

## MESSAGE FROM THE GOVERNOR REGARDING VETO OF HOUSE SUBSTITUTE FOR SENATE BILL 280

In 2014, I signed House Substitute for Senate Bill 231, which contained numerous revisions governing the litigation of tax cases. In connection with the consideration of that legislation, I expressed concerns about a section in a prior version of the bill that would have retroactively given the parties in previously determined matters a second opportunity to litigate their cases. This objectionable provision then was removed from the final 2014 legislation, which I eventually signed.

The bill that I am vetoing today renews the concerns I expressed two years ago, by adding a new provision that would for the first time allow tax cases that are on appeal and eventually remanded to the Board of Tax Appeals to then be the subject of a subsequent appeal to a district court, where the court would conduct an entirely new trial and decide all of the issues over again. Section 3(c)(4)(B). This new possibility of district court “trial de novo,” as defined in this provision, improperly gives parties in previously determined matters a second opportunity to litigate their cases, and essentially nullifies the prior proceedings – thereby wasting the time, effort, and expenses incurred by the parties and the courts in these matters. Significantly, the Kansas courts have recognized that the Board of Tax Appeals already performs the necessary judicial function of an initial court of record for the matters at issue here – a function that would be upended by this legislation. See *In re Appeal of Trickett*, 27 Kan. App. 2d 651,656, 8 P.3d 18, 23 (2000).

The new appeal rights contained in this bill would be very beneficial to parties in cases positioned to take advantage of them, and as it turns out, to one case in particular. The State of Kansas is currently litigating an income tax matter in which the state has received a tax deposit of \$48,467,227.00. The taxpayers in that case, Mr. and Mrs. O. Gene Bicknell, have been supporters of and financial donors to my campaigns for public office, as well as the campaigns of many others. Mr. Bicknell was a candidate for the Republican nomination for Governor of Kansas in 1994. His tax dispute with the State of Kansas far predates my election as Governor, but the litigation has continued throughout my administration and I have always taken the position that the matter should be left to the Department of Revenue and the court system. See *In re Bicknell*, No. 2010-8529-DT (decision of the Kansas Court of Tax Appeals dated Dec. 3, 2013),

vacated and remanded, No. 111,202 (decision of the Kansas Court of Appeals dated Sept. 25, 2015)(transfer motion pending before Kansas Supreme Court).

Under these circumstances, it would be improper for me to approve this legislation. Taxpayers should contest their past tax obligations before the board and the courts under the laws that apply to everyone. Most Kansans lack the resources necessary to seek special treatment through the legislative process. I share the Legislature's interest in ensuring a fair and impartial system of justice for taxpayers. Toward that end, I look forward to receiving any new legislation with reforms that operate on a going forward basis and which do not disturb pending cases.

Accordingly, pursuant to Article 2, Section 14(a) of the Constitution of the State of Kansas, I hereby veto Senate Bill 280.

Dated: May 17, 2016

A handwritten signature in black ink, reading "Sam Brownback". The signature is written in a cursive style with a horizontal line underneath the name.

Sam Brownback  
Governor of Kansas

House Substitute for SENATE BILL No. 280

AN ACT concerning taxation; relating to powers of taxing jurisdictions; valuation, appeals, procedure; ratio study, presentation to county commissioners, exemptions; bed and breakfasts; oil and gas leases, determination of value of production, evidence; county appraisers, persons eligible; market study analysis; tax liens, extinguishment; delinquent real property taxes, interest rate, claims against the county; amending K.S.A. 19-432, 79-504, 79-1412a, 79-1456, 79-1460a and 79-2011 and K.S.A. 2015 Supp. 12-1927, 74-2426, 74-2433, 74-2438, 77-618, 79-331, 79-425a, 79-503a, 79-1439, 79-1448, 79-1460, 79-1476, 79-2004, 79-2005 and 79-2026 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. For all taxable years commencing after December 31, 2015, all property owned and primarily operated as an airport by a healthcare foundation that has been exempted from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, shall be exempt from all property or ad valorem taxes levied under the laws of this state. The provisions of this section shall expire and have no effect on and after January 1, 2021.

Sec. 2. K.S.A. 19-432 is hereby amended to read as follows: 19-432. (a) The director of property valuation shall maintain a current list of persons eligible to be appointed to the office of appraiser. Periodic issuance of this list shall constitute the official list of eligible Kansas appraisers who are candidates for appointment. Inclusion on this list shall be made dependent upon successful completion of a written examination as adopted and administered by the director.

(b) The director of property valuation shall be required to conduct training courses annually for the purpose of training appraisal candidates. These courses shall be designed to prepare students to successfully complete the written examinations required for eligible Kansas appraiser status.

(c) Once certified, an eligible Kansas appraiser may retain that status only through successful completion of additional appraisal courses at intervals as determined by the director of property valuation. The director shall be required to conduct training courses annually for the purpose of providing the additional curriculum required for retention of Kansas appraiser status. The director may accept recognized appraisal courses as an alternative to courses conducted by the director's office to fulfill this requirement for the maintenance of eligible Kansas appraiser status.

(1) *The director of property valuation may remove any person from the list of persons eligible to be appointed to the office of appraiser for any of the following acts or omissions:*

(A) *Failing to meet the minimum qualifications established by this section;*

(B) *a plea of guilty or nolo contendere to, or conviction of: (i) Any crime involving moral turpitude; or (ii) any felony charge; or*

(C) *entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real or personal property.*

(2) *Any person removed from the list of persons eligible to be appointed to the office of county appraiser under the provisions of this section shall immediately forfeit the office of county or district appraiser.*

(3) *An appeal may be taken to the state board of tax appeals from any final action of the director of property valuation under the provisions of this section pursuant to K.S.A. 74-2438, and amendments thereto.*

(4) *The director of property valuation may relist a person as an eligible county appraiser upon a showing of mitigating circumstances, restitution or expungement.*

Sec. 3. K.S.A. 2015 Supp. 74-2426 is hereby amended to read as follows: 74-2426. (a) Orders of the state board of tax appeals on any appeal, in any proceeding under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding before the board shall be rendered and served in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the provisions of ~~subsection (g) of K.S.A. 77-526(g)~~, and amendments thereto, a written summary decision shall be rendered by the board and served within 14 days after the matter was fully submitted to the board unless this period is waived or extended with the written consent of all parties or for good cause shown. Any aggrieved party, within 14 days of receiving the board's decision, may request a full and complete opinion be issued by the board in which the board explains its decision. *Except as provided in subsection*

(c)(4), this full opinion shall be served by the board within 90 days of being requested. If the board has not rendered a summary decision or a full and complete opinion within the time periods described in this subsection, and such period has not been waived by the parties nor can the board show good cause for the delay, then the board shall refund any filing fees paid by the taxpayer.

(b) Final orders of the board shall be subject to review pursuant to subsection (c) except that the aggrieved party may first file a petition for reconsideration of ~~that order~~ *a full and complete opinion* with the board in accordance with the provisions of K.S.A. 77-529, and amendments thereto.

