

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 20, 2006 in Room 519-S of the Capitol.

All members were present except:  
Representative Lana Gordon- excused

Committee staff present:  
Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:  
Representative Frank Miller  
Ed Jaskinia, TALK, Assn. Landlords  
Karl Peterjohn - KS Taxpayers Network  
Doris Riley, Private Citizen  
Mark Beck, Director, DOR, Division of Property Valuation  
Randall Allen, KS Assn. Of Counties

The Chairman announced that with the beginning of the 2006 session the minutes would be sent via E-mail to each Representative for their perusal. If changes are needed they are to notify the Committee Secretary within two weeks. After that time the minutes will be considered approved as written. After discussion it was agreed that a copy of the minutes should also be forwarded to Representatives' secretaries.

Representative Brunk requested a bill be introduced regarding a change in the capital gains tax. It was seconded by Rep. O'Malley. The motion passed.

Randall Allen, KAC Executive Director requested a bill introduction regarding the expansion of the Board of Tax Appeals from three members to five members. Representative Carlin made the motion to introduce the BOTA bill and Representative Huff seconded. The motion carried (Attachment 1).

**HCR 5009 - Concerning a Constitutional Amendment providing formula for appraised valuation of residential property.**

Gordon Self briefed the Committee on the resolution that had been introduced last session. It is a proposition to amend Section 1 of article 11 of the Kansas Constitution relating to property taxation and the system of taxation; classification; and exemptions.

The Chairman opened the hearing on **HCR 5009.**

**PROPONENTS:**

Representative Frank Miller said that **HCR 5009** would influence the appraised value of a property based on the sale price of the property or as close as any appraiser would ever get to the market value. Attached to his testimony was a chart that showed the percent increase in the appraised value of Residential and Commercial property for Kansas as compared to the CPI-U index adjusted for population growth for the years 1993-2004 (Attachment 2). He provided an amendment to **HCR 5009** which would add language "*or commercial and industrial purposes*" to the resolution (Attachment 3).

Ed Jaskinia, TALK, Assn. Landlords appeared in support of **HCR 5009**. He stated that the whole purpose of property tax appraisals was to reach a fair market value and suggested that the buyers, sellers, mortgage companies, and the counties held vastly different opinions on fair market value. He stated that the resolution would be a short term fix for a major problem (No written testimony).

Karl Peterjohn - KS Taxpayers Network testified that a recent regional survey of effective

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 20 in Room 519-S of the Capitol.

property tax rates indicated that Kansas property taxes were higher on residential property than all four neighboring states with the exception on Nebraska. He suggested that the Legislature needs to consider a Proposition 13 which provided stability to the property tax structure in California beginning in 1978 (Attachment 4).

Testimony from Doris Riley, Private Citizen in Overland Park was read into the record by Mrs. Nancy Hanahan. Her testimony inferred that **HCR 5009** would provide a way to correct the current appraisal system and she gave four reasons that the current system did not work (Attachment 5). Ms. Hanahan added that, in her opinion, the system in place is just a taxing vehicle for all governmental entities and a change is needed, as they are pricing people out of their homes.

Material was distributed from Mark Beck, KDOR which raised ten issues that need to be acknowledged and discussed prior to implementation (Attachment 6).

### **OPPOSITION:**

Larry Bear, KS League of Municipalities, testified that there were three principal points for consideration of **HCR 5009**: 1) Artificial decrease in value 2) Departure from current policy 3) Violation of the "uniform and equal" requirements of the Kansas Constitution. The League opposes any amendment to the Constitution that alters the current fair market value approach to valuing residential property or that would place any cap or limitation on increases in valuation or that would artificially decrease the valuation of residential property. (Attachment 7).

Randall Allen, KS Assn. Of Counties submitted written testimony in opposition to **HCR 5009**, because for purposes of taxation it would treat one type of residential property (i.e. property which has been recently sold) differently than another type of residential property (i.e. property which has not been recently sold). It appears that iniquities would be created in the tax system for residential property where they currently do not exist (Attachment 8).

The Chairman closed the hearing on **HCR 5009**.

The meeting adjourned at 10:00 A.M. The next meeting is January 24, 2006.



