

Approved: 3-26-96
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:10 a.m. on March 14, 1996 in Room 519-S of the Capitol.

All members were present except: Rep. Lawrence

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Rep. Vincent Snowbarger
Bob Corkins, Kansas Chamber of Commerce & Industry
Cedric Moege, Kansans for Equal Property Taxation
Dr. Larry Fischer, Kansans for Fair Taxation, Inc.
Dee Likes, Kansas Livestock Association
Hal Hudson, Kansas Federation of Independent Business
Karen France, Kansas Association of Realtors
Bill Bornholdt, Hutchinson
Ron Hein, Mental Health Credentailing Coalition
Dennis Jones, Kansans for Local Control

Others attending: See attached list

Chair opened hearing on:

HB 2908 - School district property tax levy rates

Proponents:

Rep. Vincent Snowbarger (Attachment 1)
Bob Corkins, Kansas Chamber of Commerce & Industry (Attachment 2)
Cedric Moege, Kansans for Equal Property Taxation
Dr. Larry Fischer, Kansans for Fair Taxation, Inc. (Attachment 3)
Dee Likes, Kansas Livestock Association (Attachment 4)
Karen France, Kansas Association of Realtors (Attachment 5)
Bill Bornholdt, Hutchinson (Attachment 6)
Ron Hein, Mental Health Credentailing Coalition (Attachment 7)

Written testimony only:

Roland E. Smith, WIBA (Attachment 8)
Alan Steppat, Pete McGill & Associates (Attachment 9)
Hal Hudson, Kansas Federation of Independent Business (Attachment 10)

Neutral:

Dennis Jones, Kansans for Local Control (Attachment 11)

The first portion of the meeting adjourned at 10:30 a.m. and reconvened at 1:10 p.m. to continue hearing testimony. The second portion adjourned at 1:30 p.m. and Chair announced hearings would continue at 9:00 a.m. on March 15.

The next meeting is scheduled for March 15, 1996.

Attachments - 11

TAXATION COMMITTEE GUEST LIST

DATE: MARCH 14, 1996

NAME	REPRESENTING
Bill Bornholdt	Ks. TAXPAYERS NETWORK
Bill Fuller	Kansas Farm Bureau
Leah Bigley	Student
Harold Pitts	OBSERVE
Bob Corkins	KCCI
Patrick Hurley	KCC/KRC
Mark Tallman	KASB
James	KANSAS FOR LOCAL CONTROL
Bill Light	" " " "
Walter Shuman	Kes Livestock Assn
Lee Sand	Blue Valley Schools.
Helen Stephens	BV USD 229
Don Reynolds	Law Valley 321
Frances Kastner	Ks Food Dealers Assn
Christy Caldwell	Topeka Chamber of Comm
Ken Baker	4th Enrollment USD's
Jim Allen	KFLC
Bernie Koch	Wichita Area Chamber
Wane Holstrom	Western Resources

TAXATION COMMITTEE GUEST LIST

DATE: MARCH 14, 1996

NAME	REPRESENTING
PATRICK LOWRY	KANSAS CITY KANSAN
JASON PITSCHEBERG	RGC
Harriet Lange	Ks Assn Broadcasters
HAL HUDSON	NFIB
Christy Bailey	Senator Kahr
RICHARD BODEWAD	TAXPAYERS
Larry Fischer	Citizen KFFT
Cedric Moege	Kansans for Equal Pay & Low Tax
John R. Kern	Snowbanger
Michelle Butler	"
DAU HERMES	BUDGET
G. Hobson	Eagle
S. Sicilian	KDOR
Ron Heim	MESA
Dee Libes	KLW
Shannon Lee	ALT
Bill Juwee	BOEING

HOUSE OF REPRESENTATIVES
STATE OF KANSAS

REPRESENTATIVE, 26TH DISTRICT
JOHNSON COUNTY
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TOPEKA, KANSAS 66612-1504
(913) 296-7662



TOPEKA

VINCENT K. SNOWBARGER
MAJORITY LEADER

COMMITTEE ASSIGNMENTS
CALENDAR AND PRINTING, CHAIRMAN
INTERSTATE COOPERATION
LEGISLATIVE COORDINATING COUNCIL

TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE
March 14, 1996

H.B. 2908 - PHASE-OUT OF 35 MILL LEVY

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present H.B. 2908 to you today. Property tax has, until 1992, been a tax used by local government to support the services offered at the local level. Statewide implementation of a statewide property tax in 1992 was supposed to help relieve the property tax burden at the local level. While some localities did see some initial relief, the mill levies have risen again at the local level. Some localities actually saw significant increases after the 1992 implementation.

There are a number of problems with this statewide levy. Property taxes have little relationship to the ability of people to pay. I am also convinced that the statewide levy has created a number of problems related to appraisals as well as redefine the arguments about issues such as tax abatements.

The state should get out of the property tax business. Last year we began this process with our reductions in car taxes. A number of House members also agreed last year when they supported the concepts contained in S.B. 41. One of the concepts in that proposal was a recognition that while we would like to get rid of the property tax, it can not be done immediately without replacement revenue.

Last summer and fall, I became intrigued by the idea being promoted by Chairman Kline that we might be able to grow out of the reliance on the 35 mills. When no specific proposal was forthcoming, I had H.B. 2908 drafted so that the issue would be on the table for discussion. I think if you look at the figures presented in the attached materials, you'll find that the idea in some form is indeed possible.

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This bill would phase out the 35 mill statewide property tax over a period of 9 fiscal years. Beginning in FY 1997, the mill levy would be reauthorized at 33 mills. The next year the mill levy would drop to 30 mills. Over the next six years the levy would drop by 5 mills per year until the entire 35 mills is gone.

There are some basic assumptions on which the bill is based. First, the growth rate for the first four years is the same as the Governor's assumptions. The rate for the years beyond remain at the 4.4% rate. I have taken out all spending assumptions because those are issues that the Legislature and the Governor decide yearly. It further assumes that the Legislature and the Governor can keep spending growth to an average of 2% per year.

The bill does not reduce the state's commitment to fund public education. The base budget per pupil is not affected. As a school district raises less from the reduction of the 35 mills, the state makes up the deficit. It is for this reason that I have phased out the mill levy rather than just removing it. If it is removed completely, state revenues would be insufficient to meet our commitments.

This plan is a very modest proposal. The relief in the early years may not be as much as some would like. It is a rational and cautious approach. It not only retains the state's ability to meet its commitment to education, but it also allows growth in government spending. In the event of unforeseen problems, it can be revisited each year and must be reviewed every two years. If needs should arise, the Legislature can postpone a scheduled reduction.

Thank you for your consideration of H.B. 2908.

SNOWBARGER TAX PLAN

HIGHLIGHTS

- ★ This is a \$3.133 billion tax cut over the next ten years.
- ★ This property tax relief bill is the largest tax cut in the history of Kansas.
- ★ Under this plan, state spending will continue to increase. In fact, the cumulative state spending increases will amount to \$3.352 billion, \$219 million more than in tax relief.
- ★ The cumulative per-capita tax relief amounts to \$1,170 savings for every man, woman, and child in the State of Kansas over the next ten years.
- ★ Government spending will be allowed to increase under this plan.
- ★ The school finance formula *will not* be disturbed by this tax cut as the state will retain its responsibility to finance education.

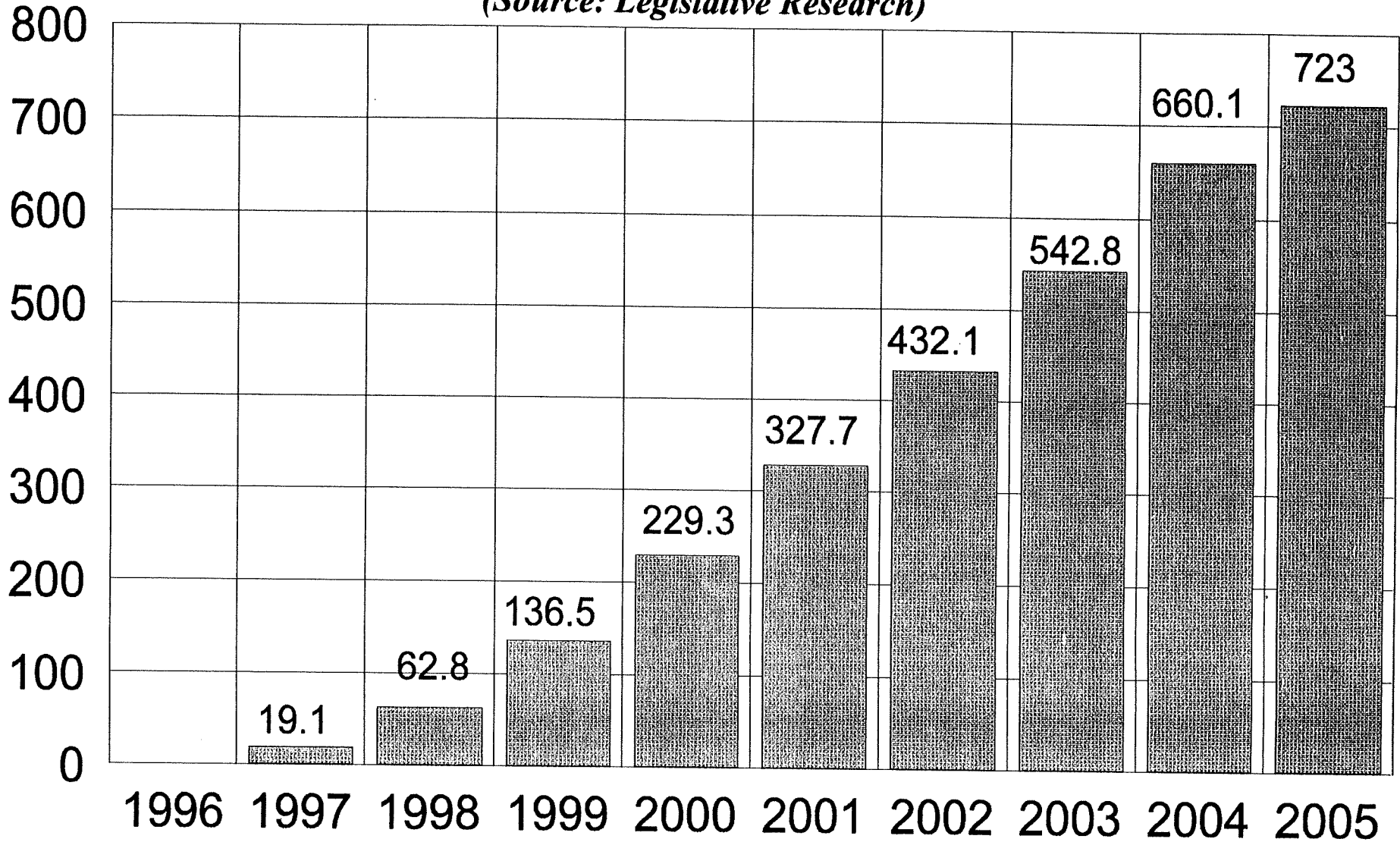
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House Majority Leader Vince Snowbarger
381-W State Capitol
Topeka, Kansas 66612
913-296-7662

Property Tax Relief Under Snowbarger Plan

(Source: Legislative Research)

Dollars
(in millions)



Property Tax Relief

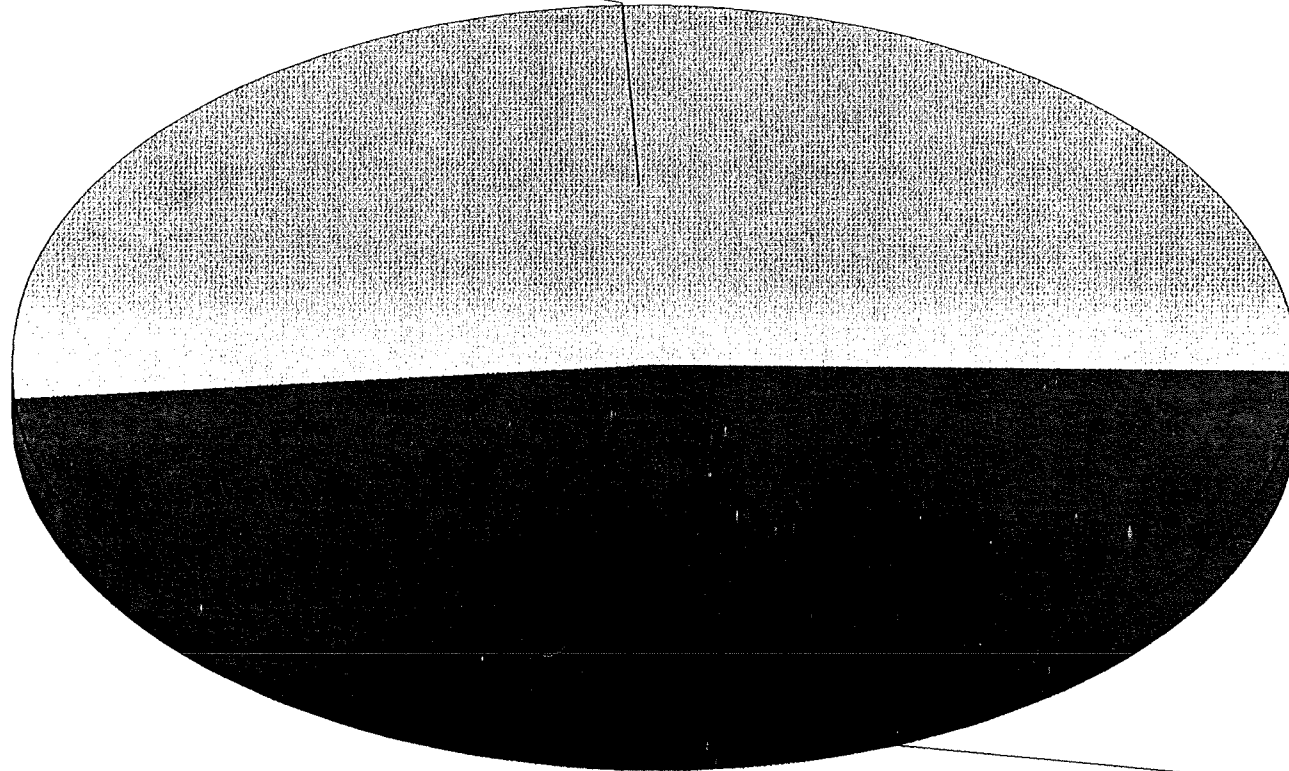
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4-1

