

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 5, 1998 in Room 519-S of the Capitol.

All members were present except: Rep. Terry Presta
Rep. Clark Shultz

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:
Bud Burke, Kansas Recreation & Park Association
Bob Best, Lake Perry Marina
Bob Winkler, Wichita
Greg Greenwood, Sailing Association, Wichita
Lyle Bighley, Kansas Pilots Association
Jerry Hiatt, Cessna Aircraft
Andy Woodward
Bob Halston, Overland Park
Rod Broberg, Kansas County Appraisers
Rep. Ralph Tanner
Ken Meier, Harvey Co. Commissioner
Louis Klemp, Leavenworth

Others attending: See attached list

Chair Kline opened hearing on:

HCR 5034 - Constitutional amendment reclassifying aircraft and watercraft for property tax

Proponents:

Bud Burke, Kansas Recreation & Park Association (Attachment 1)
Bob Best, Lake Perry Marina (Attachment 2)
Bob Winkler, Wichita (Attachment 3)
Greg Greenwood, Sailing Association, Wichita
Lyle Bighley, Kansas Pilots Association (Attachment 4)
Jerry Hiatt, Cessna Aircraft (Attachment 5)
Andy Woodward
Bob Halston, Overland Park

Written testimony only:

Pack St. Clair, Cobalt Boat Manufacturer (Attachment 6)
Sedgwick County Appraiser (Attachment 7)

Opponent:

Rod Broberg, Kansas County Appraisers (Attachment 8)

Don Hayward, Revisor of Statutes, answered question from Chair - the resolution is not self-executing and

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on March 5, 1998.

subsequent legislation would be needed before the taxation of aircraft or watercraft would be changed. Such property currently is assessed as "all other" personal property at 30 per cent of its fair market value.

Closed hearing on HCR 5034.

Moved by Representative Powell, seconded by Representative Ruff, committee recommended HCR 5034 favorably for passage. Motion carried.

Chair opened hearing on:

HCR 5039 - Constitutional amendment allowing legislature to limit increases in appraised valuations of real estate.

Proponents:

Rep. Ralph Tanner(Attachment 9)
Louis Klemp, Leavenworth (Attachment 10)
Ken Meier, Harvey County Commissioner (Attachment 11)

written testimony submitted by:
Rep. Jim Garner (Attachment 12)
Sedwick County Appraiser's Office (Attachment 13)

Due to lack of time to hear all the proponents and opponents, Chair announced hearing would be continued at the next meeting on Tuesday, March 10.

The next meeting is scheduled for March 10, 1998.

Adjournment.

Attachments - 13

TAXATION COMMITTEE GUEST LIST

DATE: MARCH 5, 1998

NAME	REPRESENTING
Willie Martin	Sq. County
July Moler	KAC
Rod Broberg	Saline County & KCAA
Craig Cozart	Harvey Co.
Ken Meico	Harvey Co.
GILBERT WOOTEN	OKS. PILOTS ASSOC.
DAVID FINLEY	KS PILOTS ASSOC.
Bill Barrow	Kansas Boaters Assoc. - Turner Harbor Marina
Bob Winbler	Cheney Lake Assoc.
Bob Best	KS BOATERS ASS. & LPYM
MacLellan Miller	Johnson County
Carl Petrojick	KS Taxpayers Network
RICHARD BODEWICHD	TAXPAYERS
Bob Corkins	KCCI
Larry Kipp	Douglas County Property Owners Assn.
DON CASHATT	Douglas County Property Assn.
Bender Wintz	(Intern) Rep Schwartz

TAXATION COMMITTEE GUEST LIST

DATE: **MARCH 5, 1998**

NAME	REPRESENTING
LYLE BIGHLEY	KANSAS PILOT ASSOC.
JERRY HEATT	CESNA Aircraft Company
GREGG GREENWOOD	MINNESOTA SAILING ASSOC. / CHENEY LAKE ASSOC.
ANDY WOODWARD	MINNESOTA SAILING ASSOC. CHENEY LAKE ASSOC.
Christy Caldwell	Topeka Chamber of Comm.
Bill Halstun	Lake Perry Y&M
Ashley Shevard	Overland Park Chamber
Alan Stepat	Pete McBillie's Assoc.
Bud Burke	Ks. Boaters Assn / Cessna Aircraft
KAREN FRANCE	Ks Assoc of RETIREES
Roger Frawze	Ks Gov Consulting
Greg Tugman	DOB
George Peterson	Ks Taxpayers Network
Louis Klump	Private Cit.
Cheri McKen	Lawyer of Ks Taxpayers



TESTIMONY

House Taxation Committee

March 5, 1998

Mr. Chairman and Members of the House Committee on Taxation, my name is Bud Burke and I appear here today on behalf of the Kansas Boaters Association and the Cessna Aircraft Company in support of HCR 5034. As one who was involved in the process of developing and drafting the Constitutional Amendment that was approved by the people in 1986, I believe it would be accurate to say that none of us envisioned at that time that we would have only two types of property left to be assessed at the highest assessment level of 30%.

Subsequent to the adoption of our current method of determining the rates at which property is assessed, by legislative action Business Aircraft were exempted from the property tax and so we are left with aircraft for personal use and boats being taxed at the 30% rate.

I do not speak for every aircraft owner or every boat owner but I feel that most of them are willing to pay a reasonable tax.

(2)

We are advised that a number of boat and aircraft are moved out of the state of Kansas prior to the first of the year and moved back sometime after the first of January in an attempt to avoid the tax. However, most owners that I have talked with have kept them here and pay the tax on them.

We would hope that in the state that stakes out the claim to be the "AIR CAPITOL OF THE WORLD" and the state that is trying very hard to improve its tourism effort by developing its lakes and encouraging the development of resorts would establish a fair and reasonable level of taxation for boats and aircraft used for non-business purposes.

HCR 5034, if approved by two thirds of both houses of the legislature and by the people would allow the legislature to establish such a fair level of taxation for these last two kinds of property to be taxed at the highest level.

Thank you for allowing us to present our case to you today.

PRESENTATION AT THE STATE CAPITOL ON MARCH 5, 1998
SUBJECT: BOAT TAXES IN KANSAS

Distinguished Legislators. I have a vision of Kansas becoming a vacation destination. Of a beautiful resort on one of our many lakes that all of you would be proud to visit and stay in. Many families from all over the U.S. would visit this resort on an annual basis to relax, boat, fish, ski, play golf, go sight seeing, hiking, camping, horse back riding or just ride around and enjoy the beautiful scenery that is Kansas. The Kansas that we know is apparently unknown by many others and consequently we are the lucky recipient of a 48th place ranking in the area of state tourism. You have just completed a first major step in attempting to lift Kansas off the bottom of the tourist destinations list with the passage of H.B. 2899 which provides a mechanism to build a resort with the States blessing and assistance.

If Kansas were able to move up in the tourism rankings just a few places it could mean literally millions of dollars being pumped into the Kansas economy that are currently being spent in states all around us. This first major step toward that goal however, needs to be augmented with a few other component pieces if we are to be successful in our efforts to make Kansas a destination and to realize the many economic benefits that can be visualized. One of the additional components is the passage of legislation that will change the way in which boats are taxed. Currently, Kansas residents own approximately 101,000 boats which results in a ranking of 32nd in the nation in terms of boat ownership. This number, however, has remained virtually flat for the last five years in that it has only increased 3% since 1992. Kansas lake utilization has also declined and in fact lake Perrys utilization has declined almost steadily since its original formation. Part of the reason for this is that boat taxes are so out of line with other states that people are not buying or keeping newer more expensive boats in the state and young families have found that boating has become too expensive for their meager budgets and they have turned to other, sometimes significantly less desirable, recreational pursuits.

Do you realize how significant a problem this really is? Do you know how important the timing of changing the level of taxation on boats is? Let me tell you.

