal services and retail location characteristics.

Following are brief discussions of each:

A. Central Site

The North American Gaming Regulators Association's Standards on Coin-Operated Video Gambling Devices, recommends that game terminals communicate with a central computer to monitor performance, collect accounting data, conduct audits and provide financial management. NAGRA further recommends that communications be via standard telephone lines using "dial-up" technology as the most cost-effective method.

Compared to a stand-alone system (e.g. Montana), a central control program requires fewer employees, less paperwork, eliminates loss of revenue through skimming or other control problems and, maximizes revenue through efficient electronic collection of funds and investment opportunity.

Enforcement and regulatory requirements are also significantly reduced by the system. Tedious hand-auditing requirements necessary to verify the accuracy of reports are eliminated. The need to continually verify programs on computer chips to master chips is accomplished at a central computer console, not by on-site field checks. Undercover surveillance operations to detect skimming or under-reporting are unnecessary because daily polling minimizes any opportunity to tamper. A tampering attempt will show immediately on the system as a memory fault or error that is easily investigated.

Public confidence and trust in the system seems to have a significant effect the volume of player activity. The dramatic difference in elapsed time between Montana and South Dakota reaching equivalent levels of play is a case in point (see per capita revenues, FACT SHEETS). No doubt, the daily oversight provided through a centralized system is a major contributor to generating this trust in South Dakota.

Installation of a central site system can generally be accomplished in 60 working days or less.

B. Central Site Operation

To achieve the cost efficiencies of "dial-up" communications and the management of high volume game data, it is necessary for game terminals to perform some functions on their own, such as random game generation, and recording all play and operating events. The central computer, then, polls each terminal's data each evening, after business hours.

This allows for all data from a previous day to be compiled into report form by the morning of the next day and ready for staff review. The "polling" is an automatic process and does not require staffing.

A central site can be operated by a private contractor or the state itself. For South Dakota (population 696,000), the state-run central site is staffed by five full-time computer operators, a full time clerical/accounting position, and one-half of an administrator's time. More than 5,000 game terminals are currently enrolled on the system and significantly more growth can be accomodated before additional staff or system upgrades are necessary.

C. Administrative Overhead

Additional staff support for program administration and oversight are provided through one-half of an administrator's time, an accounting clerk, and three inspectors who perform background checks, on-site inspections and general investigations.

D. Terminals

Game terminals in either a "stand-alone" or "centrally controlled" system must be manufactured for those purposes. Machines typically found in the "gray-area" markets will not work. These machines cannot perform basic audit or security functions necessary in a legal program and past efforts to retrofit the machines have proven unsuccessful.

At least nine manufacturers are now licensed and producing terminals meeting standards set in South Dakota for operation, communication and audit controls. Because these standards are becoming universal for the industry and more manufacturers are in the process of designing terminals to meet them, they are a logical choice for any future jurisdiction considering a Video Lottery program.

E. Distribution & Service

The distribution and servicing of game terminals constitutes the largest burden in Video Lottery. It is estimated that for every 100 game terminals, at least one-half of a technician, one collector/clerk, one-fourth of a supervisor/manager and one and a half service vehicles are required for proper service and maintenance. In addition, overhead needs include shop, money counting facilities, offices, service and diagnostic equipment and parts inventory.

Conceivably, a state of two-million in population may support about 10,000 game terminals and require a work force of at least 225 just for terminal maintenance, not to mention the other overhead.

Montana and South Dakota use the private sector exclusively for the distribution, maintenance and placement of game terminals. Coin-operators in these states have proven to be effective providers of these services and have freed the states from establishing another organization to handle these needs.

F. Retailer Commission

Experience has shown that retail locations (i.e. taverns) play a critical role in maximizing sales by influencing the location and presentation of game terminals in their establishments. Experience also shows this occurs best when they significantly share in the profits.

Assigning a value to the point-of-sale space is difficult and Montana and South Dakota leave the matter of splitting revenue between locations and operators to private sector negotiations. Typically, however, the remaining revenue is split 50/50 between the retailer and the operator (for more information on revenue shares, see State Fact Sheets).

VLC's VIDEO LOTTERY SYSTEM

Copyright 1991

Background and Qualifications:

Video Lottery Consultants, Inc. (VLC) is the first, and only, supplier of a proven and implemented state-wide Video Lottery accounting, security, control and communications system.

The VLC dial-up system, which operates on an IBM System/88 mainframe computer, was designed as a comprehensive lottery system intended to provide a lottery or regulator, large or small, complete security, control and accounting for any potential number of Video Lottery terminals, locations, terminal operators and manufacturers.

VLC's experience with Video Lottery dates back to the design by company founders of the world's first Video Lottery control system. A number of these dial-up systems were installed and tested by local-option video lotteries in Nebraska, starting at Fort Calhoun in August 1983. The limited test system, which was quickly imitated by others, proved Video Lottery was a viable lottery product.

The test also proved that, for Video Lottery to be secure and controlled, a new system was needed which could provide far more comprehensive data reporting, radically improved terminal, communications and system security and mainframe-sized central computer control. In 1985, VLC was incorporated to design an entirely new system that fulfilled these needs. The new system was developed and, after competitive evaluation, was chosen and installed to control South Dakota's state-wide Video Lottery which started operations in 1989.

The VLC system is operated by the South Dakota Lottery on an intermediate-sized System/88, 4576 Processor Model 83 mainframe, as a regular part of its on-going lottery operations. The system has completed twenty-one months of fault-free, secure operation. In addition to being the first operational video lottery control system, it is also the third largest computerized lottery control system (of all different forms of lottery games) in the U.S., with 5,800 terminals currently on the system. As the industry's only operational dial-up lottery control system, the VLC system operates at a fraction of cost of a comparable on-line (dedicated telephone lines) system.

Because of these attributes, The VLC system was selected again in 1990 by the Atlantic Lottery Corporation to control the world's first multi-jurisdictional video lottery. It was configured to control video lottery games in The Canadian Provinces of Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island. Just as in South Dakota, the system has never suffered unscheduled down-time or a security breach in its eight months of operations.

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Key Dial-up System Features:

- Secure encrypted, timed, sequenced and validated communications.
- Complete reporting of terminal financial and operations data.
- Audits of terminal firmware and memory from central site.
- Control of terminal's ability to operate, hours and days of operation and game(s) offered to public.
- Flexibility to control from 100's to 100,000's of terminals.
- Multiple jurisdictions can be separately administered from a single site on either separate or combined data base(s).
- Economy of operation by use of conventional phone lines.
- Control of all major U.S. manufacturers' terminals.
- Automated billing and collection of governmental revenue using Electronic Funds Transfer (EFT) at operator and location levels.
- Integral licensing control and EFT collection of license fees.

Security

The VLC dial-up system employs a number of sophisticated communications security features including Data Encryption Standard (DES) scrambling of transmitted data, a method of data scrambling utilized by the Department of Defense. Validity of data is assured by packetizing of data, passing Cyclic Redundancy Checks (CRC's) over packets, sequencing packets, and timing packets. The securing of data transferred to and from terminals and the fact that the central site only calls out--it does not receive calls--makes the system immune to would-be hackers' attempts to compromise any data.

The VLC system has forced the creation of stringent new security standards for video lottery terminal manufacturers throughout the industry. Complete accounting of play and game statistics, logging of security-related events, regular communications as a precondition of operation, and EPROM Signature Checking capabilities are a few security measures that prevent tampering and keep terminals operating within strictly controlled parameters.

Most of the technology and data field requirements for accounting, security, control and communications are proprietary in nature and copyrighted by VLC. They are authorized for use by VLC within the particular jurisdictions which have legalized video lottery and the system is provided by VLC. To assure a competitive market where a multi-manufacturer system is dictated by law, VLC provides complete engineering assistance to manufacturers including: fully documented communications protocol; PC-based system emulation programs to assist in engineering and development of conforming communications; training sessions for engineers; and follow-up support for a limited period of time.

Terminals report to the central site with either automated system-wide polling or terminal-specific reporting on demand from system operators. For a typical VLC terminal, an average of 180 fields of data are reported to the central system. Data gathered includes financial information, game play statistics, terminal hardware and memory conditions/failures, times and dates of all door openings, tickets printed, values printed, power fails and similar events. The reported data is processed into reports that are available to management in hard-copy or on-line formats.

Each terminal on the system must be "enabled" by a polling call from the central system before it is capable of displaying a playable game. The enabling call from the central system assures that the terminal is in the exact location for which it is authorized. The call verifies that the terminal has a tested and approved firmware set which is only playable in an authorized manner, tells it which game(s) it can offer, what hours of operation are allowed and authorizes it to play for a predetermined number of hours. If the time authorized runs out before the terminal is polled again, the terminal automatically takes itself out of operation and can't be played until it is re-enabled by the central computer. This safeguards against theft and operation of the terminals in unlicensed settings.

The central site automatically audits the firmware programming of every terminal on the system, assuring the integrity of the entire system every day. Until this development in security, audits of terminal programs could only be done on a few terminals annually in a testing lab or in the field by a trained examiner. In addition to the automated firmware audit, a terminal's firmware can also be audited at any time via selective polling by any authorized system security or accounting user.

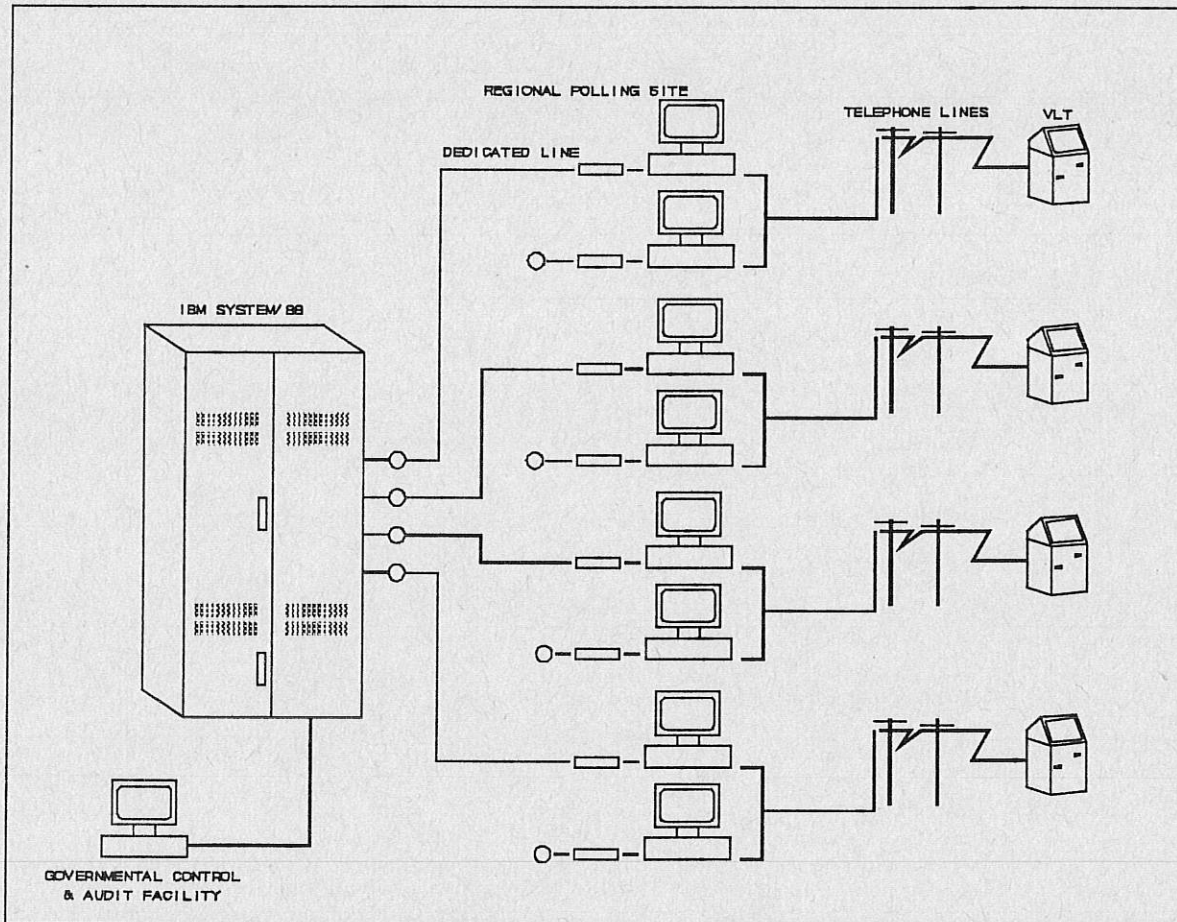
System Sizing, Expansion and Components:

The VLC system was designed around the IBM System/88 family of fault-tolerant mainframe computers. Our system software will operate equally well from the smallest System/88 mainframe, which controls up to 1,000 terminals, to an intermediate multi-module System/88 which controls 120,000 to 210,000 terminals. A number of multi-module mainframe systems may be linked into a networked operating system that retains a single-system image to the user. For all practical purposes, the VLC system will serve the largest user or user group imaginable.

The VLC System handles exponential expansion from start-up to market maturity. From an initial ratio of 1 terminal for 1,500 persons to market maturity at 1 for 100, VLC is able to provide non-disruptive horizontal growth by maintaining a single user image as multiple System/88 modules are added via the System/88 Link facility. This means the system will readily grow from 10 to 20 times its initial size without downtime or hardware and software conversion problems. It also means the system's initial size can be matched to the task, avoiding expensive or risky over-sized hardware installations.