State Spending vs. Property Tax Relief

(Source: Legislative Research)

\$3.352 billion



\$3.133 billion

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Cumulative Increase in Spending



Cumulative Property Tax Relief

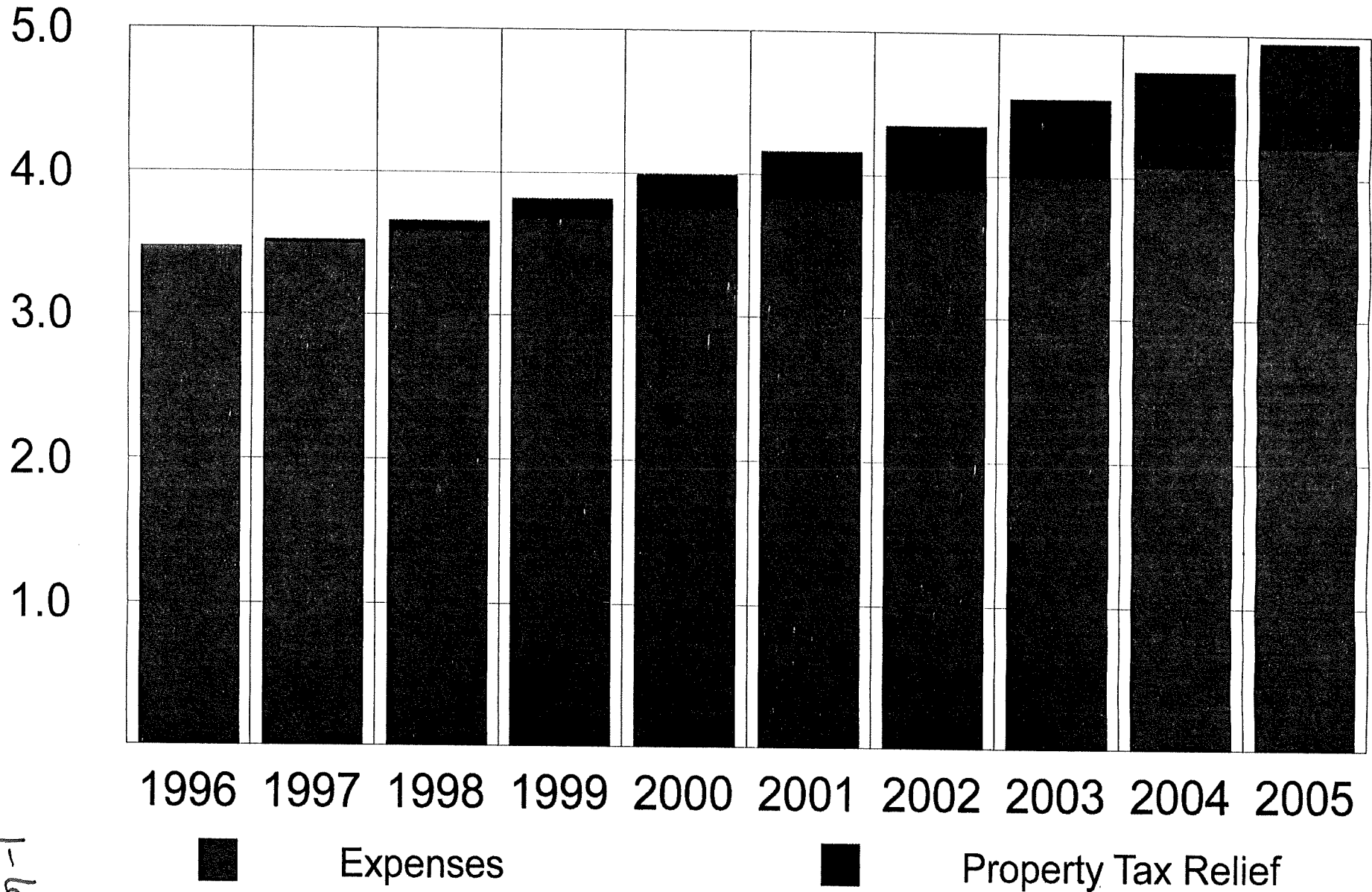
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State Spending vs. Property Tax Relief

(Source: Legislative Research)

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Dollars
(in Billions)



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	FY 2001	Increase	FY 2002	Increase	FY 2003	Increase	FY 2004	Increase	FY 2005	Increase
Beginning Balance	\$ 299.4		\$ 312.6		\$ 326.3		\$ 340.7		\$ 355.7	
Released Encumbrances	--		--		--		--		--	
Receipts ^a	4,180.7	4.4%	4,364.7	4.4%	4,556.7	4.4%	4,757.2	4.4%	4,966.5	4.4%
Expenditures										
Property Tax Relief ^b	327.7	98.4	432.1	104.4	542.8	110.7	660.1	117.3	723.0	62.9
All Other Expenditures ^c	3,839.8	77.2	3,918.9	79.1	3,999.5	80.6	4,082.1	82.6	4,227.9	145.8
Total	4,167.5	175.6	4,351.0	183.5	4,542.3	191.3	4,742.2	199.9	4,950.9	208.7
Percent Increase		4.4%		4.4%		4.4%		4.4%		4.4%
Ending Balance	312.6		326.3		340.7		355.7		371.3	
% of Expenditures	7.5%		7.5%		7.5%		7.5%		7.5%	
Receipts in Excess of Expend.	13.2		13.7		14.4		15.0		15.6	

FOOTNOTES:

- a) Receipts for FYs 1996 and 1997 reflect the November, 1995 consensus estimates as adjusted by the Governor for various transfers. The projections for FYs 1998 through 2005 are not consensus estimates of receipts but are based on an annual growth rate of 4.5 percent for total taxes and separate estimates for nontax revenue.
- b) Amount necessary to hold local school districts harmless for a reduction in the mandatory school district 35 mill levy. The reduction is 2 mills in FY 1997 (1996-1997 school year); 3 mills in FY 1998; and then 5 mills per year until the levy is gone.
- c) All other expenditures would include, among other items, the provisions of 1995 S.B. 150 (motor vehicle property tax reductions). The current estimated fiscal note to hold local school districts harmless for the reduction in the motor vehicle property tax is: FY 1996 -- \$3.6 million; FY 1997 -- \$20.0 million; FY 1998 -- \$43.6 million; FY 1999 -- \$68.5 million; and FY 2000 -- \$92.4 million.

Prepared at the Request and Direction of Representative Vincent Snowbarger
 Kansas Legislative Research Department
 January 26, 1996

Revenue: FY 1996-FY 2000 from the *Governor's Budget Report*, FY 2001-FY 2005
 4.5 Percent in Total Taxes; Separate Estimate for Nontax Revenue
 Expenditures: Includes Property Tax Relief Hold harmless for Local
 School Districts
 Ending Balance: 7.5 Percent of Expenditures

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STATE GENERAL FUND PROFILE
 In Millions
 FY 1995 - FY 2005

	FY 1995	Increase	FY 1996	Increase	FY 1997	Increase	FY 1998	Increase	FY 1999	Increase	FY 2000	Increase
Beginning Balance	\$ 454.4		\$ 367.0		\$ 261.6		\$ 264.3		\$ 274.7		\$ 286.8	
Released Encumbrances	3.6		1.1									
Receipts ^(a)	3,218.8	1.4%	3,368.0	4.6%	3,526.9	4.7%	3,672.5	4.1%	3,835.9	4.4%	4,004.5	4.4%
Expenditures												
Property Tax Relief ^(b)	--	--	--	--	19.1	19.1	62.8	43.7	136.5	73.7	229.3	92.8
All Other Expenditures ^(c)	3,309.8	198.4	3,474.5	164.7	3,505.1	30.6	3,599.3	94.2	3,687.3	88.0	3,762.6	75.3
Total	3,309.8	198.4	3,474.5	164.7	3,524.2	49.7	3,662.1	137.9	3,823.8	161.7	3,991.9	168.1
Percent Increase		6.4%		5.0%		1.4%		3.9%		4.4%		4.4%
Ending Balance	367.0		261.6		264.3		274.7		286.8		299.4	
% of Expenditures	11.1%		7.5%		7.5%		7.5%		7.5%		7.5%	
Receipts in Excess of Expend.	(91.0)		(106.5)		2.7		10.4		12.1		12.6	

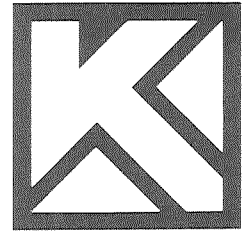
8-1

Proposed Amendment to HB 2908

On page 1, in line 32, before "25" by inserting "not exceeding"; in line 33, before "20" by inserting "not exceeding"; also, in line 33, before "15" by inserting "not exceeding"; in line 34, before "10" by inserting "not exceeding"; also, in line 34, before "5" by inserting "not exceeding"

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732
HB 2908

March 14, 1996

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Committee on Taxation

by
Bob Corkins
Director of Taxation

Honorable Chair and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry. Yesterday KCCI spoke in support of a constitutional amendment to limit the growth of state and local government spending. Today's bill, which KCCI also supports, offers a compelling reason why the two measures should be approved in tandem. I thank you for the opportunity to express our members' interests.

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 46% of KCCI's members having less than 25 employees, and 77% 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.

Our members have a strong interest in reducing property taxes. In particular, Kansas real and personal property taxes on the business community are significantly higher than in each of our

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laboring states. This comparison is documented in the enclosed list of effective tax rates that was compiled by the Institute of Public Policy and Business Research at Kansas University.

On more than one occasion since 1989, our organization has cautioned the legislature to remember that property tax relief is not necessarily tax relief. As recently as last session with SB 41, public debate revolved around the idea of financing some tax reductions with other tax increases. A majority of KCCI members voiced their objection to that particular approach. This kind of reaction is very predictable regarding any proposal to make some people pay more taxes in order that others may pay less.

HB 2908 is a refreshing change from that "tax relief" technique. HB 2908 would be a simple tax reduction. While it's true that the effect of the bill would shift government reliance away from property tax and toward sales and income taxes, nothing in HB 2908 calls for an increase in the rate, or the basis for any tax. KCCI believes that the plan's reliance on current revenue sources would allow its proponents to sincerely, and with conviction, say this represents true tax relief.

There is a simple test for evaluating a proposal's tax relief effect. Perhaps some of you are familiar with data released each year by a national taxpayer association which calculates the Tax Freedom Day for each state. That day represents the point at which average taxpayers stop working to pay for federal, state and local taxes and begin earning income for themselves. In Kansas in 1995, Tax Freedom Day for just state and local taxes was February 10. Will enactment of HB 2908 push that date earlier in 1997? In 1998? ...etc.? The answer is "yes", but only if our governments are not allowed to take a bigger percentage of Kansans' personal income.

This is where the constitutional spending limit ties in. Without revisiting all the details of HCR 5044, I'll just note that it would be the safeguard for making property tax relief an enduring benefit. Kansans have paid far more in higher sales and income taxes approved in 1992 than they have received in property tax reductions. Statewide property tax collections are higher now than they were in 1992, and the other 1992 tax increases are still entrenched in current statute. Without a

and local spending constraint that applies to all their tax revenue sources, HB 2908 can expect a similar outcome.

One criticism of HB 2908 is that it is not binding on future legislatures. As long as there are no tax increases associated with the proposal, though, KCCI does not see this as a large negative factor. If Kansas follows the HB 2908 prescription for even just a few years, but then decides to detour from the plan due to some fiscal emergency, we will at least have experienced partial tax relief. However, if greater government tax authority were part of the bill, that potential future detour could lead us into the side of an emerging tax mountain.

Again, I appreciate the opportunity to testify and will be happy to respond to any questions.