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

To: Chairman Wilk and members of the House Taxation  
Committee  
From: Randall Allen, KAC Executive Director *Randall Allen*  
Subject: Introduction of Bill concerning composition of the  
Board of Tax Appeals (BOTA)  
Date: January 20, 2006

At our 30<sup>th</sup> Annual Conference held last November, our membership voted overwhelmingly to request the Legislature to expand the Board of Tax Appeals (BOTA) from the current three members to five members. We believe that this would expedite the hearing and processing of property tax assessment appeals and provide much better service to the property taxpayers of Kansas.

We would respectfully ask the committee to introduce such a bill in concept. Our staff will work with the Revisor on specific text for the bill.

Thank you for your consideration of this request.

300 SW 8th Avenue  
3rd Floor  
Topeka, KS 66603-3912  
785•272•2585  
Fax 785•272•3585

House Taxation  
1-20-06  
Attachment 1

**C. FRANK MILLER**  
 REPRESENTATIVE, TWELFTH DISTRICT  
 MONTGOMERY, CHAUTAUQUA, AND  
 ELK COUNTIES  
 HOME ADDRESS: P.O. BOX 665  
 434 DEER TRAIL DR.  
 INDEPENDENCE, KANSAS 67301  
 TOPEKA OFFICE: STATEHOUSE, RM 431-N  
 TOPEKA, KANSAS 66612  
 (785) 296-7646  
 EMAIL ADDRESS: miller@house.state.ks.us  
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TOPEKA  
 HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENT  
 VICE-CHAIR: AGRICULTURE  
 MEMBER: EDUCATION  
 GOVERNMENTAL ORGANIZATION  
 AND ELECTIONS  
 HEALTH AND HUMAN  
 SERVICES  
 JOINT COMMITTEE ON CHILDREN'S  
 ISSUES

Friday January 20, 2006

Honorable Representative Kenny Wilk – Chairman  
 House Taxation Committee

Ref: HCR5009 concerning taxation; relating to rules for valuing property.

Testimony by: Representative Frank Miller – 12<sup>th</sup> District

Thank you Mr. Chairman and members of the Taxation Committee for the opportunity to come before you today to testify in support of HCR5009.

Two years ago I came to this committee and discussed a bill that would not allow appraisers to increase the appraised value of a residence based solely on routine maintenance of the property, such as repaint, re-shingle the roof ... etc. The committee pointed out correctly to me at that time that this kind of change would have to be made to the Constitution. Also, would conflict with the concept in the constitution that the value placed on the property must be set by the appraiser based on market value. So I am prepared today to discuss with you a resolution to the constitution that would influence the appraised value of a property based on the sale price of the property or as close as any appraiser will ever get to "market value".

Our previous home in Independence was built in 1996 by a contractor and sold to my wife in 1997. The history of the appraised value of our previous home was; 1998-\$81,500, 1999-\$89,500, 2000-\$92,670, 2001-\$96,180, 2002-\$98,100, thus the cumulative increase in the appraised value of our previous home over that five year period was 20.37%. The cumulative increase according to Kansas Legislative Services for the same period for the CPI-U index was 10.36%, thus making the accuracy of this appraisal suspect. Bear in mind the only improvement made to the property during that five year period was to add a fence to enclose a dog.

We built a new home in 2001-02 and put the old one up for sale for an asking price of \$112,000. We received several bids all less than \$98,100 and finally after more than a year we gave up and sold the house for \$90,000. Due to the economic slowdown I am convinced that the actual market value of my old home was about \$90,000. The next year's appraised value of our old home for the new owners did not go down to \$90,000, but rather remained at the same whopping \$98,100. HCR5009 could make a difference in this over evaluation of property.

Attached to my testimony is a chart that shows the percent increase in the appraised value of Residential and Commercial property for Kansas as compared to the CPI-U index adjusted for population growth for the years 1993-2004. The data was provided by the Kansas

Kansas  
 House Taxation  
 1-20-06  
 Attachment 2

adjusted for population growth for the years 1993-2004. The data was provided by the Kansas Legislative Research Department. It is alarming that the rate of residential and commercial appraised values increased much faster than the rate of inflation even when adjusted upward to allow for the growth in population. In summary:

**Residential property appraised value increased  
2.75 times faster than CPI-U + POP.**

**Commercial/Industrial Property appraised value increased  
2.13 times faster than CPI-U + POP.**

This data suggests that many of the complaints we hear from our constituents that property appraisals are increasing unreasonably from year to year are true. It also can be used by government as a means of increasing property tax revenue with out the need to increase the property mill levy, which is much more noticeable and onerous to taxpayers.