Boat taxes are currently 4-10 times or more here in Kansas than they are in neighboring states. One of my customers left my facility where he kept his boat to move it to Missouri. His taxes in Kansas were \$120.00 - In Missouri -\$16.29 Another customer just moved his house boat, sailboat, and new runabout to Truman lake because he was fed up with the high taxes here in Kansas. We are not

**COMPARISON
OF TAX RATES
FOR BOATS IN THE
FIVE-STATE AREA**

**(KANSAS • OKLAHOMA • MISSOURI
COLORADO • NEBRASKA)**

Bob Winkler, Pres. C L A
(316) 684-8005
2500 Claiborn Cir.
Wichita, KS 67226

House Taxation
3-5-98
Attachment 3-1

PREFACE

The study and report contained in the following pages concerns the very high unreasonable personal property tax in Kansas and a comparison of how tax and registration is figured in Kansas, Oklahoma, Missouri, Nebraska and Colorado.

It appears there is no set formula or rule for figuring tax and registration on personally owned boats.

In Kansas, boats are assessed at the highest rate which is 30%. This is totally unfair considering that boats are used for recreation much like R.V.s and travel trailers.

The personal property tax has been greatly reduced on R.V.s and travel trailers – what formula or reasoning is used to accomplish this for R.V.s? Let's be fair in the tax we are expected to pay – get the personal property tax on boats down-down-down-down.

Many boats are purchased by persons living in Kansas but purchase and keep them out of state to avoid the high property tax.

This study indicates the sales tax rate is about the same in various states. Most Kansas boat buyers expect to pay sales tax – however, a lot of them pay sales tax and property tax out of state.

It would appear that a much lower property tax would enable a buyer to purchase in Kansas – this would increase revenue from sales tax.

From survey records it is estimated than in 1996 about 3500 boats were purchased by Kansans; of this number, it is estimated that 20% register and keep their boats out of state. The loss of Kansas sales tax revenue is about \$400,000.

What is it going to take?

Boat owners and the boat industry in the state of Kansas must rely on local and state government officials to recognize the unfair and unreasonable tax and greatly reduce or eliminate it.

Your help is urgently requested.

KANSAS PROPERTY TAX

In a study of the cost of registration and ownership of personally owned boats in Kansas, Missouri, Oklahoma, Nebraska and Colorado, the following is an outline for each state. For the purpose of comparison, two boats have been chosen to indicate the cost for registration and taxes in each different state.

The first boat is a 1996 Cobalt 220 Runabout and Ski boat that sells for about \$35,000.

The second boat is a 1996 Sylvan 19 ProSelect Fishing boat that sells for about \$16,000.

Boat #1



Boat #2

For Kansas...

For any boat, sales tax is 5.5% to 5.9%. The registration fee is \$18 for three years.

The appraised value is derived from the NADA small boat appraisal guide average trade-in.

The assessed value is then 30% of the appraised value.

If a person owns a boat as of January 1, then it would be subject to personal property tax for that and subsequent years. The personal property tax will then be the assessed value times the mill levy for the Kansas County where you register the boat.

It will also be subject to personal property tax of some slightly lesser amount for each following year.

Using the rules for Kansas as it applies to a:

1996 Cobalt 220, selling for \$35,000

Sales tax	\$2,065.00
3-year registration	18.50
Appraisal boat and trailer	22,630.00
Assessed value	6,789.00
Tax Rate = .11268 per 100 assessed	
First year personal tax	765.00

1996 Sylvan fishing boat, selling for \$16,000

Sales tax	\$944.00
3-year registration	18.50
Appraisal boat and trailer	12,805.00
Assessed value	3,841.00
Tax Rate = .11268 per 100 assessed	
First year personal tax	432.00

For Missouri...

All boats and motors must be titled and are appraised for tax purposes using one of three appraisal guides published in St. Louis.

The assessed value is then 33% of the appraised value.

Boats registered in Missouri are subject to the following taxes:

Example from Stone County

Sales tax	4.225% + county 1.65%
Title registration fee	\$7.50 (10' to 30')
Second year personal property tax0385 x assessed value
Personal tax decreases slightly for subsequent years.	

Using the rules for Missouri (Stone County)

For a 1996 Cobalt 220 and trailer selling for \$35,000:

Sales tax	\$2,056.00
Title registration fee	7.50
Appraisal	18,780.00
Assessed value	6,260.00
Second year personal tax	241.00

For a Sylvan 1996 fishing boat selling for \$16,000:

Sales tax	\$940.00
Title registration	7.50
Appraised value	11,820.00
Assessed value	3,940.00
Second year personal tax	151.69

PLEASE NOTE: Personal tax is much less than in Kansas due to lower tax levy. – Especially around lake areas.

No Personal Property Tax For Oklahoma...

Boats are registered through the motor vehicle department and must be titled. There is a title fee of \$3.25 and a yearly registration fee of \$150 maximum on boats over \$15,000. There is a one-time excise tax of 3.25%. All this is uniform over the state and is collected at the time of registration. There is no requirement for trailer license.

Using the rules for Oklahoma,

A 1996 Cobalt 220 selling for \$35,000 would cost:

Title fee	\$3.25
Registration fee	150.00
One-time excise tax	1138.00
(no personal property tax)	

A 1996 Sylvan fishing boat selling for \$16,000:

Title fee	\$3.25
Registration fee	150.00
One-time excise tax	520.00

No Personal Property Tax

For Colorado . . .

In Colorado, boats are not titled.

Boat trailers require a license tag and are licensed by the motor vehicle department.

The sales tax on a boat purchase is 5% plus city tax for an average sales tax of 6%.

To license a boat the registration fee is:

less than 20' \$15.25
over 20' 20.25

This is per year.

Using the rules for Colorado:

A 1996 Cobalt 220 selling for \$35,000

Sales tax \$2,100.00
License, registration 20.25

A Sylvan fishing boat selling for \$16,000

Sales tax \$960.00
License, registration 15.25
No personal property tax.

No Personal Property Tax

For Nebraska . . .

In Nebraska all boats are titled. Boat trailers less than 9,000 gross lbs. do not require a license.

To purchase and register a boat in Nebraska:

Sales tax 5% plus any city tax.
Total average 6%

Boats are licensed and registered by the Nebraska Motor Vehicle Department.

License and registration fees are as follows:

Boats 16' and under \$18.75 for three years
16' - 26' 35.50
26' - 40' 52.25
40 - over 86.00
Dealer permit 35.50

For a 1996 Cobalt 220 and trailer selling for \$35,000

Sales tax \$2,100.00
Title and registration fee \$35.50
No personal property tax

For a 1996 19' fishing boat and trailer selling for \$16,000

Sales tax \$960.00
Title and registration fee 35.50
No personal property tax

COMPARISON TO RV'S

If we look at a comparison of the personal property tax in Kansas between boats and R.V.s, there is an unreasonable difference and the tax on R.V.s is much less than boats.

In Kansas, when an R.V. or motor home is purchased, the following tax is required:

Sales tax	5.9%
License tag	
Personal property tax	
0-5 years	\$70.00 + \$0.90/100 lbs.
6-10 years	\$50.00 + \$0.70/100 lbs.
11 years and older	\$30.00 + \$0.50/100 lbs.

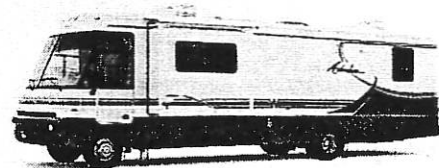
Therefore, any motor home or R.V. purchased would pay tax as follows:

A 1997 35' motor home selling for \$35,000, gross weight 16,000 lbs.

Sales tax	\$2,065.00
Tag license.....	37.00
Personal property tax	\$70 + 148.50=\$218.50

Going back to the tax information on the 220 Cobalt boat, it can be seen that the personal property tax on the boat at \$765 is three times that of an R.V., (\$218.50), selling for the same price.

About three years back, R.V.s were taxed the same way as boats. The state was losing revenue because people were going out of state to purchase R.V.s to get away from the high Kansas tax. The rules changed for taxing R.V.s and now the revenue from R.V. sales is going up.



The fact that tax is high on boats is driving people out of state to buy boats. A high percentage of expensive boats are taken to Grand Lake, Beaver Lake and Table Rock.

This state loses the sales tax because of the high property tax.

The boating community needs a tax break. How about some help from our legislature?

SUMMARY

As can be seen from the foregoing, the cost in Kansas for buying and owning a boat is very much more than Oklahoma, Missouri, Nebraska and Colorado.

The system for collecting personal tax on boats in Kansas is not good. Taking a look at the method Oklahoma uses, the tax is uniform and everyone pays because it is collected when the boat is registered.