(c) Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act, except that:

(1) The parties to the action for judicial review shall be the same parties as appeared before the board in the administrative proceedings before the board. The board shall not be a party to any action for judicial review of an action of the board.

(2) There is no right to review of any order issued by the board in a no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq., 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and statutes of a similar character.

(3) In addition to the cost of the preparation of the transcript, the appellant shall pay to the state board of tax appeals the other costs of certifying the record to the reviewing court. Such payment shall be made prior to the transmission of the agency record to the reviewing court.

(4) *Appeal of an order of the board shall be to the court of appeals as provided in subsection (c)(4)(A), unless a taxpayer who is a party to the order requests review in district court pursuant to subsection (c)(4)(B).*

~~(A) Any aggrieved person has the right to appeal any final order of the board issued after June 30, 2014, by filing a petition with the court of appeals or the district court. Any appeal to the district court shall be a trial de novo. Any aggrieved party may file a petition for review of the board's order in the court of appeals. For purposes of such an appeal, the board's order shall become final only after the issuance of a full and complete opinion pursuant to subsection (a).~~

~~(B) Review of orders issued by the board of tax appeals relating to the valuation or assessment of property for ad valorem tax purposes or relating to the tax protest for which the appellant chooses to be reviewed in district court, shall be conducted by the district court of the county in which the property is located or, if located in more than one county, the district court of any county in which any portion of the property is located. At the election of a taxpayer, any summary decision or full and complete opinion of the board of tax appeals issued after June 30, 2014, may be appealed by filing a petition for review in the district court. Any appeal to the district court shall be a trial de novo. Notwithstanding K.S.A. 77-619, and amendments thereto, the trial de novo shall include an evidentiary hearing at which issues of law and fact shall be determined anew. District court review of orders issued by the board relating to the valuation or assessment of property for ad valorem tax purposes or relating to the tax protest shall be conducted by the court of the county in which the property is located, or, if located in more than one county, the court of any county in which any portion of the property is located.~~

~~(C) If a taxpayer requests review of a summary decision or full and complete opinion in district court pursuant to subsection (c)(4)(B), the taxpayer shall provide notice to the board as well as the parties. Upon receipt of the notice, the board's jurisdiction shall terminate, notwithstanding any prior request for a full and complete opinion under subsection (a), and the board shall not issue such opinion.~~

(d) If review of an order of the state board of tax appeals to the court of appeals relating to excise, income or estate taxes, is sought by a person other than the director of taxation, such person shall give bond for costs at the time the petition is filed. The bond shall be in the amount of 125% of the amount of taxes assessed or a lesser amount approved by the court of appeals and shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

Sec. 4. K.S.A. 2015 Supp. 74-2433 is hereby amended to read as follows: 74-2433. (a) There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of three members who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. For members appointed after June 30, 2014, one of such members shall have been regularly admitted to practice law in the state of Kansas and for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state; one of such members shall have engaged in active practice as a certified public accountant for a period of at least five years and one such member shall be a licensed certified general real property appraiser. In addition, the governor shall also appoint a chief hearing officer, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, who, in addition to other duties prescribed by this act, shall serve as a member pro tempore of the board. No successor shall be appointed for any judge of the court of tax appeals appointed before July 1, 2014. Such persons shall continue to serve as members on the board of tax appeals until their terms expire. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, including the chief hearing officer, shall exercise any power, duty or function as a member of the board until confirmed by the senate. Not more than two members of the board shall be of the same political party. Members of the board, including the chief hearing officer, shall be residents of the state. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, no more than one member shall be appointed from any one of the congressional districts of Kansas unless, after having exercised due diligence, the governor is unable to find a qualified replacement within 90 days after any vacancy on the board occurs. The members of the board, including the chief hearing officer, shall be selected with special reference to training and experience for duties imposed by this act and shall be individuals with legal, tax, accounting or appraisal training and experience. State board of tax appeals members shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. The board shall be bound by the doctrine of stare decisis limited to published decisions of an appellate court. Members of the board, including the chief hearing officer, shall hold office for terms of four years. A member may continue to serve for a period of 90 days after the expiration of the member's term, or until a successor has been appointed and confirmed, whichever is shorter. Except as otherwise provided, such terms of office shall expire on January 15 of the last year of such term. If a vacancy occurs on the board, or in the position for chief hearing officer, the governor shall appoint a successor to fill the vacancy for the unexpired term. Nothing in this section shall be construed to prohibit the governor from reappointing any member of the board, including the chief hearing officer, for additional four-year terms. The governor shall select one of its members to serve as chairperson. The votes of two members shall be required for any final order to be issued by the board. Meetings may be called by the chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

(b) Any member appointed to the state board of tax appeals and the chief hearing officer may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state board of tax appeals shall appoint, subject to approval by the governor, an executive director of the board, to serve at the pleasure of the board. The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined by the board, subject to the limitations of appropriations thereof; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The executive director shall perform such other duties as directed by the board.

(d) Appeals decided by the state board of tax appeals shall be made available to the public and shall be published by the board on the board's website within 30 days after the decision has been rendered. The board shall also publish a monthly report that includes all appeals decided that month as well as all appeals which have not yet been decided and are

beyond the time limitations as set forth in K.S.A. 74-2426, and amendments thereto. Such report shall be made available to the public and transmitted by the board to the members of the Kansas legislature.

(e) After appointment, members of the state board of tax appeals that are not otherwise a state certified general real property appraiser shall complete the following course requirements: (1) A tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value; (2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value; (3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal; (4) an appraisal course with an emphasis on Kansas property tax laws; (5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and (6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto. Any member appointed to the board who is a certified real property appraiser shall only be required to take such educational courses as are required to maintain the appraisal license. The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements and prescribing continued education requirements for members of the board.

(f) The state board of tax appeals shall have no capacity or power to sue or be sued.

(g) It is the intent of the legislature that proceedings in front of the board of tax appeals be conducted in a fair and impartial manner and that all taxpayers are entitled to a neutral interpretation of the tax laws of the state of Kansas. The provisions of the tax laws of this state shall be applied impartially to both taxpayers and taxing districts in cases before the board. *Valuation appeals before the board shall be decided upon a determination of the fair market value of the fee simple of the property. Nothing in this section shall prohibit a property owner, during a property valuation appeal before the board, from raising arguments regarding classification.* Cases before the board shall not be decided upon arguments concerning the shifting of the tax burden or upon any revenue loss or gain which may be experienced by the taxing district.

Sec. 5. K.S.A. 2015 Supp. 74-2438 is hereby amended to read as follows: 74-2438. (a) An appeal may be taken to the state board of tax appeals from any finding, ruling, order, decision, final determination or other final action, including action relating to abatement or reduction of penalty and interest, on any case of the secretary of revenue or the secretary's designee by any person aggrieved thereby. Notice of such appeal shall be filed with the secretary of the board within 30 days after such finding, ruling, order, decision, final determination or other action on a case, and a copy served upon the secretary of revenue or the secretary's designee. An appeal may also be taken to the state board of tax appeals at any time when no final determination has been made by the secretary of revenue or the secretary's designee after 270 days has passed since the date of the request for informal conference pursuant to K.S.A. 79-3226, and amendments thereto, and no written agreement by the parties to further extend the time for making such final determination is in effect.