HCR5009 would amend the Kansas Constitution so that when a residential property is sold the appraised value of that home must be lowered or increased to the average of the latest appraised value, and the actual selling price of the home. The details requiring that the sale must be made "at arms length" are specified or would be specified statutorily by the legislature. The wording in the resolution "*when sold determined pursuant to law*" relates to the need that the price must conform to our vernacular of "at arms length".

An example of how this works is as follows: suppose my home were appraised at \$100,000, but the best price I could get when I sold my property was \$90,000. According to this resolution the new appraised value for my home would be reduced to \$95,000. This does not help the seller but would benefit the buyer, and more importantly would influence all similar property appraisals in the area. However, if the numbers were reversed then the appraised value would increase by half the difference between the appraised value and the sale price. For this reason this resolution "IS NOT A CAP", but rather acts like a "shock absorber".

I urge the committee to support this bill because in time this resolution will tend to reduce the difference we now see between the appraised values and actual market values of property.

Mr. Chairman I stand for questions.

Respectfully yours,

A handwritten signature in black ink that reads "Frank Miller". The signature is written in a cursive style with a large, stylized initial "F".

Representative Frank Miller

**Increase In The Appraised Value of Kansas Residential & Commercial Property Versus The Increase  
The Inflation Rate Corrected For The Growth of Population. Twelve Year Period 1993-2004**

Prepared by Rep. Frank Miller -- 1/8/04 -- Revised 1/18/06

Source of Data: Kansas Legislative Research Department and Federal CPI data (Chris Courtwright 6-7879)

Calendar Year	Annual Kansas Inflation rate (CPI-U) %	.85% Per Year Average Increase In Population During the 90's, Later Dates Reduced	Total Annual Kansas Inflation Rate Plus Population Growth (CPI-U)	Cumulative Inflation Rate Increase (CPI-U) Adjusted for Population Growth	Actual Assessed Value Growth For Residential Property Only	Cumulative Value Increase (Residential Only)	Actual Assessed Value Growth for Commercial and Industrial Real Property	Cumulative Value Increase (C and I Real Only)
1993	2.99%	0.85%	3.84%	3.84%	0.25%	0.25%	1.51%	1.51%
1994	2.56%	0.85%	3.41%	7.38%	5.91%	6.17%	1.57%	3.10%
1995	2.83%	0.85%	3.68%	11.33%	10.55%	17.38%	3.51%	6.72%
1996	2.95%	0.85%	3.80%	15.56%	6.29%	24.76%	6.52%	13.67%
1997	2.29%	0.85%	3.14%	19.19%	8.42%	35.26%	9.60%	24.59%
1998	1.56%	0.85%	2.41%	22.06%	7.30%	45.14%	9.56%	36.50%
1999	2.21%	0.85%	3.06%	25.80%	8.27%	57.14%	9.58%	49.58%
2000	3.36%	0.85%	4.21%	31.10%	9.93%	72.75%	6.99%	60.04%
2001	2.85%	0.40%	3.25%	35.36%	8.23%	86.96%	7.13%	71.45%
2002	1.57%	0.40%	1.97%	38.02%	6.37%	98.87%	3.81%	77.98%
2003	2.27%	0.40%	2.67%	41.71%	6.38%	111.56%	6.44%	89.45%
2004	2.66%	0.40%	3.06%	<b>46.04%</b>	7.22%	<b>126.83%</b>	4.61%	<b>98.18%</b>

**12-YEAR RATE OF APPRAISED VALUATION INCREASE OF RESIDENTIAL PROPERTY HAS GROWN **2.75****

**TIMES FASTER THAN THE INFLATION RATE ADJUSTED FOR POPULATION GROWTH**

**12-YEAR RATE OF APPRAISED VALUATION INCREASE OF COMMERCIAL PROPERTY HAS GROWN **2.13****

**TIMES FASTER THAN THE INFLATION RATE ADJUSTED FOR POPULATION GROWTH**

# House Concurrent Resolution No. 5009

By Representative F. Miller

2-4

Proposed Amendment to  
HCR No. 5009  
Proposed by Representative F. Miller

9 A PROPOSITION to amend section 1 of article 11 of the constitution  
10 of the state of Kansas.

11  
12 *Be it resolved by the Legislature of the State of Kansas, two-thirds of*  
13 *the members elected (or appointed) and qualified to the House of Rep-*  
14 *resentatives and two-thirds of the members elected (or appointed) and*  
15 *qualified to the Senate concurring therein:*