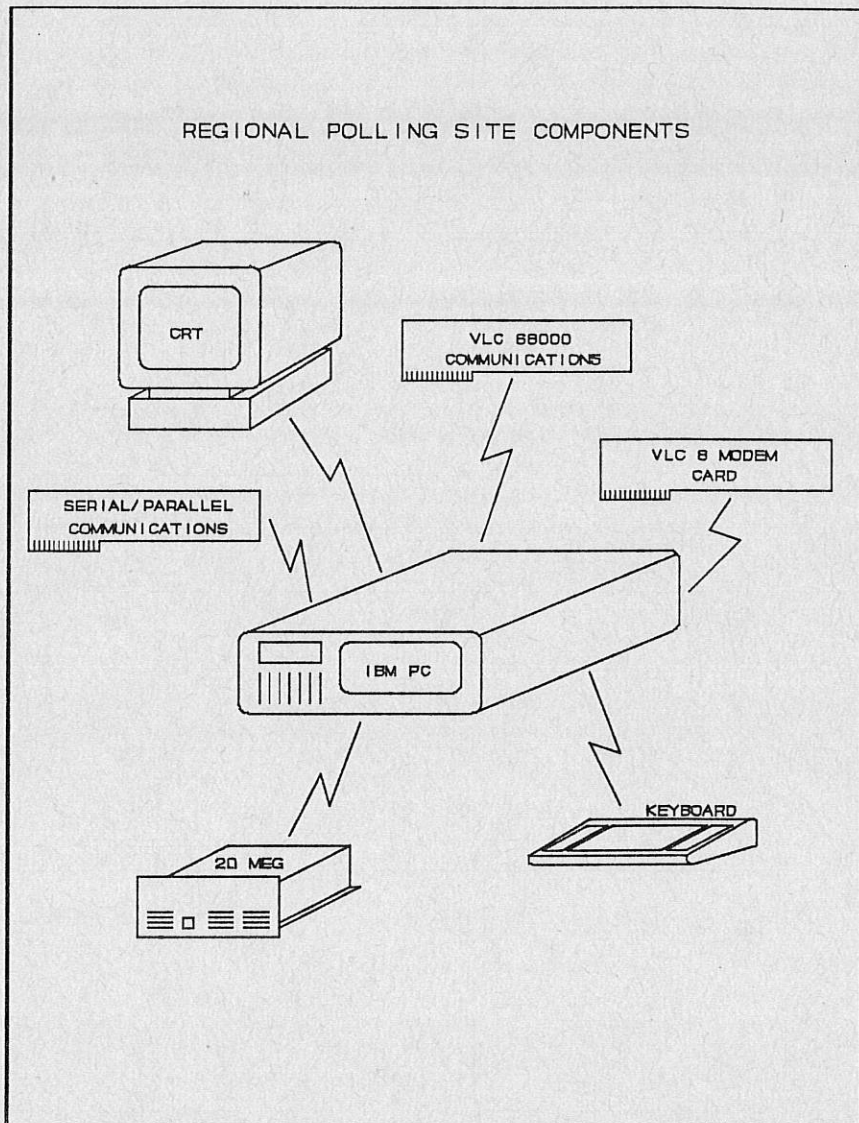
One or many jurisdictions can be placed on a single VLC system in a manner that is transparent to the system's operation. If it is desirable to separate accounting and reporting or operational characteristics of one jurisdiction (region, state, county or city) from the next, it can be done without creating multiple systems. Thus, local municipalities can be individualized with separate data bases and different local control standards within a single VLC central site installation.

Attached to the System/88 are one or more Regional Polling Site (RPS) systems which handle the direct communications with terminals over dial-up lines. The RPSs are generally housed at the central system site for security and maintenance purposes. However, to take advantage of potential communications savings by using local rather than long distance calling, their design allows for remote placement into areas of high local terminal concentration. VLC's design avoids the multiple security and maintenance risks associated with on-location system components and their negative impacts on system accounting and control.



VLC Video Lottery Control System Diagram

Each RPS has a polling capacity of approximately 150 locations and 500 VLTs per hour. South Dakota currently uses six RPSs for their entire system and maintain a primary polling window of less than two hours. A RPS is composed of a high-end personal computer, a proprietary VLC communications board set and six telephone communications lines. The communications board set handles the high speed direct connect link to the System/88 and controls six 1200 modems with fall-back capability to 300 baud.



VLC RPS Component Diagram

The RPS concept has proved to be very efficient and economical to operate. It works well in South Dakota in spite of the twenty+ different telephone companies and their mix of electronic and mechanical switching and transmission equipment. Atlantic Canada has presented similar challenges with under-sea, over-water and cellular modes of transmission in use and/or test. Advanced features incorporated into the system's operation allow it to abort a bad connection and automatically re-dial a number several times until a good connection is made. This results in a very low 1-2% non-polling rate, mostly related to out-of-order terminals.

Economy of Operation:

The VLC dial-up system is very economical to install and operate in comparison to either a conventional on-line system or a stand-alone system of non-communicating video machines.

Most of the costs of design, availability, installation delays and dedicated line charges encountered with an on-line system are not incurred with a dial-up system. Dial-up uses regular, in-place telephone facilities and greatly reduces communications traffic by avoiding central lottery pools and utilizing terminals capable of controlling all aspects of game-by-game play.

Only a single, basic telephone service line is needed at a video lottery retailer's location. Most telephone usage charges are eliminated by locating polling facilities in metro areas where the bulk of all terminals can be called using local access. Thrifty off-peak night polling is used for long-distance needs.

Stand-alone systems are risky and labor intensive. Any stand-alone system will be defrauded quickly and often regardless of safeguards. The cost of dial-up control is incidental when the lost revenues and labor costs of stand-alone are considered.

Because of multi-manufacturer requirements in both South Dakota and Atlantic Canada, all major manufacturers have installed VLC-based communications in their terminals. Consequently, VLC's system is the de facto universal control system for video lottery, making duplication of facilities to accommodate different terminal vendors unnecessary. The exhaustive testing and experience conducted by the lotteries since implementation assures absolute conformity to communications specifications by all manufacturers and removes the risks associated with an unproven system.

System Implementation:

With both installations, VLC staff was responsible for all phases of implementation of the video lottery systems and training of lottery staff. VLC is thus uniquely qualified and prepared to offer all needed information, specification, configuration and consulting needed to quickly and smoothly set up the administrative structure for a video lottery. This includes complete and proven forms, policies and procedures that encompass all possible situations that occur during a video lottery start-up.

VLC's implementation plans are complete. They include position descriptions for lottery operating staff, task and time boundary tables, acceptance testing, terminal communications support and testing, training, detailed disaster recovery plans and more. The plans are comprehensive and supported by fully documented procedural and reference manuals.

At the conclusion of installation and training, lottery personnel will be ready to take over complete operation of the system. In prior installations, VLC only provided minor assistance and support after start-up. The comprehensive nature of training make it unnecessary for VLC to be directly involved in system operation after start-up. After start-up VLC functions are generally limited to system support and advanced training assistance e.g., explaining step-by-step execution of first-time or

rarely used routines, such as daylight savings time adjustments or year-end backup procedures. For security and confidentiality purposes, VLC does not actually operate the system after acceptance and commencement of data input.

MONTANA DATA SHEET

(as of March, 1991)

Constitutional or Statutory Requirements

Structure: Game Terminals operate in stand-alone mode. Administered by the Department of Justice.
Payback Rate: Minimum 80% Actual 87-91%
State Share: 15% tax on net machine revenue.
Commissions: Left to the private sector to negotiate.
Games: Poker and Keno. Only one game allowed per terminal.
Limits: Bet limited is \$2.00.
Poker prize limit is \$100.00. Keno prize limit is \$100.00 per \$0.25 bet (effective maximum win with \$2.00 bet is \$800.00).

Operations

Implemented: July, 1985
Staff: 31 Full Time Equivalent (FTE) employees in the Gaming Bureau oversee all gaming. Approximately 75% of the workforce is dedicated to the video gaming area.
Budget: 1.5 million for video gaming control
Accounting: Paper reports are submitted quarterly by vendors and then transferred to the state's computer system requiring millions of manual entries and computations each year.
Control: No day-to-day control of operations. Information is often not available for a full quarter following the end of the quarter. On-site audits and undercover investigations are necessary to confirm vendor-supplied data.
Other Costs: Estimated \$130,000 per year in investment income is lost by using quarterly vendor deposits instead of twice monthly Electronic Funds Transfer(EFT). Additionally, press reports indicate significant skimming is taking place in Montana.

Revenues (weekly, per capita, net revenue)

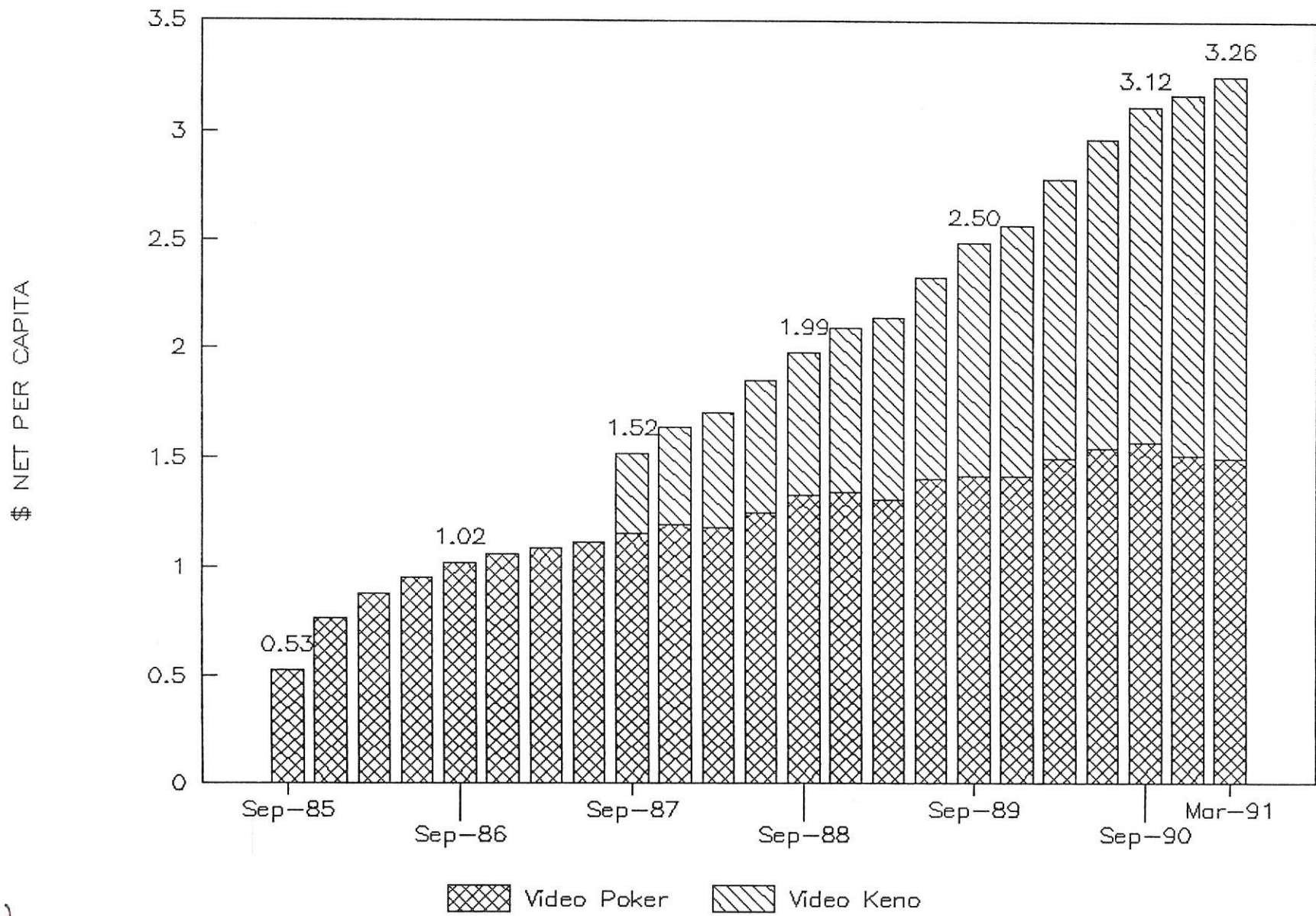
Latest: \$3.26 (ending March 31, 1991)
Fifth Year: \$2.71
Fourth Year: \$2.14
Third Year: \$1.68
Second Year: \$1.05
First Year: \$0.77

Licensing Fees

Manufacturer or Distributor: \$1,000/year
Each Video Gaming Machine: \$200/year

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MONTANA WEEKLY PER CAPITA REVENUE



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SOUTH DAKOTA DATA SHEET

(as of August, 1991)

Constitutional or Statutory Requirements

Structure: The State constitution requires the State to own and operate the program. The Lottery owns the central computer system and the games authorized for play on the terminals. Terminals are owned by the private sector.

Payback Rate: Minimum 80% Maximum 92% Actual 87-92%

State Share: As of Jan. 1, 1991, 25% of net revenues after prizes. Prior rate was 22.5%.

Commissions: Left to the private sector to negotiate.

Games: Poker, Keno, Blackjack, and line-up games (Bingo) authorized.

Limits: Bet limited to \$2.00.
Prize limit is \$125.00 per \$0.25 bet (effective maximum win with \$2.00 bet is \$1,000.00).

Operations

Implemented: System start-up on October 16, 1990

Staff: Ten (10) Full Time Equivalents (FTEs)

Budget: Fiscal Year 1990 requested \$658,000 from the Legislature. Investment earnings from semi-monthly collections reduced actual State expenditures by approximately \$150,000 annually.

Accounting: Fully automated, daily accounting. Funds are electronically swept (EFT) twice a month from vendors' accounts and deposited in a government account.

Control: Daily accounting detects discrepancies early. Every coin layed, collected, and deposited is accounted for each day. Terminals can be enabled and disabled from a central site console.

Other Costs: None.