The personal property tax on boats in Kansas is unfair and not uniform.

Look at the personal property tax on recreational vehicles (R.V.s) and compare them to boats – Following page.

NOTE: A \$100,000.00 motor home that weighs 16,000 pounds requires a personal property tax of \$214.00. The tax on a boat costing the same would be \$3384.00.

What's fair about that?



A Member-Controlled Non-Profit Organization For All Pilots

March 5, 1998

TESTIMONY TO THE KANSAS HOUSE TAX COMMITTEE

Thank you, members of the House Tax Committee, for the opportunity to present testimony relative to the gross inequities between personal property taxes on airplanes and comparably priced surface vehicles in the State of Kansas.

This testimony is presented on behalf of the Kansas Pilots Association (KPA), with members throughout the state. My name is Lyle Bighley and I am president of the KPA.

KPA conducted a survey of ten counties in central and eastern Kansas which showed huge differences in personal property taxes between airplanes and comparably priced surface vehicles. I should note this survey was taken approximately three years ago and there is a possibility that the absolute numbers have changed or are not valid at this moment. However, I am sure that the differential between airplanes and other vehicles is still accurate. The following are the results of that survey:

<u>County</u>	<u>Skyhawk</u>	<u>Lincoln</u>	<u>Bass Boat</u>	<u>Pace Arrow</u>
LV	\$1846	\$750	\$499	\$160
WY	2410*	1270	730	190
JO	2200	900	525	200
DG	1713	744	454	160
SN	2332	959	475	160
OS	1529	706	720	1618**
GE	1946	786	605	205
RL	1447	1017	597	207
PT	1154	705	569	284
SG	1583	842	***	178

*WY has no airport, thus no aircraft property tax. The figure cited is based on interpolation, using the current county mill levy.

**This tax seems grossly out of proportion, but it is what the OS appraiser's office quoted, even after further questioning.

***SG was not able to provide a tax without many more details about specific type of boat and engine.

It should be pointed out that the 1983 Skyhawk, the 1995 Lincoln Towncar, the bass boat and Pace Arrow motor home were all valued at approximately \$40,000.00. Why should the assessment on an airplane be 5 or 10 times that of a motor home of equal value? Why should the assessment on an airplane be 2 or 3 times that of a Lincoln of equal value? By way of another comparison, last year the personal property tax on my 1973 Cessna airplane, which is a single engine, four passenger plane, was \$1503.51 and the tax on my house was \$1622.20. That is a difference of only \$118.69!!

As pilots, we all know and agree that taxes are necessary and we expect to pay them. However, we have a right to expect a fair and equitable tax. If this inequity is not corrected, one can't help but wonder how much revenue the counties and the state are, in fact, losing because current owners who would like a new

March 5, 1998

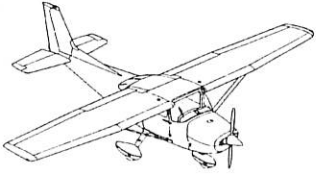
Page 2

or a larger plane either shop for or continue to hang onto a tax-exempt 30-year old antique. Or, what about those who would be in the market for that first airplane--until they start computing the hefty annual assessment. Please tell me by what logic or mathematical quirk a 1983 Cessna Skyhawk warrants a tax that is over twice that of a Lincoln or ten times the tax of a Pace Arrow motor home--or is equivalent to a house!!

The general aviation pilots of Kansas are expecting relief from an inequitable tax.

In closing, I respectfully request that these remarks be made a part of the record of these proceedings. Thank you.

Lyle D. Bighley, Ph.D.
President, Kansas Pilots Association



CESSNA SINGLE ENGINE

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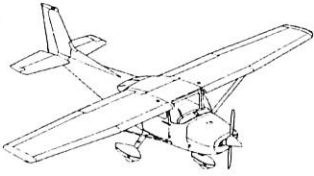
House Taxation
3-5-98
Attachment 5-1

● AGENDA

- » RE-ENTRY INTO THE SINGLE ENGINE AIRCRAFT BUSINESS

- » CURRENT STATUS

- » RECOMMENDATION

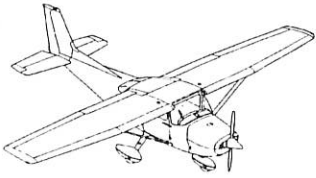


CESSNA SINGLE ENGINE



5-2

- **RE-ENTRY INTO THE SINGLE ENGINE AIRCRAFT BUSINESS**
 - » NOT ONLY RE-ENTRY, BUT REVITALIZATION OF AN ENTIRE INDUSTRY
 - » AUGUST 1994 - GENERAL AVIATION REVITALIZATION ACT WAS SIGNED BY PRESIDENT CLINTON
 - » NEXT DAY, CESSNA CHAIRMAN RUSS MEYER ANNOUNCED THE RE-ENTRY OF FOUR NEW SINGLE ENGINE MODELS - 172, 182, 206 AND T206
 - » MR. MEYER ALSO COMMITTED TO LAUNCHING THIS NEW BUSINESS IN THE STATE OF KANSAS
 - » THAT COMMITMENT HAS BEEN FULFILLED IN INDEPENDENCE KANSAS WITH NEARLY 400,000 SQUARE FEET OF ASSEMBLY FACILITIES



CESSNA SINGLE ENGINE



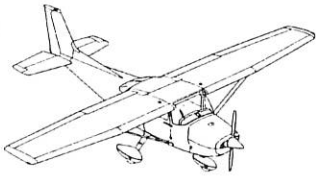
5-3

● CURRENT STATUS

- » SINGLE ENGINE EMPLOYEES APPROXIMATELY 950
 - IN ADDITION, HUNDREDS OF NEW JOBS HAVE BEEN CREATED BY VENDORS, SUPPLIERS AND THROUGH OTHER BUSINESS GROWTH IN THE LOCAL AND SURROUNDING COMMUNITIES.

- » CURRENTLY PRODUCING THREE (3) NEW AIRCRAFT PER DAY WITH THE 206 AND T206 BEGINNING LINE FLOW

- » STUDENT STARTS TO BECOME PILOTS ARE INCREASING AFTER HITTING AN ALL TIME LOW BEFORE OUR RE-ENTRY
 - MORE PILOTS TRANSITION TO MORE AIRCRAFT SOLD- HOPEFULLY MANY OF THEM IN KANSAS.



CESSNA SINGLE ENGINE



4-5

● RECOMMENDATION

- » THE CESSNA AIRCRAFT COMPANY IS CERTAINLY CONCERNED ABOUT OUR CUSTOMERS COST OF AIRCRAFT ACQUISITION AND COST OF OWNERSHIP

- » LIKE ANY COMPANY, WE MUST BE COMPETITIVE IN THE MARKETPLACE

- » THEREFORE WE STRONGLY ENCOURAGE THAT THIS COMMITTEE RECOMMEND A REDUCTION OF THE CURRENT TAX RATES ON PERSONAL AIRCRAFT

- » THANK YOU FOR YOUR TIME AND CONSIDERATION



COBALT BOATS

March 4, 1998

Mr. Phil Kline, Chairman
Kansas House Committee on Taxation

Dear Mr. Kline:

My name is Pack St. Clair and I am CEO of Cobalt boats in Neodesha, Kansas. We employ 400 people and produce a line of pleasure boats that are sold through 90 dealers throughout the United States. We do business in almost every state in this country.

I very strongly support the abatement of personal property taxes on boats sold in Kansas.

I see Kansans on a regular basis going to our neighboring states to buy, register, and use their boats. Cobalt has dealers in the four surrounding states and I see our Kansas dealers at a disadvantage because of the unfair tax advantage our neighboring states have.

Kansas has many outstanding boating lakes, which I feel are underutilized, and a change in the personal property taxes on boats would bring Kansas boaters back and actually increase revenue for the state through sales tax and registration fees.

Thank you for your consideration.