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

20 "§ 1. **System of taxation; classification; exemption.** (a) The  
21 provisions of this subsection shall govern the assessment and tax-  
22 ation of property on and after January 1, ~~1993~~ 2005, and each  
23 year thereafter. Except as otherwise hereinafter specifically pro-  
24 vided, the legislature shall provide for a uniform and equal basis  
25 of valuation and rate of taxation of all property subject to taxation.  
26 *The legislature shall provide that the appraised valuation of real*  
27 *property used for residential purposes* ~~*which has been sold shall*~~  
28 *be adjusted to an amount equal to the average of the appraised*  
29 *valuation of such real property when sold determined pursuant*  
30 *to law and the sales price of such real property when sold.* The  
31 legislature may provide for the classification and the taxation uni-  
32 formly as to class of recreational vehicles, as defined by the leg-  
33 islature, or may exempt such class from property taxation and  
34 impose taxes upon another basis in lieu thereof. The provisions  
35 of this subsection shall not be applicable to the taxation of motor  
36 vehicles, except as otherwise hereinafter specifically provided,  
37 mineral products, money, mortgages, notes and other evidence  
38 of debt and grain. Property shall be classified into the following  
39 classes for the purpose of assessment and assessed at the per-  
centage of value prescribed therefor:

[or commercial and industrial purposes

42 Class 1 shall consist of real property. Real property shall be further  
43 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 ..... 11½%
- (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 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 ..... 11½%
- (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 ec-



1	conomic life and as long as such property is being used, shall not be	
2	less than 20% of the retail cost when new of such property .....	25%
3	(6) All other tangible personal property not otherwise specifically	
4	classified .....	30%

5 (b) All property used exclusively for state, county, municipal, literary,  
6 educational, scientific, religious, benevolent and charitable purposes,  
7 farm machinery and equipment, merchants' and manufacturers' inven-  
8 tories, other than public utility inventories included in subclass (3) of class  
9 2, livestock, and all household goods and personal effects not used for  
10 the production of income, shall be exempted from property taxation."

11 Sec. 2. The following statement shall be printed on the ballot with  
12 the amendment as a whole:

13 "Explanatory statement. This amendment would require the leg-  
14 islation to provide that the appraised valuation of real property used  
15 for residential purposes which has been sold shall be adjusted to an  
16 amount equal to the average of the appraised value of such real  
17 property when sold determined pursuant to law and the sales price  
18 of such real property when sold.

19 "A vote for this proposition would require the legislature to pro-  
20 vide that the appraised valuation of real property used for residen-  
21 tial purposes which has been sold shall be adjusted to an amount  
22 equal to the average of the appraised value of such real property  
23 when sold determined pursuant to law and the sales price of such  
24 real property when sold.

25 "A vote against this proposition would maintain the current sys-  
26 tem of property taxation."

27 Sec. 3. This resolution, if approved by two-thirds of the members  
28 elected (or appointed) and qualified to the House of Representatives, and  
29 two-thirds of the members elected (or appointed) and qualified to the  
30 Senate shall be entered on the journals, together with the yeas and nays.  
31 The secretary of state shall cause this resolution to be published as pro-  
32 vided by law and shall cause the proposed amendment to be submitted  
33 to the electors of the state at the general election to be held on November  
34 7, 2006.

or commercial and industrial purposes

***KANSAS TAXPAYERS NETWORK***

**PO Box 20050**

**Wichita, KS 67208**

**[www.kansastaxpayers.com](http://www.kansastaxpayers.com)**

**316-684-0082**

Testimony Supporting HCR 5009

By Karl Peterjohn, Executive Director

Kansas property taxes are high. These taxes are too high. The most recent regional survey of effective property tax rates indicates that Kansas property taxes are higher on business property than all four of our neighboring states. On residential property Kansas is higher than all of our neighbors with the exception of Nebraska.

The property taxes in Kansas are hurting this state's economic prospects. Kansans have less of a say about rising property taxes than citizens of Colorado, Missouri, and Oklahoma. Voters have no say on raising property taxes in Kansas with the interesting exception of school bond issues. That is why Kansas Taxpayers Network is here to testify in support of HCR 5009.