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Table 5-2
Local Property Tax Rates and Ratios

State	Average Mill Levies		Statutory Assessment Ratios (%) ¹		Estimated Actual Assessment Ratios (%) ²		Statewide Effective Tax Rates (%) ³	
Colorado (1993)	Statewide	84.21	Residential	12.86	Residential	12.86	Residential	1.08
	Metro	90.98	Commercial/Ind.	29.00	Commercial/Ind.	29.00	Commercial/Ind.	2.44
	Nonmetro	66.46	Mach./Equip.	29.00	Mach./Equip.	29.00	Mach./Equip.	2.44
			Inventories	0	Inventories	0	Inventories	0
Iowa (1993)	Statewide	30.24	Residential	68.04	Residential	62.54	Residential	1.89
	Metro	34.75	Commercial/Ind.	100.00	Commercial/Ind.	89.72	Commercial/Ind.	2.71
	Nonmetro	27.24	Mach./Equip. ⁴	30.00	Mach./Equip.	30.00	Mach./Equip.	0.90
			Inventories	0	Inventories	0	Inventories	0
Kansas (1993)	Statewide	114.08	Residential	11.50	Residential	10.75	Residential	1.23
	Metro	123.78	Commercial/Ind.	25.00	Commercial/Ind.	23.58	Commercial/Ind.	2.69
	Nonmetro	104.91	Mach./Equip.	25.00	Mach./Equip.	25.00	Mach./Equip.	2.85
			Inventories	0	Inventories	0	Inventories	0
Missouri (1993)	Statewide	55.88	Residential	19.00	Residential	20.14	Residential	1.13
	Metro	61.33	Commercial/Ind.	32.00	Commercial/Ind.	33.60	Commercial/Ind.	2.22
	Nonmetro	41.67	Mach./Equip.	33.33	Mach./Equip.	33.33	Mach./Equip.	1.86
	Surtax ⁵	10.26	Inventories	0	Inventories	0	Inventories	0
Nebraska (1993)	Statewide	24.44	Residential	100.00	Residential	90.00	Residential	2.20
	Metro	27.87	Commercial/Ind.	100.00	Commercial/Ind.	92.00	Commercial/Ind.	2.25
	Nonmetro	21.96	Mach./Equip.	100.00	Mach./Equip.	100.00	Mach./Equip.	2.44
			Inventories	0	Inventories	0	Inventories	0
Oklahoma (1993)	Statewide	85.25	Residential	11.34	Residential	11.33	Residential	0.97
	Metro	92.25	Commercial/Ind.	11.34	Commercial/Ind.	11.59	Commercial/Ind.	0.99
	Nonmetro	72.34	Mach./Equip.	12.60	Mach./Equip.	12.60	Mach./Equip.	1.07
			Inventories	12.60	Inventories	12.60	Inventories	1.07

2-11

Before the House Taxation Committee

HB-2908

Presenter, Larry Fischer, Kansans for Fair Taxation, Inc.
1132 SW Wanamaker, Topeka, KS 66604

March 14, 1996

Outline:

1. The ownership of property is a human right.
2. Property taxes are the only tax not based on the ability to pay. Consequently, they can be confiscatory when the coercive power of government implements policy.
3. The protection of private property is the first object of government.
4. Multiplicand effect misleads the public. Removal of 35 mills will not effect change unless values are accurate and lids are in place locally.
5. Funding of schools and local government is bloated. The only way to reduce this bloat is to eliminate property taxes and fund limited government with alternate taxes, preferably sales tax.
6. Gradually reducing the 35 mill state property tax is a goodwill attempt to allow ownership of private property perhaps reducing the threat of confiscation. The goal should be elimination of all property taxes and replacement with sales taxes. This replaces a loss of a property rights under the current system with a viable economic voting power.

DISCUSSION

Beginning a process for removal of property taxes from the state level is an advance in human rights. However, this is not to subtract from three other problems: 1> **spending**, 2> **inaccurate value** determination, and 3> **abatements and exemptions**.

Build On Fundamentals

In any discussion of property taxation it is prudent for the legislator to know certain fundamental principles. **We are not a democracy. We are a republic.** Our founders feared the tyranny of the majority and opted for the rule of law with certain inalienable rights as the basis for those laws. **Consequently, it does not require that hoards of people be here to advocate for the removal of 35 mills. It requires only that legislators be well grounded in principles and that decisions are made on representation of those concepts.**

One essential that certainly needs reviewing is the concept that **property rights are human rights**. An attached enclosure reviews the immensity of this concept. Please take a few moments and read a few.

Life, liberty, and property were the three fundamentals upon which our republican form of government was founded. It therefore is questionable as to

whether one should tax a right. A property tax is a direct tax. It is important to note that our forebears preferred indirect taxes which were excises, duties, imposts, and consumption taxes. The following quotes verify these statements:

- The protection of the right to own property by men with different abilities (all men) is “the first object of government. James Madison, Federalist No. 10
- The power of direct taxation.. will <cause the people to> have but this alternative, except to pay the tax, or let their property be taken, for all resistance will be in vain. **The Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania to the Constituents, Dec. 18 1787.**
- “It is a signal advantage of taxes on articles of consumption that they contain in their own nature a security against excess. They prescribe their own limit; which cannot be exceeded without defeating the end proposed, that is, an extension of the revenue. When applied to this object, the saying is as just as it is witty, that, “in political arithmetic, two and two do not always make four.” If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds. This forms a complete barrier against any material oppression of the citizens by taxes of this class, and is itself a natural limitation of the power imposing them...Imposition of this kind usually fall under the denomination of indirect taxes, and must for a long time constitute the chief part of the revenue raised in this country.” *Federalist No. 21—Alexander Hamilton*

Common Sense Application of Aforementioned Fundamentals

Collection of revenue by indirect taxes was never an affront to the three fundamental rights. **Today, this idea is important when individuals on fixed incomes have to make a choice between the purchase of a medicine or paying property taxes.**

Make no mistake, people are being taxed from their property An attached article by Paul Craig Roberts titled “Tax and Spend Virus is Spreading” relates that **“the city of Bridgeport, Conn. succumbed and filed for bankruptcy after pushing property taxes to the point that many old people can’t keep their homes.”** Locally, several residents along the Wanamaker development were forced to move after their taxes became unbearable. Goodyear’s property tax in Topeka of \$1,475,981 in 1992 were twice the rate of the next highest plant in Lawton, Oklahoma (Topeka Capital Journal, April 19, 1993). The Quaker Company moved their dog food plant to Missouri. The only difference in the presenting facts was the taxation rate. On and on it goes. Both residences and commercial entities, as well as farmers, are fearful of escalating property taxes. **Have you ever heard of anyone being taxed from business, residence or land because of non-payment of a sales tax?** Food for thought as you ponder the elimination of 35 mills.

To continue, California revolted against property taxes by responding with proposition 13. Kansas is one of only 5 states west of the Mississippi that does not have initiative. We are at a disadvantage. The philosophy of Proposition 13 is summed up in ***SMALL PROPERTY VERSUS BIG GOVERNMENT, Social Origins of the Property Tax Revolt***, by Clarence Lo, University of California Press, 1990.

_____ Page 160-161 The proper role of government is to protect small property, the homes and possessions that are the fruits of labor. If, on the contrary, the government fails to protect property or acts to take property from the deserving, hard-working owner, government has violated its fundamental purpose. The large jumps in property tax bills year after year threatened to do precisely this and actually forced some to sell their property in order to pay tax bills. Drastic measures were in order:

Everything that we have in this county flows from our right to own private property. When.. [that] right.. is taken, everything else, every other freedom falls behind it.. What the people.. in authority at that time were doing was tantamount to divesting us *en masse* of our private property.. [What got people the maddest was] the greed of government and the careless way they spent the fruits of our labors.

Upper-middle-class homeowners and community small businesses, in their own peculiar ways, agreed with the notion that government in America had a fundamental obligation to protect property. The homeowner thought of property as consumer property and felt that if the accountant went to night school and got his M.B.A., he was entitled to his condo and this BMW, without the burden of the property tax. The small business owner felt that the value of his enterprise was gained through entrepreneurial effort, and that he too was entitled to material rewards free from excessive taxation. When they both thought of property, **they envisioned small property, not corporate fortunes of unimaginable scale, but property of a human scale that was the clear result of a person's lifetime of work.** Small property was the magic meeting ground for the middle class, where business and consumer could stand proud and stand together.

_____ pg. 166 Unfortunately, our lives are being now governed by people that we cannot elect. We have a bureaucracy that just won't quit.

_____ pg. 167 Should there be any differential between commercial property and residential property? I don't think so... <T>he notion that we're gonna all of a sudden be relieved from our responsibility to pay by passing it on to someone else is terribly odious to me.

Please Note:

- People did lose property because of property taxation
- Protection of private property is the first object of government.
- Small property, not huge fortunes, are the building blocks of a community.
- Legislators are more responsive to the bureaucracy and special interests than to fundamental principles of governing.

The people of Kansas are not different from people in other areas of our. Yet without the initiative process, and without responsive elected officials and bureaucrats, disheartened citizens will continue to search for ways to protect their honor and their property. This will eventually lead to problems, because, as Machiavelli said, "*When neither their property nor their honor is touched, the majority of men live content.*"

Natural law is on a collision course with positive law.

Confiscatory Taxation

Property taxes are confiscatory because of **misapplication of the concept of highest and best use**, because they are **not based on the ability to pay**, because of **inaccurate values**, and an untoward burden cause by **abatements and exemptions**.

The actual assessment of property taxation is very complex--too complex. This is why few legislators, judges, and citizens want to get involved. This complexity, under the control of the vast bureaucracy that supervises the collection and the bureaucracy that uses the proceeds, allows numerous infringements of the rights of property. As an example, one attachment to this presentation show values generated by the Computer by Shawnee County, **one day apart**, on the **same parcel of property**. Note there is **\$47, 300 difference**. Alarming? You bet, especially when it represents either a 23.5% change or a 60.4% change, neither of which are justifiable by standard appraisal techniques or standards. **The system has never worked**. Computer appraisal was designed as a beginning point in the appraisal process but is now the convenient method whereby a push of a button creates property tax values. It is skewing out of function because of poor technique. **When inaccurate numbers are in the computer and are -used sequentially over time to re-establish newer values, the system necessarily suffers entropy**. The over-reliance on this system is causing **arbitrary and capricious taxation**--it always has and it always will. To compound this problem is the lack of redress of grievance. administrative law strongly protects the system and wins by attrition. It simply lacks substantive will.

Property taxes cannot always be paid if the the property value does not reflect equity. Howard Jarvis, the leader of Proposition 13 in California, stated that property taxes are "*inherently unfair because they have little or no relation to the property owner's ability to pay.*" The International Association of Assessing Officers book, Property Assessment Valuation, says property tax "*is based neither upon the ability of the owner to pay nor upon the amount for which the property last sold.*" The National Association of Counties have published the same statements. Added to others sources which say such things as "**In most states, the heaviest tax burdens borne by low income households are those that result from property taxes,**" and "**property taxes encourage flight from central cities,**" and "**discourages improvements on property,**" and "**the local property tax is the most dominant regressive influence in the state-local tax system,**" indicate little reason to not to begin elimination of this nefarious entity. Indeed, according to John W. Whitehead, author of The Second American Revolution and a constitutional attorney, "**in reality, real estate taxes are a form of rent to the state for use of the property.. There is no true private property when the state can exercise this power.**"

Why am I dwelling on the concept of loss of property? "The exercise of freedom in all its forms requires some kind of private space... A state that controls the material elements of life can, at its whim, deny this. Hence the need in a regime of freedom for a material spot on which the individual can stand, and which cannot be taken from him."

[M. Stanton Evans--*The Theme is Freedom*, pg. 299].

There is another view and it is a political dimension. "**A nation in which private property is protected contains independent, decentralized sources of power that can be used against the state, reducing thereby the possibility that any group will be able**

to seize control over the sources of information or the levers of political power. In addition, private property provides the private wealth necessary to support active participation in public debate. Private property, in a word, nourishes freedom of speech, just as freedom of speech nourishes private property... Property is defensive, not exploitive [Takings by Richard Epstein, Professor of Law, University of Chicago].

Lastly, the Institute of Sociology at the Soviet Academy of Science recently conduct a poll of 1050 Russians what the really wanted. In response to "Do you want private ownership of land? 85% responded yes [Reader's Digest--attached]. Again the point is made that a with dependence on property taxes, Kansans never own their land and can be taxed from them. Not the American way!

Multiplicand Effect

Eliminating 35 mills will do nothing if values are not correct. It is my strong opinion that reliance on computer appraisal, and especially using comparative sales on commercial property, leads to invalid figures. **Reliance on sales a violation of KS79-503a.** The Supreme Court has ruled that "**The value of property results from the use to which it is put and varies with the profitableness of that use... There is no pecuniary value outside of that which results from such use** [Cleveland, CC. and St.L.Ry. Co. vs Backus, 154 U.S. 45 (1894)]. Also in Hylton vs. U.S. 3 Dall, 171 the court said, "**land, independently of its produce, is of no value.**" Yet appraisers consistently looks forward to some future sale, without benefit of what the product might be, comparing it to land which has sold, usually for a different purpose or business type. It does not take a rocket scientist to see that such comparison do not take into account the "productivity" also spoken of in KS79-503a, and does not follow the concept contained in the Kansas Appraisal Manual that "generally the tax appraiser will find the most prudent course of action is to consider the present use and follow development rather than anticipate it." **The result is that the absolute highest value is sought and obtained, usually for political purposes,** i.e. to keep the mill levy low. Unless such practice is eliminated and accurate value placed based on the full application of KSA79-503a, PVD Directives, and USPAP Standards, the **total** property tax paid will not be affected by elimination of the 35 mill state levy.

The Enemy

About 50 years ago, Parkinson wrote satires about British **bureaucracy**. Here are examples of his timeless observations: 1> The amount of work will expand to fill the time available for its completion; 2> An official wants to multiply subordinates, not rivals; and 3> Officials make work for each other.

The **biggest cry against the elimination of the 35 mill state levy will come from education and local governments.**

Education will say this measure will lead to a lack of funding. Remember, the five states that spent the least on education ranked at the top in academic testing. Money is not the answer. And, if education is such a sacred cow, why are zero Kansas lottery dollars spent on this endeavor?

Remember that many functions that have bloated local governments are a result of Parkinson's maxim. With the exception of perhaps police, fire, and infrastructure, most "services" of local government can be **privatized**. Although this would destroy bureaucratic empire building, the advantage would be that **only the users would pay** and the open market would let us know if these services are really required or desired or just planned into the system. Epstein, quoted earlier, would call any tax without "proportional benefit" and illegal taking hidden by the official garb of coercive power.