(b) Upon receipt of a timely appeal, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. The hearing before the board shall be a de novo hearing unless the parties agree to submit the case on the record made before the secretary of revenue or the secretary's designee.

(c) (1) With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county or district appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination, except that no such duty shall accrue with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. Any appraisal made by

the county or district appraiser must be released through the discovery process to the taxpayer, the taxpayer's attorney or the taxpayer's representative. No presumption shall exist in favor of the county or district appraiser with respect to the validity and correctness of such determination. If a taxpayer presents a single property appraisal with an effective date of January 1 of the year appealed which has been conducted by a certified general real property appraiser which determines the subject property's valuation to be less than that determined by a mass real estate appraisal conducted by the county or district appraiser, then the taxpayer's property-specific appraisal shall be accepted into evidence by the board. No interest shall accrue on the amount of the assessment of tax subject to any such appeal beyond 120 days after the date the matter was fully submitted, except that, if a final order is issued within such time period, interest shall continue to accrue until such time as the tax liability is fully satisfied, and if a final order is issued beyond such time period, interest shall recommence to accrue from the date of such order until such time as the tax liability is fully satisfied.

(2) *With regard to any matter properly submitted to the board relating to the determination of valuation of real property, if the director of property valuation has developed and adopted methodologies to value such type of property, then it shall be the duty of the county or district appraiser to demonstrate compliance with such methodologies.*

Sec. 6. K.S.A. 2015 Supp. 77-618 is hereby amended to read as follows: 77-618. Judicial review of disputed issues of fact shall be confined to the agency record for judicial review as supplemented by additional evidence taken pursuant to this act, except that review of:

(a) Orders of the director of workers' compensation under the workmen's compensation act shall be in accordance with K.S.A. 44-556, and amendments thereto;

(b) orders of the Kansas human rights commission under the Kansas act against discrimination or the Kansas age discrimination in employment act shall be in accordance with K.S.A. 44-1011 and 44-1021, and amendments thereto;

(c) orders of the division of vehicles, other than orders under K.S.A. 8-254, and amendments thereto, which deny, cancel, suspend or revoke a driver's license shall be in accordance with K.S.A. 8-259, and amendments thereto;

(d) orders of the secretary of labor under K.S.A. 72-5413 through 72-5431, and amendments thereto, shall be in accordance with K.S.A. 72-5430a, and amendments thereto; ~~and~~

(e) orders of the state fire marshal under K.S.A. 31-144, and amendments thereto, shall be in accordance with that section; *and*

(f) *orders of the state board of tax appeals under K.S.A. 74-2426, and amendments thereto, shall be in accordance with that section.*

Sec. 7. K.S.A. 2015 Supp. 79-331 is hereby amended to read as follows: 79-331. (a) Except as otherwise provided in subsection (b) ~~of this section~~, in determining the value of oil and gas leases or properties the appraiser shall take into consideration the age of the wells, the quality of oil or gas being produced therefrom, the nearness of the wells to market, the cost of operation, the character, extent and permanency of the market, the probable life of the wells, the quantity of oil or gas produced from the lease or property, the number of wells being operated, and such other facts as may be known by the appraiser to affect the value of the lease or property.

Whenever a change in any of the factors or figures used in determining the  $\frac{8}{5}$ th valuation of the production for any oil or gas lease or property is made pursuant to the tax equalization, tax protest or tax grievance proceedings, such change shall apply to the working interest, royalty interest, overriding royalty interest and production payments and, if applicable, a refund of taxes shall be made in the manner prescribed by ~~subsection (1)(1) of K.S.A. 79-2005(l)(1)~~, and amendments thereto.

(b) The valuation of the working interest and royalty interest, except valuation of equipment, of any original base lease or property producing oil or gas for the first time in economic quantities on and after July 1 of the calendar year preceding the year in which such property is first assessed shall be determined for the year in which such property is first assessed by determining the quantity of oil or gas such property would

have produced during the entire year preceding the year in which such property is first assessed upon the basis of the actual production in such year and by multiplying the income and expenses that would have been attributable to such property at such production level, excluding equipment valuation thereof, if it had actually produced said entire year preceding the year in which such property is first assessed by 60%.

(c) The provisions of subsection (b) ~~of this section~~ shall not apply in the case of any production from any direct offset well or any subsequent well on the same lease.

(d) (1) In order to clarify and express the intent of the legislature regarding the methodology utilized in the determination of fair market value of producing oil and gas leases for property tax purposes, it is hereby declared that the primary and predominant consideration in such determination is, has been and shall be the actual value of oil and gas production severed from the earth.

(2) *Information used to establish the fair market value of producing oil and gas leases which commence production during the preceding calendar year shall be limited to any information regarding production prior to April 1 of the calendar year in which such property is assessed. Information used to establish the fair market value of any base lease or property producing oil and gas for the first time in economic quantities on and after October 1 of the calendar year preceding the year in which such property is first assessed shall be limited to any information regarding production prior to July 1 of the calendar year in which such property is assessed.*

(e) The provisions of this act shall apply to all tax years commencing on and after December 31, ~~2003~~ 2016.

Sec. 8. K.S.A. 2015 Supp. 79-425a is hereby amended to read as follows: 79-425a. (a) Whenever a tract of land which has been assessed shall thereafter be divided into tracts owned by different persons, any one or more of such persons, after giving 10 days' written notice to the other persons at their respective mailing addresses, may make application to the county appraiser for an apportionment of the assessed valuation of such tract among the several tracts, and the county appraiser ~~is authorized to~~ shall apportion such valuation among the owners of such tracts according to the value of their respective interests as shown by evidence available at a time designated by the county appraiser. Upon the apportionment of the assessed valuation among the several tracts and the levying of tax against each such tract, the county treasurer, upon payment of such tax on any such tract, shall issue a receipt therefor and, in any case where such tax is not paid on any of such tracts, it shall be sold for delinquent taxes in the same manner prescribed by law for sale of real estate for delinquent taxes. If taxes levied on a tract of land prior to its division are delinquent, the owner of any divided portion of such tract may have that portion released from the tax lien by paying to the county treasurer the share of the delinquent tax attributable to such divided portion as shown by the apportionment made of the whole tract's assessed valuation among the divided portions by the county appraiser.

(b) Any person aggrieved by the application of the provisions of subsection (a) may, within 10 days after the apportionment decision of the county appraiser, appeal to the state board of tax appeals, and the board shall have the power, upon a showing that such decision was erroneous, to substitute an apportionment of the assessed valuation of a tract of land for that of the county appraiser.

Sec. 9. K.S.A. 2015 Supp. 79-503a is hereby amended to read as follows: 79-503a. "Fair market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. In the determination of fair market value of any real property which is subject to any special assessment, such value shall not be determined by adding the present value of the special assessment to the sales price. For the purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.