Kansas needs a Proposition 13. California voters approved Proposition 13 over the vehement opposition of the political establishment in that state dire consequences were predicted. What occurred was quite different and Proposition 13 provided stability to the property tax structure in California beginning in 1978. That stability is now over a quarter century old and has become an institution that has prevented homeowners from being taxes out of their houses, provided some certainty for established businesses, and limited the appraisal process from being used by appointed officials as a way of generating additional property tax revenues.

Kansas needs all of these protections. Kansas Taxpayers Network (KTN) support for HCR 5009 would increase as this proposal is broadened to include all taxable property in Kansas. KTN would like to see voter approval for local property tax hikes the way that local sales tax increases need voter approval in Kansas. We understand that the original HCR 5009 is being broadened to include business and commercial property. KTN believes that the property tax problem in Kansas is not limited to just residential property.

Proposition 13 addressed the appraisal growth, required super majority votes before property taxes could be raised, and sent a powerful electoral message to Sacramento that the abuses of property owners through the tax process must stop. Kansas needs to have a similar message sent to the statehouse but since there is no statewide initiative or even referendums in Kansas, this method is not possible. HCR 5009 begins to address the growing property tax problem in Kansas and taxpayers need the additional protection contained within this proposal.

# KANSAS PROPERTY TAXES ARE BAD!

## HOW BAD? READ ON!

Kansans have largely been disenfranchised when it comes to tax hikes. In Missouri, Colorado, and Oklahoma the politicians have to get voter approval before taxes and bonds can be raised. That's not true in Kansas where property taxes are commonly raised two ways, by higher mill levies and appraisal hikes. Kansas voters seldom can vote on raising property taxes, or any state tax hikes either.

Kansas property taxes are high. This fits in a state that has no limits on raising property tax millage or limits on appraisals. Overall, Kansas state taxes are the second highest in our five state region according to the most recent federal government tax data (see federal government web site: [www.census.gov/govs/statetax/03staxrank.html](http://www.census.gov/govs/statetax/03staxrank.html)). Here's the state's most recent property tax data taken from Kansas Inc.'s report, "Business Taxes and Costs: A Cross State Comparison 2003 Update," page 72-3.

<i><b>Kansas</b></i>		<u>Effective Tax Rate</u>
Statewide	Residential	1.25%
"	Commercial/Industrial	2.69%
Metro	Residential	1.23%
"	Commercial/Industrial	2.66%
Non Metro	Residential	1.27%
"	Commercial/Industrial	2.76%
<i><b>Colorado</b></i>		
Statewide	Residential	0.66%
"	Commercial/Industrial	2.07%
Metro	Residential	0.72%
"	Commercial/Industrial	2.26%
Non Metro	Residential	0.49%
"	Commercial/Industrial	1.55%

(OVER)

<i>Missouri</i>		<u>Effective Tax Rate</u>
Statewide	Residential	1.04%
"	Commercial/Industrial	2.06%
Metro	Residential	1.13%
"	Commercial/Industrial	2.27%
Non Metro	Residential	0.80%
"	Commercial/Industrial	1.48%
 <i>Nebraska</i>		
Statewide	Residential	1.80%
"	Commercial/Industrial	1.82%
Metro	Residential (2001 data)	1.87%
"	Commercial/Industrial(2001 data)	1.90%
Non Metro	Residential (2001 data)	1.65%
"	Commercial/Industrial(2001 data)	1.68%
 <i>Oklahoma</i>		
Statewide	Residential	0.97%
"	Commercial/Industrial	1.07%
Metro	Residential	1.07%
"	Commercial/Industrial	1.17%
Non Metro	Residential	0.83%
"	Commercial/Industrial	0.92%

Voters get to decide tax hikes in three of the states in this region. Only Kansas and Nebraska do not. It is no surprise that Kansas and Nebraska have higher property taxes.

Taxpayers are protected in Colorado, Missouri, and Oklahoma by tax and or spending lids that limit government growth. Why not Kansas? We can't afford to continue to be the **high tax point on the prairie!**

## **KANSAS TAXPAYERS NETWORK**

**P.O. Box 20050**

**Wichita, KS 67208**

**[www.kansastaxpayers.com](http://www.kansastaxpayers.com)**

**316-684-0082**

January 20, 2006

To: The Honorable Representative Kenny Wilk, Chairman  
Members of the House Taxation Committee

Mr. Chairman, I apologize for not appearing before you in person today. Requirements of my job duties do not allow me to take time away from work. Even though I am five years beyond retirement age, I continue to work full time in order to stay in my home of the last twenty-five years. Unfortunately, my situation is not unique. That is why I support HCR5009.