In conclusion, **Although the attempt to remove 35 mills is a step forward, legislators well grounded in fundamentals should CONSIDER A PAPERLESS METHOD OF FUNDING BY SWITCHING TO CONSUMPTION TAXES. Michigan has done it. South Dakota has no personal property taxes and no income taxes and their business climate is thriving. Arizona has an initiative this year to eliminate all property taxes.** THE WEALTH OF OUR NATION IS RAPIDLY SWITCHING TO THE SERVICE SECTOR WHICH REMAINS LARGELY UNTAXED. **PROPERTY IS PART OF HUMAN RIGHTS--IT SHOULDN'T BE TAXED, ESPECIALLY IN ITS PRESENT ARBITRARY FORM.**

SUMMARY

- Gradual phase out is desirable to allow the system to adjust.
- Absolute tax lids must be in place.
- Accurate values must be obtained and maintained.
- Elimination of the mill levy system would be helpful--i.e. remaining property taxes should be on percentage.
- Property rights should be stressed to protect the political strength of our system.

Attachments:

L & G Leasing 1996 Value Notifications with \$47,000 Difference for Same Property, ref inaccuracy.
Newspaper Article, "Tax and Spend Virus is Spreading"--Ref. Home Loss.
Property Rights Quotes.
Tax Primer: Property, Capital, Labor, Direct, Indirect.
Excerpts from *Takings* by Richard Epstein, Prof. of Law, Univ. of Chicago
Excerpt from *The Theme is Freedom* by M. Stanton Evans
Reader's Digest article

No New Construction
No Improvements

SHAWNEE COUNTY APPRAISER

VALUATION NOTICE

Page 1 of 2

TAX YEAR 1995
THIS IS NOT A TAX BILL

PARCEL IDENTIFICATION NUMBER:
039-098-33-0-30-08-004.00-0

PROPERTY OWNER:

L & G LEASING
5445 NW JENNINGS RD
TOPEKA, KS 66618

66618

TRACT DESCRIPTION:

BLK A LOT 1 WANAMAKER PLAZA
SUB LESS N 75' & S 75'

SEC-TWP-RNG: 33-11-15

PROPERTY ADDRESS:

1132 SW WANAMAKER RD

TAX UNIT: 014

THE REAPPRAISAL OF YOUR PROPERTY HAS BEEN COMPLETED AS REQUIRED BY K.S.A. 79-1476. This letter is your official notification of the county appraiser's estimate of value for your property identified above. **NEW VALUE**

1995 APPRAISED MARKET OR USE VALUE			*	1996 APPRAISED MARKET OR USE VALUE		
CLASS	TOTAL	ASSESSED VALUE	*	CLASS	TOTAL	ASSESSED VALUE
CU	127,300	31,825	*	CU	156,900	39,226
	0	0	*		0	0
	0	0	*		0	0
TOTAL	127,300	31,825	*	TOTAL	156,900	39,226
		x .170 \$ 5410				x .170 \$ 6668

(23.5% change)

Any taxpayer may complain or appeal the classification or appraisal of the taxpayer's property by giving notification of such dissatisfaction to the county appraiser's office on or before **April 15**. The county appraiser or the appraiser's designee shall arrange to hold an informal meeting with the aggrieved taxpayer with reference to the property in question.

8014

IMPORTANT

(24.71% change)

9994

\$1980 increase

PLEASE READ THE APPEAL INSTRUCTIONS AND EXPLANATION OF ASSESSMENT CLASSIFICATION ON THE REVERSE SIDE OF THIS NOTICE.

If you have questions or wish to appeal, you must first call the Taxpayer Service Number at (913) 232-4461

DATE MAILED: 03/02/96 LOG: 18 N8HD: 311.1 VALUATION AREA:

SHAWNEE COUNTY APPRAISER
1515 NW Saline

Dec. 3-6-96 Topeka, Kansas 66618-2844

(?)

3-7

No new construction
No improvements

Page 2 of 2

SHAWNEE COUNTY APPRAISER

VALUATION NOTICE

TAX YEAR 1996
THIS IS NOT A TAX BILL

PARCEL IDENTIFICATION NUMBER:
089-098-33-0-30-08-004.00-0

PROPERTY OWNER:

L & G LEASING
5445 NW JENNINGS RD
TOPEKA, KS 33318

00018

TRACT DESCRIPTION:

BLK A LOT 1 WANAMAKER PLAZA
SUB LESS N 75' & S 75'

SEC-TWP-RNG: 33-11-15

PROPERTY ADDRESS:

1132 SW WANAMAKER RD

TAX UNIT: 014

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CLASS	TOTAL	ASSESSED VALUE	*	CLASS	TOTAL	ASSESSED VALUE
CU	127,300	31,825	*	CU	204,200	51,051
	0	0	*		0	0
	0	0	*		0	0
TOTAL	127,300	31,825	*	TOTAL	204,200	51,051

*X.170
#5410* *< 60.4% change >* *X.170
#8614*

Any taxpayer may complain or appeal the classification or appraisal of the taxpayer's property by giving notification of such dissatisfaction to the county appraiser's office on or before **April 15**. The county appraiser or the appraiser's designee shall arrange to hold an informal meeting with the aggrieved taxpayer with reference to the property in question.

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DATE MAILED: 03/01/96 LUG: 18 NBHD: 311.1 VALUATION AREA:

Rec 3-8-96

SHAWNEE COUNTY APPRAISER
1515 NW Saline
Topeka, Kansas 66618-2844

3-8

3-9

Tax-and-spend virus is spreading

By PAUL CRAIG ROBERTS
Scripps Howard News Service

The California Senate just voted to hike the state's sales tax from 6 percent to 7¼ percent. That follows an increase in the state's gasoline tax from 9 cents to 18 cents a gallon. The taxes are being piled on, because the state has been spending like crazy for the past decade and has no reserves to cover a \$14.3 billion budget deficit.

Though a big offender, California is not alone in its profligacy. As many as 35 states have spent their way into deficits. But politicians cannot admit that, because their solution to every problem is to spend more.

Instead of scrutinizing their own spending behavior, they blame cutbacks in federal aid, the recession and tax revolts that left their states "undertaxed." Instead, state politicians are praising one another for honesty in telling people how it is — taxes must go up.

But before buying this, consider these facts:

During the 1980s the states more than doubled their combined spending, which

Paul Craig Roberts is the William E. Simon professor of political economy at the Center for Strategic & International Studies in Washington and is a former assistant secretary of the U.S. Treasury.

rose from \$258 billion in 1980 to \$525 billion in 1989. Arizona led the pack with spending rising 177 percent, followed by Connecticut (173 percent), Florida (170 percent), New Jersey (145 percent) and Massachusetts (137 percent). California was eighth among the biggest spenders with an increase of 121 percent, ahead of New York's 116 percent increase.

All of this spending has not solved any social problems, reduced crime or improved education, but it has left some states bankrupt. As New York Gov. Mario Cuomo has admitted, "We're broke to the marrow of our bones."

The states got in this trouble despite strong revenue growth. California, for example, enjoyed a healthy 8 percent annual increase in tax revenues for the past decade. The problem is that spending is rising by 11 percent annually.

A recent report from the Cato Institute in Washington reveals a disturbing new trend. Formerly fiscally conservative states in the South have joined the ranks of the big spenders. Georgia, North Carolina and Virginia all managed to achieve higher spending increases than New York, and Texas wasn't far behind.

Not all states have spent themselves silly, and a few still have surpluses — which proves that it can be done. However, it is easier to spend to meet all those political needs, and then to raise people's taxes while making taxpayers

feel guilty about their "decade of greed" as a result of Reagan tax-cutting.

In truth, per capita state tax burdens have doubled since 1980. Ironically, states with the fastest revenue growth tend to be in the worst fiscal shape, while low tax states do a better job of controlling spending.

Neither is federal aid a blessing. Since federal grant programs usually require matching state funds, the states are lured by "free" federal money into hiking their spending.

The real problem is that the tax-and-spend virus has spread from Washington, D.C., into the states and localities. Recently, the city of Bridgeport, Conn., succumbed and filed for bankruptcy after pushing property taxes to the point that many old people can't keep their homes. The city's government lacked the will to face up to spending cuts and layoffs and simply gave up the ghost.

State and local tax hikes are complicating the economy's recovery from recession. The taxes are reducing people's disposable incomes just at the time when the economy needs a lift from consumer spending, and they could backfire if they push taxpayers and the economy down further.

Yes, greed is loose in America — but not so much among wage earners. Sooner or later voters will learn that government spending isn't free.

Have you ever heard of someone losing their home because of a sales tax?

TAX:

INTERNAL

1. DIRECT TAX:

A direct tax is one which is levied against a person (head tax), his property (property tax), or his income (personal income tax). Notice that in all these the taxpayer must pay directly. In other words, he cannot pass the tax along to anyone else. *The Making of America* by Cleon Skousen, pg. 478. A property tax or capitation tax. Must Constitutionally be apportioned among the states according to their respective populations.

CAPITATION: A tax or imposition on a person...as distinguished from taxes on merchandise.

2. INDIRECT TAX: A tax on things which can be passed on to a final purchaser.

EXCISE: *Excises are taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain (regulated) occupations and upon corporate privileges; the requirement to pay such taxes involves the exercise of a privilege.* *Flint v Stone Tracy Co.* 220 US 107

DUTY: A tax on imports; a synonym of imposts and customs

IMPOST: Taxes, duties, or impositions levied for divers (diverse)

reasons.

EXTERNAL: An indirect tax. Impost or duty. Duties and Imposts are importation and exportation taxes laid by the government.

- **PROPERTY:** That which is peculiar or proper to any person; that which belongs exclusively to one. *Blacks' Law Dictionary*, 6th ed. pg. 1216.
- **CAPITAL:** Accumulated goods, possessions, and assets, used for the production of profits and wealth. *Blacks' Law Dictionary*, 6th ed. pg. 208
- **LABOR:** "Work, toil; service; mental or physical exertion. *Blacks' Law Dictionary*, 6th ed. pg. 874

RIGHTS vs PRIVILEGE—Can a sovereign tax an entity for existing? Can a sovereign tax a Right?

All subjects over which the sovereign power of the state extends (corporations) are objects of taxation but those (individual citizens) over which it does not extend are, upon the soundest principle, exempt from taxation. This proposition may almost be pronounced as self evident. The sovereignty of a state extends to everything which exists by its own authority or exists by its permission. McCullock v. the State of Maryland.

LABOR / PROPERTY RELATIONSHIP

The **relationship of labor and property** was best described by John Locke. Remember, his works were among the most widely read secular source for the Constitution.

"...<Y>et every man has a property in his own person...The labour of his body, and the work of his hands..are properly his. Whatsoever then he removes out of the state that nature hath provided..he has mixed his labour with and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature placed it in, it hath by this labour something annexed to it, that excludes the common right of other men. For this labour being the unquestionable property of the labour, no man but he can have a right to that what is once joined to."

And again, "His labour hath taken it out of the hands of nature where it was common, and belonged equally to all her children, and hath thereby appropriated it to himself."

And again, "As much as any one can make use of to any advantage of life before it spoils; so much may by his labour fix a property in."

And again, "God..commanded man also to labour...God and his reason commanded him to subdue the earth, i.e. improve it for the benefit of life, and therein lay out something upon it that was his own, his labor."

Finally, "And the condition of human life, which requires labor and materials to work on, necessarily introduce private possessions."

With regards to money, "I dare boldly affirm, that the same rule of propriety, that every man should have as much as he could make use of, would hold still in the world...had not the invention of money, and the tacit agreement of men to put a value on it, introduced.. larger possessions, and a right to them...And thus came in the use of money, some lasting thing that men might keep without spoiling, and that by mutual consent, men would take in exchange for the truly useful but perishable supports of life..." {did he say exchange?} Source: Second Treatise on Government, **John Locke**.

Among these inalienable rights, as proclaimed in the Declaration of Independence is the right of men to pursue their happiness, by which is meant, the **right to pursue any lawful business or vocation**, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment...It has been well said that, the property which every man has is his own labor, as it is the original foundation of all other property so it is the most sacred and invariable. *Butcher's Union Co. v. Crescent City Co.*, 111 U.S. 746, at 756-757.

Abolition of property in land and the application of all rents of land to public purposes.

First Plank of the Communist Manifesto.

A heavy and progressive or graduated income tax.

Second Plank of the Communist Manifesto

"It is a signal advantage of taxes on articles of consumption that they contain in their own nature a security against excess. They prescribe their own limit; which cannot be exceeded without defeating the end proposed, that is, an extension of the revenue. When applied to this object, the saying is as just as it is witty, that, "in political arithmetic, two and two do not always make four." If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds. This forms a complete barrier against any material oppression of the citizens by taxes of this class, and is itself a natural limitation of the power imposing them...Imposition of this kind usually fall under the denomination of indirect taxes, and must for a long time constitute the chief part of the revenue raised in this country." *Federalist No. 21--Alexander Hamilton*

Money is also tender and tender is property. "Tender, though usually used in connection with an offer to pay money, is properly used in connection with offer of property or performance of duty..." Black's Law Dictionary, 6th ed.

CONCLUSIONS:

Property tax is a direct tax.

An indirect tax is preferable.

Sales taxation is a form of indirect taxation.

Since money represents a different species of property, a tax on income is a direct tax.

The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice.

James Madison, Federalist No. 10

According to Plato, oligarchy arises when privilege based on wealth is fixed by statute. Republic, Plato

(Oligarchy--a government in which a small group exercises control esp. for corrupt and selfish purposes.)

The **three great and primary rights**: personal security, personal liberty, and private property. Blackstone, Commentaries.

"To secure their enjoyment, however, certain protection or barriers have been erected which serve to maintain inviolate the three primary rights of **personal security, personal liberty, and private property**. These in America be said to be:

1. The bill of rights and written constitution...
2. The right of bearing arms...
3. The right of applying to the courts of justice for the redress of injuries.

Henry St. George Tucker, Commentaries on the Laws of Virginia.