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 including but not by way of exclusion:



- (a) The proper classification of lands and improvements;
- (b) the size thereof;
- (c) the effect of location on value;
- (d) depreciation, including physical deterioration or functional, economic or social obsolescence;
- (e) cost of reproduction of improvements;
- (f) productivity taking into account all restrictions imposed by the state or federal government and local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families as authorized by section 42 of the federal internal revenue code of 1986, as amended;
- (g) earning capacity as indicated by lease price, by capitalization of net income or by absorption or sell-out period;
- (h) rental or reasonable rental values or rental values restricted by the state or federal government or local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended;
- (i) sale value on open market with due allowance to abnormal inflationary factors influencing such values;
- (j) restrictions or requirements imposed upon the use of real estate by the state or federal government or local governing bodies, including zoning and planning boards or commissions, and including, but not limited to, restrictions or requirements imposed upon the use of real estate rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended; and
- (k) comparison with values of other property of known or recognized value. The assessment-sales ratio study shall not be used as an appraisal for appraisal purposes.

The appraisal process utilized in the valuation of all real and tangible personal property for ad valorem tax purposes shall conform to generally accepted appraisal procedures *and standards* which are ~~adaptable to mass appraisal and~~ consistent with the definition of fair market value unless otherwise specified by law.

Sec. 10. K.S.A. 79-504 is hereby amended to read as follows: 79-504. For the purposes of this act:

(a) “Appraisal foundation” and “foundation” mean the appraisal foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(b) “Written appraisal” means a written statement used in connection with the activities of the division of property valuation or a county appraiser that is independently and impartially prepared by a county appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information. ~~Appraisals produced by the computer assisted mass appraisal system prescribed or approved by the director of property valuation shall be deemed to be written appraisals for the purposes of this act.~~

Sec. 11. K.S.A. 79-1412a is hereby amended to read as follows: 79-1412a. (a) County appraisers and district appraisers shall perform the following duties:

*First.* Install and maintain such records and data relating to all property in the county, taxable and exempt, as may be required by the director of property valuation.

*Second.* Annually, as of January 1, supervise the listing and appraisal of all real estate and personal property in the county subject to taxation except state-appraised property.

*Third.* Attend meetings of the county board of equalization for the purpose of aiding such board in the proper discharge of its duties, making all records available to the county board of equalization.

*Fourth.* Prepare the appraisal roll and certify such rolls to the county clerk.

*Fifth.* Supervise the township trustees, assistants, appraisers and other employees appointed by the appraiser in the performance of their duties.

*Sixth.* The county appraiser or district appraiser in setting values for various types of personal property, shall conform to the values for such

property as shown in the personal property appraisal guides devised or prescribed by the director of property valuation.

*Seventh.* Carry on continuously throughout the year the process of appraising real property.

*Eighth.* If the county appraiser or district appraiser deems it advisable, such appraiser may appoint one or more advisory committees of not less than five persons representative of the various economic interests and geographic areas of the county to assist the appraiser in establishing unit land values, unit values for structures, productivity, classifications for agricultural lands, adjustments for location factors, and generally to advise on assessment procedures and methods.

*Ninth.* Perform such other duties as may be required by law.

(b) The director of property valuation shall give notice to county and district appraisers and county boards of equalization of any proposed changes in the guides, schedules or methodology for use in valuing property prescribed to the county and district appraisers for use in setting values for property within the county or district. Such notice shall also be published in the Kansas register and shall provide that such changes are available for public inspection. Changes and modifications in guides, schedules or methodology for use in valuing property which are prescribed by the director of property valuation for use by county and district appraisers on or after July 1 in any year shall not be utilized in establishing the value, for the current tax year, of any property, the value of which has previously been established for such year.

(c) *Notwithstanding the provisions of this section, the county appraiser or the county appraiser's designee shall not, at any time, request the following from a taxpayer:*

(1) *Any appraisal of the property that was conducted for the purpose of obtaining mortgage financing;*

(2) *any fee appraisal with an effective date more than 12 months prior to January 1 of the valuation year under appeal; or*

(3) *documents detailing individual lease agreements.*

*Nothing in this subsection shall prohibit the county appraiser or the county appraiser's designee from requesting a certified rent roll from the taxpayer.*

Sec. 12. K.S.A. 2015 Supp. 79-1439 is hereby amended to read as follows: 79-1439. (a) All real and tangible personal property which is subject to general ad valorem taxation shall be appraised uniformly and equally as to class and, unless otherwise specified herein, shall be appraised at its fair market value, as defined in K.S.A. 79-503a, and amendments thereto.

(b) Property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(1) Real property shall be assessed as to subclass at the following percentages of value:

(A) Real property used for residential purposes including multi-family residential real property, real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located, residential real property used partially for day care home purposes if such home has been registered or licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, and ~~residential real property used partially for bed and breakfast home purposes at 11.5%. As used in this paragraph "bed and breakfast home"~~ *residence property* with five or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days for which there is compliance with all zoning or other applicable ordinances or laws which pertain to facilities which lodge and feed guests;

(B) land devoted to agricultural use valued pursuant to K.S.A. 79-1476, and amendments thereto, at 30%;

(C) vacant lots at 12%;

(D) 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 included herein pursuant to K.S.A. 79-1439a, and amendments thereto, at 12%;

(E) public utility real property, except railroad property which shall be assessed at the average rate all other commercial and industrial property is assessed, at 33%. As used in this paragraph, "public utility" shall

have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(F) real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use at 25%; and

(G) all other urban and rural real property not otherwise specifically subclassed at 30%.

(2) Personal property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(A) Mobile homes used for residential purposes at 11.5%;

(B) 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%, at 30%;

(C) 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, at 33%. As used in this paragraph, “public utility” shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(D) all categories of motor vehicles listed and taxed pursuant to K.S.A. 79-306d, and amendments thereto, and, prior to January 1, 2014, over-the-road motor vehicles defined pursuant to K.S.A. 79-6a01, and amendments thereto, at 30%;

(E) commercial and industrial machinery and equipment, including rolling equipment defined pursuant to K.S.A. 79-6a01, and amendments thereto, 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 as long as it is being used shall not be less than 20% of the retail cost when new of such property at 25%; and

(F) all other tangible personal property not otherwise specifically classified at 30%.