HCR5009 corrects the current appraisal system that is wrong on so many levels; it is hard to know where to begin.

The Appraisal System:

1. The current system provides shelter for taxing entities to increase revenue without addressing the voters. Some elected officials even boast that taxes were not raised, knowing full well the appraisal system will continue to provide more revenue. Or taxing officials will say the tax base has remained the same for x-number of years, and a tax increase is needed. Again, they fail to report increased appraisals have been providing funds all along.
2. The current drive-by/GPS inspections only address the outside of the property. Appraisers then search for "comparable properties" that have sold in the last six months. These "comps" defy logic in many cases because they compare house size but do not take into consideration lot size, age of the house, or the interior condition. Anyone in real estate will tell you the interior condition is the biggest part of selling value, but appraisals do not even consider this.
3. There is a protest system in place. However, the system requires the property owner to prove the appraiser incorrect. This time consuming, expensive process is bureaucracy personified. Most people don't protest because of full time employment or are elderly who no longer drive. The system eliminates them from the process.
4. Property owners with mortgages face ever increasing monthly payments. What appeared to be affordable at the time of purchase can place families at risk of bankruptcy during an economic downturn and/or job loss. Unless income can keep pace with the increased payments, there are fewer opportunities to invest in retirement or education savings as well as other discretionary spending. Those on fixed incomes are faced with other rising costs and may be forced to sell long before they would choose. In both cases, the demand for other government services will increase. The consequences of increasing property values through appraisals affects everyone's future in some way and should not be overlooked.

Developers, the real estate industry, bankers, and government agencies will unleash their lobbyists to knock loudly on your doors and to “button hole” you in the halls. The House of Representatives is the government body that is closest to the people. Will you have the courage to do what is right for the people? I think you do, and I urge you to please pass HCR5009.

Respectfully,

Doris Riley  
10850 W 154<sup>th</sup> Street  
Overland Park, KS 66221

NOTE: This testimony was read by Mrs. Nancy Hanahan, 10001 W. 156th Street, Overland Park, KS 66221, Tel. (913) 897-3619



# K A N S A S

JOAN WAGNON, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE  
DIVISION OF PROPERTY VALUATION

## MEMORANDUM

**TO:** Honorable Kenny Wilk  
Chairman, House Taxation Committee

**FROM:** Mark S. Beck, Director

**DATE:** January 20, 2006

**SUBJECT:** HCR 5009

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HCR 5009 amends Section 1 of article 11 of the Kansas Constitution to provide that the legislature shall provide that the appraised valuation of real property used for residential purposes which has been sold shall be the average of the appraised valuation of such property on the date it sells and the sales price of the property when it sold. The amendment is not self-implementing. The legislature would be required to pass legislation implementing the provision. The amendment would be effective on and after January 1, 2005.

The amendment raises several issues that need to be acknowledged and discussed prior to implementation. Some of these issues may be addressed in implementing legislation. Today, I am simply attempting to bring some of these issues to the forefront as you consider this concurrent resolution.

### Current Law:

- Under current law, real properties are to be valued uniformly and equally as of January 1 of each year at fair market value. (Article 11 Section 1 of the Kansas Constitution; K.S.A. 79-501 and K.S.A. 2004 Supp. 79-503a).

### Discussion:

- The amendment applies to real property used for residential purposes. Residential property includes single-family and multi-family properties. As such, single-family houses, duplexes, townhomes, condominiums, apartment buildings, manufactured housing, mobile home parks and many adult care homes would all be subject to the provision.