"The absolute rights of **personal security, personal liberty and the right to acquire and enjoy private property**, descended to the people of this government as a part of the common law of England...They were a part of the Magna Charta, the great charter of England, and form a part of the bill of rights in nearly all the constitutions of the states of this union, as well as of the federal constitution." Wisconsin Senate Journal (1867), Minority Report.

So great moreover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community. Sir William Blackstone, Commentaries on the Law, 1783

The reason why men enter into society is the preservation of their property. John Locke, Treatises on Government, 1690

The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. Adam Smith, The Wealth of Nations, 1776

The right to property being inviolable and sacred, no one ought to be deprived of it except in cases of evident public necessity legally ascertained, and on condition of a previous just indemnity.

Declaration of the Rights of Man by the French National Assembly
1789 .

Every man has by nature the right to possess property of his own.
Pope Leo XIII, Rerum novarum, 1891

Property rights are of course human rights...The introduction of the wholly false distinction between property right and human rights in many policy discussions is surely one of the all time great semantic flimflams. **M. Jensen and W. Meckling, Journal of Financial Economics, 1976**

The right to hold property is a natural right. It is the safeguard of family life, the stimulus and the reward of work.

**Pastoral Letter of the French
Roman Catholic Hierarchy, 1919**

The security of property, next to personal security against the exactions of government, is of the essence of liberty.

Justice Joseph McKenna, Block v. Hirsh, 256 U.S. 135, 165

Our social system rests largely upon the sanctity of private property; and that state or community which seeks to invade it will soon discover the error in the disaster which follows.

**Justice William Henry Moody, Mayor v. Knoxville Water Co.
212 U.S. 1, 18**

Property is the fruit of labor. Property is desirable; is a positive good in the world: Let not him who is houseless pull down the house of another, but let him work diligently and build one for himself...

Abraham Lincoln, 1861

The moment the idea is admitted into society that property is not as sacred as the laws of God, and there is not force of law and public justice to protect it, anarchy and tyranny commence.

John Adams, 1821, Second President of the United States

It as an axiom of our Founding Fathers and free Englishmen before them that the right to own and control property was the foundation of all other liberties...

Ronald Reagan, 1988

We have rediscovered the idea that toppled the Berlin Wall...This system, built upon the foundation of private property, harnesses our powerful instincts for creativity. It gives everyone an interest in shared prosperity, in freedom, and in respect.

George Bush, 1991

The protection of the right to own property by men with different abilities (all men) is "**the first object of government**".

James Madison, Federalist No. 10.

"To kings belongs authority over all: to private persons property."

Seneca, De Beneficiis

"Legally... 'property' is the right of any person to possess, use, enjoy, and dispose of a thing." **Property Assessment Valuation**

<T>he true freinds of liberty and the greatness of man ought

constantly to be on the alert to prevent the government's power from lightly sacrificing the private right of individuals to the general execution of its designs.

Alexis de Tocqueville

The rich and wealthy suitors would eagerly lay hold of the infinite mazes, perplexities and delays, which a court of chancery (equity), with the appellate powers of the supreme court in fact as well as law would furnish him with, and thus the poor man being plunged in the bottomless pit of legal discussion, would drop his demand in despair.

Samuel Bryan, December 18, 1787

Dissent of the Minority of the Convention of Pennsylvania

Different forms of government <are> assigned to each its characteristic principle: thus despotism depends upon fear, monarchy upon honor, aristocracy upon moderation, and democracy upon virtue...The really vicious situation is when insitutions which are fitted for one principle of government are forced to work although that principle has been replaced by another.

Montesquieu, Esprit de Lois

Mutability of the laws is an evil inherent in a democratic government...

Alexis de Tocqueville

In the United States the omnipotence of the majority...is favorable to the legal despotism of the legislature..

Alexis de Tocqueville

The principle of equality has prepared men for <government being the arbitrator of happiness>; it has predisposed men to endure them and often to look on them as benefits.

Alexis de Tocqueville

Men accustom themselves to sacrifice private interests without <hesitation> and to trample on the rights of the individual in order to accomplish..public purpose.

Alexis de Tocqueville

The Ten CANNOTS by Abraham Lincoln

1. You CANNOT bring about prosperity by discouraging thrift.
2. You CANNOT help small men by tearing down big men.
3. You CANNOT strengthen the weak by weakening the strong.
4. You CANNOT lift the wage earner by pulling down the wage payer.
5. You CANNOT help the poor man by destroying the rich.
6. You CANNOT keep out of trouble by spending more than your income.
7. You CANNOT further the brotherhood of man by inciting class hatred.
8. You CANNOT establish security on borrowed money.
9. You CANNOT build character and courage by taking away man's initiative and independence.
10. You CANNOT help men permanently by doing for them what

they could and should do for themselves.

"A wise and frugal government...shall not take from the mouth of labor the bread it has earned." **Thomas Jefferson**

"That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, **and by frequent recurrence to fundamental principles.**" Section 15, Virginia Bill of Rights

They seem never to have recollected the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations.

James Madison, Federalist No. 48

The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice.

James Madison, Federalist No. 10

"It is a signal advantage of taxes on articles of consumption (sales tax) that they contain in their own nature a security against excess. They prescribe their own limit; which cannot be exceeded without defeating the end proposed, that is, an extension of the revenue. When applied to this object, the saying is as just as it is witty, that, "in political arithmetic, two and two do not always make four."

If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is no so great as when they are confined within proper and moderate bounds. This forms a complete barrier against any material oppression of the citizens by taxes of this class, and is itself a natural limitation of the power imposing them...Impositions of this kind usually fall under the denomination of indirect taxes, and must for a long time constitute the chief part of the revenue raised in this country..."

Alexander Hamilton

"Necessity is the plea for every infringement of human liberty; it is the argument of tyrants; it is the creed of slaves." **William Pitt**

According to Plato, oligarchy arises when privilege based on wealth is fixed by statute. Republic, **Plato**

(Oligarchy--a government in which a small group exercises control esp. for corrupt and selfish purposes.)

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Wisconsin Senate Journal (1867), Minority Report.

And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms...

Thomas Jefferson, Letter to Wm. S. Smith

While the people have property, arms in their hands, and only a spark of noble spirit, the most corrupt Congress must be mad to form any project of tyranny.

Nicholas Collins

Fayetteville Gazette, 12 Oct 1789

It is never to be forgotten that, in the construction of the language of the Constitution...we are to place ourselves as nearly as possible in the condition of the men who framed the instrument.

Ex Parte Baine, 121 U.S. 1, 12 (1887)

The power to tax involves the power to destroy; (and) the power to destroy may defeat and render useless the power to create...

John Marshall

When neither their property nor their honor is touched, the majority of men live content. **Machiavelli**, The Prince

Property also is an appendage to liberty; and 'tis as impossible for a man to have a right to lands or goods, if he has no liberty, and enjoys his life only at the pleasure of another, as it is to enjoy either when he is deprived of them.

Algernon Sidney, Discourses Concerning Government, p. 403

The law must not be used to destroy equality and justice as it has in the past. Frederic Bastiat once described what has happened:

The law..has acted in direct opposition to its own purpose.

The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force (of government) at the disposal of the unscrupulous who

wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder (of property) into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense. (Frederic Bastiat, The Law, Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1974, p. 9)

Cleon Skousen, The Making of America, p 355

TAKINGS PRIMA FACIE

* The element of choice added to this stage simply transforms the case from garden variety coercion—"your money or your life"—to one of duress of goods—"of your possessions, you may keep A or B, but not both." The argument against the government, like that against the private party, is that no person is entitled to force any individual to forfeit one thing in order to keep another, when both are unconditionally his *as of right*. The restricted choice in the duress of goods situation is thus wholly different from the choice involved in a market exchange, where the question is always whether one individual wishes to surrender something he is entitled to keep in order to obtain something to which he has *no* claim of right—that is, to buy what he does not own. So long as the government forces the individual to make some transfer, it does not matter what particular thing is transferred.

Following the private analogies, then, private property has been taken, even under a restrictive view of the eminent domain clause which rejects the equation between loss and destruction of property. With a tax, the government takes property in the narrowest sense of the term, ending up with ownership and possession of that which was once in private hands. Anyone who wants to deny the conclusion need only consider the consequences of not paying taxes. Liens are attached to one's land or bank accounts, which are then taken and sold to satisfy the tax obligation. To be sure, there cannot be, either as a matter of general political theory or of constitutional law, any simple equation between taxation and government theft. Yet the analysis does establish that taxation is *prima facie* a taking of private property. The legitimacy of taxation does not flow from any artificial narrowing of the phrase "taking of private property," but rather, from the justifications available for all other forms of taking: police power, consent, and compensation, typically either implicit or in kind. What cannot be said is that taxes are simply outside the scope of the eminent domain clause because they are not takings at all, when their effectiveness precisely depends upon coercive power clothed in official garb.¹¹

Regulation

The arguments about taxation and takings carry over with equal force to the government's efforts to regulate the possession, use, and disposi-

11. The point addressed thus far is not historical. Those matters are taken up in greater detail in Chapter 18.

Takings by Richard Epstein
Prof. of Law Univ. of Chicago

3-18

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dential duties, defamation, treason, and incitement to riot are all very serious offenses that warrant the use of public force even in a society that respects the virtues of limited government. In the trade-off between political speech and treason, why is the intermediate test so inappropriate? The intermediate standard has costs, but it is doubtful that these are decisive in an imperfect world. Intermediate scrutiny always asks, is there some less restrictive alternative available? No major abridgment of speech is apt to survive that question. The intermediate standard allows one to weigh the strength of different forms of speech differently, just as it allows one to weigh differently the interests on the other side. It is better to be aware of the problem and to create responsible subcategories and rebuttable presumptions than it is to pretend that all speech is of equal importance, when it evidently is not.

The third response takes a different form and rests on the proposition that the classical protections for speech and for property have common roots. Lockean defenses of property, for example, evoke the images of personal independence and self-realization in which it has become so fashionable to couch the case for the constitutional guarantees of freedom of speech. The First Amendment argument is that individuals will be able to develop their full potential only if they enjoy a protected realm of autonomy in which they are free to act and experiment for themselves. But a system of private property, which also emphasizes individual autonomy, is designed to serve that same end. Property is defensive, not exploitive.

There is also a political dimension. A nation in which private property is protected contains independent, decentralized sources of power that can be used against the state, reducing thereby the possibility that any group will be able to seize control over the sources of information or the levers of political power. In addition, private property provides the private wealth necessary to support active participation in public debate. Private property, in a word, nourishes freedom of speech, just as freedom of speech nourishes private property. Can anyone find a society in which freedom of speech flourishes where the institution of private property is not tolerated? A country in which there is a free nationalized press? The debate over the extent to which the First Amendment protects individual access to a public forum²² in the end only amounts to a skirmish at the edges of free speech; the central objective is to guard against government favoritism in disposing of public resources, an issue

22. See, e.g., Geoffrey Stone, "Fora Americana: Speech in Public Places," 1974 *Sup. Ct. Rev.* 233.

with a clear eminent domain dimension. But think of the catastrophe that would result if political speech were banned on private property. The persistent skepticism about the government's role in regulating speech also applies to takings cases.

The need for common police power standards in the two areas is brought to the fore by recent Supreme Court cases that show how closely issues of speech and property are intertwined. For many years there appeared to be no necessary conflict between zoning cases and speech cases because it seemed possible to maintain the categorical division between them. But the clash has become evident, especially with the recent move to expand First Amendment protection to commercial speech. In *Metro-media, Inc. v. City of San Diego*,²³ the city passed a complex ordinance that sharply limited the types of signs that could be posted within city limits. Subject to a long list of exceptions for bus stop signs, temporary political signs, and the like, the ordinance banned all forms of noncommercial billboards and permitted only those commercial billboards that referred to the firm located or services rendered on the site where the sign was posted. The asserted justifications for the restrictions on signs were, first, traffic control and safety and second, aesthetic improvement. The California Supreme Court treated this as a *Euclid* case and found no reason to upset the determination of the city council, even though the ordinance was enacted without any hard evidence that it would achieve its professed goals.

The case received a very different treatment in the United States Supreme Court because the threshold question—was this a land use case or a speech case?—was taken seriously. Six justices, a plurality of four and a concurrence of two, found that more serious scrutiny was required because billboards are used to communicate information and thus fall within the ambit of the First Amendment. Denied the easy "out" of deference, the plurality opinion then held that the ban was unconstitutional for noncommercial speech. It further held that the California Supreme Court could sustain the ban on commercial speech on remand if it so chose. The concurrence of Brennan and Blackmun rejected all fine distinctions and urged that the entire ordinance be struck down on the ground that it was difficult to distinguish between commercial and noncommercial speech and that the ordinance as drafted cut too closely to the heart of the First Amendment.

Under the analysis that I have advanced here the case does have one clear outcome. The regulation is a taking of private property as well as a

23. 453 U.S. 490 (1981).

participants in the struggle were aware, royal officials could rule in true imperial fashion; much of the conflict, *e.g.*, about the Stamp Act, was prompted by these considerations. As in England, power over the purse-strings was decisive in establishing the locus of authority in the system.

The importance of defending property against arbitrary power remained a preoccupation of the Founders at the era of the Constitution. Hamilton and Madison were emphatic on the subject, as was John Adams: "The moment the idea is admitted into society that property is not as sacred as the laws of God and that there is not a force of law and public justice to protect it, anarchy and tyranny commence." Nor was this simply Federalist opinion; arch-"radical" Sam Adams believed the same. "It is an essential, natural right," he wrote, "that a man shall quietly enjoy, and have the sole disposal of his own property . . . The Utopian schemes of leveling, and a community of goods, are as visionary and impracticable, as those which vest all property in the crown . . ."7

In the framers' view, the point was not that property had "rights," but rather that *people* had a right to property, and that this was an essential aspect of a free society. The common concern among the founding generation was that a government which could at its discretion take private property could thereby control every aspect of existence. Property was thus a condition, and a product, of a regime of freedom. Such was the lesson of British constitutional history, the meaning of taxation by consent, and a principal reason for the Founders' high regard for Locke—who was above all a defender of the rights of property.