Sec. 13. K.S.A. 2015 Supp. 79-1448 is hereby amended to read as follows: 79-1448. Any taxpayer may complain or appeal to the county appraiser from the classification or appraisal of the taxpayer’s property by giving notice to the county appraiser within 30 days subsequent to the date of mailing of the valuation notice required by K.S.A. 79-1460, and amendments thereto, for real property, and on or before May 15 for personal property. The county appraiser or the appraiser’s designee shall arrange to hold an informal meeting with the aggrieved taxpayer with reference to the property in question. At such meeting it shall be the duty of the county appraiser or the county appraiser’s designee to initiate production of evidence to substantiate the valuation of such property, including ~~the affording to, a summary of the reasons that the valuation of the property has been increased over the previous year, any assumptions used by the county appraiser to determine the value of the property and a description of the individual property characteristics, property specific valuation records and conclusions.~~ The taxpayer ~~of~~ shall be provided with the opportunity to review the data ~~sheet of comparable sales utilized in the determination of such valuation~~ sheets applicable to the valuation approach utilized for the subject property. The county appraiser shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. In any appeal from the appraisal of leased commercial and industrial property, the county or district appraiser’s appraised value shall be presumed to be valid and correct and may only be rebutted by a preponderance of the evidence, unless the property owner furnishes the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal within 30 calendar days following the informal meeting. *In any appeal from the reclassification of property that was classified as land devoted to agricultural use for the preceding year, the taxpayer’s classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease agreement or other documentation*

*demonstrating a commitment to use the property for agricultural use, if no other actual use is evident.* The county appraiser may extend the time in which the taxpayer may informally appeal from the classification or appraisal of the taxpayer's property for just and adequate reasons. Except as provided in K.S.A. 79-1404, and amendments thereto, no informal meeting regarding real property shall be scheduled to take place after May 15, nor shall a final determination be given by the appraiser after May 20. Any final determination shall be accompanied by a written explanation of the reasoning upon which such determination is based when such determination is not in favor of the taxpayer. Any taxpayer who is aggrieved by the final determination of the county appraiser may appeal to the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, and such hearing officer, or panel, for just cause shown and recorded, is authorized to change the classification or valuation of specific tracts or individual items of real or personal property in the same manner provided for in K.S.A. 79-1606, and amendments thereto. In lieu of appealing to a hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, except with regard to land devoted to agricultural use, wherein the value of the property, is less than \$3,000,000, as reflected on the valuation notice, or the property constitutes single family residential property, may appeal to the small claims and expedited hearings division of the state board of tax appeals within the time period prescribed by K.S.A. 79-1606, and amendments thereto. Any taxpayer who is aggrieved by the final determination of a hearing officer or panel may appeal to the state board of tax appeals as provided in K.S.A. 79-1609, and amendments thereto. An informal meeting with the county appraiser or the appraiser's designee shall be a condition precedent to an appeal to the county or district hearing panel.

Sec. 14. K.S.A. 79-1456 is hereby amended to read as follows: 79-1456. (a) The county appraiser shall follow the policies, procedures and guidelines of the director of property valuation in the performance of the duties of the office of county appraiser. *If the director has developed and adopted methodologies to value specific types of property, the county appraiser shall be required to follow such methodologies. Prior to January 1, 2017, the secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this section.*

(b) The county appraiser in establishing values for various types of personal property, shall conform to the values for such property as shown in the personal property appraisal guides prescribed or furnished by the director of property valuation. The county appraiser may deviate from the values shown in such guides on an individual piece of *personal* property for just cause shown and in a manner consistent with achieving fair market value.

Sec. 15. K.S.A. 2015 Supp. 79-1460 is hereby amended to read as follows: 79-1460. (a) The county appraiser shall notify each taxpayer in the county annually on or before March 1 for real property and May 1 for personal property, by mail directed to the taxpayer's last known address, of the classification and appraised valuation of the taxpayer's property, except that, the valuation for all real property shall not be increased unless: ~~(1) the record of the latest physical inspection was reviewed by the county or district appraiser, and documentation exists to support such increase in valuation in compliance with the directives and specifications of the director of property valuation, and such record and documentation is available to the affected taxpayer; and (2).~~ For the next two taxable years following the taxable year that the valuation for *commercial* real property has been reduced due to a final determination made pursuant to the valuation appeals process, ~~documented substantial and compelling reasons exist therefor and are provided by the county appraiser.~~ *The county appraiser shall review the computer-assisted mass-appraisal of the property and if the valuation in either of those two years exceeds the value of the previous year by more than 5%, excluding new construction, change in use or change in classification, the county appraiser shall either: (1) Adjust the valuation of the property based on the information provided in the previous appeal; or (2) order an independent fee simple appraisal of the property to be performed by a Kansas certified real property appraiser. As used in this section, "new construction" means the construc-*

*tion of any new structure or improvements or the remodeling or renovation of any existing structures or improvements on real property.* When the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process for the prior year, and the county appraiser has already certified the appraisal rolls for the current year to the county clerk pursuant to K.S.A. 79-1466, and amendments thereto, the county appraiser may amend the appraisal rolls and certify the changes to the county clerk to implement the provisions of this subsection and reduce the valuation of the real property to the prior year's final determination, except that such changes shall not be made after October 31 of the current year. For the purposes of this section and in the case of real property, the term "taxpayer" shall be deemed to be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk and, in the case where the real property or improvement thereon is the subject of a lease agreement, such term shall also be deemed to include the lessee of such property if the lease agreement has been recorded or filed in the office of the register of deeds. Such notice shall specify separately both the previous and current appraised and assessed values for each property class identified on the parcel. Such notice shall also contain the uniform parcel identification number prescribed by the director of property valuation. Such notice shall also contain a statement of the taxpayer's right to appeal, the procedure to be followed in making such appeal and the availability without charge of the guide devised pursuant to subsection (b). Such notice may, and if the board of county commissioners so require, shall provide the parcel identification number, address and the sale date and amount of any or all sales utilized in the determination of appraised value of residential real property. In any year in which no change in appraised valuation of any real property from its appraised valuation in the next preceding year is determined, an alternative form of notification which has been approved by the director of property valuation may be utilized by a county. Failure to timely mail or receive such notice shall in no way invalidate the classification or appraised valuation as changed. The secretary of revenue shall adopt rules and regulations necessary to implement the provisions of this section.

(b) For all taxable years commencing after December 31, 1999, there shall be provided to each taxpayer, upon request, a guide to the property tax appeals process. The director of the division of property valuation shall devise and publish such guide, and shall provide sufficient copies thereof to all county appraisers. Such guide shall include but not be limited to: (1) A restatement of the law which pertains to the process and practice of property appraisal methodology, including the contents of K.S.A. 79-503a and 79-1460, and amendments thereto; (2) the procedures of the appeals process, including the order and burden of proof of each party and time frames required by law; and (3) such other information deemed necessary to educate and enable a taxpayer to properly and competently pursue an appraisal appeal.

~~(c) For purposes of this section:~~

~~(1) The term "substantial and compelling reasons" means a change in the character of the use of the property or a substantial addition or improvement to the property;~~

~~(2) the term "substantial addition or improvement to the property" means the construction of any new structures or improvements on the property or the renovation of any existing structures or improvements on the property. The term "substantial addition or improvement to the property" shall not include:~~

~~(A) Any maintenance or repair of any existing structures, equipment or improvements on the property; or~~

~~(B) reconstruction or replacement of any existing equipment or components of any existing structures or improvements on the property.~~

Sec. 16. K.S.A. 79-1460a is hereby amended to read as follows: 79-1460a. Annually, at least ~~five~~ 10 business days prior to the mailing of change of valuation notices pursuant to K.S.A. 79-1460, and amendments thereto, the county or district appraiser shall cause to be published in the official county newspaper *and on the official county website, if the county maintains a county website*, the results of the market study analysis as

prescribed by the director of the division of property valuation of the department of revenue.