Sincerely,

Pack St. Clair
Chairman & CEO

:sda

House Taxation
3-5-98
Attachment 6-1



SEDGWICK COUNTY, KANSAS

OFFICE OF THE APPRAISER

TO: House Taxation Committee

FROM: Sedgwick County Appraiser's Office

DATE: March 5, 1998

SUBJECT: HCR 5034

Chairman Kline and members of the House Taxation committee, thank you for the opportunity to share our concerns on HCR 5034. Our office has been asked to relay information regarding the process we must follow when placing watercraft on the tax roll. Boats are priced from the Boat Appraisal Guide published by NADA. Each boat must be looked up by year, make, and model, in the 2000 page guide. If the boat is an outboard, the value of the motor must also be located by year, make, and model, from the motor section of the guide. The trailer used to transport the boat then has to be priced. It is valued according to the year it was made, length and the type of boat that it carries. At least two thirds of the boats on the tax roll are priced in this manner. The other one third are old enough that a minimum value can be placed on them from a table and they are quickly reviewed and the value is rolled over from the previous year.

The Individual Personal Property division requires six to seven full time employees, and one supervisor, from January to May scheduled to handle boats and all other personal property owned by individuals in Sedgwick County. After May, division staff concentrate their efforts on discovery, market research, and clean up of the personal property information on the tax roll. This process only requires four full time employees, and one supervisor.

1997 FAIR MARKET VALUE OF AIRCRAFT W/N COUNTY:	\$3,283,240
1997 ASSESSED VALUATION OF AIRCRAFT:	984,972
1997 FAIR MARKET VALUE OF WATERCRAFT W/N COUNTY:	19,043,740
1997 ASSESSED VALUATION OF WATERCRAFT:	5,713,122

TO: House Assessment and Taxation Committee
FROM: Rod Broberg
RE: HCR 5034
DATE: March 12, 1998

I am Rod Broberg and I appear today on behalf of the Kansas County Appraisers Association in opposition to HCR 5034.

We oppose this proposal for two reasons. The first is very simple and straight forward. It represents a narrowing of the tax base. Every dollar of tax that is not assessed to watercraft and aircraft, will be borne by homeowners and business owners. The road to a more equitable taxation system lies with a wider tax base not a narrower one.

The second reason that KCAA opposes this resolution lies in the method in which this tax relief would come. The current discovery, listing and valuation process for boats is among the most cumbersome and inefficient processes that County Appraisers must deal with. This proposed method of tax relief could significantly reduce the revenue to local governments while retaining a relatively costly method of generating the tax.

I would urge the committee to view this proposal as a two part question. First, is it appropriate to significantly reduce the tax burden in watercraft and aircraft. If the answer to this question is yes, then the second question is, could we substitute another form of taxation that would be administratively more efficient. Perhaps a registration tax of some form of licensing tax that would return the fees to local government could reduce the costs to property owners and at the same time reduce the administrative burden on the counties.

Thank you for this opportunity to share my views with the Committee.

House Taxation
3-5-98
Attachment 8-1

STATE OF KANSAS

House of Representatives

COMMITTEE ASSIGNMENTS

CHAIR: RULES AND JOURNAL

VICE CHAIR: FEDERAL AND STATE AFFAIRS

MEMBER: EDUCATION

TAXATION

JOINT COMMITTEE ON ARTS AND
CULTURAL AFFAIRS

ADVISORY BOARD: NATURAL AND
SCIENTIFIC AREAS

TOPEKA ADDRESS:
STATE CAPITOL—426-S
TOPEKA, KANSAS 66612-1504
(785) 296-7654
TOPEKA HOTLINE
DURING SESSION - 1-800-432-3924
BALDWIN CITY ADDRESS:
1201 NINTH ST., P.O. Box 647
BALDWIN CITY, KANSAS 66006
(785) 594-3502



THE CAPITOL

RALPH TANNER

Representative, Tenth District

TESTIMONY ON

H C R 5 0 3 9

March 5, 1998

Mr. Chairman, members of the Committee:

I am grateful for the opportunity to bring what is to me one of the most troublesome issues in the realm of property taxation to the committee. That issue is growth -- what sometimes seems uncontrolled growth -- in real property valuation.

I am told that we have experienced some three billion dollars in tax savings over the past three years. I know that we in this committee have wrought well on behalf of the taxpayers of Kansas over the past three years. But Mr. Chairman, I received my property valuation notice last week, and the value of my property is greater now than in any year since I have owned that property, and my property taxes last year were greater than the year before, which were greater than the year before, and on, and on, and on! In other words, it is a truism that, despite a reduction in the mill levy we have received no real reduction in taxes on real property because increases in valuation have outpaced reductions in the levy.

In large measure, the real difficulty began when the legislature, in its wisdom, placed a proposal before the voters of this state which resulted in a constitutional amendment requiring *annual appraisals*, and requiring those appraisals to reflect a property's *highest and best use*. I have no doubt that legislators thought they were applying the best possible remedy for what should be done with property taxes at that time.

But members of this committee, the legislature lost its way on this issue. What it thought was right and good, has consistently produced a miserable result. Now, we must bring a bold new effort to bear on property taxes by purging from the constitution this onerous language, and bringing into being a new authority in the law.

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Today, I am an advocate for a position previously declared by the states of Michigan, Oklahoma, Oregon, Florida, Arizona, California, and certain subdivisions of the state of New York. All of these jurisdictions have enacted constitutional or statutory limits on the growth of real property taxes.

The resolution I have brought to you would allow the imposition of controls on property tax growth in Kansas. The operative language here says, "***The legislature may provide by law for limitations upon the increase from one taxable period to the next such period of the appraised valuation of all or any subclass of real property.***" In essence, this constitutional amendment places into the hands of the legislature the authority to set such real estate taxes, if any, that shall be levied to support the uses of government in Kansas.

In order to expedite this hearing and also to provide rather full supporting data for interested persons, I have appended a position paper prepared at my request by Professor Kris Kobach and some of his senior students in the School of Law of the University of Missouri, Kansas City. I would suggest that the best use of this paper might be to discover the experiences and the remedies of other states of the federal union in the matter of rapid upward movement of property values resulting in ever-increasing tax bases.

I have set no indices or rate schedules into this proposition. It is my purpose to keep this document as simple and straightforward as possible, since we must explain it to the voters and persuade them to approve in a referendum as a part of the general election in November of this year. On other days I have advocated the use of the Consumer Price Index, or a percentage factor, or a rolling or a weighted average covering a period of years so as to seek fairness and effectiveness. But I believe the greatest degree of movement toward tax fairness in Kansas can be found in leaving it to the legislature to set those scales and observe a methodology of its own invention. If Consumer Price Indices are required, or percentage factors of another sort, or rolling or weighted averages, then it is my opinion that the judgment of the legislature should prevail.

Today, we are told that there is no remedy to the business of controlling the growth of property taxes. County appraisers, the Property Valuation Department of the Revenue Department, county commissioners, all -- have told us they have no control over the matter of valuations save the data spun out by some mysterious software package that we cannot even see or analyze. But members of this committee, I remind you that we are the legislature of this state. I also remember that we have a duty to the people to promulgate laws that are fair to all, reasonable in their proportions, and that promote the common good of the people of this state. Mr. Chairman, when all the testimony on this proposition is done, I urge the committee to vote to advance this measure to the whole House with our recommendation for passage.

I will stand for questions.

**KANSAS STATE PROPERTY TAX CAP:
A PROPOSED CONSTITUTIONAL
AMENDMENT**

Submitted by:
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Legislation Class, Winter 1997/98
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I. PROPOSED CONSTITUTIONAL AMENDMENTS--PROPERTY TAX CAP

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of property

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

SECTION 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

§ 1. System of taxation; classification; exemption; <<+limitation.+>>.

(a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, <<-1993->> <<+1998+>>, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located 11 1/2%
- (2) Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution 30%
- (3) Vacant lots 12%
- (4) Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and which is included in this subclass by law 12%
- (5) Public utility real property, except railroad real property

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- which shall be assessed at the average rate that all other commercial and industrial property is assessed 33%
- (6) Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use 25%
 - (7) All other urban and rural real property not otherwise specifically subclassified 30%

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Mobile homes used for residential purposes 11 1/2%
- (2) Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% 30%
- (3) Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed 33%
- (4) All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 30%
- (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property 25%
- (6) All other tangible personal property not otherwise specifically classified 30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation.