Revenues (weekly, per capita, net revenue)

Latest: \$3.34 (week ending August 17, 1991)

First Year: \$1.98

Licensing Fees

Manufacturer or Distributor: \$5,000/year

Machine Operator: Greater of \$1,500 or \$100/machine/year

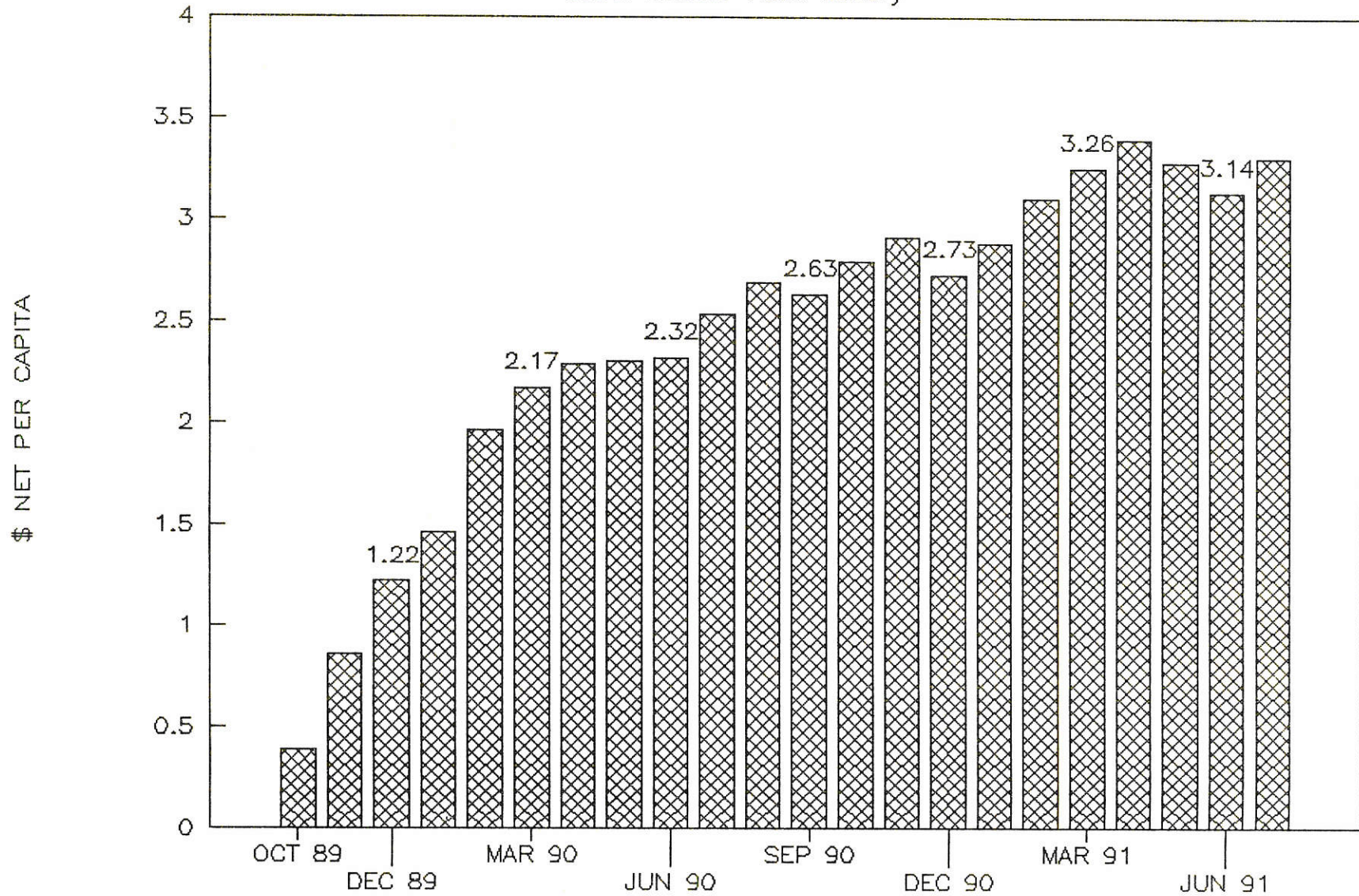
Licensed Establishment: \$50 with application

Economic Impact: Over 2,000 new jobs in corresponding industries created directly as a result of video lottery. The *South Dakota Labor Bulletin* February 1991.

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03-04-92

SOUTH DAKOTA WEEKLY PER CAPITA REVENUE

South Dakota Video Lottery





**STANDARDS
ON
COIN-OPERATED VIDEO GAMBLING DEVICES**

Adopted: May 17, 1990

House Taxation
Attachment 28
03-04-92

The standards contained in this report were developed with the assistance of the Amusement and Music Operators Association (AMOA). The following members of the North American Gaming Regulators Association (NAGRA) and AMOA are recognized for their contributions to the preparation and publication of this report.

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NORTH AMERICAN GAMING REGULATORS ASSOCIATION

Standards

on

Coin-Operated Video Gambling Devices

Developed in consultation with the Amusement Music Operators Association

PURPOSE:

Publication of the recommended standards should not be construed as an endorsement of this form of legalized gambling. These standards are intended to provide regulatory guidance to jurisdictions which are contemplating or have enacted legislation which permits the legal use of coin-operated video gambling devices.

INTRODUCTION:

The following recommended standards for Coin-Operated Video Gambling Devices were developed by the North American Gaming Regulators Association in consultation with the Amusement Music Operators Association; additionally, comments were provided by the American Amusement Machine Association. The assistance and cooperation of these two trade associations is greatly appreciated and was solicited in order to assure that the standards are sound on both a regulatory and a practical basis.

This document consists of two parts; the first contains the recommended standards. The second contains NAGRA and industry comments, identified by the related section number, which provide background or additional information regarding the discussion which led to development of the standards.

COIN-OPERATED VIDEO GAMBLING DEVICE STANDARDS:

SECTION 1. DEFINITIONS

AS USED IN THESE STANDARDS:

"DEPARTMENT" MEANS THE AGENCY, BUREAU OR OTHER REGULATORY BODY CHARGED WITH THE ADMINISTRATION AND ENFORCEMENT OF THE VIDEO GAMBLING DEVICE STANDARDS.

"GRAY AREA" DEVICE MEANS:

A. PRIOR TO LEGALIZATION OF GAMBLING DEVICES: A DEVICE THAT WHICH MAY NOT SPECIFICALLY HAVE BEEN DESIGNED FOR GAMBLING PURPOSES BUT IS ACTUALLY USED FOR GAMBLING, OR, CAN BE INTERPRETED TO BE A GAMBLING DEVICE DEPENDENT UPON WHETHER IT IS DEEMED A GAME OF CHANCE.

B. AFTER LEGALIZATION OF GAMBLING DEVICES: A DEVICE WHICH IS SIMILAR TO THE TYPE OF DEVICE WHICH HAS BEEN LEGALIZED BUT DUE TO SOME VARIATION, THERE IS A QUESTION WHETHER THE DEVICE CAN LEGALLY BE OPERATED OUTSIDE OF THE LICENSING SCHEME FOR AMUSEMENT PURPOSES, OR, CANNOT BE OPERATED UNLESS LICENSED.

"LOCATION AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN AN OPERATOR AND A LOCATION FOR THE PLACEMENT OF VIDEO GAMBLING DEVICES WITHIN THE LOCATION BY THE OPERATOR FOR USE BY THE PUBLIC.

"SUBSTANTIAL INTEREST" IN AN ORGANIZATION, ASSOCIATION OR BUSINESS MEANS:

A. WHEN, WITH RESPECT TO A SOLE PROPRIETORSHIP, AN INDIVIDUAL, OR HIS OR HER MARITAL COMMUNITY, OWNS, OPERATES, MANAGES OR CONDUCTS, DIRECTLY OR INDIRECTLY, THE ORGANIZATION, ASSOCIATION OR BUSINESS, OR ANY PART THEREOF; OR,

B. WHEN, WITH RESPECT TO A PARTNERSHIP, THE INDIVIDUAL OR HIS OR HER MARITAL COMMUNITY, SHARES IN ANY OF THE PROFITS, OR POTENTIAL PROFITS, OF THE PARTNERSHIP ACTIVITIES; OR,

C. WHEN, WITH RESPECT TO A CORPORATION, AN INDIVIDUAL OR HIS OR HER SPOUSE, IS AN OFFICER, OR DIRECTOR, OR THE INDIVIDUAL OR HIS OR HER MARITAL COMMUNITY IS A HOLDER, DIRECTLY OR BENEFICIALLY, OF 5% OR MORE OF ANY CLASS OF STOCK OF THE CORPORATION; OR,

D. WHEN, WITH RESPECT TO AN ORGANIZATION NOT COVERED IN (A), (B) OR (C) ABOVE, AN INDIVIDUAL OR HIS OR HER SPOUSE, IS AN OFFICER OR MANAGES THE BUSINESS AFFAIRS, OR THE INDIVIDUAL OR HIS OR HER MARITAL COMMUNITY IS OWNER OF OR OTHERWISE CONTROLS 10% OR MORE OF THE ASSETS OF THE ORGANIZATION; OR,

E. WHEN, AN INDIVIDUAL, OR HIS OR HER MARITAL COMMUNITY, FURNISHES 5% OR MORE OF THE CAPITAL, WHETHER IN CASH, GOODS OR SERVICES, FOR THE OPERATION OF ANY BUSINESS, ASSOCIATION OR ORGANIZATION DURING ANY CALENDAR YEAR.

SECTION 2. PAYBACK OR RATE OF RETURN TO PLAYERS

THE DEPARTMENT SHALL PRESCRIBE THE EXPECTED PAYBACK VALUE OF ONE CREDIT AWARDED TO BE AT LEAST 80% AND NOT MORE THAN 95% OF THE VALUE OF ONE CREDIT PLAYED. EACH VIDEO GAMBLING DEVICE SHALL HAVE AN ELECTRONIC ACCOUNTING DEVICE WHICH THE DEPARTMENT MAY USE TO VERIFY THE ELECTRONIC WINNING PERCENTAGE.

SECTION 3. BET LIMIT

3.A. A VIDEO GAMBLING DEVICE SHALL NOT ALLOW MORE THAN \$2.00 TO BE PLAYED ON A SINGLE GAME OR AWARD GAMES OR CREDITS IN EXCESS OF (\$500 TO \$1,000).

(The exact number is to be established by policy.)

3.B. A LOCATION SHALL PAY IN CASH ALL CREDIT OWED TO A PLAYER AS SHOWN ON A VALID TICKET VOUCHER.

SECTION 4. LICENSING SCHEME

4.A. EACH OF THE FOLLOWING ITEMS OR BUSINESS OPERATIONS SHALL BE REQUIRED TO OBTAIN A LICENSE:

i. DEVICE - EACH UNIT AND EACH LICENSE SHALL BE UNIQUE TO THAT DEVICE.

ii. LOCATION - EACH ACTUAL ESTABLISHMENT OR PREMISE WHERE THE DEVICES ARE LOCATED. A LOCATION SHALL ALSO BE REQUIRED TO BE ONE THAT IS LICENSED FOR THE ON-PREMISE CONSUMPTION OF ALCOHOLIC BEVERAGES.

(In recognition of jurisdictions where alcoholic beverage sales are prohibited, other placement restrictions may be considered. It is important that those options restrict the access of minors to the devices.)

iii. OPERATOR - ACTUAL OWNER OF THE VIDEO GAMBLING DEVICES. THE LOCATION AGREEMENT, BETWEEN THE OPERATOR AND THE LOCATION OWNER, SHALL BE IN WRITING AND A COPY OF THE AGREEMENT SHALL BE SUBMITTED TO THE DEPARTMENT.

iv. DISTRIBUTOR - REPRESENTATIVES OF MANUFACTURERS OF THE DEVICES BEING OPERATED WITHIN THE JURISDICTION.

(These are the persons selling or supplying devices to operators.)

v. MANUFACTURER - THE PERSON OR ENTITY WHICH ASSEMBLES, FROM SUBPARTS OR RAW MATERIALS, A COMPLETED DEVICE.

4.B. A PERSON SHALL NOT HOLD A LICENSE AT MORE THAN ONE LEVEL.

- i. LEVEL 1 a) MANUFACTURER.
- b) DISTRIBUTOR.
- ii. LEVEL 2 ROUTE OPERATOR.
- iii. LEVEL 3 a) LOCATION - OWNS THE EQUIPMENT OPERATED IN THEIR ESTABLISHMENT.
- b) LOCATION - DOES NOT OWN THE EQUIPMENT OPERATED IN THEIR ESTABLISHMENT.

4.D. FOR THE PURPOSES OF THIS SECTION, THE DIFFERENT MARKETING LEVELS SHALL BE:

- i. OPERATOR.
- ii. DISTRIBUTOR AND MANUFACTURER.
- iii. LOCATION.

4.E. THIS SECTION SHALL NOT PROHIBIT THE SAME PERSON LICENSED AND OPERATING AS A MANUFACTURER FROM BEING ALSO LICENSED AND OPERATING AS A DISTRIBUTOR.

4.F. EACH PERSON APPLYING FOR A LICENSE SHALL BE QUALIFIED TO HOLD THAT LICENSE. QUALIFICATIONS SHALL BE ESTABLISHED IN A MANNER THAT WILL INSURE THE HIGHEST INTEGRITY.

The above levels of licensing or permits are recommended. Further, it is strongly recommended that machine gambling be regulated at the state level. Consideration should be given to the issue of local controls and how much, if any, involvement is to be delegated to local government units, i.e. zoning, hours, etc.

The difference in these operations should be noted by a difference in the amount of the license fee. Consideration should be given to assessing a higher fee to the location owning their own equipment versus a location which does not own the equipment. This is due to their indirect competition with the route operator and the larger responsibility for maintenance of the devices.