Sec. 17. K.S.A. 2015 Supp. 79-1476 is hereby amended to read as follows: 79-1476. The director of property valuation is hereby directed and empowered to administer and supervise a statewide program of re-appraisal of all real property located within the state. Except as otherwise authorized by K.S.A. 19-428, and amendments thereto, each county shall comprise a separate appraisal district under such program, and the county appraiser shall have the duty of reappraising all of the real property in the county pursuant to guidelines and timetables prescribed by the director of property valuation and of updating the same on an annual basis. In the case of multi-county appraisal districts, the district appraiser shall have the duty of reappraising all of the real property in each of the counties comprising the district pursuant to such guidelines and timetables and of updating the same on an annual basis. Commencing in 2000, every parcel of real property shall be actually viewed and inspected by the county or district appraiser once every six years. ~~Any county or district appraiser shall be deemed to be in compliance with the foregoing requirement in any year if 17% or more of the parcels in such county or district are actually viewed and inspected.~~

Compilation of data for the initial preparation or updating of inventories for each parcel of real property and entry thereof into the state computer system as provided for in K.S.A. 79-1477, and amendments thereto, shall be completed not later than January 1, 1989. Whenever the director determines that reappraisal of all real property within a county is complete, notification thereof shall be given to the governor and to the state board of tax appeals.

Valuations shall be established for each parcel of real property at its fair market value in money in accordance with the provisions of K.S.A. 79-503a, and amendments thereto.

In addition thereto valuations shall be established for each parcel of land devoted to agricultural use upon the basis of the agricultural income or productivity attributable to the inherent capabilities of such land in its current usage under a degree of management reflecting median production levels in the manner hereinafter provided. A classification system for all land devoted to agricultural use shall be adopted by the director of property valuation using criteria established by the United States department of agriculture soil conservation service. For all taxable years commencing after December 31, 1989, all land devoted to agricultural use which is subject to the federal conservation reserve program shall be classified as cultivated dry land for the purpose of valuation for property tax purposes pursuant to this section. For all taxable years commencing after December 31, 1999, all land devoted to agricultural use which is subject to the federal wetlands reserve program shall be classified as native grassland for the purpose of valuation for property tax purposes pursuant to this section. Productivity of land devoted to agricultural use shall be determined for all land classes within each county or homogeneous region based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation, at a degree of management reflecting median production levels. The director of property valuation shall determine median production levels based on information available from state and federal crop and livestock reporting services, the soil conservation service, and any other sources of data that the director considers appropriate.

The share of net income from land in the various land classes within each county or homogeneous region which is normally received by the landlord shall be used as the basis for determining agricultural income for all land devoted to agricultural use except pasture or rangeland. The net income normally received by the landlord from such land shall be determined by deducting expenses normally incurred by the landlord from the share of the gross income normally received by the landlord. The net rental income normally received by the landlord from pasture or rangeland within each county or homogeneous region shall be used as the basis for determining agricultural income from such land. The net rental income from pasture and rangeland which is normally received by the landlord shall be determined by deducting expenses normally incurred from the gross income normally received by the landlord. Com-

modity prices, crop yields and pasture and rangeland rental rates and expenses shall be based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation. Net income for every land class within each county or homogeneous region shall be capitalized at a rate determined to be the sum of the contract rate of interest on new federal land bank loans in Kansas on July 1 of each year averaged over a five-year period which includes the five years immediately preceding the calendar year which immediately precedes the year of valuation, plus a percentage not less than 0.75% nor more than 2.75%, as determined by the director of property valuation, except that the capitalization rate calculated for property tax year 2003, and all such years thereafter, shall not be less than 11% nor more than 12%.

Based on the foregoing procedures the director of property valuation shall make an annual determination of the value of land within each of the various classes of land devoted to agricultural use within each county or homogeneous region and furnish the same to the several county appraisers who shall classify such land according to its current usage and apply the value applicable to such class of land according to the valuation schedules prepared and adopted by the director of property valuation under the provisions of this section.

It is the intent of the legislature that appraisal judgment and appraisal standards be followed and incorporated throughout the process of data collection and analysis and establishment of values pursuant to this section.

For the purpose of the foregoing provisions of this section the phrase “land devoted to agricultural use” shall mean and include land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, which is devoted to the production of plants, animals or horticultural products, including, but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes, other than that land established as a controlled shooting area pursuant to K.S.A. 32-943, and amendments thereto, which shall be deemed to be land devoted to agricultural use, ~~suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition. If a parcel has land devoted to agricultural purposes and land used for suburban residential acreages, rural home sites or farm home sites, the county appraiser shall determine the amount of the parcel used for agricultural purposes and value and assess it accordingly as land devoted to agricultural purposes. The county appraiser shall then determine the amount of the remaining land used for such other purposes and value and assess that land according to its use.~~

The term “expenses” shall mean those expenses typically incurred in producing the plants, animals and horticultural products described above including management fees, production costs, maintenance and depreciation of fences, irrigation wells, irrigation laterals and real estate taxes, but the term shall not include those expenses incurred in providing temporary or permanent buildings used in the production of such plants, animals and horticultural products.

The provisions of this act shall not be construed to conflict with any other provisions of law relating to the appraisal of tangible property for taxation purposes including the equalization processes of the county and state board of tax appeals.

Sec. 18. K.S.A. 2015 Supp. 79-2004 is hereby amended to read as follows: 79-2004. (a) Except as provided by K.S.A. 79-4521, and amendments thereto, any person charged with real property taxes on the tax books in the hands of the county treasurer may pay, at such person's option, the full amount thereof on or before December 20 of each year, or ½ thereof on or before December 20 and the remaining ½ on or before May 10 next ensuing. If the full amount of the real property taxes listed

upon any tax statement is \$10 or less the entire amount of such tax shall be due and payable on or before December 20.

In case the first half of the real property taxes remains unpaid after December 20, the first half of the tax shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, *plus five percentage points* per annum and may be paid at any time prior to May 10 following by paying  $\frac{1}{2}$  of the tax together with interest at such rate from December 20 to date of payment. Subject to the provisions of subsection (d), all real property taxes of the preceding year and accrued interest thereon which remain due and unpaid on May 11 shall accrue interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, *plus five percentage points* per annum from May 10 until paid, or until the real property is sold for taxes by foreclosure as provided by law. Except as provided by subsection (c), all interest herein provided shall be credited to the county general fund, and whenever any such interest is paid the county treasurer shall enter the amount of interest so paid on the tax rolls in the proper column and account for such sum.

(b) Whenever any date prescribed in subsection (a) for the payment of real property taxes occurs on a Saturday or Sunday, such date for payment shall be extended until the next-following regular business day of the office of the county treasurer.

(c) The board of county commissioners may enter into an agreement with the governing body of any city located in the county for the distribution of part or all of the interest paid on special assessments levied by the city which remain unpaid.