<<+(c) For taxes levied in 1998 and each year thereafter, the taxable value of each parcel of property classified in class 1, subclass (1), shall not increase each year by more than 10 percent and shall not increase by more than 15 percent in any three-year period. The first three-year period shall be measured beginning with the assessment values as assessed in 1997. If title to the property is transferred or otherwise conveyed to another person, the property shall be assessed for that year based on the fair market value.+>>

II. SURVEY OF STATE PROPERTY ASSESSMENT LIMITATIONS

Several states have responded to popular demand for limits on the percentage of increase in annual property tax assessments. Historically, some state and county agents endowed with assessment authority have enjoyed free reign to adjust, typically increase, property value assessments for taxation purposes to bring the value of the property in line with estimated fair market value with the goal of establishing uniformity in real estate evaluations. Yet while economic inflation rates hover around three percent per annum, many property tax assessment value percentage increases have grown in double digits. In response, either by legislative enactment or taxpayer initiative, at least seven state governments have drafted or re-drafted statutes or amended constitutions to limit the amount of increase of property assessment evaluations to within reasonable bounds. Seven of those states and the actions they have taken to place limits on property tax assessment increases are described here.

A. Michigan

In 1994, Michigan voters overwhelmingly approved an amendment to their state constitution capping the increase of state property tax evaluations.¹ Proposal “A” decreed that “the taxable level of each parcel of property . . . shall not increase each year by more than the increase in the immediately preceding year in the general price level . . . or 5 percent, whichever is less”² The amendment also allows for the increase in evaluation of a parcel of property which is transferred during the year to be assessed at the legal proportion of true cash value.³ Consequently, two adjoining properties may have

¹ David White, *Implementation of the New Assessment Cap*, 74 MICH. B.J. 188 (1995).

² M.C.L.A. CONST. Art. 9, § 3 (1994).

³ *Id.* “The legislature shall provide for the determination of true cash value of [real and tangible personal property not exempt]; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessment.” *Id.*

radically different property tax values due to an assessment cap on one, while a transfer of the other leads to taxation based on a statutory percentage of fair market value as validated by the purchase price.

The effect of Proposal “A,” now Article IX, Section 3 of the Michigan Constitution, is that it creates two sets of figures, each representing a “value” for a particular parcel of property. The taxable value, as decreed by passage of Proposal “A,” represents the value used for property tax evaluation, starting from a base assessed value and thereafter increasing by a percentage equal to or less than the annual increase allowable under the new constitutional cap. The State Equalized Value (“SEV”), used prior to passage of Proposal “A” for assessment purposes, will essentially be a running total of the fair market value of the property, used for naught until the property is transferred, in which case the SEV becomes the new taxable value.

A popular criticism of the amendment is that the cap on assessment values will artificially undervalue properties not transferred during the year relative to the value of property that is transferred. Since the Michigan constitution also calls for uniformity in assessment, the argument is that the disparity in taxable values between property that is sold or otherwise transferred and that which is not, possibly two identical properties, is inconsistent.⁴ The Michigan Supreme Court has stated repeatedly, however, that when two constitutional provisions conflict, the most recent prevails.⁵

B. New York

New York State likewise has enacted assessment limitations but by statute and only for property located within New York City and Nassau County.⁶ Based on a sophisticated system of property classifications,⁷ the annual increase in assessment is limited for “class one” parcels, including

⁴ White, *supra* note 1, at 190.

⁵ *Id.*

⁶ MCKINNEY’S R.P.T.L. § 1805 (1981).

⁷ MCKINNEY’S R.P.T.L. § 1802 (1981).

but not limited to single family residential real property, to six percent, or not more than twenty percent over a five-year period.⁸ Additionally, assessments for certain apartment buildings in New York City and Nassau County are limited to annual increases of eight percent per year or thirty percent over a five-year period.⁹ New York, like the other states in this survey, also makes an exception for property transferred during the current tax year which is to be evaluated at the purchase price or the statutory proportion thereof appropriate for evaluation.¹⁰ Unlike Michigan, however, New York does not allow reassessment of property at sale. Such disparity, says a New York court, constitutes “invidious discrimination.”¹¹

C. Oklahoma

On statewide ballot in the state of Oklahoma for the fall 1996 elections was a measure, State Question No. 676, to limit the increase in “fair cash value” of real property to not more than five percent in any taxable year.¹² The measure passed by an impressively wide margin, seventy-two percent in favor, and twenty-eight percent against,¹³ thereby amending Article 10 of the Oklahoma

⁸ R.P.T.L. § 1805.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Board of Managers of Acorn Ponds at North Hills Condos. v. Board of Assessors, 197 A.D.2d 620, 621 (1993). *See* Matter of Krugman v. Board of Assessors of Vil. of Atl. Beach, 141 A.D.2d 175, 184 (1988). “The respondents’ disparate treatment of new property owners on the one hand and long term property owners on the other has the effect of permitting property owners who have been longstanding recipients of public amenities to bear the least amount of their cost. We can conceive of no legitimate governmental purpose to be served by perpetuating this differential treatment nor do the respondents suggest any such rational basis in their opposing papers. It would appear that the sole purpose of the different classes is to serve administrative convenience by relieving the village of the burden of conducting a total review of the tax roll and instead permitting a piecemeal approach to reassessments. This approach lacks any rational basis in law and results in invidious discrimination between owners of similarly situated property. Thus, the respondents’ method of reassessment violates the equal protection clause of both the United States Constitution and the New York State Constitution.” *Id.*

¹² Leg. Ref. 306, 1996 Okla. Sess. Law Serv. Ch. 235 (H.B. 2198).

¹³ DAILY OKLAHOMAN, Nov. 11, 1996, at 1.

Constitution. The amendment, like Michigan's, also excepts property that is conveyed during the year. A dispute has arisen, however, over an apparent loophole in the language of the amendment. The new law exempts from the assessment limit, property within counties "not in compliance with laws or regulations governing valuation of property."¹⁴ Apparently, if a county contains property which is undervalued, as determined by the State Board of Equalization, the five percent cap does not apply until increases in assessment valuations bring the assessed value up to true value. So far, four of Oklahoma's seventy-seven counties have been deemed out of compliance.¹⁵ Questioning the validity of the disputed wording, Governor Frank Keating, chairman of the Equalization Board, welcomes a court challenge: "I agree it should be challenged. I never read it that way."¹⁶ Argue as they will, the language of the amendment clearly states that the assessment limit applies only to counties deemed in compliance with applicable law as of January 1, 1997.¹⁷

If any concern existed that newly enacted Article X, Section 8B would allow assessors to automatically increase real property valuations by the five percent limit every year, the Oklahoma legislature passed section 2817.1 as an addition to the Oklahoma tax code for implementation of Section 8B. "The fair cash value of locally assessed real property shall not be automatically increased five percent (5%) each year, the five-percent limitation on the increase in the fair cash value shall not be cumulative, and the five-percent limitation shall not be considered a twenty-percent increase every four

¹⁴ OK. CONST. Art. 10, § 8B (1996).

¹⁵ DAILY OKLAHOMAN, Aug. 23, 1997, at 6.

¹⁶ *Id.*

¹⁷ OK. CONST., *supra* note 14. "The provisions of this section shall be effective January 1, 1997, and thereafter for counties which are in compliance with the applicable law or administrative regulations governing valuation of locally assessed real property as of such date. For counties which are not in compliance with such law or regulations as of January 1, 1997, the provisions of this section shall be effective January 1 of the year following the date the county is deemed to be in compliance with such laws or regulations as provided by law." *Id.*

(4) years.”¹⁸

Moreover, in 1996, Oklahoma voters also amended Article X, Section 8 of their constitution to install tighter parameters on the property tax rate valuation of real property. As it now stands, section 8 dictates that real property shall not be assessed for purposes of calculating ad valorem taxation at less than eleven percent percent nor greater than thirteen-and-one-half percent of its fair cash value.¹⁹ Previously, the valuation limit was merely capped at thirty-five percent.²⁰

D. Oregon

Oregon voters approved a proposed constitutional amendment known as “Measure 50,” in a special election held on May 20, 1997, thereby completing the extensive overhaul of Oregon’s property tax system begun with passage of Measure 47 in November of 1996.²¹ Measure 47, amending Article XI, Section 11 of the Oregon Constitution, included a three percent cap on the increase of assessed property value from year to year. Measure 50 preserved the cap but also made adjustment to some ambiguous language included in Measure 47. Measure 47 required fifty percent voter approval for any new or additional ad valorem property taxes; Measure 50 created exceptions for local levies including hospital districts and police and firefighters pension funds.²² The cumulative effect of both measures is a comprehensive seventeen percent reduction in all ad valorem property taxes due from Oregonians as compared to the previous year’s levy. Measure 47 was predicted to lead to \$1 billion dollars in tax relief for property owners, much to the chagrin of many lawmakers looking for money to spend and others concerned for the viability of essential state services.²³

E. Florida

¹⁸ OKLA. STAT, tit. 68, ch. 1, § 2817.1 (1997).