We are frequently told things have "evolved" since the old-fashioned era of the Constitution, that the lessons considered relevant then are now no longer binding. But all experience since bears out the Founders' warnings on this subject. "A power over a man's subsistence," as Hamilton put it, "amounts to a power over his will."8 Far from being disproved by latter-

day developments, this maxim has been repeatedly confirmed in the political history of our era. This has been most obviously the case with the totalitarian systems. As we have seen, all of these regimes set out to control or dominate economic life, and through that control to dictate all other facets of behavior: Where one could live and work, go to school or travel, worship or assemble, speak or publish one's opinions.

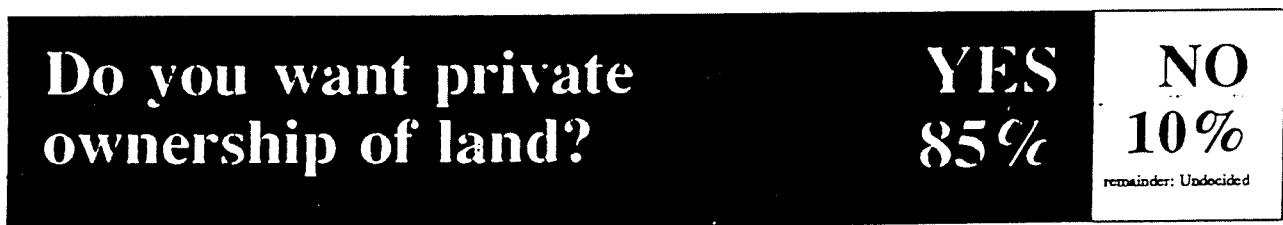
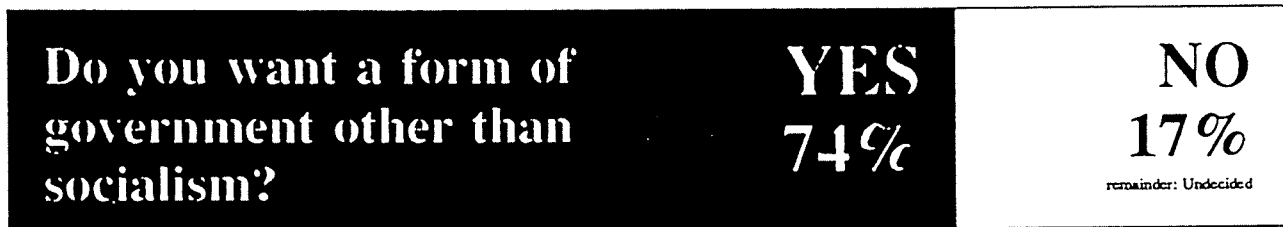
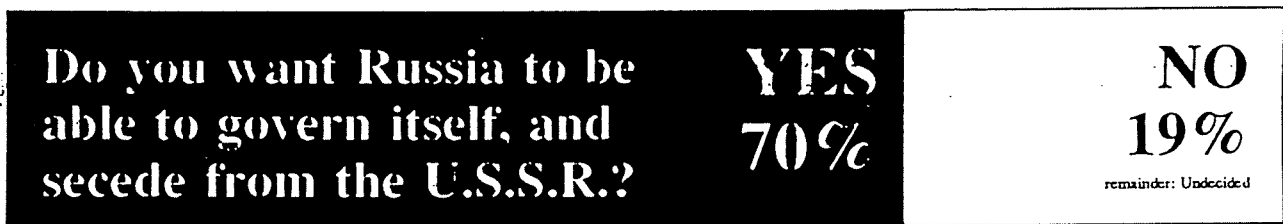
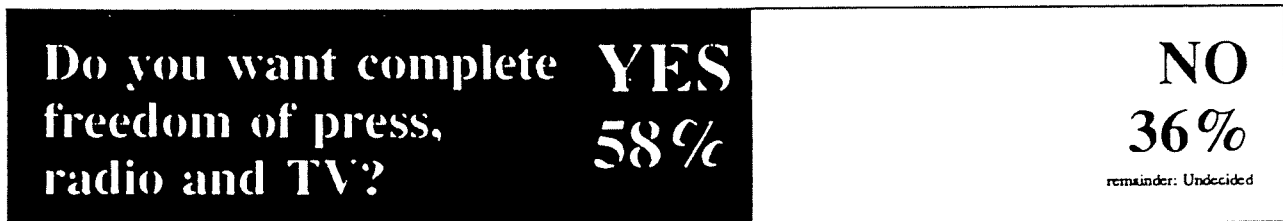
Such consequences have been apparent well short of the totalitarian outcome. To take an obvious example, authoritarian governments have found it a simple matter to control the press, merely by controlling the supply of newsprint. In our own society, government control in matters of finance or the material elements of communication has been used to inhibit voices of dissent—as in the "fairness doctrine" imposed by the Federal Communications Commission, antitrust actions against unfriendly media, or timely investigations by the IRS.

How do these considerations affect the ethics of economic freedom, and its relationship to our religion? One obvious answer is that if our ethical system supports the idea of political liberty, as most people would agree it does, then it must support as well the material factors by which that liberty can gain expression. To argue that freedom of the press is sanctioned by the Western ethic, but that the material elements needed to have a press are not, is a hopeless contradiction. The first is conditioned on the second, and to approve of one entails approval of the other. So likewise with other First Amendment liberties that have an economic basis.

These thoughts about the press translate to a more general consideration: The exercise of freedom in all its forms requires some kind of private space—a sphere in which the individual can enjoy a degree of independence, and thereby exercise his own ideas and judgments. A state that controls the material elements of life can, at its whim, deny this. Hence the need in a regime of freedom for a *material spot* on which the individual can stand, and which cannot arbitrarily be taken from him.

What the New Generation of Russians *Really* Want

The Institute of Sociology at the Soviet Academy of Sciences recently conducted a poll of 1050 Russians between the ages of 18 and 25. The poll covered six regions of the Russian Republic, constituting a majority of the population and three-quarters of the territory. The respondents were selected from all basic social and professional categories. Here is what that survey revealed:



Taken from "What Young Russians Really Think", *Reader's Digest*, March 1991, pp. 49 - 52.

Wow!

Property Tax is a rent to the state. You will never really own your property. Also realize the danger of bond indebtedness.

3-21

PROPERTY TAX IS THE MOST UNPOPULAR OF TAXES

- a. "In most states, the heaviest tax burdens borne by low income households are those that result from property taxes." Source--Unfinished Agenda of State Tax Reform, NCSL, pg 171
- b. "...inherently unfair because they have little or no relation to the property owner's ability to pay." Source--I'm Mad as Hell, H. Jarvis, pg. 283
- c. "discourages improvements on property." Source--Reforming State Tax Systems, NCSL, pg 42.
- d. Encourages flight from central cities. Source--Reforming State Tax Systems, NCSL, pg 42.
- e. "As more and more local public education lawsuits are successful, the local property tax will recede in importance for funding school systems." Source--Federation of Tax Administrators, Research Report No. 135, October 1990, pg. 6.
- f. "In reality, real estate taxes are a form of rent to the state for use of the property...There is no true private property when the state can exercise this power." Source--The Second American Revolution, John W. Whitehead, David C. Cook Publishing Co., 1982, pg. 209.

2. TREND TOWARD DECLINE IN USE OF PROPERTY TAX. Source--Reforming State Tax Systems, NCSL, pg 42.

- a. Self imposed discipline by local officials concerned about individuals and businesses being driven away by high property tax.
- b. Voter imposed restraints (Proposition 13 and 2 1\2)
- c. Greater elasticity of other revenue sources such as sales and income.
- d. Centralization (state aid) for education.

3. APPRAISAL AND LAWS OF PROPERTY--INACCURATE

- a. No assessment of property has ever been accurate. "No assessment in the previous 100 years had attained even approximate equality of assessment between state or local assessed properties, among classes of properties, or among individual properties. The normal situation,..., had been inequality and regressivity." Source--Origin of Classification and Reappraisal in Kansas, Part 1, State of Kansas, Jan. 10, 1990, pg 14.
- b. The "Unit Method" of appraising railroads is inaccurate. Source--Commonwealth of Virginia vs. Department of Taxation, et al., Record No. 891135, June 8, 1990.
- c. The C.A.M.A. system "suppresses" the income approach on commercial property. Source--Examination of source documents supplied by Shawnee County.
- d. The Kansas law of allowing farmland to be assessed differently from other commercial property is unconstitutional in Nebraska. Source--Kearney Convention Center, Inc. vs. Buffalo County Board of Equalization, Case No. 6768.

4. ELIMINATION OF EXEMPTIONS.

- a. "The broadest imposition with the fewest number of exemptions is the fairest." Source--Sales Taxation of Services, Federation of Tax Administrators, Research Report No. 135, Oct 1990, pg 14.
- b. Exemptions are not cost effective. Source--Reforming State Tax Systems, NCSL, pg 212

3-22

32-3

- c. "Legislators and governors can find an almost endless set of noble...exemptions; taken together, nibble by nibble from the tax base, they create a tapestry of discrimination, exaggerated by high... (tax) rates and complicated collection." Source--Reforming State Tax Systems, NCSL, pg 212.
- d. As many as 17 exemptions have been placed on the statutes within the last 10 years narrowing the tax base. Source--Kansas Legislative Research Department, Letter to Sen. Petty, October 3, 1990.

5. REGRESSIVITY (concept that poor pay more than their share)

- a. Property Tax is the MOST regressive. See item I. a.
- b. "On average, the lifetime incidence of a broad-based consumption tax is only slightly regressive." Source--Federation of Tax Administrators, Research Report No. 135, Oct. 1990, pg 11.

6. SALES TAX

- a. "The sales tax may be the state revenue source of choice for the 1990's. Source--Federation of Tax Administrators, Research Report No. 135, Oct. 1990, pg 7.
- b. Least unpopular, relatively stable, exportable, not highly regressive.

7. TAXATION OF SERVICES (Sales Tax)

- a. Wealth is shifting dramatically to service businesses. By the year 2000, 64% of consumer spending will be on services. Source--Federation of Tax Administrators, Research Report No. 135, Oct. 1991, pg 22.
- b. "There is no reason why private purchases of services should be treated differently from purchases of tangible personal property." Source--Reforming State Tax Systems, NCSL, pg. 226.
- c. "...the public continues to support sales taxes over property taxes or even income taxes." Source--Federation of Tax Administrators, Research Report No. 135, Oct 1990, pg 12.
- *d. "Thus, states may choose to balance the sales tax base broadening with property tax relief." Source--Federation of Tax Administrators, Research Report No. 135, Oct 1990, 10.
- e. "The alternative to the 'laundry list' approach is the general taxation of all services with minimal exemptions.." Source--Federation of Tax Administrators, Research Report No. 135, Oct. 1990, pg 57.
- f. Rebates to poor can be addressed through EITC (Earned Income Tax Credit). Source--NCSL and Research Report 135.
- g. Some states already tax services: Hawaii, N. Mexico, S. Dakota, Iowa, Washington, W. Virginia. Source--Reforming State Tax Systems, NCSL, pg. 217.
- h. The failure of Florida's plan for taxation of services was political. The basic tax plan was good. Source--The Unfinished Agenda for State Tax Reform, NCSL, pg 129.
- i. "permits states to indirectly tax the federal treasury." Source--Federation of Tax Administrators, Research Report No. 135, Oct, 1990, pg 70.

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Compiled by:

KANSANS FOR FAIR TAXATION, INC.

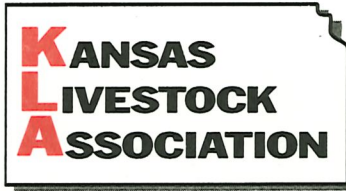
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All TRUTH passes through three stages:
First, it is ridiculed. Second, it is violently opposed.
Third, it is accepted as being self-evident. (Arthur Schopenhauer)



*A Century of Service
1894-1994*

STATEMENT OF
THE KANSAS LIVESTOCK ASSOCIATION
TO THE HOUSE ASSESSMENT AND TAXATION COMMITTEE
REPRESENTATIVE PHILL KLINE, CHAIRMAN
WITH RESPECT TO
PROPERTY TAXES
HB 2908
Presented by
DEE LIKES, EXECUTIVE VICE PRESIDENT

MARCH 14, 1996

As some of you may already know, we at KLA do not consider ourselves to be experts on school finance. However, because our members, who attempt to make a living in the livestock industry, require large investments in land and are therefore, greatly impacted by the heavy reliance on property tax to finance education, we do have a substantial stake in both property tax and school finance issues. KLA has long been a proponent of increased reliance on sales and income taxes to raise the needed revenues to fund schools. We do, however, appreciate the differing opinions and impact on various constituencies and the difficulty we face on fairly balancing the sources and the mix of tax revenues to finance schools. Therefore, I won't express a position on the specific levels and sources of any replacement revenues, which may or may not be necessary to replace the elimination of the statewide property tax to finance schools. However, we do hope that you will take this opportunity to have a serious and thoughtful discussion about how to move further away from the property tax to finance schools and other local units of government.