- The amendment does not indicate that the sale has to be an arm's length transaction. Therefore, could sales that are not representative of fair market value be used to determine the valuation of properties?
- Is the appraised valuation as of January 1<sup>st</sup> of the year the property is sold or is it the appraised valuation as of the date of the sale? What if there are added improvements after January 1<sup>st</sup> will the value of these improvements be taken into consideration?
- There is no indication of when the valuation would be adjusted to the average of the appraised valuation and the sales price. If a sale occurs in December of a year, would the appraised value be adjusted for that year or would it not be effective until the next year? In such a case, if the valuation is to be adjusted in the current year and the adjusted value increased over the appraised value, an additional tax bill would have to be sent to the taxpayer. Making adjustments in the current year after values have been certified by the county appraiser to the county clerk would result in additional work for county appraisers, clerks and treasurers.
- Also, it is not clear how long the valuation would remain at the adjusted valuation. Is it only for the year in which the property sold, or does the valuation remain at the adjusted valuation until the property sells again? The language of the amendment states that the appraised valuation is to be "determined pursuant to law." Since appraised values are updated on a yearly basis by law, it could be argued that the adjusted valuation is only for the one year.
- Will county appraisers be required to automatically make the adjustment in valuation or does the taxpayer have to take some action to start the process?
- The effective date is January 1, 2005. However, Section 3 of HCR 5009 provides that the resolution if approved by the House and Senate would be submitted to the electors of this state at the general election on November 7, 2006. Assuming the electors approve the amendment, county appraisers would be required to go back to January 1, 2005, to adjust the valuations of residential properties that had sold. This would result in additional tax bills being issued to some taxpayers and refunds of taxes issued to others. This refund and additional taxation process would require implementing legislation to provide the authority for county appraisers to make the changes, provide notice to taxpayers, certify the changes to the clerk, the clerk to certify the adjustments to the treasurer, and the treasurer to either issue additional tax statements or issue refunds. There would be costs associated with the retroactive application of this provision for county appraisers, county clerks and county treasurers.
- Would there be an appeal process for taxpayers who do not agree with the adjusted valuation?
- Owners of residential properties would have the valuations of their properties adjusted whenever the properties sell. In some cases, the adjusted value may be less than the currently assigned appraised valuation, but in several cases, the adjusted value will be higher than the currently assigned appraised value. Therefore, some taxpayers will see their valuations decreased by this amendment and others will see their valuations increased.
- The amendment could result in additional valuation appeals being filed with county appraisers and the Board of Tax Appeals when taxpayers receive notice of the adjusted valuations for the 2005 and 2006 tax years. This assumes there is implementing legislation that provides for such appeals.



In order to maintain fair and equal taxation, as required by the Kansas Constitution, the League supports appraisals based upon fair market value. A formula such as proposed by HCR 5009 that results in an artificial decrease in valuation no longer uses fair market value as the measuring stick for residential property valuations. When valuation of one type of property decreases, the tax burden shifts to other types of property. Stated another way, business and commercial property must generate more taxes to make up the taxes that are lost on residential property. In counties and school districts this shift of tax burden would also include agricultural property. This type of legislation does not reduce property taxes. It merely shifts the burden.

### **Departure from Current Policy**

HCR 5009 is a significant departure from the current policy on establishing fair market value. This provision is in direct conflict with that portion of K.S.A. 79-503a which provides, in part:

“... Sales in and of themselves shall not be the sole criteria of fair market value but shall be used in connection with cost, income and other factors ...”.

In other words, under the amendment proposed by HCR 5009 a determination of fair market value would be directly related to the sale price of the subject property without regard to the other factors to be considered.

### **Violation of Constitutional Requirement of “Uniform and Equal”**

In addition, we believe that the language of HCR 5009 potentially violates the “uniform and equal” provision of the Kansas Constitution. Article 11, § 1 of the Kansas Constitution provides, in part: “. . . , the legislature shall provide for an **uniform and equal** basis of valuation and rate of taxation of all property subject to taxation. . . .”

The Kansas courts have often stated: “Uniformity in taxation implies equality in the burden of taxation, and this equality cannot exist without uniformity in the basis of valuation. Uniformity in taxation does not permit a systematic, arbitrary, or intentional higher [or lower] valuation than that placed on other similar property within the same taxing district.”

What does this mean? It means that not just the tax rate must be uniform and equal for a given class of property but, also, that the method of determining the valuation of the property must be uniform and equal. As the above examples show, the valuation method set forth in HCR 5009 will not give uniform and equal results. In addition, because properties that do not regularly sell would not be adjusted by the proposed method, but, rather, under the current appraisal standards, there would not be an uniform and equal basis of valuation.

The League of Kansas Municipalities opposes any amendment to the Kansas Constitution that alters the current fair market value approach to valuing residential property or that would place any cap or limitation on increases in valuation or that would artificially decrease the valuation of residential property. Therefore, the League respectfully requests that you reject HCR 5009.