The proposed licensing scheme limits the level of licenses that may be held by any one person. This restriction may result in persons attempting to conceal

their interest in a business in order to obtain licenses at multiple levels. The following language is recommended to resolve any questions regarding financial interest.

4.C. FINANCIAL INTEREST RESTRICTIONS

NO MANUFACTURER, DISTRIBUTOR OR OPERATOR OF VIDEO GAMBLING DEVICES OR ASSOCIATED EQUIPMENT SHALL:

i. HAVE ANY INTEREST, DIRECTLY OR INDIRECTLY, IN ANY OTHER OF THESE BUSINESSES OPERATING IN WHOLE OR IN PART AT A DIFFERENT MARKETING LEVEL.

ii. ALLOW ANY OF ITS OFFICERS, OR ANY OTHER PERSON WITH A SUBSTANTIAL INTEREST IN SUCH BUSINESS, TO HAVE ANY INTEREST IN ANY OTHER OF THESE BUSINESSES OPERATING IN WHOLE OR IN PART AT A DIFFERENT MARKETING LEVEL.

iii. EMPLOY ANY PERSON IN ANY CAPACITY OR ALLOW ANY PERSON TO REPRESENT THE BUSINESS IN ANY WAY IF SUCH PERSON IS ALSO EMPLOYED BY, OR REPRESENTS ANY OTHER OF THESE BUSINESSES OPERATING IN WHOLE OR IN PART AT A DIFFERENT MARKETING LEVEL.

iv. ALLOW ANY OTHER OF THESE BUSINESSES OPERATING IN WHOLE OR IN PART AT A DIFFERENT MARKETING LEVEL, OR ANY PERSON WITH A SUBSTANTIAL INTEREST THEREIN TO HAVE AN INTEREST DIRECTLY OR INDIRECTLY, IN IT.

v. HAVE ANY INTEREST, DIRECTLY OR INDIRECTLY, IN ANY BUSINESS OF ANY KIND IN WHICH ANY OTHER OF THESE BUSINESSES OPERATING IN WHOLE OR IN PART AT A DIFFERENT MARKETING LEVEL, OR ANY PERSON HAVING A SUBSTANTIAL INTEREST THEREIN, ALSO HAS A SUBSTANTIAL INTEREST.

vi. ALLOW ANY OTHER BUSINESS OF ANY KIND IN WHICH ANY OTHER OF THESE BUSINESSES, OR ANY PERSON HAVING A SUBSTANTIAL INTEREST THEREIN, TO HAVE ANY INTEREST, DIRECTLY OR INDIRECTLY, IN IT.

SECTION 5. NUMBER OF DEVICES PER LOCATION

THE MAXIMUM NUMBER OF DEVICES WHICH SHALL BE PERMITTED IN A SINGLE LOCATION SHALL NOT EXCEED 20.

SECTION 6. REVENUE USE

6.A. ALL REVENUE GENERATED FROM THE PLAY OF LICENSED DEVICES SHALL BE DEPOSITED BY THE LICENSEE INTO A SPECIALLY-CREATED, SEPARATE BANK ACCOUNT MAINTAINED BY THE LICENSEE.

6.B. ALL LICENSE FEE AND TAX REVENUE GENERATED FROM LICENSED ACTIVITIES SHALL BE DEPOSITED INTO A SPECIAL REVENUE ACCOUNT RESTRICTED FOR USE ONLY BY THE DEPARTMENT FOR:

i. THE ADMINISTRATION AND ENFORCEMENT OF THIS ACT AND THE TRAINING OF LAW ENFORCEMENT PERSONNEL IN THE INVESTIGATION OF ILLEGAL GAMBLING ACTIVITY; AND,

ii. TRAINING PERSONS LICENSED UNDER THE AUTHORITY OF THE DEPARTMENT.

6.C. AT THE END OF EACH FISCAL YEAR, ALL MONEY, INCLUDING INTEREST, IN THE DEPARTMENT'S ACCOUNT WHICH HAS NOT BEEN EXPENDED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE (DESIGNATE USE).

Specially designated bank accounts should be required of licensees to allow for electronic fund transfers of monies for tax payment. Such accounts also enhance accounting and auditing procedures as the monies are separated from other funds.

A reasonable license fee must be established for each level of licensing plus a percentage tax of revenues which will be retained by the jurisdiction to fund law enforcement programs and licensee training. It is suggested that the dedication of a portion of the funding for programs related to the treatment of problem or compulsive gamblers be considered.

SECTION 7. MACHINE SPECIFICATIONS

TO BE ELIGIBLE FOR LICENSURE, A VIDEO GAMBLING DEVICE SHALL BE DESIGNED TO MEET THE FOLLOWING MANUFACTURING SPECIFICATIONS:

a. THE DEVICE SHALL CONTAIN A PRINTER THAT AWARDS PAYOUT OR PRIZE VOUCHERS, PRINTS A PERFORMANCE SYNOPSIS OF THE GAMES PLAYED, AND CREATES AN EXACT AND IDENTICAL COPY OF ALL ITEMS PRINTED WHICH IS RETAINED INSIDE THE MACHINE.

b. THE DEVICE SHALL ONLY ACCEPT COINS AND CURRENCY. THE MAXIMUM VALUE OF CURRENCY WHICH MAY BE ACCEPTED IS (INSERT VALUE).

(If a value per credit of less than \$1.00 is desired, the quarter should be established as the coin to be accepted. If the value per credit is less than a quarter, a player must be allowed to purchase one credit to play by receiving a credit slip issued by the device for the difference between the quarter played and the actual value of one credit.)

c. THE DEVICE SHALL HAVE ELECTRONIC (SOFT) METERS AND MECHANICAL (HARD) METERS. THE ELECTRONIC METERS SHALL BE CAPABLE OF BEING PRINTED ON THE PRINTING MECHANISM.

d. THE MAIN LOGIC BOARD, THE PRINTED CIRCUIT BOARD CONTAINING GAME EPROMS (ERASABLE PROGRAM READ-ONLY MEMORY), SHALL BE ISOLATED IN A LOCKED AREA OF THE DEVICE. GAME EPROMS SHALL BE SEALED TO THE BOARD BY THE MANUFACTURER USING A PROCESS APPROVED BY THE DEPARTMENT. THE SEALING SHALL BE OF SUCH A TYPE THAT FIELD EXAMINATION OF THE EPROMS CAN OCCUR AND THE EPROMS CAN EFFECTIVELY BE RESEALED (I.E. SEALING TAPES).

e. EACH DEVICE SHALL HAVE A NON-REMOVABLE SERIAL NUMBER PLATE WHICH PROVIDES AT LEAST THE FOLLOWING INFORMATION:

i. MANUFACTURER'S NAME;

ii. MODEL;

iii. DATE OF MANUFACTURE; AND,

iv. UNIQUE SERIAL NUMBER OF THE DEVICE.

f. ALL ACCESS TO THE DEVICE SHALL BE CONTROLLED THROUGH LOCKS.

g. ALL DEVICES SHALL HAVE SURGE PROTECTION AND BATTERY BACKUP SYSTEMS.

h. ALL DEVICES SHALL PASS A STATIC DISCHARGE TEST OF AT LEAST 40,000 VOLTS.

i. THE GAME SHALL BE RANDOM AND THIS SHALL BE TESTED TO A 99% CERTAINTY.

Exact technical specifications should be designated to be established through the rulemaking authority of the regulating department. These rules should include at a minimum the above requirements.

SECTION 8. SYSTEM

A VIABLE COMPUTER-LINKED SYSTEM, (EITHER DIAL UP OR ON LINE) SHALL BE REQUIRED. THE SYSTEM SHALL INCORPORATE ELECTRONIC FUND TRANSFER PROCEDURES TO FACILITATE THE REVENUE COLLECTION PROCESS. THE SYSTEM SHALL INCLUDE REQUIREMENTS FOR BASIC DATA SYSTEM SECURITY. FURTHER THE SYSTEM SHALL PROVIDE FOR THE ENCRYPTION OF ALL INFORMATION BEING COMMUNICATED BETWEEN THE DEVICE AND THE COMPUTER.

The type of control system in which the devices are placed requires thorough consideration. The three available options are: stand-alone, dial-up computer system, or on-line computer system. The dial-up system is recommended.

SECTION 9. GRAY AREA DEVICES

THE FOLLOWING SCHEDULE SHALL BE FOLLOWED TO REMOVE ILLEGAL DEVICES FROM PLAY AND IMPLEMENT THE NEW LICENSING SCHEME FOR VIDEO GAMBLING DEVICES.

0	LAW ENACTED
1 - 3 MONTHS	AGENCY FORMED. RULE DRAFTING, HEARING PROCESS ON PROPOSED OPERATIONS, STANDARDS AND QUALIFICATIONS BEGUN.
4 - 5 MONTHS	EDUCATE OPERATORS ON GETTING DEVICES APPROVED, START LICENSING PROCEDURES INCLUDING MACHINE REVIEW.
6 - 7 MONTHS	EDUCATE OPERATORS ON GETTING "GRAY AREA" DEVICES OUT OF PLAY, PROVIDE FIRM DEADLINES FOR GETTING DEVICES OUT OF PLAY, HAVE LICENSING IN FULL OPERATION. EDUCATE LAW ENFORCEMENT ON LAW.
8 MONTHS	GET "GRAY AREA" DEVICES OUT OF MARKET, HAVE MANUFACTURERS LICENSED AND DEVICES APPROVED FOR OPERATORS TO PLACE COMMITMENTS FOR ORDERS. TO AVOID UNFAIR ADVANTAGE, NO APPROVAL SHOULD BE GRANTED UNTIL AT LEAST 2 MANUFACTURERS HAVE DEVICES QUALIFIED.
9 MONTHS	"GRAY AREA" DEVICES OUT OF PLAY. NEW DEVICES APPROVED. OPERATORS GEARING UP FOR START OF PLAY UNDER NEW LAW. NEW DEVICES MAY BE SHIPPED

TO DISTRIBUTORS FOR PREPARATION FOR PLACEMENT. THERE SHALL BE AT LEAST A 30 DAY PERIOD WITH NO DEVICES IN PLAY AT ALL TO PROVIDE A REASONABLE PERIOD OF TIME TO ASSURE THAT NO OVERLAP OF DEVICES OCCURS.

The process by which "gray area" gambling devices will be removed from play and replaced with approved devices must be established. A substantial penalty (felony and automatic denial of any future license application) should be established for persons found in possession of "gray area" devices after the 30 day "no play" period suggested above.

SECTION 10. DEVICE TESTING/INSPECTION

TESTING AND APPROVAL OF NEW VIDEO GAMBLING DEVICES AND ASSOCIATED EQUIPMENT -- FEE.

10.A. THE DEPARTMENT SHALL TEST ALL NEW VIDEO GAMBLING DEVICES AND ASSOCIATED EQUIPMENT WHICH ARE MANUFACTURED, SOLD, OR DISTRIBUTED FOR USE IN THE STATE BEFORE THE VIDEO GAMING DEVICE OR ASSOCIATED EQUIPMENT IS SOLD, PLAYED, OR USED.

10.B. A VIDEO GAMBLING DEVICE OR ASSOCIATED EQUIPMENT MAY NOT BE TESTED OR APPROVED BY THE DEPARTMENT UNTIL THE MANUFACTURER OF THE DEVICE OR ASSOCIATED EQUIPMENT IS LICENSED AS REQUIRED.

10.C. THE DEPARTMENT SHALL REQUIRE THE MANUFACTURER SEEKING THE TESTING AND APPROVAL OF A NEW VIDEO GAMBLING DEVICE OR ASSOCIATED EQUIPMENT TO PAY THE ANTICIPATED ACTUAL COSTS OF THE TESTING IN ADVANCE AND, AFTER THE COMPLETION OF THE TEST, SHALL REFUND OVERPAYMENTS OR CHARGE AND COLLECT AMOUNTS SUFFICIENT TO REIMBURSE THE DEPARTMENT OF UNDER PAYMENTS OF ACTUAL COSTS.

10.D. THE DEPARTMENT MAY INSPECT AND TEST AND APPROVE, DISAPPROVE, OR PLACE A CONDITION UPON A VIDEO GAMBLING DEVICE PRIOR TO ITS DISTRIBUTION AND PLACEMENT FOR PLAY BY THE PUBLIC.

10.E. A LICENSED VIDEO GAMBLING DEVICE AND THE LOCATION AT WHICH IT IS BEING PLAYED SHALL BE OPEN TO INSPECTION AT ALL TIMES BY AN AUTHORIZED EMPLOYEE OF THE DEPARTMENT OR BY THE STATE POLICE OR A PEACE OFFICER OF A SUBDIVISION OF THIS STATE. WHENEVER AN AUTHORIZED EMPLOYEE OF THE DEPARTMENT, THE STATE POLICE, OR A PEACE OFFICER OF A SUBDIVISION OF THIS STATE HAS PROBABLE CAUSE TO BELIEVE THAT ANY VIDEO GAMBLING DEVICE WAS OBTAINED FROM AN UNLICENSED MANUFACTURER, IS BEING OPERATED WITHOUT A LICENSE, OR FAILS TO MEET THE MANUFACTURING SPECIFICATIONS OF THIS ACT, HE OR SHE SHALL REMOVE AND IMPOUND THE DEVICE FOR THE PURPOSE OF TESTING AND DETENTION. THE DEVICE SHALL NOT BE DESTROYED EXCEPT PURSUANT TO COURT ORDER.

An initial device testing process is recommended. This process is separate from an on-going device inspection program which is also recommended. This testing is the process that qualifies a device for sale or operation within a jurisdiction and is the most effective form of front-end control over the device. In consideration of the recommendation for a dial-up computer system to which these games are connected, it is necessary that all devices be inspected prior to being placed into operation as a form of player protection and insures the device initially meets the requirements set forth in statute and rule. Further, all costs related to device testing should be assessed to the manufacturer of the device.