In our association, we have the belief that the property tax system is largely antiquated because it is a nineteenth century concept when land ownership was more of a reliable indicator of wealth or of a taxpayer's ability to pay. It is a product of the days when our economy was based largely on agricultural activity and all those one room school houses and county courthouses had to be funded whether or not agriculture actually made a profit. Today, our entire society has changed dramatically. No longer is real property necessarily a reliable indicator of wealth or of the ability to pay. Remember, all property tax must be paid from income. In today's society, it is not necessarily correct to assume that a mortgaged piece of land or a mortgaged building or home is a reliable indicator of wealth. Today, wealth is basically in the form of investments and income. For example, KLA believes that the income tax is the fairest of all because income is a better measure of wealth than any other source and because it is obviously based on the individuals ability to pay. There is a significant number of people in our society that really don't own much property other than an automobile and therefore, don't share as much as they possibly could or should in the support and financing of education. We believe that the most appropriate sources of revenue for schools are a combination of income and sales taxes and we hope you will make recognition of that fact and proceed accordingly while examining these difficult revenue source questions.



Kansas Association of REALTORS®

75^{years}



TO: HOUSE TAXATION COMMITTEE

FROM: KAREN FRANCE

DATE: MARCH 14, 1996

SUBJECT: HB 2908, SCHOOL DISTRICT PROPERTY TAX LEVY RATE

Thank you for the opportunity to testify. The Kansas Association of REALTORS® supports the concepts of HB 2908.

It has been our longstanding position that real estate is burdened with an excessive share of the constantly increasing cost of state and local government. We believe real estate taxes should be used only to pay for state and local governmental services which are rendered to real estate. People related services and programs such as education should be paid for by other types of taxation. We have advocated the restructuring of state and local taxation sources for the funding of non-property related services. We urge the state to work for the restructuring of taxes to relieve the inequitable real property tax burden but also not to unfairly shift the tax burden to any tax paying entity.

Property ownership is no longer an indication of the ability to pay. When it was first instituted, years ago, the ownership of property was an indicator of wealth. That is no longer the case. For example, we have people on fixed incomes whose property has appreciated in value through no fault of their own and their property tax bills have essentially become a rental payment to the government for their homes.

When the statewide mill levy was adopted in 1992, it began another whole spectrum of property taxation, by putting the state in the business of levying property tax far beyond the 1 1/2 mills it used to levy. The state now has to worry about increases and decreases in the statewide assessed valuation and is now a reluctant player in the game of maintaining current levels.

We urge the committee to seriously consider eliminating the statewide mill levy for schools. We think it will be in the long term best interest of the state to get out of the business of assessing property taxes and into the business of removing, at least partially, the use of an antiquated tax.

(continued)

House Taxation
3-14-96
Attachment 5-1

We do have two caveats, however, and that is, if you remove the statewide mill levy for schools, the Legislature needs to make sure that you do not loosen the reins on the exercise of the LOB authority. If the protest petition process is removed, then any beneficial effects you might have gained by moving away from statewide mill levy will soon be lost. Additionally, the need for either a constitutional spending lid as was heard discussed yesterday, or for a statutory tax lid for the other levels of government would be imperative. The legislature should keep both of these factors in mind when addressing this issue.

Thank you for the opportunity to testify.

March 13, 1996

Rep. Phill Kline
Chairman, Taxation Committee
Kansas House of Representatives
Capitol Building
Topeka, Kansas 66612

Dear Rep. Kline:

Thank you for this chance to appear at a Taxation Committee hearing in support of House Bill 2908.

I have been in a leadership role with the Reno County Concerned Taxpayers for many years. Our concern has been to get high quality public services for the tax dollars spent and equitably collected from people. We try to participate in the setting of priorities for the allocation of limited tax dollars. We maintain a mutually beneficial relationship with the Kansas Taxpayers Network and fight to prevent further erosion of our property rights.

We are grateful for this chance to express our concerns.

Sincerely,



Bill Bornholdt
Reno County Concerned
Taxpayers

8 Whitmore
Hutchinson, Kansas
67502

Pho. 316 662 6868

House Taxation
3-14-96
Attachment 6-1

Editorials

Wednesday, March 13, 1996

The Hutchinson News

Brewing storm

Gov. Bill Graves has fairly well herded the issue of doing away with property taxes into a blind box canyon for this year, despite the fact that it is under heavy attack from his own party.

Property taxes are onerous because they are the one way politicians beholden to government programs can raise more money by claiming their hands are tied.

Footing the bill are many taxpayers who paid off their houses years ago and can't afford to pay the tax appreciation and many homeowners who own only a small portion of their property but pay taxes as if they owned it all.

The one class of taxpayer fought and won in California with Proposition 13. The other pays a higher and higher share of government until it digs its heels in, too.

For example, if you claim to own your \$100,000 house, but you actually still owe the bank \$112,000, although you might get lucky and sell it for \$135,000, shouldn't the government be embarrassed to hit you up for a thousand or so in property taxes based on the supposed escalation of what you might be paid for your property, by and

by?

Probably, but governments are especially dispassionate about getting theirs. Politicians beg off by saying their hands are tied.

And not so many years ago, property taxes were considered the most progressive tax of them all.

Only the well-to-do could own property that was rich enough to tax, it was believed, and they could afford to pay the freight of government for others. Sales taxes were considered regressive because the poor had to pay them right along with the rich when they went out to buy a shirt for their backs. Income taxes were barely a gleam in the eye of state governments.

Kansas government raises big money from all three forms of taxation.

This is one of the reasons you can almost feel a taxpayer tsunami coming in this state.

Gov. Graves seated a commission to study taxes. His commission patted taxpayers on the head and told them to stop worrying, they have it good. This George Bush approach to taxpayer unrest will not stand.

Something's coming.

It feels like a taxpayer tsunami.

Editorials

Friday, March 8, 1996

The Hutchinson News

Western Front

Property owners gouged again

Well, as of yesterday we received notice of the latest chapter in the trashing of Reno County. The most recent increase in assessed valuation will increase my property-tax bill by another 15 percent. (Subsequently reduced to 6 percent.) The tax for each thousand dollars of assessed valuation will probably go from \$150 to at least \$155. Most of us can't afford to keep our property updated and well-maintained at the same time, so to avoid a tax lien we will pay the tax increase and let the property deteriorate further. Much of the boosted comparables are attributable to extensive fix-ups to get maximum price upon sale; but this fact is conveniently ignored by the bureaucrat hearing your protest.

Several years ago our elected county commissioners grew weary of hearing some 3,000 tax protests, so they raised their own salaries and had their lobbyists (the Kansas Association of Counties) try to sell our legislators on the idea of assigning the State Property Valuation Department to take control of all appraising and protest hearings. They were suc-

cessful, and the state takeover was done so quietly that taxpayers no longer may protest to one of their own elected officials, but a state-controlled bureaucrat will now dispense fairness and equity. Standards were pretty well set by Judge Bullock of the Shawnee County District Court. Our legislators who passed this state takeover were very comfortable hiding behind these court orders.

But answering time is here, as we hold elections this year. We have a chance to rid ourselves of our tax-and-spend lawmakers, who respond to our questions with big bunches of blame-game rhetoric.

Would we be any worse off if we just refused to return any incumbents to office? Makes you wonder, doesn't it?

Maybe we should protest our increase anyway. The appraiser's office is so far behind now, they will never catch up. Send old Appraiser Jim Siemans crying to his favorite commissioner to get authorization to hire more people - if he can find anyone left who will work for him.

BILL BORNHOLD
Hutchinson

6-2

Reno County residents questioning appraisals

By Ray Hemman

The Hutchinson News

Bill Hermes says his recently delivered Reno County appraisal notice doesn't add up.

Hermes received one of 34,378 appraisal notices Reno County residents started getting March 2. Those notices showed an overall increase in property values of 9 percent from a year ago. Hermes said his notice was about \$14,000 more than he paid for the property.

"I live up on Idlewild, and I'm the middle of three houses," Hermes said Thursday. "All three were built in 1993. All three were built by Jim Strawn. All three are within 25 square feet of size of each other. Mine is \$14,000 more than the one to the east of me and \$12,000 more than the one to the west of me. All three houses have a partial brick front and then siding on the rest of the whole house. There's not much difference in them at all."

Since Monday, Reno County

See APPRAISE, Page 5

Property tax appeals process

If you disagree with your appraisal, fill out the appeals form on the back of the appraisal form and return it to the county appraiser's office by April 15.

The appraiser's office schedules a meeting with the property owner.

The taxpayer meets with the field appraiser from the appraiser's office. The taxpayer needs documentation that shows the county set value is incorrect. Helpful documents that show a recent sale of the property, a private appraisal of the property, or documents showing the correct characterization of the property are helpful.

The appraiser's office schedules a decision by request. The decision can be certified by the appraiser's office.

If the appraiser's office certifies the decision, the taxpayer can request a hearing. The hearing is held by the hearing officer hired by the county appraiser's office. The hearing is held on the date and time set by the hearing officer.

If the appraiser's office does not certify the decision, the taxpayer can request a hearing. The hearing is held by the hearing officer hired by the county appraiser's office. The hearing is held on the date and time set by the hearing officer.

If the taxpayer is not satisfied with the decision of the Tax Appeals Board, the taxpayer can request a hearing. The hearing is held by the hearing officer hired by the county appraiser's office. The hearing is held on the date and time set by the hearing officer.

Source: The Hutchinson News

JW/The News

Appraise

Continued from Page 1

Appraiser Jim Siemens and his staff have been hearing from residents — averaging about 50 calls a day. The values residents see result from a comparison of five similar homes that have sold within the past three years.

"We use fair market value," Siemens said. "The basic definition of that is what a willing buyer and willing seller would agree to with both informed and having no undo compulsion to sell."

Reno County was among about half the state's counties that were able to get appraisal notices mailed by the March 1 statutory deadline. Appraisal offices in Ford and Barton counties, for example, have gotten extensions of the deadline and are preparing to send out notices.

Property owners can go to their local appraiser's office and request a list of the properties used to compare their own property for appraisal purposes, Siemens said. Before a property's appraisal is set, an appraiser must review five similar properties for comparison purposes. The five properties must have sold within the past three years.

Based on the value of these properties, an appraisal is set — but not necessarily in concrete. If a property owner disagrees with an assessment, the first step is to request an informal meeting with an appraiser.

"What changes my mind is documentation that leads me to believe our value is wrong," Siemens said. "But I have to have something, either our characterization of their property is wrong or show me a recent sale or appraisal of it. But just for the taxpayer to say it's 'too high' doesn't give us anything to go on."

Hutchinson resident Bill Bornholdt, who has tangled with the appraisal office through the years, agrees with one thing Siemens says: get your documents in order.

"Get a good list of factual information and study the statutes," he said.

Bornholdt's appraisal first went up 15 percent, but then he received a second appraisal statement three days after the first that was up only 6 percent.

Bornholdt disagrees with both statements.

"I have long maintained that including in the appraisal value the realtor's fee and closing cost is wrong," he said. "But I don't have the resources to appeal it (to the courts), I tried."

"My impression and that of all my friends is that it is almost customary for them to say 'insufficient evidence.' I know of very few cases where it was changed."

Reno County commissioners have been hearing from constituents about the increase in valuations.

"Jim (Siemens) was up here this morning and said he was get-

ting a barrage of calls," County Commissioner Bob Fischer said. "The other two commissioners and myself have been getting calls and what-fors. We no longer are the appeals board."

In the past, county commissioners sat as an appeals board on property tax disputes. Now, the state Property Valuation Division requires the county to hire a hearing officer who is certified by the state.

"All we can do is tell them what their remedies are," Fischer said. "From what I hear and what people are saying, there seems to be a higher percentage raise this year."

Another taxpayer who will appeal is Don Williams who lives on Columbia Drive on Hutchinson's northwest side. In the past 18 months, he has seen his valuation go up 20 percent to about \$101,000.

Williams has been told homes in the \$50,000 to \$100,000 price

range are "hot" and therefore the prices have been escalating. He doesn't buy that argument.

"If one person is going to be raised, then all ought to be raised," he said. "They should not single out one group because their property is 'hot.'"

Siemens said it all goes back to property values. Homes sold for higher prices in 1995 with the trend continuing so far in 1996.

"I do a monthly study of the Board of Realtors sold list," Siemens said. "February sales for 1996 were already 6 percent ahead of what we were valuing homes at."

County appraisers in many areas of Kansas have been hearing from taxpayers since the notices were sent out. Alan Roop, Finney County appraiser, said his staff had heard from taxpayers since the 15,000 notices were sent out. Residential home sales have been strong for the past

several years, driving up valuations.

"For the past four years, we have seen increased values in the county mainly due to sales increases," Roop said. "There is quite a growing market and that is what it (appraisal) is based on."

In McPherson County, reaction has been muted, Rick Batchellor, county appraiser, said.

"The reaction overall has been fairly good," he said. "We've had quite a few come in for comparison sheets."

More than 16,000 notices were sent out in McPherson County, with an average increase in valuation of 8 percent.

"Most people recognize the fact that homes have appreciated," Batchellor said. "They just want to look at the comparable values and see what we compared their home to and what that sold for in 1995. We've had quite a few sales in 1995."

6-3

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HOUSE TAXATION COMMITTEE

TESTIMONY RE: HB 2908

Presented by Ronald R. Hein

on behalf of

MESA

March 14, 1996

Mr. Chairman, Members of the Committee:

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

MESA supports a property tax reduction in the State of Kansas. Property taxes in general are too high, as a percentage of the tax mix. Property taxes on commercial and industrial properties are even higher as the result of a classification system which penalizes the business community. Lastly, property taxes help make Kansas one of the highest, if not the highest, taxing state in the nation with regards to natural gas production. The high rate of property taxes coupled with a high statewide severance tax results in a production tax which, to MESA, approximates 12-14%. This is a gross receipts tax paid off the top of every dollar generated by the industry.