(d) All real property taxes of any year past due and unpaid on the effective date of this section and interest accrued thereon pursuant to this section prior to its amendment by this act shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, *plus five percentage points* per annum from the effective date of this section until paid or until the real property is sold for taxes by foreclosure as provided by law.

Sec. 19. K.S.A. 2015 Supp. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole or in part in an amount equal to at least  $\frac{1}{2}$  of such taxes on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. When the grounds of such protest is an assessment of taxes made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto, the county treasurer may not distribute the taxes paid under protest until such time as the appeal is final. When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. *At the informal meeting, it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including a summary of the reasons that the valuation of the property has been increased over the preceding year, any assumptions used by the county appraiser to determine the value of the property and a description of the individual property characteristics, property specific valuation records and conclusions. The taxpayer shall be provided with the opportunity to review the data sheets applicable to the valuation approach utilized for the subject property. The county appraiser shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation of the property.* The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property, if in



the county appraiser's opinion a change in the valuation of the taxpayer's property is required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer in the event the valuation of the taxpayer's property is changed, in writing of the results of the meeting. In the event the valuation of the taxpayer's property is changed and such change requires a refund of taxes and interest thereon, the county treasurer shall process the refund in the manner provided by subsection (l).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, nor shall the second half payment of taxes be protested when the first half payment of taxes has been protested. Notwithstanding the foregoing, this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such property was acquired, nor shall it prevent any taxpayer from protesting taxes when the valuation or assessment of such taxpayer's property has been changed pursuant to an order of the director of property valuation.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto, occurs after the final date prescribed for the protest of taxes.

(d) If the grounds of such protest shall be that the valuation or assessment of the property upon which the taxes so protested are levied is illegal or void, such statement shall further state the exact amount of valuation or assessment which the taxpayer admits to be valid and the exact portion of such taxes which is being protested.

(e) If the grounds of such protest shall be that any tax levy, or any part thereof, is illegal, such statement shall further state the exact portion of such tax which is being protested.

(f) Upon the filing of a written statement of protest, the grounds of which shall be that any tax levied, or any part thereof, is illegal, the county treasurer shall mail a copy of such written statement of protest to the state board of tax appeals and the governing body of the taxing district making the levy being protested.

(g) Within 30 days after notification of the results of the informal meeting with the county appraiser pursuant to subsection (a), the protesting taxpayer may, if aggrieved by the results of the informal meeting with the county appraiser, appeal such results to the state board of tax appeals.

(h) After examination of the copy of the written statement of protest and a copy of the written notification of the results of the informal meeting with the county appraiser in cases where the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act, unless waived by the interested parties in writing. If the grounds of such protest is that the valuation or assessment of the property is illegal or void the board shall notify the county appraiser thereof.

(i) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board. With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination except that no such duty shall accrue to the county or district appraiser with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. In all instances where the board sets a request for hearing and requires the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor. *The board shall take into*

*account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. In any appeal from the reclassification of property that was classified as land devoted to agricultural use for the preceding year, the taxpayer's classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease agreement or other documentation demonstrating a commitment to use the property for agricultural use, if no other actual use is evident.*

(j) When a determination is made as to the merits of the tax protest, the board shall render and serve its order thereon. The county treasurer shall notify all affected taxing districts of the amount by which tax revenues will be reduced as a result of a refund.

(k) If a protesting taxpayer fails to file a copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board within the time limit prescribed, such protest shall become null and void and of no effect whatsoever.

(l) (1) In the event the board orders that a refund be made pursuant to this section or the provisions of K.S.A. 79-1609, and amendments thereto, or a court of competent jurisdiction orders that a refund be made, and no appeal is taken from such order, or in the event a change in valuation which results in a refund pursuant to subsection (a), the county treasurer shall, as soon thereafter as reasonably practicable, refund to the taxpayer such protested taxes and, with respect to protests or appeals commenced after the effective date of this act, interest computed at the rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two percentage points, per annum from the date of payment of such taxes from tax moneys collected but not distributed. Upon making such refund, the county treasurer shall charge the fund or funds having received such protested taxes, except that, with respect to that portion of any such refund attributable to interest the county treasurer shall charge the county general fund. In the event that the state board of tax appeals or a court of competent jurisdiction finds that any time delay in making its decision is unreasonable and is attributable to the taxpayer, it may order that no interest or only a portion thereof be added to such refund of taxes.

(2) No interest shall be allowed pursuant to paragraph (1) in any case where the tax paid under protest was inclusive of delinquent taxes.

(m) Whenever, by reason of the refund of taxes previously received or the reduction of taxes levied but not received as a result of decreases in assessed valuation, it will be impossible to pay for imperative functions for the current budget year, the governing body of the taxing district affected may issue no-fund warrants in the amount necessary. Such warrants shall conform to the requirements prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by such section and may be issued without the approval of the state board of tax appeals. The governing body of such taxing district shall make a tax levy at the time fixed for the certification of tax levies to the county clerk next following the issuance of such warrants sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized by law.

(n) Whenever a taxpayer appeals to the board of tax appeals pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, or pays taxes under protest related to one property whereby the assessed valuation of such property exceeds 5% of the total county assessed valuation of all property located within such county and the taxpayer receives a refund of such taxes paid under protest or a refund made pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, the county treasurer or the governing body of any taxing subdivision within a county may request the pooled money investment board to make a loan to such county or taxing subdivision as provided in this section. The pooled money investment board is authorized and directed to loan to such county or taxing subdivision sufficient funds to enable the county or taxing subdivision to refund such taxes to the taxpayer. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan. Each loan shall bear interest at a rate equal to the net earnings rate of the pooled money investment portfolio at the time of the making of such loan. The total aggregate amount of loans

under this program shall not exceed \$50,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Upon certification to the pooled money investment board by the county treasurer or governing body of the amount of each loan authorized pursuant to this subsection, the pooled money investment board shall transfer each such amount certified by the county treasurer or governing body from the state bank account or accounts prescribed in this subsection to the county treasurer who shall deposit such amount in the county treasury. Any such loan authorized pursuant to this subsection shall be repaid within four years. The county or taxing subdivision shall make not more than four equal annual tax levies at the time fixed for the certification of tax levies to the county clerk following the making of such loan sufficient to pay such loan within the time period required under such loan. All such tax levies shall be in addition to all other levies authorized by law.

(o) The county treasurer shall disburse to the proper funds all portions of taxes paid under protest and shall maintain a record of all portions of such taxes which are so protested and shall notify the governing body of the taxing district levying such taxes thereof and the director of accounts and reports if any tax protested was levied by the state.