An on-going device inspection program must also be established to insure continued compliance with the law. Further, the department must be granted certain rights of inspection to complete this process.

SECTION 11. PLAYER PROTECTION

11.A. IF A DEVICE FAILS TO MEET THE SPECIFICATIONS AND REQUIREMENTS OF THIS ACT OR ANY RULE OF THE DEPARTMENT AT ANY TIME AFTER THE INITIAL PERMIT HAS BEEN ISSUED, THE LOCATION SHALL IMMEDIATELY REMOVE THE DEVICE FROM PUBLIC ACCESS UNTIL IT HAS BEEN ADJUSTED TO MEET ALL REQUIREMENTS.

11.B. A LOCATION SHALL PAY IN CASH ALL CREDITS OWED TO A PLAYER ON A VALID TICKET VOUCHER.

11.C. ALL PAYTABLES DISPLAYING PRIZES OR AWARDS SHALL BE PROMINENTLY DISPLAYED ON THE DEVICE.

11.D. THE DEVICE OWNER SHALL DISPLAY ON EACH DEVICE, OR IN A CONSPICUOUSLY VISIBLE PLACE, THE TELEPHONE NUMBER THAT CAN BE CALLED TO REPORT DEVICE MALFUNCTIONS OR COMPLAINTS.

11.E. THE DEVICE OWNER OR OPERATOR MAY ESTABLISH "HOUSE RULES" REGULATING THE OPERATION OR CONDUCT OF THE DEVICES PROVIDED THEY DO NOT CONFLICT WITH ANY ESTABLISHED BY THE DEPARTMENT.

SECTION 12. PENALTIES

Penalties for violations of the act and any rules promulgated under authority of the act must be established. Specific recommendations are not included as this is a policy decision due to the variety of criminal sanctions. The penalties should be set to agree with penalties for similar offenses in the particular jurisdiction. The department should be given the authority to resolve violations administratively through license suspension or revocation,

in addition to civil or criminal action, or both. (See APPENDIX I for excerpts from the State of Washington's gambling act for possible reference.)

SECTION 13. REGULATORY STRUCTURE

GAMBLING REGULATORY AGENCY

This structure deals with the elements of the control of gambling. Local law enforcement agencies continue to assume responsibility for dealing with unlawful gambling. This structure may be incorporated into a larger work unit. The addition of a commission may be considered.

APPENDIX II contains an example of a proposed commission structure that could oversee the work of the regulatory agency. This proposal was considered, but not adopted, by the State of Montana and is included for reference only.

The amount of staffing for this agency is dependent upon the amount of gambling to be regulated and the amount of funding support provided by the governing body. The total funding support should be generated from the gambling industry with no funding coming from the taxpayers. The agency is headed by a director and administration staff. The director rules on licensing applications, disciplinary matters, and policy issues. The heads of the three divisions shall provide support to permit the director to fulfill the powers and duties of the agency.

LICENSING DIVISION

A. DUTIES:

- PROCESS LICENSE APPLICATIONS
- PROVIDE PUBLIC INFORMATION
- TRAIN LICENSEES
- COORDINATE PREPARATION AND PRESENTATION OF STATUTE AND RULE PROPOSALS

B. STAFFING:

- ADMINISTRATOR, SPECIALISTS, SUPPORT STAFF

AUDIT/OPERATIONS DIVISION

A. DUTIES:

- RECEIVE AND ENTER DATA FROM REPORTS

- MANAGE DATA
- AUDIT REPORTS AND PROVIDE COMMENT
- PROVIDE SUPPORT TO OTHER DIVISIONS

B. STAFFING:

- ADMINISTRATOR, AUDITORS, SUPPORT STAFF

COMPLIANCE DIVISION

A. DUTIES:

- VISIT PREMISES OF LICENSEES FOR INSPECTION
- RECEIVE, INVESTIGATE, AND MAKE RECOMMENDATIONS ON ALLEGATIONS OF VIOLATIONS
- PREPARE AND PRESENT CASES FOR PROSECUTION OR HEARING
- COORDINATE ACTION WITH LOCAL LAW ENFORCEMENT AGENCIES
- PERFORMS OR OVERSEES TESTING OF DEVICES

B. STAFFING:

- ADMINISTRATOR, PEACE OFFICERS, DEVICE TESTING (LABORATORY) TECHNICIANS, INVESTIGATORS, ATTORNEYS, AND SUPPORT STAFF

In examination of special regulatory issues inherent to gambling, consideration should be given to the creation of a single regulatory agency with enforcement authority. This agency should have all responsibilities associated with control of the devices. An early commitment should be made to provide adequate enforcement staffing; inadequate funding for these programs insures a lack of success by the regulators. The above structure for such an agency is recommended.

SECTION 14. SHIPMENT OF DEVICES

ALL SHIPMENTS OF VIDEO GAMBLING DEVICES INTO THIS STATE MUST COMPLY WITH THE ACT OF THE CONGRESS OF THE UNITED STATES ENTITLED, "AN ACT TO PROHIBIT TRANSPORTATION OF GAMBLING DEVICES IN INTERSTATE AND FOREIGN COMMERCE," APPROVED JANUARY 2, 1951, BEING CH. 1194, 64 STAT. 1134, AND ALSO DESIGNATED AS 15 USC 1171-1177.

Strong regulatory controls over the shipment of devices to a jurisdiction are necessary. Control of the program is not possible unless the regulatory agency is able to control its borders. This control must include consideration of Title 15 USC (those portions referred to as the "Johnson Act").

SECTION 15. RECORD RETENTION REQUIREMENT

15.A. DEVICE OPERATION RECORDS, INCLUDING AUDIT TAPES, SHALL BE MAINTAINED AND MADE AVAILABLE FOR INSPECTION BY THE DEPARTMENT UPON REQUEST. THE RECORDS SHALL PROVIDE ALL NECESSARY INFORMATION THE DEPARTMENT MAY REQUIRE TO ENSURE OPERATION OF MACHINES IN COMPLIANCE WITH THE ACT.

15.B. DEVICE OPERATION RECORDS SHALL, BUT ARE NOT LIMITED TO, INCLUDE:

- i. THE ACCOUNTING TICKET REQUIRED TO BE MAINTAINED BY THIS ACT AND CORRESPONDING LICENSEE RECORDS CONTAINING THE PERFORMANCE SYNOPSIS OF EACH DEVICE; AND,**
- ii. THE EXACT COPY OF THE PRINTED TICKET VOUCHER AS PROVIDED BY DEPARTMENT RULES.**

15.C. THE LICENSEE'S RECORDS REQUIRED BY THIS RULE SHALL BE MAINTAINED IN THE STATE BY THE LICENSEE OR HIS OR HER REPRESENTATIVE FOR A MINIMUM OF 3 YEARS.

15.D. IF THE LICENSEE DOES NOT KEEP RECORDS AS REQUIRED IN THIS RULE, THE DEPARTMENT MAY ESTIMATE TAX BY UTILIZING THE BEST AVAILABLE METHOD.

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SECTION COMMENTS

The following comments are being provided solely for the purpose of providing background or additional information regarding the discussions which resulted in the development of the standards and may conflict with the recommended standards. Each comment is preceded by an identification of the source of the comments. "Committee" refers to a consensus of NAGRA and AMOA representatives and generally provides information regarding the related discussion. "Manufacturers" refers to several different device manufacturers whose comments were also received and considered by NAGRA.

Because a number of the recommended standards are actually in use in the South Dakota program, a copy of the South Dakota Lottery Act is included at APPENDIX III.

SECTION 2. PAYBACK OR RATE OF RETURN TO PLAYERS

COMMITTEE: The committee believed very strongly that in order to create a "fair game" and a "level playing field", both minimum and maximum percentages must be established. This allows a minimum rate of return a player could expect and reduces any unfair advantage that would be created by competition for the highest performance. Montana uses a minimum of 80%. South Dakota has a minimum of 83% and a maximum of 96% by administrative rule.

SECTION 3. BET LIMIT

NAGRA: NAGRA members felt that a maximum overall bet limit should be established to limit levels of play.

COMMITTEE: The committee opposed the possibility of devices that would be placed into play with higher limits because of the concern of "fair return" to the player. "Fair return" means that the ratio of return to the amount bet, and factoring in the level of chance (the statistical probability of obtaining the winning combination), is fair to the playing public. The same logic carried over to the establishment of maximum prize. Fair return will directly correlate to player satisfaction. The committee agreed that capping these items would also result in a reduced incentive to tamper with the games. This provides a useful, indirect regulatory control.

AMOA: AMOA recommended a maximum bet of \$2.50 and a maximum prize of \$250. Their representatives expressed concern over fixing prize limits and not being able to adjust them as the rate of inflation affects the value of money. They suggested that the controlling department should have the ability to adjust the prize limits.

MANUFACTURERS: Some prefer a higher maximum prize limit (\$1,000) for a broader selection of games, another felt it should be adjusted down (\$250 - \$500) in consideration of social acceptability and security impact and increased later if needed to stimulate play. Another commented that the minimum prize limit should be \$400 as it is less difficult to divide when percentaging an 8 coin

game (\$2.00) and generating an award schedule for maximum player appeal. It is also suggested that the location be allowed to pay winners by check in excess of a stated amount to provide better security for players as well as limiting the cash bank the operation will need to have on hand. South Dakota allows payments by check and also allows payment in lottery tickets.

SECTION 4. LICENSING SCHEME

NAGRA: In order to insure uniformity in enforcement and equal treatment of licensees regardless of their location within the state, it is recommended that the regulatory authority for statewide programs be assigned a state agency and not fragmented at local levels. As this area involves technical specifications, the burden on the industry can be significant if the rules vary by county, city, etc. Dedication of a portion of the revenue to local units for the active policing of illegal activities or the review of license applications is workable and provides local involvement where it is most appropriate.

COMMITTEE: The committee felt it was important that location agreements be completed in written form. Under no circumstance does the committee advocate the regulation of the terms of those agreements as this remains a business decision between the parties involved. Also, the regulating agency should recognize the suggested licensing scheme does not contemplate the unlicensed sale of the devices. A person may need to dispose of this equipment on an occasional or one-time basis, such as, a financial or lending institution that, as lien holders, receive equipment through default or foreclosure. The licensing scheme should provide, through policy or rule, a method that accommodates these circumstances.

AMOA: It is critical to recognize the need for prompt and accurate maintenance and servicing of the devices. Two levels of certification should be established, one for collectors and one for repair and maintenance technicians with the latter to receive training and certification through an AMOA-sponsored program.

MANUFACTURERS: One recommends having only two levels of licensing by moving the location which owns equipment to the same category as a route operator. A location would be under the same scrutiny as an operator and must be able to supply the same level of service to the players and the equipment. Another points out that the definition of manufacturer should refer to the manufacturer's representatives as these are the persons selling, supplying and servicing devices to operators.

SECTION 5. NUMBER OF DEVICES PER LOCATION

COMMITTEE: The committee felt it necessary to recommend a cap on machine numbers per location. Regardless of where the maximum level is set, the actual number placed in a location will be established by the demand of the market place. The committee would not support any higher number as it

believes this would represent a higher level of gambling activity and that is a policy decision of the jurisdiction concerned.

MANUFACTURERS: Manufacturers agree that a cap must be established and one questions whether 20 is too high as it may provide an incentive to establish locations solely for the purpose of gambling.

SECTION 6. REVENUE USE

COMMITTEE: The committee actively debated the suggestion of funding for programs related to problem or compulsive gamblers and due to the degree of controversy, decided to at least recommend that it be considered. The committee also realizes the strong revenue potential of device gambling. It believes that potential revenue should be subjected to a fair tax to support the program and assist the state in generating needed revenue. The amount of tax and its use are to be established by each state's legislature. Further, the committee recognized the increased impact such additional responsibilities would have on law enforcement and agree it is vitally important that enforcement programs are fully funded to assure the integrity of the activity. The committee further recognized that licensee training is critical to reduce violations caused by ignorance of the law, rules and procedures and to assist licensees (particularly when the licensee is a charitable organization) in establishing internal control systems to maximize their net return.

SECTION 7. MACHINE SPECIFICATIONS

MANUFACTURERS: One commented that regarding the denomination of coins, the language is very restrictive and will generate extra paperwork for locations wishing to operate devices at denominations less than 25 cents. The maximum bet level of \$2.00 should be a sufficient guideline for the number of coins bet per game. Another commented that sealing EPROMS at the factory level is cumbersome and prefers that the department inspectors seal the EPROM when the game is installed at the location; this also allows an inspector to determine and control when the game is to be activated. Another felt that sealing of EPROMS is unnecessary if an on-line computer system is used. The system will check the EPROM with each communication and not allow a device to operate if it is not correct.

SECTION 8. SYSTEM

NAGRA: The dial-up system is recommended for the following reasons:

1. Frequent gathering of data. There is no need to limit data gathering to monthly or quarterly cycles because of the expense relating to data handling.
2. Timely information. The performance of an entire jurisdiction is available every day. This allows a regulator to spot trends or problems as

they occur rather than weeks or months later. Any terminal on a dial-up system can be polled at any time and up-to-the-minute data is immediately available for the price of a few seconds telephone call.

3. Data entry of terminal information is fully automated. No expenses or delays are encountered by the need for data to be prepared by hand, sent to the regulator's offices, sorted and input by hand using data entry clerks.

4. Risk of human error is eliminated. There is no human intervention in the automated dial-up path from the terminal's computer to the regulator's central computer. This prevents frequent and costly errors that occur when forms are not completed properly or are misread by data entry personnel.

5. Complete reporting of each terminal's play, cash in/out performance, diagnostics and security daily or instantly from the central site. Information gathered and processed by hand from stand-alone terminals is limited to only the most basic income and play data.

6. Regulator receives complete control over terminals. By using dial-up, the central site can control each terminal's hours of operation, game menu, length of time it can operate without communications, analyze its functions, instantly poll memory and enable or disable it completely.