Thank you for your consideration of this matter. I will stand for questions when appropriate.



League of Kansas Municipalities

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Date: January 20, 2006  
To: House Committee on Taxation  
From: Larry R. Baer  
Assistant General Counsel  
Re: HCR 5009 – Testimony in Opposition

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and its member cities to present testimony in opposition to HCR 5009.

HCR 5009 proposes to amend the Kansas Constitution by providing a simple formula for the adjustment of appraised values of residential properties at the time of sale. While we understand the intent of HCR 5009, it is the unintended consequences of HCR that pose the problems. HCR 5009 will result in artificially decreasing appraised values and, consequently, the assessed valuations and, therefore, be in violation of the "uniform and equal" requirements of the Kansas Constitution.

#### **Artificial Decrease in Value**

The adjustment formula proposed in HCR 5009 presumes that the sales price of residential properties is always representative of fair market value and, thus, a more accurate representation of value than the current county appraised value. This approach is flawed. Property can, and does, sell for less than the county appraised value without market conditions entering into the picture. Three examples promptly come to mind:

No. 1: Seller, for employment reasons, is required to relocate before selling his local residence. He ends up the proud owner of two mortgage payments. Because his financial situation won't accommodate two mortgages, he opts to reduce the sale price of his local residence below appraised value to make his property more attractive to a potential buyer.

No. 2: Upon Grandma's death, her Will is probated and it provides that her favorite grandchild can buy her house for 75% of its appraised value.

No. 3: Aunt Edna's health is failing and she decides to move to the local care facility. No family member resides locally and there is a concern about what to do with her house. Her neighbor makes a below appraised value offer to buy the house. The family decides to accept it even though it is lower than market value because no realtor's fees are involved, there is no one locally available to care for the property or to arrange for a sale and "lack of hassle" has a value.

These examples have a common thread. In each the property is sold for less than "county appraised value". The reduced selling price has nothing to do with market conditions. Under the valuation formula proposed in HCR 5009 the appraised valuation of each would be reduced. The reduction would represent an artificial decrease because market conditions played no part in the valuation.



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

**Written Testimony concerning HCR 5009**  
**House Taxation Committee**  
**January 20, 2006**  
**Presented by Randall Allen, Executive Director**  
**Kansas Association of Counties**

Mr. Chairman and members of the committee, thank you for the opportunity to submit written testimony concerning HCR 5009. Our Governing Board is meeting on Friday morning during the hearing, and therefore I am unavailable to present the testimony in person. On behalf of the Kansas Association of Counties, I want to state our opposition to HCR 5009 both on the principle involved as well as problems that we foresee in its implementation, should the Constitution be amended in this manner.

On principle, we oppose HCR 5009 because for purposes of taxation it would treat one type of residential property (i.e. property which has been recently sold) differently than another type of residential property (i.e. property which has not been recently sold). We believe that it is illogical and inequitable to substitute a calculated standard (average of appraised valuation based on "fair market value" and the sales price) for recently sold properties, while maintaining the "fair market value" standard for all other properties. It would seem like we would be creating inequities in the taxation system for residential property where they currently do not exist.

In terms of the mechanics of the proposal, several concerns come to our attention. First, the effective date of the provision is the assessment process on or after January 1, 2005. In fact, the assessment process for 2005 is now completed and the process for 2006 is well underway. As such, it would seem imperative that a prospective date (e.g. January 1, 2007 or thereafter) be chosen for implementation. Second, how would properties sold in a given year after final valuations are finalized be treated for purposes of assessment and computation of taxes? There is an existing process for taxpayers to dispute their valuation, but it is established so that even with the informal hearing and formal hearing processes, a resolution of the final assessed valuation is achieved prior to the time that tax levies are set. Sales, however, potentially occur every day of the year. It is therefore unclear to us how sales late in any given year could practically change the assessed valuation for that year without shortchanging units of government tax revenue which they are counting on to finance adopted budgets.

After experiencing years of neglect in our property tax administration system in the 1960s, 1970s, and 1980s, county commissioners and state officials expended the fiscal and political capital to make our system better. It is not perfect, but it is infinitely better than it was before property values were revisited on an annual basis. We urge the committee to refrain from recommending this bill for passage and allow the values for all residential properties to reflect a uniform methodology for assessment. Thank you.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

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House Taxation  
1-20-06  
Attachment 8