(p) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who has an appeal pending before the state board of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 20. K.S.A. 79-2011 is hereby amended to read as follows: 79-2011. Upon the receipt of the certification of claims allowed as provided in K.S.A. 79-2010, *and amendments thereto*, the county treasurer shall carefully check ~~said~~ the claims against the delinquent *real and* personal property tax of the current year and for seven ~~(7)~~ years preceding the current year, and within two ~~(2)~~ days of the receipt of ~~said~~ the list of claims as provided for in ~~said~~ K.S.A. 79-2010, ~~said and amendments thereto~~, the county treasurer shall certify to the board of county commissioners and the county attorney a list of all claimants whose claims are allowed, and whose *real or* personal property tax is delinquent, setting forth the name of the claimant and the amount of tax together with any penalties or interest due, and setting forth the year or years for which ~~said~~ the tax was levied. Although the name of the claimant as appearing upon the claim filed is not the same as appearing upon the tax roll, if it is known that ~~they are~~ *such claimant is* one and the same, ~~said~~ the claim shall be handled in the same manner as though the ~~names were~~ *name was* identical on the claim and the tax roll.

Sec. 21. K.S.A. 2015 Supp. 79-2026 is hereby amended to read as follows: 79-2026. Whenever personal property in this state is abandoned or repossessed after it is assessed and before the taxes are paid, the owner or lessee of any real property upon which such property was situated at the time of abandonment or repossession shall ~~not be liable for such taxes~~ *where acquire such property free of any tax lien for unpaid taxes that may otherwise exist if* lawful title to such property is acquired by such landowner or lessee within 12 months of the time such property is deemed abandoned or within 12 months of the time legal proceedings are commenced to effect a repossession. *Any lien for unpaid taxes shall be extinguished for any such personal property acquired by the landowner or lessee as set forth herein. In no circumstances shall the landowner or lessee be liable for any taxes owned prior to the date the personal property is acquired by such landowner or lessee.*

New Sec. 22. In any county which fails to meet the minimum appraisal standards for commercial real property established by the official Kansas appraisal/sales ratio study conducted for the preceding year by the division of property valuation of the department of revenue, the director of property valuation shall be required to perform, or to contract with an independent third party to perform, a market-based appraisal of no less than 1% of the commercial properties appraised by the computer-

assisted mass-appraisal system within the county as a verification of the accuracy of such system. The properties shall be selected so to represent a sample of the commercial property types which failed to meet statistical compliance in the county. The property owner shall be allowed the opportunity to meet with the appraiser in order to offer pertinent data and insight on the issues that would affect the value of the property. This appraisal will not be an official appraisal of the property and will be used for the purposes of quality assurance of the mass-appraisal system. If the independent appraisal reveals a statistical deviation greater than 5% on more than 25% of the audited properties, then the director will perform additional audits in those counties and require corrective action necessary to ensure a fair and accurate appraisal.

New Sec. 23. Within 60 days after the date the notice of informal meeting results or final determination is mailed to the taxpayer pursuant to K.S.A. 79-1448, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, who has not filed an appeal with the board of tax appeals pursuant to K.S.A. 74-2433f, 79-1448, 79-1609 or 79-1611, and amendments thereto, may file with the county appraiser a third-party fee simple appraisal performed by a Kansas certified general real property appraiser that reflects the value of the property as of January 1 for the same tax year being appealed. Within 15 days after receipt of the appraisal, the county appraiser shall review and consider such appraisal in the determination of valuation or classification of the taxpayer's property and mail a supplemental notice of final determination. If the final determination is not in favor of the taxpayer then the county appraiser shall notify the taxpayer that the county is required to perform its own, or commission a fee simple single property appraisal. The county appraiser shall then have 90 days to furnish that appraisal along with a new supplemental notice of determination and if not in favor of the taxpayer include an explanation of the reasons the county appraiser did not rely upon the taxpayer's fee simple single property appraisal. Whenever a taxpayer submits a fee simple single property appraisal the burden of proof shall be on the county appraiser to dispute the value of that appraisal. Any taxpayer aggrieved by the final determination of the county appraiser may appeal to the state board of tax appeals as provided in K.S.A. 79-1609, and amendments thereto, within 30 days subsequent to the date of mailing of the supplemental notice of final determination.

New Sec. 24. In those counties which fail to meet the minimum requirements for substantial appraisal compliance, the director of property valuation shall present the most recent results of the ratio study, including the results of any audits to such board of county commissioners in an open meeting. As a part of such presentation, the director shall present a summary of the number of valuation appeals that were filed in that county and the outcomes of those protests that resulted in reduced valuations of property.

Sec. 25. K.S.A. 2015 Supp. 12-1927 is hereby amended to read as follows: 12-1927. (a) (1) The recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city or school district, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district.

(2) *Except as provided in subsection (b)*, after such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission

shall annually, not later than August 1 of any year, certify its budget to such city or school district which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district.

(3) Each year a copy of the budget adopted by the recreation commission shall be filed with the city clerk in the case of a city-established recreation system or with the clerk of the school district in the case of a school district-established recreation system or with the clerk of the taxing district in the case of a jointly established recreation system. A copy of such budget also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The city or school district shall not be required to levy a tax in excess of the maximum tax levy set by the city or school district by current resolution. In the case of a new recreation commission established under the provisions of this act, such levy shall not be required to exceed one mill. Whenever the recreation commission determines that the tax currently being levied for the commission, as previously established by the city or school district, is insufficient to operate the recreation system and the commission desires to increase the mill levy above the current levy, the commission shall request that the city or school district authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The city or school district may authorize the increase by resolution, but such increase shall not exceed one mill per year. The maximum annual mill levy for the recreation commission general fund shall not exceed a total of four mills.

*(b) Prior to adopting the budget pursuant to subsection (a)(2), the Blue Valley recreation commission appointed by the Blue Valley unified school district no. 229 shall submit its proposed budget to the board of education of the school district. The board either shall approve or modify and approve the proposed budget. The recreation commission shall adopt the budget as approved or modified and approved by the school district board.*

(c) Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the recreation system and shall be published once each week for two consecutive weeks in the official newspaper of the taxing district. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer within 30 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of the taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the recreation commission. Such taxes shall be levied and collected in like manner as other taxes, which levy the city or school district shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission.

~~(c)~~(d) The tax levy provided in this section shall not be considered a levy of such city or school district under any of the statutes of this state, but shall be in addition to all other levies authorized by law and, with respect to any such levy made for the first time in 1989, shall not be subject to the provisions of K.S.A. 79-5021 et seq., and amendments thereto.

~~(d)~~(e) (1) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(b)~~ (c). The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities may

be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(b)~~ (c). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall be dissolved. In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed by the petition language for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such authority is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.

(2) If the recreation district whose authority is revoked owns any real property at the time of such revocation, title to such real property shall revert to the taxing authority.

~~(e)~~(f) All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city or school district, or both, in the case of a jointly established recreation system. A copy of such audit also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The cost of each audit shall be borne by the recreation commission.

Sec. 26. K.S.A. 19-432, 79-504, 79-1412a, 79-1456, 79-1460a and 79-2011 and K.S.A. 2015 Supp. 12-1927, 74-2426, 74-2433, 74-2438, 77-618, 79-331, 79-425a, 79-503a, 79-1439, 79-1448, 79-1460, 79-1476, 79-2004, 79-2005 and 79-2026 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*