7. Tight security over all terminals and a drastically reduced need for technical field staff. The central system can interrogate terminals, check the validity of their programs to detect chip failures or gaffed games and gather time, date, values and changes to information. The central site is able to look at such events as resets of RAM, door openings, tickets printed and power-down conditions without having to send personnel into the field.

8. Timely and efficient collection of the jurisdiction's share of revenues. Use of Electronic Fund Transfers (EFT) within a few days of the end of a billing cycle gets the revenue into governmental coffers quickly. Billing cycles can be much shorter, e.g. biweekly instead of quarterly. Accounts receivable and delinquencies are virtually eliminated by use of EFT in combination with the ability to force compliance by being able to immediately shut off terminals with delinquent accounts.

MANUFACTURERS: It is noted that the recommended dial-up system accomplishes the same security as an on-line system at considerably less cost; the dial-up system accomplishes virtually the same security while the cost is absorbed economically by the operators and locations. One manufacturer recommends against giving the host system the ability to control game menu selection and feels this should be solely under the operator's control.

SECTION 9. GRAY AREA DEVICES

COMMITTEE: Regulators and AMOA representatives agreed that a strong enforcement stance, including criminal sanctions and the automatic denial of

any future licenses, should be taken during the 30 day, no play period. This is to insure the community and industry gets the message that proper controls are now in place.

MANUFACTURERS: All agreed with the proposed implementation schedule especially if coupled with a "dry run" to facilitate a smooth start up. One felt implementation could even be accomplished in less time.

SECTION 13. REGULATORY STRUCTURE

NAGRA: Determining whether to include a commission in the structure is a widely debated issue. In order to be effective, however, and not create unnecessary and duplicative administrative work, if a commission is established, it should be given specific duties and participate on an active basis, for example, hearing appeals of license denial. A part-time commission of political appointees with no background in the area who have no other function than to periodically meet and scrutinize work accomplished by others will only slow down the process, invite criticism and create extra work for the regulatory staff who need the time to complete their duties.

MANUFACTURERS: Regarding the commission concept, based upon experience with gambling regulatory agencies, it is recommended that only one regulatory body be involved to reduce confusion and increase efficiency. Determining which agency is controlling what entities and maintaining separation is difficult and usually results in duplication of responsibility, staffing and operating overhead. Regarding the testing of devices, one manufacturer recommends the use of an independent testing laboratory rather than setting it up within the state department. This will facilitate the approval process while eliminating an expense to the state in staffing and equipment.

*Greater K.C. Coin Laundry
And Cleaning Assn.*

March 2, 1992

Representative Joan Wagnon
Tax Committee Members
STATE CAPITOL
Topeka, Kansas 66612

Dear Representative Wagnon and Committee Members:

I represent the Greater Kansas City Coin Laundry And Cleaning Association. I also work seven days a week in my coin laundry so traveling to Topeka to testify in person before your committee is very difficult. I spoke with one of your legislative aides regarding the necessity of personally appearing before your committee to defend the current sales tax exemption that applies to coin laundries. He advised that there was little support for repeal of that exemption and little money to be raised if it was repealed. On that basis, I decided to send a letter rather than appear.

Basically, the position of the Greater Kansas City Coin Laundry And Cleaning Association is:

Unless you can figure out how to tax everyone on every load laundered in their own equipment at home, abandon Mrs. Finney's idea of singling out poor constituents and taxing them on every load they launder in public equipment.

Finding funds to implement court ordered fairness in educational opportunities should not come at the expense of creating unfairness in the cost of doing family laundry.

Thank you for your time.

Sincerely,



Sherry Quackenbush
Owner, Lenexa Coin
Laundry
13114 Santa Fe
Lenexa, Kansas 66215
913 541-1616

sq

House Taxation
Attachment 29
03-04-92

Testimony Before the
House Taxation Committee

March 4, 1992
Jim Ludwig, KPL Gas Service

Madam Chair and Members of the Committee:

I appear before you on behalf of KPL Gas Service (KPL), Kansas Gas and Electric (KGE), and Kansas City Power and Light (KCPL).

Because power plants are usually located in low-mill areas, we are confronted with large property tax increases under the provisions of HB 2891 and HB 2892.

Attached are spreadsheets that show the impact of this school finance proposal on each company. Conservatively estimated, KGE would face an increase over 1991 actual total school tax of \$8.6 million. KCPL's increase would be \$9.8 million. KPL's \$500,000 increase is modest by comparison.

Under the terms of the Kansas Corporation Commission's (KCC) merger order, the rates of KPL and KGE must not be integrated or mingled. This means that KGE customers would bear the entire burden of the \$8.6 million increase and that KPL customers could not.

We are aware how urgent it is to find an alternative method of school finance. For this reason, we offer the attached amendment. It allows us, without filing formal rate cases with the KCC, to pass on in rates increases or decreases in our property taxes caused by changes in rates or assessments.

This amendment will accomplish two things. First, though customers' bills will increase to pay for property tax increases, it will prevent a circumstance later where customers have to pay both the tax increase and the interest costs on the money utilities otherwise would have to borrow to pay for those increases. Second, it will assure utility shareholders that they will not have to bear the expense of increases if the KCC were to deny retrospectively inclusion of property tax liabilities in any future rate case.

House Taxation
Attachment 30
03-04-92

The Kansas Gas and Electric Company

Actual	Assessed value	Total School tax	Average levy
1989	415,837,995	12,666,744	30.46
1990	424,179,699	13,458,406	31.73
1991	447,871,117	16,670,672	37.22

Actual	Assessed value	General fund	Average levy
1990	424,179,700	10,799,224	25.46
1991	447,871,117	13,612,529	30.39

Projected		Assessed value	General fund	Mill levy
1991	General Fund	447,871,117	20,154,200	45.00
	Tier Two	447,871,117	1,719,825	3.84
	Tier Three	447,871,117	640,456	1.43
	Bond & Int	447,871,117	734,509	1.64
	Cap Outlay	447,871,117	1,563,070	3.49
	Misc Funds	447,871,117	434,435	0.97
Projected USD Total		447,871,117	25,246,495	56.37
Increase over 1991 Actual Total School Tax			8,575,823	19.15

General Fund 45.00 mill general fund levy.
 Tier Two 10 percent Local Option Budget (LOB).
 Tier Three 10 percent local enhancement budget.
 Bond & Int HB 2835: Bond and Interest assistance distributed according to USD's assessed values.
 Cap Out No change in current law.
 Misc Funds Actual 1991: levy for recreation funds, transportation funds, technology funds, etc.

	Residential	Commercial	Industrial
Current Typical Monthly Bill	77.15	1,013.21	16,023.49
Projected Typical Monthly Increase	1.09	13.72	216.90

Kansas City Power & Light Company

<u>Actual</u>	<u>Assessed Value</u>	<u>Total School Tax</u>	<u>Average Levy</u>
1991	343,507,023	9,942,931	28.946

<u>Actual</u>	<u>Assessed Value</u>	<u>General Fund</u>	<u>Average Levy</u>
1991	343,507,023	7,293,260	21.232

<u>Projected</u>	<u>Assessed Value</u>	<u>General Fund</u>	<u>Mill Levy</u>
1991 General Fund	343,507,023	15,457,816	45.00
Tier Two	343,507,023	935,812	2.72
Tier Three	343,507,023	950,689	2.77
Bond & Int	343,507,023	675,614	1.97
Cap Outlay	343,507,023	1,277,156	3.72
Misc Funds	343,507,023	407,350	1.19
Projected USD Total	343,507,023	19,704,437	57.36
Increase over 1991 Act. Total School Tax		9,761,506	28.42

General Fund	HB 2891: 45.00 mill general fund levy.
Tier Two	HB 2892: 10 percent Local Option Budget (LOB)
Tier Three	15 percent local enhancement budget applied to districts with high budget authority.
Bond & Int	HB 2835: Bond and interest distributed according to USD's assessed values.
Cap Out	No change in current law.
Misc Funds	Actual 1991: Levy for recreation funds, transportation funds, technology funds, etc.

The Kansas Power and Light Company

Actual	Assessed value	Total School tax	Average levy
1989	335,030,272	16,308,351	48.68
1990	337,282,061	17,507,922	51.91
1991	352,118,015	20,612,831	58.54

Actual	Assessed value	General fund	Average levy
1990	335,030,272	14,987,565	44.73
1991	352,118,015	17,820,841	50.61

Projected	Assessed value	USD funds	Mill levy	
1991	General Fund	352,118,015	15,845,311	45.00
	Tier Two	352,118,015	2,412,277	6.85
	Tier Three	352,118,015	697,194	1.98
	Bond & Int	352,118,015	904,943	2.57
	Cap Outlay	352,118,015	1,095,087	3.11
	Misc Funds	352,118,015	179,580	0.51
Projected USD Total		352,118,015	21,134,392	60.02
Increase over 1991 Actual Total School Tax			521,561	1.48

General Fund 45.00 mill general fund levy.
Tier Two 10 percent Local Option Budget (LOB).
Tier Three 10 percent local enhancement.
Bond & Int HB 2835: Bond and Interest assistance distributed according to USD's assessed value
Cap Out No change in current law.
Misc Funds Actual 1991: levy for recreation funds, transportation funds, technology funds, etc.

"The State Corporation Commission shall, upon application by any public utility as defined by K.S.A. 66-104, accept for filing and make effective within ten (10) days of such filing changes to rate(s) and tariff(s) in an amount equivalent to the total increase or decrease in tax due as a result of any change in tax rates or assessments imposed under this chapter, or amendments thereto, which amount shall be allocated by such public utility among its customer base, on the basis of a percentage of total bills, without regard to service classification."

HOUSE TAXATION COMMITTEE
HOUSE BILL 2891
Presented by Ronald R. Hein,
Hein, Ebert, and Rosen, Chtd.
on behalf of MESA, Inc.
March 4, 1992

Madame Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for Mesa. Mesa is one of the nation's five largest independent gas producers and currently has approximately 60% of its natural gas reserves in the state of Kansas.

Mesa and Kansas's other natural gas producers are impacted directly and significantly by the proposed 45 mill levy. The concept of a uniform mill levy sounds fair and equitable. However, the mill levy is only one portion of the formula. The mill levy is applied to the assessed value of property, and different classifications of property utilize varying classification rates. Kansas natural gas is currently assessed at the highest classification rate in Kansas, 50% above many other Kansas businesses.

Similarly, the concept of equalizing the tax burden among all Kansas citizens to provide uniform funding for elementary and secondary education is also appealing. However, the ad valorem tax is only one of the tax burdens which enters into the school funding equation. In order to achieve true equality, or parity of tax payment, the legislature must look at all taxes collected, and all rates, including rates of assessment.

In addition to property taxes, sales taxes, and income taxes, Kansas oil and gas producers pay a gross receipts tax, known as the "severance tax" on every unit of raw material they produce. The idea of a gross receipts tax in Kansas is not unique; a few other industries also pay a gross receipts tax. These other industries bear the tax at rates of approximately 1%-2%, and more significantly, these taxes are in lieu of other property taxes.

In comparison, Kansas gas producers pay a gross receipts tax at a rate of 7% in addition to property taxes, which for Mesa currently equates to an additional burden of 8% of gross natural gas income (for a 15% combined gross receipts tax). The 45-mill levy would increase Mesa's gross receipts tax to approximately 20%. Both severance and ad valorem taxes are levied on Kansas natural gas and are both determined in part by the amount of gas a business produces.

I don't believe any other Kansas industry comes close to bearing the gross receipts tax burden, which is levied on profitable and unprofitable businesses alike, that currently exists on natural gas producers. The proposed 45 mill levy will make this disparity even greater.

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To many, the "oil and gas" industry is viewed as being one industry. But the Kansas tax burdens of oil producers and gas producers are significantly different.

Based upon 1990 statistics, the total wellhead value of crude oil produced in Kansas was 50% greater than the total wellhead value of gas produced. However, it has been estimated that the ad valorem burden is about equal. This disparity of the tax burden as compared to gross revenues will increase under the 45 mill levy program, since oil is spread throughout the state, and for the most part, oil producers in the state will benefit by a 45 mill levy since most oil production is in districts which currently levy more than 45 mills. But, natural gas is heavily concentrated in one Hugoton Field where levies will go up 50% or more.

With respect to the severance tax, gas producers are levied at a rate of 7% of gross revenues; oil is taxed at a statutory rate of 4.33%, or about 40% less. In addition, the same 1990 statistics reflect that due to certain exemptions in the severance tax law, the actual effective rate of tax collected on 1990 oil production was 2.41%, which more closely approximates other Kansas gross receipt burdens. In contrast, the effective rate on gas production was 6.87%. The end result is that when viewed in relation to the value of production, natural gas producers bear a 285% greater severance tax burden than oil producers. When combined with the discrepancy on ad valorem taxes, this becomes astronomical. The current 45 mill proposal will make this even more egregious.

The original rationale in 1983 for the severance tax being imposed on natural gas at 7%, versus 4.33% on oil, was two-fold:

- 1) The severance tax on natural gas could be passed out of state to out of state consumers, pursuant to then existing federal regulation:

Since deregulation at the national level, it is no longer possible for natural gas producers to pass on the cost of a severance tax. Today the tax is directly on Kansas producers.

- 2) The Severance Tax in 1983 was set at 8% with a credit designed to recognize ad valorem taxes paid. The credit for ad valorem tax was 3.67% for oil, and only 1% for gas because of the low mill levies which were applicable on natural gas, which are primarily focused in the Hugoton Field.

The second rationale for the existence of the severance tax at the higher rate on gas has also been eliminated. When the severance tax was passed in 1983, the gas producer's credit for property tax was set at one percent, in recognition of the low ad valorem taxes in the Hugoton Field. This was done in an attempt to keep the combined ad valorem and severance tax burdens on oil

producers and gas producers equal. As indicated previously, this objective has been lost in the 1990's, e.g. gas producers presently carry a much greater tax burden. A 45-mill levy will make that burden even larger.