¹⁹ OK. CONST. Art. 10, § 8(A)(1) (1996).

²⁰ 1996 Okla. Sess. Law, *supra* note 12, at 2.

²¹ 1997 Or. Laws Hs. Jt. Res. 85.

²² PORTLAND OREGONIAN, May 16, 1997, at B6.

²³ PORTLAND OREGONIAN, May 20, 1997, at A1.

In 1994, voters passed an amendment to Article 7 of the Florida state Constitution to put an end to excessive property tax assessment valuations. This was accomplished through an annual cap, which essentially places a three percent limit on the increase in the property tax assessment of any individual in a given year.²⁴ The annual limitation applies to individual residential homestead property.²⁵ The amendment provides in pertinent part, that changes in value should be assessed annually as of January 1, but should not exceed “the lower of: (A) three percent (3%) of the assessment for the prior year. (B) the percent change in the Consumer Price Index for all urban consumers²⁶. . . [n]o assessment shall exceed just value . . .” and upon sale of the homestead to new ownership, these exceptions will not apply except as to just value, at the valuation done on January 1 of the year following sale.²⁷ This particular valuation method, is among the strictest of its kind. The valuation in a year when the CPI was lower could fall below the enumerated Constitutional limit of three percent. This method has also been utilized in Michigan since 1994 to prevent large valuation increases in individual property.²⁸

F. Arizona

Arizona has had a property valuation cap for over fifteen years. It is among two states²⁹ which began this sort of constitutional and statutory control of property tax assessment in the late seventies.

²⁴ F.S.A. CONST. Art. 7 § 4 (1994).

²⁵ Defined in F.S.A. CONST. Art. 7 § 6 (1994).

²⁶ Also includes the “U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, [and] Bureau of Labor Statistics. F.S.A. CONST. Art 7 § 4 (1994).

²⁷ *Id.*

²⁸ M.C.L.A. CONST. Art. 9 § 3 (1994).

²⁹ California is the only state to have controlled property tax valuations longer than Arizona, but differs because the statutory limit is significantly lower than that of Arizona. It will be discussed in the following section.

Arizona passed a statutory version of this valuation cap in 1979. One of the primary catalysts to the passage of this and laws like it, was the dramatic disparity in tax assessments and by extension taxes paid by newer and older owners of property. Arizona reacted with a much softer rule, which only applies to individual property. The law imposes a limitation on the valuation growth of individual property for “primary property” taxation.³⁰ An increase from one valuation year to another is limited to that value plus the “greater of either: 1. Ten percent of such value. 2. Twenty – five percent of the difference between the full cash value of the parcel in the current valuation year and the limited value of the parcel in the prior valuation year.”³¹

G. California

Proposition 13 was a 1978 referendum which passed a property tax assessment cap, to apply to annual property reevaluations. Proposition 13 was a constitutional amendment that passed with a relatively high margin.³² It was the product of a virtual tax revolt, created by government windfalls due to exorbitant property prices and a property tax valuation that perpetuated it.³³

The amendment as it was passed combined a one percent ceiling that generally existed on the property tax rate, with a two percent cap on annual increases in valuation.³⁴ Ultimately the cap imposed, applies a two percent limitation on the valuation of individual property throughout the state.

³⁵ This limitation is subject to “the exception that new construction or a change of ownership trigger[s]

³⁰ 42 AZ. STAT. ANN. § 201.02 (1994).

³¹ *Id.*

³² B.E. Wilkin, *Nature of California Taxing System: Proposition 13 and Its Implementation*, SUMMARY OF CALIFORNIA LAW 148, § 118 (9th ed. 1989).

³³ John J. Delaney, *A Survey of Selected Recent Cases Decided in Favor of the Property Owner/Challenger*, c750 ALI-ABA 49 (1992).

³⁴ CAL. CONST. Art. 13 § 2 (1994).

³⁵ *Id.*

a reassessment up to the current appraised value.”³⁶ This percentage is the lowest percentage to be passed in any state to date, and has been dramatically beneficial in remedying many of the property tax issues related to over valuation, faced in that state.³⁷

³⁶ *Id.* See also John J . Delaney, *A Survey of Selected Recent Cases Decided in Favor of the Property Owner/Challenger*, c750 ALI-ABA 49 (1992).

³⁷ See the previous section of this survey regarding Oregon’s similar provision capping property tax assessments, which was also set at two percent.

III. CONSTITUTIONAL FRAMEWORK

A. CURRENT CONSTITUTIONAL PROVISION

The Kansas Constitution states that the legislature shall provide for a uniform and equal rate of assessment and taxation.¹ The legislature is specifically charged with providing an equal rate of assessment and has the authority to provide the means and the agencies for enforcing those responsibilities.

Currently, the Kansas Constitution provides for a system of classes for the purpose of assessment. Each classification provides the percentage of value at which that property will be assessed. The classification system, approved by constitutional amendment, in conjunction with reappraisal, was designed to prevent massive shifts in tax burden among groups of taxpayers.

In 1985, Kansas voters approved the "classification amendment" to article XI, section 1 of the Kansas Constitution. The first classification scheme took effect in January 1989; prior to that date all taxable property was assessed (listed on the tax rolls) at thirty percent of its appraised value. The classification amendment established four classes of real property and six classes of personal property with assessment percentages ranging from twelve percent to thirty percent.

Although the purpose of the classification system was to prevent large shifts in tax burdens when property was reappraised, shifting did occur. During each legislative session, numerous proposals for changes in the classification system were introduced. In 1992, the legislature finally agreed on a proposal that was submitted to Kansas voters at the general election. The amendment was approved, and made the following changes, effective January 1, 1993.

¹ KAN. CONST. Art. 11 § 1.

The number of subclasses of real property increased from four to seven:

- (1) Residential: Real property used for residential purposes (including both single and multi-family) will be assessed at 11.5% of its value.
- (2) Agricultural Land: Land used for agriculture is assessed at 30%.
- (3) Vacant Lots: Vacant lots are assessed at 12%.
- (4) Not-for-Profit Organizations: Property which is tax exempt under Section 501(c) is assessed at 12%.
- (5) Public Utility: Public utility property (except railroad property) is assessed at 33%.
- (6) Commercial and Industrial: Commercial and industrial real estate is assessed at 25%.
- (7) Other: All other real property not specifically included in the above subclasses are assessed at 30%.²

Personal property makes up the second class of property and includes six subclasses:

- (1) Mobile Homes: Assessment of mobile homes used for residential purposes will be 11.5 %.
- (2) Mineral Leasehold: The assessment of low production oil and gas leaseholds-defined as an oil leasehold with average daily production of five barrels or less or a natural gas leasehold with average daily production of 100 mcf or less is 30%.
- (3) Public Utility: Assessment of nonrailroad public utility personal property is at a 30% rate.
- (4) Motor Vehicles: The tax rate of motor vehicles is 30%.
- (5) Commercial and Industrial Machinery and Equipment: Assessment for commercial and industrial equipment and machinery shall be set at 25% of the value.
- (6) Other: All other personal property not specifically classified will be assessed at thirty percent.³

The classification scheme set out in the Kansas Constitution is echoed in the Kansas Statute section 79-1439. The statute further states that all real and tangible personal property shall be appraised at fair market value as set forth in KSA section 79-503a unless otherwise specified. Fair market value means the price a well informed buyer would pay and a well informed seller would accept for property in the open market.

B. PROPOSED CONSTITUTIONAL AMENDMENT

The proposed constitutional amendment would add a new subsection to Article 11, section 1,

² KAN. CONST. Art. 11 § 1(a).