Obviously, there are several theories as to how property taxes can be adjusted in Kansas. SB 41 provided for lowering the property tax and increasing other taxes. The Governor has proposed retaining the 35 mill levy for one year only, to permit the Governor and the legislature to analyze the fiscal state of the state and then to attempt some property tax relief in the succeeding years. HB 2908 provides for an eight year phase-down, which essentially provides for a two year phase-down, an expression of legislative intent for the remaining six years due to the constitutional limitation on the ability of the legislature to set property tax rates.

And there are probably some who would simply say eliminate the 35 mills today by defeating any reenactment of the 35 mill levy.

What all of these approaches have in common is an effort to, ultimately, reduce property taxes.

MESA can live with any of these approaches to attempting to solve the problem that is present, and the problem is excessively high property taxes. I very much doubt that there are very many people who would challenge the statement that the severance

tax on oil and gas in this state, which has been so excessive for these past 13 years, has done a great deal to discourage production, discourage exploration, eliminate jobs, and heavily disadvantage what used to be a strong, prosperous industry in this state. Rig counts are down, employment is down in the industry, and multi-national producers are seeking production in other areas of the country and in other areas of the world.

Oil has been a declining industry in Kansas for some time, and natural gas production will peak out in the near future. Drilling permits continue to decrease, and the economic plight of oil and gas companies continues. I would not suggest that the heavy tax burden is the only factor in these events, but the heavy taxation has certainly contributed to the decline in the industry.

MESA can help identify the problem, but the various policy decisions that must be made by the legislature and the Governor, once the problem has been identified, must rest on the shoulders of the policy makers. In general, we would urge this committee to send a strong message of support for property tax reduction. This property tax reduction should be cognizant of the fact that property taxes are high on the business community, including the oil and gas industry, and property tax relief should not be given to just one selective class of property taxpayers. We would strongly urge the committee and the legislature to approve property tax reduction by a reduction in the mill levy across the board.

With regards to the amount of rate reduction and the timing of that rate reduction, we would simply urge that it be done as soon as possible and feasible. We understand that the state budget has been described as a pile of money surrounded by outreached hands, and we understand that programs need to be funded. We would simply urge the committee to work with the Ways and Means Committee, the Appropriations Committee, and the Governor to encourage efficiencies in state government similar to some of the efficiencies which have been taken by the private sector.

But, we leave to your discretion as to the particular timing for property tax reduction to be achieved.

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



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ROLAND E. SMITH, *Executive Director*

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March 11, 1996

STATEMENT TO: Chairman Phill Kline and Members of the House Taxation Committee.

FROM: Roland E. Smith, WIBA Executive Director

SUBJECT: A statement in support of HCR 5044 and HB 2908.

Unfortunately, I am unable to be in Topeka on Wednesday and Thursday of this week when you are holding hearings on HCR 5044 and HB 2908.

WIBA is on record of supporting HCR 5044 that limits growth in both state and local government. In fact, WIBA would like to see it even stronger than the current language. It is essential that local and state government growth be at least capped at some reasonable level in relation to the taxpayers ability to pay. It would be more desirable for both local and state government spending to be reduced. We applaud the Governor for his reduction in budget from last year. It is essential also that the local government remain included or the state will push more down to the local level and resulting in more increased taxes.

WIBA supports HB 2908 to eliminate the 35 mills for school finance and be replaced with the growth in state income over the next nine years. There must be, however, a way to keep other local government taxing units from picking up the savings by increasing their mil levies. HCR 5044 will help in that area.

THANK YOU! for considering this legislation and we encourage you to pass both out of committee favorable for passage and support both with your vote in the House.

"The MISSION of the Wichita Independent Business Association is to be the leading resource for th

House Taxation
 3-14-96
 Attachment 8

TESTIMONY PRESENTED

TO THE

HOUSE
TAXATION
COMMITTEE

BY

ALAN STEPPAT

OF

PETE MCGILL & ASSOCIATES

ON BEHALF OF

THE KANSAS LEGISLATIVE
POLICY GROUP

ON

HB 2908

MARH 14, 1996

Mr. Chairman and members of the House Taxation Committee.

Thank you for the opportunity to appear here today in support of HB 2908.

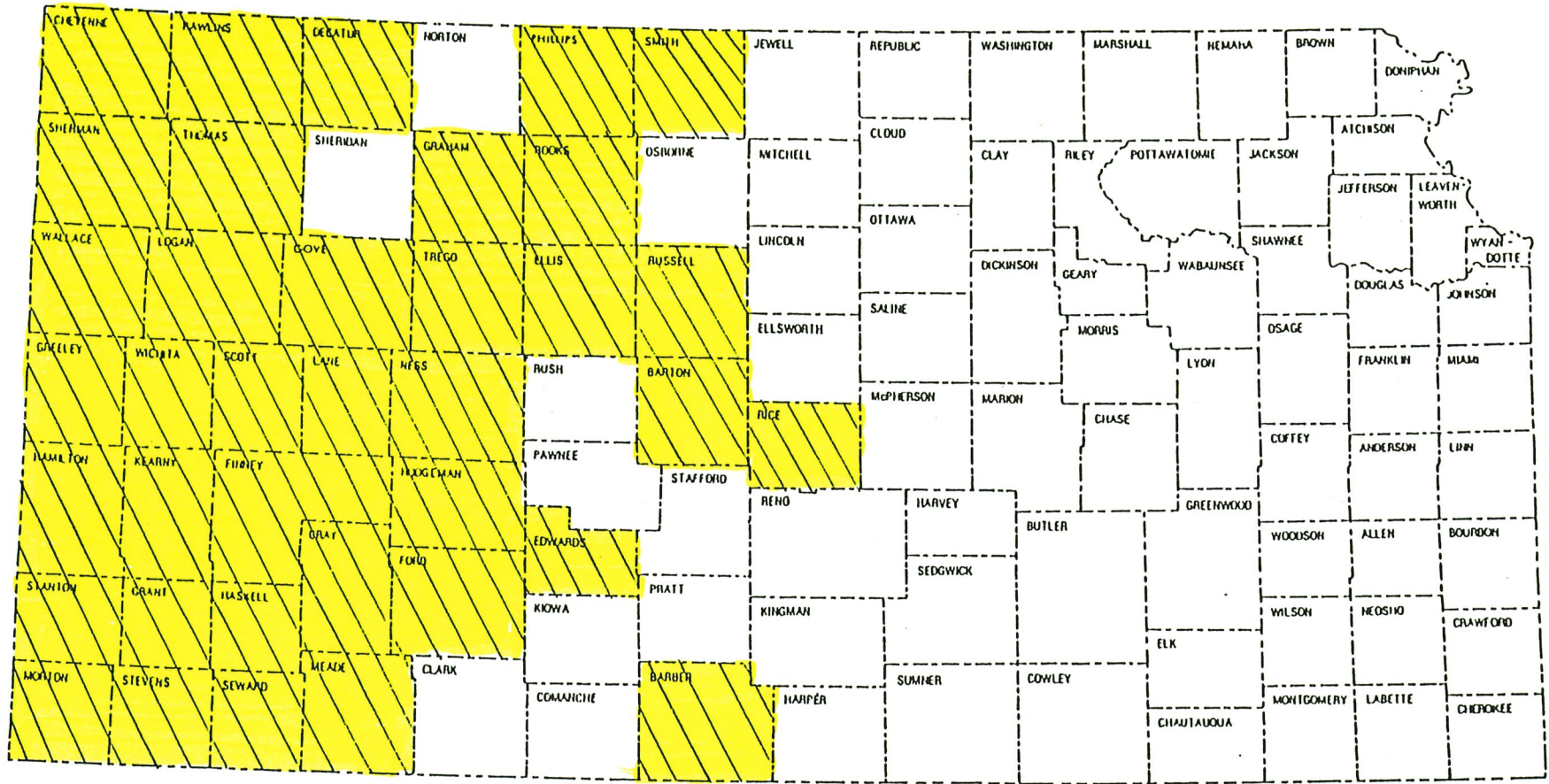
My name is Alan Steppat, and I am with Pete McGill & Associates. I appear on behalf of the Kansas Legislative Policy Group (KLPG) which we have represented for the past sixteen years. KLPG is an organization of County Commissioners from 37 counties in western Kansas.

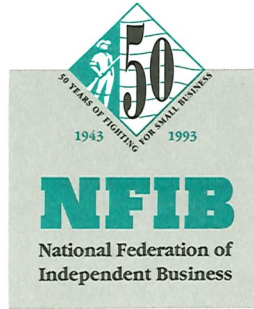
The Kansas Legislative Policy Group unanimously adopted a motion to support legislation that would phase out or eliminate the state imposed property tax from the school finance act.

In 1992, the Kansas Legislative Policy Group opposed the enactment of a statewide mill levy to fund schools. The dominating reason for the position taken by KLPG was the entry of the state into the property tax field in direct competition with local units of government.

We urge your support on HB 2908.

KANSAS LEGISLATIVE POLICY GROUP
MEMBERS



LEGISLATIVE**TESTIMONY**

**Testimony of Hal Hudson, State Director
Kansas Chapter of the National Federation of Independent Business
Before the House Committee on Taxation
on House Bill 2908
Thursday, March 14, 1996**

Mr. Chairman and Members of the Committee: my name is Hal Hudson. I am State Director for the 8,000-member Kansas Chapter of the National Federation of Independent Business.

I am here to support enactment of H.B. 2908, with one major reservation. Enactment of a bill to remove the 35-mill state-levied property tax must be tied to a spending control measure such as HCR 5044. Otherwise, taxpayers can expect to see local property taxes continue to climb as they have in the recent past.

On behalf of the 8,000 Kansas members of NFIB, I urge you to consider the plight of small business owner, as you consider this and other property tax proposals. You have heard me say before that property taxes - unlike sales and income taxes - bear no relevance to the ability of a business to pay.

If property taxes can be reduced through a phased-in removal of the 35-mill state levy, without raising any other taxes, that would be a boon to small and independent business owners in every county of the state. However, if you decide that H.B. 2908 is good legislation and should be passed, I hope you will make a commitment to your constituents to press for enactment of HCR 5044.

Failure to adopt a spending control measure - especially for local taxing authorities - would simply compound the error that was made in 1992. I urge you irrevocably to tie these two measures together, and not enact removal of the 35-mill levy without enacting a spending control measure as its companion.

Thank you for your attention.

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Attachment 10

Remarks of DENNIS C. JONES

On behalf of KANSANS FOR LOCAL CONTROL and the
KANSAS LEGISLATIVE POLICY GROUP

Presented to COMMITTEE ON TAXATION
KANSAS HOUSE OF REPRESENTATIVES
MARCH 14, 1996

It is my privilege to appear before this Committee today on behalf of two (2) organizations - Kansans For Local Control and the Kansas Legislative Policy Group. Both of these organizations are firmly committed to the removal of property tax as a funding source for state government. It is our position that the property tax, as it has historically been used in Kansas, should be a local tax, levied and administered at the local level. We are therefore supportive of the philosophy contained in House Bill 2908.

It should be here noted, however, that we firmly support the full funding of public schools in Kansas. The children of each of our communities in this State represent our greatest resource, as well as our hope, for the future. We must be committed to providing the fullest and best educational opportunities for the youth of Kansas that are possible. If Kansas is to compete and prosper as we enter the 21st Century, we must be prepared to meet the challenge of providing, now, through education and training, a foundation upon which such prosperity and competitiveness can be based.

It was my privilege to serve, this past summer and fall, on the Governor's Tax Equity Task Force. That Task Force was charged with analysing the fairness of the state's current tax policies and recommending any necessary improvements or revisions. The Task Force, as its first unanimous conclusion and recommendation, found and recommended that the state tax system should reduce its reliance on the uniform school finance levy over time.

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Kansans For Local Control and the Kansas Legislative Policy Group fully endorse and embrace that recommendation. It is our belief that the 35-mill state property tax levy established in the 1992 School Finance Act signalled a very drastic and a very dangerous change in both tax philosophy and tax policy in Kansas. Until that act was adopted, the state government had, with the exception of a 1½ mill building improvement fund, left the property tax as the primary revenue source for local units of government. Cities, counties and school districts used property tax to provide the necessary services that the citizens of our communities require: roads; bridges; sewer systems; police and fire protection; health care delivery systems; physical plants for schools and local government entities are but a few of the services and facilities funded by the property tax at a local level. Now, those local units of government are being forced to compete with state government for that source of tax revenue.

The income and sales tax base of most communities in Kansas is simply not adequate to serve as an alternative tax revenue source for government at a local level. It is our fear that if the state continues to rely on property tax, to any degree, to fund public education, then the ability of cities and counties to meet the needs and requirements of their constituencies will deteriorate.

Another area of concern to both of our organizations is simply an issue of tax fairness in regard to the 35 mill levy as it is now levied. Currently, exemptions to the uniform levy are allowed to be implemented. While we firmly support the ability of cities and counties to use tax exemptions and incentives to promote economic development, as that need may arise in any individual county or city, we do not feel it is fair for such exemptions and incentives to be offered by one entity to the detriment of other local government entities in the state.

If the state was out of the property tax arena, then local units of government could offer exemptions and incentives as the need arose, without causing a hardship

or additional burden to cities and counties in the remainder of the state.

The issue before this committee, and indeed before this Legislature, can be very simply stated: How can the 35-mill school finance levy imposed by the state be removed and what sources of replacement revenue are available so that funding of public education will not be diminished? Although the issue is simply stated, it cannot be simply resolved. That is the challenge that the Governor's Tax Equity Task Force faced and it is the challenge now faced by this committee.

Although neither of the groups I represent would presume to be able to offer the ultimate solution to this dilemma, we do encourage you to create and implement a finance plan for public education that is adequate to provide quality education opportunities for our children, without diminishing the ability of our cities and counties to provide the services so necessary to the quality of life we enjoy as Kansans.