Most industries, when facing a tax increase, have the ability to increase the price of their product, reduce costs, or increase production in order to help mitigate the tax burden. None of these are true for the natural gas industry or for Mesa in particular.

The price of natural gas is determined to a large extent by the "spot market", which is influenced by national and international market forces. Kansas by itself cannot change this. Natural gas producers have already faced the difficult task of cost reductions. Mesa, for example, is operating with 35% fewer personnel than it had one year ago today. Consider what the impact on the Kansas economy would be if all businesses were forced to reduce their employees by 35%. Lastly, gas producers in Kansas cannot apportion increased taxes over a greater amount of product, because we are regulated by law as to how much gas we can produce.

Our recommendation is to help mitigate the impact on our valuable gas industry through corresponding measures to aid in the expansion of the business, or at least to curb the contraction. One badly needed measure is to reduce the natural gas severance tax burden to parity with that imposed on oil producers and/or the other industries on which gross receipts taxes are imposed.

This, coupled with a review of current production regulatory practices by the Kansas Corporation Commission will stimulate production and will generate some, if not all, of the dollars lost to the SGF by the decreased severance tax rate. Modification of certain rules and regulations by the KCC could increase the assessed valuation of the Hugoton field, recoup lost severance tax dollars, and encourage infill drilling. Providing incentives to complete the infill drilling already approved by the KCC would generate \$400 million in capital investment in Southwest Kansas. This results in more jobs, more taxes of all types, and more assessed valuation to benefit the region and the State.

In conclusion, Mesa strongly urges the legislature working in conjunction with the KCC to consider a program which expands the Kansas economic tax base, and not one which raises the burden on a shrinking industry. The result will be a benefit to Kansas producers, Kansas businesses, Kansas taxpayers, and Kansas school children through a strong educational system funded in a fair and equitable manner.

Thank you very much for permitting me to testify, and I would be happy to yield to questions.

REMARKS TO HOUSE ASSESSMENT AND TAXATION COMMITTEE

Jack Graves on behalf of

The Kansas Commission on Natural Gas Policy

K.S.A. 79-4219 provides for a credit against the severance tax of 3.67% for oil and 1% for gas, resulting in an effective severance tax rate of 4.33% for oil and 7% for gas.

The rationale in 1983 when the severance tax was adopted for differentiating between oil and gas was the then valid assumption that the severance tax could be passed on by producer and royalty interest owners to the gas consumers, many of whom were out-of-state. This assumption is no longer valid because of current FERC regulations, and the competitive marketing conditions that have developed as a result of the predominance of transportation arrangements whereby producers sell direct to brokers or end-users rather than to the pipelines, whose merchant function has diminished. A survey of pipeline systems indicates a current permitted pass-through of 0 for Peoples Natural gas, 4.6% on Williams Natural Gas on a system wide basis, 4.8% on Trident (previously Kansas Gas Supply Corp.), approximately 1% on Panhandle Eastern Pipe Line and up to 10% on Kansas Power & Light Company. All firms stress that no new or recent contracts provide for tax reimbursement and that it will be nonexistent January 1, 1993 when all gas becomes deregulated.

The fiscal impact of reducing gas to the effective oil rate is problematic, depending particularly on the price of gas. The consensus estimate of the Revenue Department in November presumed

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a 1992 price of \$1.45 per mcf, projecting revenue at the 7% rate of approximately 55 million dollars, which would result in revenue of about 34 million dollars at the 4.33% rate for a "loss" of nearly 21 million dollars. I understand the current unofficial consensus, based on realistic pricing data, would be more in the order of 13 million dollars.

Over 70% of Kansas gas production is from the Hugoton Field, which is characterized by relatively low ad valorem levies. If the 45 mill levy is adopted without severance tax relief, the resultant increase in production taxes will so adversely impact the gas producing industry as to stifle further exploration and future production.

Conservatively, it is estimated that the severance tax equivalent of adopting the 45 mill levy in the Hugoton area would average near 2%. The A. D. Little study for 1988 reflected a 1988 ad valorem tax burden, on a percent of production value basis, ranging from 4.5% in Stevens County to 11.4% in Stanton County. Obviously, the school levies have increased markedly since 1988. (See attached graph for increases from 1990 to 1991.)

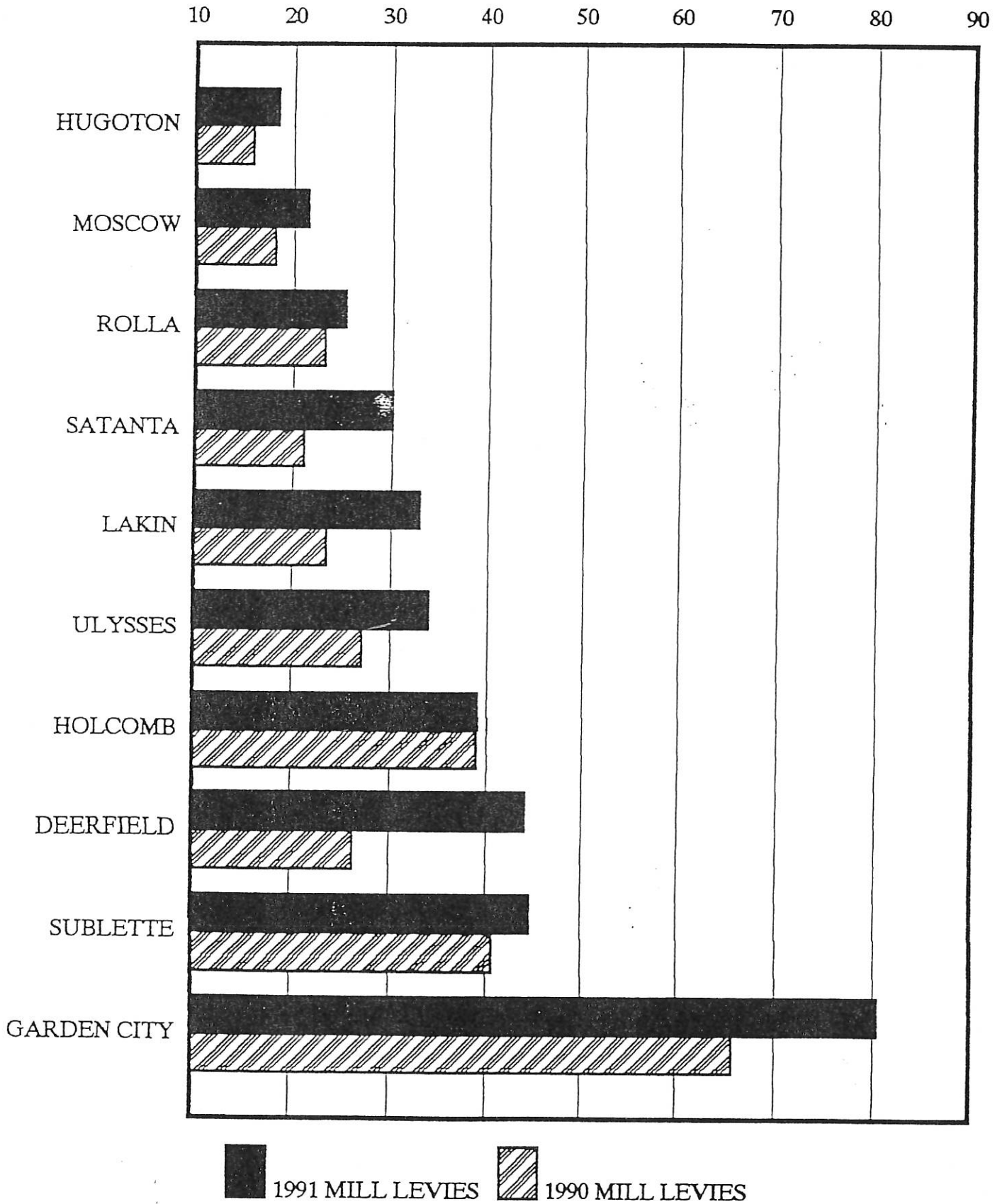
The resulting production tax on adoption of the 45 mill levy could range from 13.5% ($7 + 2 + 4.5$) to 20.4% based on 1988 ad valorem rates. Even if the gas severance taxes were reduced to 4.33%, the effective gross receipts tax would range from an estimated 10.83% to 17.71% utilizing the 1988 ad valorem rates.

This compares to an Oklahoma (45 mill) severance, in lieu of ad valorem tax rate of 7%. The Kansas tax burden would not only

be ruinous to the individual operators and royalty owners, but renders Kansas uncompetitive in the attraction of investment funds. We fear that Kansas gas exploration would come to a standstill if the 45 mill levy were adopted without severance tax relief.

The differential between the rate of tax on oil and gas is wholly unwarranted and should be ended by amending the provisions of Section 15(b) of House Bill 2999 into House Bill 2891. The same concept is the subject of Senate Bill 761 in the Senate Assessment and Taxation Committee.

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(913) 234-2728 Fax (913) 233-7991

Testimony

before the
House Tax Committee

Presented by Denny Burgess
Representing Southwest Kansas
Royalty Owners Association
Wednesday March 4, 1992

Madam Chair-person and members of the committee:

I am Denny Burgess appearing today for Bernie Nordling, Executive Secretary of Southwest Kansas Royalty Owners Association. Mr. Nordling appeared before the joint Tax and Education Committees on Feb. 13 and presented some 13 pages of testimony opposing HB 2891 and 2892. I think you all have that testimony, so in the interest of saving trees which are in short supply in Southwest Kansas I have not made 30 more copies of Mr. Nordling's statement. I have however provided a copy for the records of this committee.

In that testimony on February 13, Mr. Nordling expressed the very real concern that adding to the heavy tax burden on the oil and gas industry in the Hugoton Field could cause the major companies operating there to consider moving to other parts of the country for gas markets where prices and taxing structures are more attractive. On February 20, a news article in the Hugoton Paper verified Mr. Nordling's concern when Mobil announced plans to cut back production and exploration. There is still concern that other major companies operating in the Hugoton Field will follow suit.

We ask that you give very serious consideration to the economic impact of a 45 mill state-wide levy which would increase the tax burden even more on the oil and gas industry in Kansas. We would urge you to be extremely careful in developing any school finance scheme that separates the privilege of spending the money from the responsibility of raising the taxes to pay for it. There is always a loss of efficiency when the people spending the money view it as free money from some where else, whether it be Federal aid, State aid or aid from Southwest Kansas.

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We need only to think back a decade to the severance tax debates when we were told that this free money from the wealthy Oil & Gas Industry would solve all our problems. It was going to pay for our schools and build roads at no apparent cost to the average tax payer. I was a member of the House of Representatives at that time from a district with practically no Oil or Gas. I still could not support a severance tax, because I knew that we couldn't depend on it as a stable source of revenue for funding all these projects. And once the projected revenue was built into the various budgets there would be no way to turn back the clock. After I retired the severance tax was passed and my fears were soon realized. Many of you have had to face several major tax increases since the severance tax was passed.

I would urge you to oppose any state-wide levy at this time because it could not possibly work as long as we have so many problems with state-wide appraisals. We must have a system that keeps the responsibility for and control of education at the local level.

Thanks for the opportunity to speak to you about this important issue.

Mobil Plans To Cut Back Production, Exploration

The prospect of losing 20 to 30 per cent of the Mobil Exploration and Production, U.S. Inc. in Hugoton has been announced by the president of the firm speaking in Liberal recently.

Darlene Taylor, in charge of Exploration and Production Public Affairs in Dallas, confirmed the news as she affirmed that the officer talked to the employees concerning what the firm was looking at in operation and structure. A study has been begun to analyze their current structure and make changes to make their operation more efficient. Taylor indicates that the study has not been completed yet. No final decisions will take place before the second quarter of this year, she adds.

No matter what the final plans are, Taylor concedes that the operation here "will be quite smaller. As far as the impact on any particular area - it isn't firm yet." Beyond the production reductions, the exploration phase of their operation is expected to be trimmed by a larger amount.

Mike Schechter, who is in charge of the Mobil operation here, reports that there are 21 employees reporting to their office at this time.

Perhaps a strong factor in this development, besides the threat of much higher taxation, is the price of gas now. At \$1.00 mcf, the price is the lowest it has been in three years. The highest price recorded in this same time period is around \$2.30 mcf.



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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1400 MERCHANTS NATIONAL BANK BLDG. • TOPEKA, KANSAS 66612
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March 4, 1992

TO: House Committee on Taxation

RE: HB 2891 - School Finance

Now that we have heard proposals to raise money for school finance, our Association would like to make the following comments reflecting our concerns that will, hopefully, be of help to the Committee.

- 1) Imposition of a uniform school mill levy of 45 mills will greatly impact on natural gas producers, primarily located in the Hugoton gas field area in southwest Kansas. We were glad to hear Chairman Wagnon indicate that if the uniform mill levy is passed, it will require taking a careful look at the present taxation on the production of crude oil and natural gas. We think the solution to this problem is to lower the state severance tax on natural gas and lower the classification rate on oil and gas properties.
- 2) Elimination of the sales tax on services relating to original construction would include services related to the drilling of oil and gas wells. This exemption was authorized years ago to encourage drilling wells in Kansas, many of which are dry holes. The elimination of this exemption will have a negative impact on the ability to raise money and the decision to explore and drill for oil and gas in Kansas. We hope you will continue this exemption.
- 3) It will be impossible for the the oil and gas industry to comply with the revenue acceleration proposal. When the severance tax was enacted in 1983, a compromise of 50 days was permitted under the act for the payment of taxes. This was down from 60 days which the industry suggested. We understand the proposal now is for compliance within 20 days. Our industry cannot comply with that proposal, particularly as it relates to natural gas production. In prior years, when this has been suggested, our industry has been eliminated from the proposal.
- 4) Elimination of the sales tax exemption on natural gas and electricity used in production will negatively impact on the 3,500 licensed oil and gas operators in Kansas who are already overtaxed on their production. There are approximately 45,000+ pumping oil wells in Kansas, the vast majority of which are powered by electricity or gas. These wells often pump 24 hours a day, 7 days a week. The cost of power averages 50% of the cost of production. We urge you to not repeal this exemption.