³ *Id.*

of the Kansas Constitution. Subsection “c” would read:

For taxes levied in 1998 and each year thereafter, the taxable value of each parcel of property classified in class 1, subclass (1), shall not increase each year by more than 10 percent and shall not increase by more than 15 percent in any three-year period. The first three-year period shall be measured beginning with the assessment values as assessed in 1997. If title to the property is transferred or otherwise conveyed to another person, the property shall be assessed for that year based on the fair market value.

Thus, the amendment would put a ten percent cap on property taxes, with a maximum cap of fifteen percent over any three year period. The amendment also allows for an increase greater than the cap in the event the property is transferred or otherwise conveyed to another person. Conveyances and transfers would allow the property to be assessed based on the fair market value at the time of the transaction.

C. POTENTIAL CONSTITUTIONAL CHALLENGES

The states, in the exercise of their taxing power, are subject to the requirements of the due process and the equal protection clauses of the Fourteenth Amendment.⁴ The equal protection clause does not require however, complete equality in state taxation.⁵ Exact equivalence between taxpayers is not required, and insubstantial differences will not be constitutionally prohibited unless the differences are shown to be arbitrary, capricious or based on discrimination.⁶ Even if a state tax law is not unduly burdensome or harmful in its actual operation, the law will be invalid if it causes inequalities that are barred by the equal protection clause.⁷

Constitutional challenges to state property tax “caps” have included alleged violations of the

⁴ Ohio Oil Co. v. Conway, 281 U.S. 146 (1930).

⁵ St. Louis & K.C. Land Co. v. Kansas City, 241 U.S. 419 (1916).

⁶ Welch v. Henry, 305 U.S. 134 (1938).

⁷ Stewart Dry Goods Co. v. Lewis, 294 U.S. 550 (1935).

equal protection clause;⁸ breach of the uniformity clause;⁹ undue burden on commerce;¹⁰ and undue burden on the constitutional “right to travel.”¹¹ To date, every challenge that has been litigated, has resulted in the various courts finding that real property assessment caps do not violate the constitution.¹²

Most constitutional attacks on property tax caps are based on the provision regarding change in ownership. The theory is that a change in ownership, and subsequent assessment based on the fair market value (or in some instances--acquisition value), which is not subject to the cap, will create an inequality among taxpayers. For example, two neighbors living side by side may have relatively the same piece of property, but they could have huge differences in property tax statements, if one neighbor has owned the property for an extended period of time, while the other owner is a new buyer, who has been assessed based on the fair market value at the time of the change in ownership.

The U.S. Supreme Court has rejected equal protection claims based on such state laws. In *Nordlinger v. Hahn*,¹³ a California resident brought suit against her county assessor, seeking to have California’s state property tax cap (Proposition 13), declared unconstitutional based on the equal protection clause. The plaintiff claimed that waiving the cap for new owners, while implementing a cap for existing home owners, created a discriminatory classification between new and existing home owners. The Court in its decision declared that the classifications created did not deserve the

⁸ *Nordlinger v. Hahn*, 505 U.S. 1 (1992).

⁹ David White, *Implementation of the New Assessment Cap*, 74 MICH. BAR. J. 188 (1995).

¹⁰ Mary Lafrance, *Constitutional Implications of Acquisition-Value Real Property Taxation: Assessing the Burdens on Travel and Commerce*, 1994 UTAH L. REV. 1027 (1994).

¹¹ *Id.*

¹² *Id.* See also *Nordlinger*, 505 U.S. at 1; White, *supra* note 9, at 190; Mary Lafrance, *Constitutional Implications of Acquisition-Value Real Property Taxation: the Elusive Rational Basis*, 1994 UTAH L. REV. 817 (1994).

¹³ 505 U.S. 1 (1992).

heightened scrutiny afforded to classifications that jeopardize fundamental rights or that categorize on the basis of inherently suspect characteristics.¹⁴ Ruling that the classifications created by Proposition 13 only required a legitimate state interest on the part of California, the Court found that the state did have a legitimate state interest in 1) preserving the continuity and stability of local neighborhoods; and 2) concluding that “a new owner at the time of acquiring his property does not have the same reliance interest warranting protection against higher taxes as does an existing owner.”¹⁵

The *Nordlinger* Court also rejected the plaintiff’s assertion that her claim should be looked at with heightened scrutiny because the exemptions to Proposition 13 (e.g., cap still applies to residents over 55 and owners transferring land to their children) classify directly on the basis of California residency, thus burdening the fundamental right to travel.¹⁶ The Court rejected the plaintiff’s claim because she was already a resident of the state of California, and she personally was not impeded from settling in California.¹⁷ The Court left open for another day, however, the question of whether a resident moving into the state of California from another state, would be able to receive the heightened scrutiny that the plaintiff in *Nordlinger* was seeking.¹⁸

It is unlikely that the proposed constitutional amendment described herein will attract the kind of constitutional challenges that have been seen surrounding Proposition 13 in California. First, unlike Proposition 13, there are no special exemptions to the proposed Kansas amendment that would result in classifications based solely on Kansas residency. The constitutional amendment, therefore, will not be reviewed with the heightened scrutiny necessary when issues regarding the fundamental right to

¹⁴ *Id.* at 10.

¹⁵ *Id.* at 12.

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 10.

¹⁸ *Nordlinger*, 505 U.S. at 11.

travel are involved. The state of Kansas therefore, will only have to express a legitimate state interest in order to withstand constitutional attacks based on the equal protection clause. As illustrated in *Nordlinger*, the U.S. Supreme Court has already determined that a state has a legitimate interest in maintaining the stability and continuity of its neighborhoods, and concluding a new owner does not have the same reliance interest warranting protection against higher taxes as does an existing owner.

Finally, many of the constitutional challenges to state property tax caps result from language that not only waives the cap upon transfer of the property, but then assesses taxes based on acquisition-value, rather than the fair market value of the property. The proposed amendment to the Kansas Constitution, however, specifically assesses newly transferred property based on the fair market value, not the acquisition-value, thus avoiding overly-high taxes in areas of inflated property prices.

The proposed amendment to the Kansas Constitution that would place a cap on property taxes will create some difference between the amount of taxes paid by property owners, but the differences will not be substantial, arbitrary, capricious or based on discrimination. Kansas' legitimate state interest in maintaining stability and continuity in its neighborhoods, coupled with the interest in creating a reliable assessment system for existing homeowners, is sufficient to withstand any constitutional challenge.

March 5, 1998

To: House Committee on Taxation and other interested persons

From: Louis A. Klemp

Re: Controlling the Growth of Real Property Values

This letter is in reference to a letter from Representative Ralph Tanner to the members of the House Committee on Taxation, dated January 20, 1998, regarding controlling the growth of real property values.

I am not in total agreement with some of the recommendations and would like to offer my concerns and suggestions.

I believe amendments and laws should be written so that the average citizen can understand them. On page 3 of the document submitted by students of the UMKC law school, Section 1 (a) line 2 indicated <<-1993->><<+1998+>> ; just what exactly does this mean?

On the bottom of page 3 and top of page 4 I believe the information creates an unfair tax burden on commercial property.

On page 5 of the student report, a start date of 1997 is used. Counties such as Leavenworth, Wyandotte, Johnson, and Shawnee etc, had unfair tax increases of 100, 200, 300, or even 500% or greater. In some cases during the last reappraisal, much of this was based on the faulty computer program of the state.

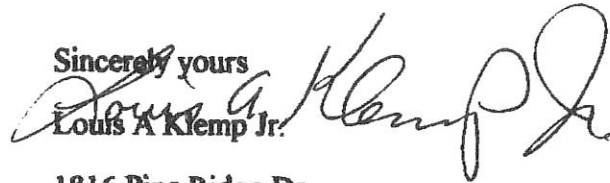
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3-5-98
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On page 6 of the student report, "Historically, some state and county agents endowed with assessment authority have enjoyed free rein to adjust, typically increase, property value assessments for taxation purposes to bring the value of the property in line with estimated fair market value with the goal of establishing uniformity in real estate evaluations. Yet, many property increases have grown in double digits." Any new changes to state statutes should include a 3% cap on the increase of assessed property value from year to year. followed by the cost of living index for future years

On all new construction the actual cost should establish the fair market value.

.The sale price of property should establish the fair market value.

Sincerely yours

A handwritten signature in cursive script that reads "Louis A. Klemp Jr." The signature is written in black ink and is positioned to the right of the typed name.

Louis A Klemp Jr.

1816 Pine Ridge Dr.

Leavenworth, KS 66048

9136822982 Home

9136821282 Fax

KEN MEIER
HARVEY COUNTY Comm. (OR
NEWTON

February 27, 1998

**RESPONSE TO PROPOSAL TO REGULATE THE GROWTH
OF ASSESSED VALUE OF REAL PROPERTY**

We would like to thank the committee for allowing us to speak on the issue of regulating real property values. We appreciate Rep. Tanner and this committee's efforts to address the increasing concern of property tax. Being property owners ourselves in addition to our official positions, we assure you we are doing our best and want what is fair to all property owners.

A main concern of this proposal is the non-uniform appraisal and unequal taxation that would result within the real property classes.

This is in conflict with K.S.A. 79-1439 Sec (a) which states in part:

(a) All real and tangible personal property which is subject to general Ad Valorem Taxation shall be appraised uniformly and equally as to class . . .

As you know, different areas of the market appreciate faster than others while some areas have not appreciated. The median market trend for homes selling in Harvey County is 8.4% per year.

This proposal is aimed at limiting the tax input on property owners due to increases in market value. Let's apply Rep. Tanner's proposal to actual assessed values and mill levies established in Harvey County and specifically the City of Newton for years 1994 to 1997. A 4% cap is used for this example.

County Assessed			
Year	Actual	4% Cap	%Difference
1994	132,515,844 (Base)	132,515,844	—
1995	142,131,586	137,816,748	3.1
1996	153,091,934	143,329,137	6.8
1997	162,986,220	149,062,302	9.3

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Attachment 11-1

Ultimately you are concerned with the impact this cap will have on taxpayers. Listed below is the impact this proposal would have on a \$40,000 home in Newton appraised at full market value. These estimates are based on actual appraised amounts and levies used from 1994 to 1997. (See attached sheet for actual assessed valuations and mill levy information.)

Actual Appraised	4% Cap
\$40,000	\$40,000
<u>x .115</u>	<u>x .115</u>
\$4600 Assessed Value	\$4600 Assessed Value
<u>x140.715</u>	<u>155.353</u>
647.29 Taxes	714.63 Taxes

By capping the increase below market value, it would create an inequity with properties appraised at market value but due to their location the market value is not going up. Typically the owners of the property not increasing in value are in the lower priced market. Effectively shifting the tax burden to those who can afford it the least.

This proposal would take Kansas back to the reason Reappraisal was implemented in 1989. . Non -uniform appraisals and unequal taxation. If the Kansas Legislature had not mandated reappraisal, it is likely the Courts would have ordered the state to do so. The solution is for counties to continue to appraise all real estate annually and achieve fair market value that is consistent from one property to another thus not inviting Court intervention.

This proposal would effectively throw out sales ratio as a measure of compliance. it would be impossible to support an administrative tax value compared to full market value sale prices.

In conclusion, ultimately the approved budgets of government entities are divided by the assessed valuation to determine the mill levy. A reduction in the assessed valuation by limiting the increase in market value will result in a higher mill levy generating the same amount of tax dollars. increasing taxes is a concern and the legislature should explore remedies. However these remedies should be what is in the best interest for ALL taxpayers. We believe this proposal would create more inequities than it attempts to solve.

Proposal to Regulate the Growth
Page 3 of 3
February 27, 1998

Again thank you for giving us the opportunity to voice our concerns. Please contact us if you have any questions or would like specific information regarding Harvey County. We appreciate your efforts to do what is right for all property taxpayers.

Kenneth Meier
Harvey County Commissioner

Craig Clough
Harvey County Appraiser

February 27, 1998

4% CAP PROJECTION			
COUNTY OF HARVEY			
LEVY YEAR	VALUATION	ACTUAL LEVY	CAP LEVY
94 FOR 95	132,515,844	33.859	33.859
95 FOR 96	137,816,478	32.405	33.419
96 FOR 97	143,329,137	32.098	34.282
97 FOR 98	149,062,302	30.618	33.518
CITY OF NEWTON			
LEVY YEAR	VALUATION	ACTUAL LEVY	CAP LEVY
94 FOR 95	53,789,050	59.531	59.531
95 FOR 96	55,940,612	53.902	56.958
96 FOR 97	58,178,230	52.051	57.414
97 FOR 98	60,505,365	52.167	57.800
USD 373			
LEVY YEAR	VALUATION	ACTUAL LEVY	CAP LEVY
94 FOR 95	72,369,953	46.678	46.678
95 FOR 96	75,264,751	47.630	49.152
96 FOR 97	78,275,341	51.791	56.515
97 FOR 98	81,406,355	56.233	62.318
SAND CREEK WATERSHED			
LEVY YEAR	VALUATION	ACTUAL LEVY	CAP LEVY
94 FOR 95	72,062,433	.186	.186
95 FOR 96	74,944,930	.192	.197
96 FOR 97	77,942,727	.186	.203
97 FOR 98	81,060,436	.197	.217

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LEVY YEAR	ACTUAL	4% CAP
1994	141.754	141.754
1995	135.629	141.226
1996	137.626	149.914
1997	140.715	155.353

February 27, 1998

11-5

JIM D. GARNER
REPRESENTATIVE, 11TH DISTRICT
601 EAST 12TH,
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TOPEKA, KS 66612-1504
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TOPEKA

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EX OFFICIO: KANSAS SENTENCING
COMMISSION

**TESTIMONY CONCERNING CAPS ON APPRAISED VALUES
HOUSE CONCURRENT RESOLUTIONS 5039 AND 5047
HOUSE TAXATION COMMITTEE
5 MARCH 1998**

Chairman Kline and Members of the Committee:

Thank you for this opportunity to share with you today some comments on the need for some kind of control on significant, double-digit, increases in the appraised values of real estate for property tax purposes.

HCR 5039 would allow the legislature to place a cap on the amount of increases in appraised valuations of real property. This is certainly one option to consider as we try to address a reoccurring problem. Another possible option is to allow the legislature to adopt a rolling average approach in setting appraised values. HCR 5047 would permit the implementation of the rolling average approach.

I frequently hear complaints from home owners and small business persons about significant, double-digit increases in the appraised value of their property. They complain that these increases go a long way to eating up and negating the property tax reductions we pass at the state level. I strongly believe that the legislature should be granted the authority and flexibility to set some kind of limits to control and prevent extreme increases in appraised values. I urge the committee to adopt some measure to address this very real problem, whether it be the provisions in HCR 5039, HCR 5047, or some other workable solution.

Thank you again for the opportunity to share my thoughts.

House Taxation Comm.
MARCH 5-1998
Attachment 1 2-1



SEDGWICK COUNTY, KANSAS

OFFICE OF THE APPRAISER

TO: House Taxation Committee

FROM: Sedgwick County Appraiser's Office

DATE: March 5, 1998

SUBJECT: HCR 5034

Chairman Kline and members of the House Taxation committee, thank you for the opportunity to share our concerns on HCR 5034. Our office has been asked to relay information regarding the process we must follow when placing watercraft on the tax roll. Boats are priced from the Boat Appraisal Guide published by NADA. Each boat must be looked up by year, make, and model, in the 2000 page guide. If the boat is an outboard, the value of the motor must also be located by year, make, and model, from the motor section of the guide. The trailer used to transport the boat then has to be priced. It is valued according to the year it was made, length and the type of boat that it carries. At least two thirds of the boats on the tax roll are priced in this manner. The other one third are old enough that a minimum value can be placed on them from a table and they are quickly reviewed and the value is rolled over from the previous year.

The Individual Personal Property division requires six to seven full time employees, and one supervisor, from January to May scheduled to handle boats and all other personal property owned by individuals in Sedgwick County. After May, division staff concentrate their efforts on discovery, market research, and clean up of the personal property information on the tax roll. This process only requires four full time employees, and one supervisor.

1997 FAIR MARKET VALUE OF AIRCRAFT W/N COUNTY:	\$3,283,240
1997 ASSESSED VALUATION OF AIRCRAFT:	984,972
1997 FAIR MARKET VALUE OF WATERCRAFT W/N COUNTY:	19,043,740
1997 ASSESSED VALUATION OF WATERCRAFT:	5,713,122