Donald P. Schnacke

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MID-AMERICA LUMBERMENS ASSOCIATION

TO THE HOUSE TAXIATION COMMITTEE

TESTIMONY ON THE REPEAL OF EXEMPTION ON NEW CONSTRUCTION
MARCH 4, 1992

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Madame Chair, and members of the committee. My name is Art Brown, and I represent the 350 building material dealers in the State of Kansas. It is my pleasure to address you today as an opponent of the repeal of the exemption that currently exist on new construction. I will be breif and state the primary concerns we have with the repeal of this exemption.

We feel the committee needs to be made totally aware of some of the problems that are occuring in relation to the supply of raw product for construction. We are talking about lumber.

Currently, the supply of lumber is going through some severe price upheaveals that we do not see subsiding for some time.

Earlier this year, 7 million acres of prime timber land was put off limits to harvest due to preservationist efforts to protect the spotted owl, which has been listed on the endangered species list. You can get a feel for the problems this creates if a proportinate amount of wheat were taken off of harvest in Kansas. It does not take long to see what happens to the price of the remaining product, be it wheat or timber. For your convience to relay how this impacts housing, I have included in my testimony a press release available to our members, who can take this

information and pass it on to thier builders and consumers so that they can be made aware of this severe price spike, which will be in the market for some time. With this spike in supply pricing, you will note the scenario we utilize in showing how that impacts the pricing on a house. The average price used in this model may not be the average price in your area, but the numbers still work out the same. As you can tell, there is an impact on the price of a new structure, given the supply side of the quotient. The thought seems to be that this has an impact on housing. Allow me to elaborate on that statement. This supply side dilemma has an impact on all forms of housing. Apartments, which require more capital to construct, manufactured housing, and commercial building. The bottom line, is that there is a 7% added costs to all new stuctures because of the supply of raw product, and we do not see that costs coming down in the future.

Added to this would be the tax on labor for these new structures. No other surrounding State taxes the labor on new construction. We really feel Kansas does not need to break new ground in this area. The group that will get hit the hardest with this double negative effect is the one that can stand it the least - the new home buyer. Also affected are renters for apartments and multi-family housing.

An attempt is being made during this session to address housing needs in the State for the low-moderate income citizens with a new housing division that will be couched in the Department of Commerece. With the thought it is not to late to have such an effort, Kansas can now join the other 49 States who have such an entity. We as a group find it bad policy to put this program into place to help the people who desparetely need it, and one of the first things that they have to contend with is a component added to the costs that has not been there before, which could push the

price of their house out of their reach.

Developers who wish to build multi-family dwellings may have to reconsider the extra costs this puts on them. Many time, when new industry comes to Kansas, one of the first issues new employers would consider, is housing for their families. Simply stated folks, you have got to have it. Most of the families who would be coming to the State under such a situation would be moderate income to low income families who would want multi-family dwellings. They get no benefit from property tax relief, but still contribute to the economy of the community. This is not the direction good economic development pursues.

There have been 47 building material dealers who have gone out of business for assorted reasons since 1988. There is no one set location for this downfall, it is happening througout the State. There is not an arguement that can be used that would say that lifting this exemption on labor on new construction would be a positive step in the economic development housing creates.

With that thought, we would ask that you keep this exemption in place, particularly since there seems to be insufficient amount of confidence that the "minimum mill levee," will be kept where it is. The potential increase in property taxes that COULD exist, combined with higher supply and labor costs spells disaster for the postitive economic impact new construction provides.

I will stand to answer any questions the committee may have and thank you for the time you gave me to address you on this issue.

FOR IMMEDIATE RELEASE

For additional information contact:
Lana M. Leitner, 816-931-2102

Affordable Housing Is Dependent on Availability of Lumber

Nothing captures the American dream more than home ownership. Yet, over the past decade, home-ownership rates have declined for the first time in postwar history. Why then, has housing become unaffordable for millions. There are many reasons, but the main reason is because radical preservation groups favor "no-use" of America's forests.

Since the vast majority of homes built today are framed with wood and use wood for roof trusses, interior walls, moldings, siding, windows and doors, let alone cabinets and numerous other components common to most houses. The availability of wood products and the price of wood products ultimately effects what a home buyer pays for a new house.

The average single family house is constructed using about 13,000 board feet of softwood lumber and 10,000 square feet of wood panel products.

Construction costs vary by region, house size and design. However, most data suggest that wood products conservatively account for about 15 percent of the construction cost (material and direct labor) of a new house, and about 7 percent of the cost that is ultimately paid by the home-buyer. Last year, the median sales price for a new single-family house was about \$120,000. That means, \$8,400 (.07 x \$120,000) of the purchase price of the median-priced home is directly related to the cost of wood products.

With a 10 percent down payment, the typical mortgage on a \$120,000 house would be \$108,000. With a 10 percent interest rate, and average carrying costs for insurance and taxes, the monthly payment on this mortgage would be \$1,071. To qualify for this mortgage takes an income of \$45,900 (assuming a maximum payment-to-income ratio of 28 percent).

To show the relationship of wood costs to housing affordability, let's-assume that wood costs to construct the median priced home increase 20 percent; Assuming the added cost of these products is passed through to the home-buyer, the selling price would increase by \$1,680.

This higher purchase price represents an increase in mortgage debt of \$1,512 (.90x\$1,680) per year, or a little over \$13 per month. The minimum required income necessary to support this additional mortgage load is approximately \$570. This seemingly small amount of income actually affects large numbers of American households.

Press Release

An increase of \$570 to the minimum income necessary to support the monthly payment on the median price home (now \$1,680 more expensive), affects as many as 502,000 households with income that falls between \$45,900 and \$46,500.

At that income level, approximately 2.5 percent of households purchase new homes each year. This leaves 12,600 (502,000 x .025) potential home-buyers who would be locked out of the market, or have to settle for less house. Over ten years, that's 126,000 families being priced out of the housing market and out of the American dream.

Lumber used to manufacture houses comes from private and public forests, and unfortunately, many of our forests are being "locked up" for questionable preservation reasons and hence may not be able to continue to supply timber for the lumber we need.

From the tall Douglas fir stands of the Pacific Northwest to the piney woods of East Texas and the Northern forests of the Lake States and New England, the Sierra Club, Wilderness Society, Earth First and other radical groups are shutting down our nation's most abundant, renewable resource. They say we shouldn't cut down trees.

We say they're just plain wrong.

America's harvestable forests amount to only one-third of the nation's 730 million acres of forestland. But they provide a livelihood for millions of families, the wood we need for affordable houses, and paper for books and newspapers. At the same time, they provide habitat for wildlife, clean air and water, and recreation for families everywhere. And they can do all of this year after year, in endless cycles of harvest and renewal, to ensure there will always be forests for our children and grandchildren to use and enjoy.

SANTA FE RELOCATION PROJECT SCOPE

TOPEKA'S CURRENT PROGRAMS

- AIR BRAKE SHOP
- WHEEL/AXLE SHOP
- FABRICATION SHOP
- LOCOMOTIVE PAINT
- LOCOMOTIVE WRECK REPAIR
- FREIGHT CAR REPAIR

SAN BERNARDINO LOCOMOTIVE PROGRAM

- CLASSIFIED LOCOMOTIVE REPAIR
- LOCOMOTIVE SYSTEM SUPPORT

ALBUQUERQUE CENTRALIZED WORK EQUIPMENT

- HEAVY OVERHAUL OF ROADWAY EQUIPMENT
- ROADWAY EQUIPMENT COMPONENTS

NEW STRUCTURES AND FACILITY IMPROVEMENTS

\$ 4,475,000

RELOCATION, ENGINEERING AND TRAINING

\$ 3,766,000

<u>FACILITY</u>	<u>EMPLOYEES</u>	<u>ANNUAL PAYROLL</u>
Topeka System	435 Scheduled	\$ 14,370,000
Maintenance Terminal	24 Exempt	
San Bernardino System	263 Scheduled	\$ 8,890,000
Maintenance Terminal	20 Exempt	
Albuquerque Recess/ Work Equipment	42 Scheduled 8 Exempt	\$ <u>1,603,000</u>
	TOTAL	\$ 24,863,000

House Totation
Attachment 36
03-04-92

INPUT DATA

- * 332 new jobs in Topeka; to 795 jobs
- * \$24.853 million total payroll
 - \$31,274 wages per job
- * \$100 million operating budget for expanded activity
 - 20% of these purchases will be local - in Topeka
 - \$50 million will be new purchases and \$10 million will be new Topeka purchases
- * \$1.5 million maintains budget for expanded activity
 - All will be locally provided
 - \$0.75 million will be new purchases in Topeka
- * \$60 million capital budget for expanded activity
 - 20% will be local purchases; 50% will be new purchases
 - \$6 million will be new purchases in Topeka
- * Expenditures not included - one time
 - New structures and modifications
 - Relocation and training

INPUT DATA - Obtained from Variety of Sources

* Business activity in Topeka	\$ 4,445,360
* C & I real property assessment ratio	.3
* Assessed value of C & I realty, Topeka	\$ 263,326,246
* C & I personal property assessment ratio	.2
* Assessed value of C & I property, Topeka	\$ 61,203,604
* Topeka sales tax rate	.01
* Retail and services sales in Shawnee County	\$ 1,488,384
" " " " " Topeka	\$ 1,450,525
* Sales tax collections in Shawnee County	\$ 55,496,389
* State sales tax rate	.0425
* Topeka property tax rate	.167
* Shawnee County population	160,076
* Shawnee County ratio of households to population	.407
* Topeka personal income	\$ 3,058,577,397

* Personal property taxes, non business, Shawnee County	\$ 1,720,419
* Assessment ratio for homes	.12
* Topeka employment in impacted industries	52,400

Assumptions required for this analysis

* % of new employees who rent	20%
* Rent paid per month	\$ 500
* Portion of wages that is spent locally	.6
* Purchase factor	.75
* Income factor	.65
* Value of S.F. employees' homes owned	\$ 70,000

ECONOMICS ANALYSIS

B-1.1.1.1	Rental expenditures of S.F. employees $.2 \times 332 \times \$500 \times 1.2 = \$396,400$
B-1.1.1.2	Non-housing expenditures of S.F. employees $332 \times \$31,274 \times .6 = \$6,229,781$
B-1.1.1.3	Housing expenditures of homeownership S.F. employees $.8 \times 332 \times \$200 \times .12 = \$638,440$
B-1.1.1	Topeka expenditures of S.F. employees $\$398,400 + \$6,229,780 + \$637,440 = \$7,265,621$
B-1.2	Topeka expenditures by S.F. employees $\$10M + \$.75M + \$6M = \$16,750,000$
B-1	S.F. related Topeka expenditures $\$7,265,620 + \$16,750,000 = \$24,015,620$
B-2	Purchases from Topeka sources by Topeka businesses in support of their S.F. sales $.75 \times \$24,015,620 = \$18,011,716$
B-3	Purchases from Topeka from S.F. income $.65 \times \$24,015,620 = \$15,610,154$
B-1	S.F. related Topeka business volume $\$24,015,620 + \$18,011,715 + \$15,610,153 = \$57,637,488$

- B-2.1 Value of Topeka business real property invested to S.F. related businesses

$$\frac{\$ 57,637,488}{\$4,445,360,000} \times \frac{\$263,326,246}{.3} = \$11,380,753$$
- B-2.2 Value of Topeka business personal property directed to S.F. related businesses

$$\frac{\$ 57,637,490}{\$4,445,360,000} \times \frac{\$61,203,604}{.2} = \$3,967,758$$
- B-2.3 Value of Topeka business property directed to S.F. related businesses

$$\$11,380,753 + \$3,967,757 = \$15,348,511$$
- G-1.1 S.F. related sales taxes paid to Topeka government

$$0.01 \times \$57,637,490 \times \frac{1,450,525}{1,488,384} \times \frac{\$ 55,498,389}{.0425} = \$165,006$$
- G-1,2,1 Additional valuation taxes paid to Topeka governments by S.F. related businesses

$$.167 \times \frac{\$ 57,637,490}{\$4,495,360,000} (263,326,246 + \$61,203,604) = \$702,699$$
- G-1.2.2.1 Personal property taxes paid to Topeka governments by S.F. employees

$$\frac{\$ 1,720,419}{160,476,407} \times 332 = \$ 8,718$$
- G-1.2.2.1 Real property taxes paid to Topeka governments by S.F. employees

$$.8 \times 332 \times .167 \times \$70,000 \times .12 = \$372,584$$
- G-1.2.2 Additional valuation taxes paid to Topeka governments by S.F. employees

$$\$8,718 + \$312,584 = \$381,302$$
- G-1.2 S.F. related additional valuation taxes paid to Topeka governments

$$\$702,699 + \$381,302 = \$1,084,001$$
- G-1 S.F. related revenue received by Topeka governments

$$\$165,006 + \$1,084,001 = \$1,248,007$$
- I-1 Number of jobs attributable to S.F.

$$332 + (52,400 \times \frac{\$ 57,637,480}{\$4,445,360,000}) = 1,011$$
- I-2 Personal Income attributable to S.F.

$$\$12,432M + \frac{(\$3,058,577,397 \times \$57,637,488)}{\$4,445,360,000} = \$52,066,794$$

Source: University of Kansas Department of Economics