

## MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on January 19, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Hayzlett (excused)  
Representative Toplikar (excused)

Committee staff present: Michael Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: John Torbert, Kansas Association of Counties  
Chris McKenzie, League of Kansas Municipalities

Others attending: See Guest List (Attachment 1)

John Torbert, Kansas Association of Counties, gave an overview of county revenues, expenses, mandated costs and property tax administration duties. He reminded the members that any new statute or amendment will have a cost effect to counties.

Chris McKenzie, League of Municipalities, presented an overview of city revenues, expenses and mandated costs (Attachment 2) and gave examples of financial effects of federal and state mandates on local units of government. He also distributed copies of the League's pamphlets, "Municipal Financial Procedures" and "Municipal Revenue Sources," (Attachments 3 and 4). He also stated an opinion that the state's discretion in effecting federal mandates is blurring their effects, especially with respect to environmental compliance.

Michael Heim, Legislative Research Department, outlined the various financial procedural requirements (such as budgeting and the cash basis laws, debt financing, and bidding requirements) that are mandated by state laws.

Committee members raised relevant questions about county operations, such as lease-purchase agreements, officers' and employees' liability and surety bonding for tort and civil rights; co-mingling of unexpended funds and idle funds; is interest earned from all investment available for general use; if fee funds have limits for transfer to general funds; use of no-fund warrants; kinds of discretionary actions; county-city consolidations, annexation, road care, and the rights of townships. Staff members responded as questions were raised.

The Chairman suggested that a review of the state statutes Index will provide some insight into the complex array of laws affecting local units of government.

The meeting was adjourned at 2:53 p.m. The next meeting is scheduled for 1:30 p.m., January 20, 1993, in Room 521-S of the State Capitol.

## GUEST LIST

COMMITTEE: HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: JANUARY 19, 1993

[illegible]



## League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO House Committee on Local Government  
Senate Committee on Local Government

FROM: *CM* Chris McKenzie, Executive Director

DATE: January 19, 1993

RE: Overview of City Revenues, Expenses and Mandated Costs

I appreciate the opportunity to share with you this basic overview of municipal revenues, expenses and mandated costs. My report is broken down into sections corresponding to these topics.

### MUNICIPAL REVENUE SOURCES

As a general rule, most cities rely on three basic categories of revenue. The oldest source of revenue which has declined in significance in recent decades is the **property tax**. In 1991 cities accounted for slightly over 14% of all property taxes that were collected (see Attachment 1). The significance of the role of the property tax in financing city governments is shown in Attachment 2. As you can see, cities depend much more on nonproperty tax sources of revenue than do counties. One of these major sources of nonproperty tax support is the local **option sales tax**. As of October 1, 1992 129 cities were levying a local option sales tax at either the 0.5% or 1.0% rate. Cities also receive a share of any countywide sales tax. In 1991 city levied sales taxes were equivalent to 77.35% of what cities collect in property taxes.

In addition to locally levied taxes, cities receive **shared tax payments from the state** in various forms. Attachment 3 contains a summary by calendar year of the aid received by cities from the state of Kansas. Attachment 4 demonstrates that compared to both regional and national averages that Kansas distributes less per capita to local units of government than many other states.

In addition to locally levied taxes, cities collect a host of **user charges** to items ranging from municipal electric, gas and water service to the planning and zoning filing fees. The range of these charges are summarized in the League's publication Municipal Revenue Sources (June 1990) which has been provided to you.

### MUNICIPAL EXPENDITURES

What do cities do with the revenue they collect? The obvious answer is that they deliver services. While there is a significant variation among cities concerning the range of municipal services provided, some generalizations are possible. Most cities provide police, fire, water, sewer and street improvement services either directly or indirectly. Attachment 5 is the table of contents to the 1993 budget of the City of Hutchinson. It gives a flavor of the number of services provided by that city.

ATTACHMENT 2-1  
1-19-93

Other cities provided more or less services depending upon voter and governing body preferences.

### MANDATED EXPENSES

The most rapidly growing category of expenses facing cities today are those mandated by the federal and state governments. Cities have experienced state mandates in the last year concerning the vaccination of municipal personnel to deal with bloodborne pathogens, enforcement of the federal ADA by local building inspectors, and compliance by small cities with state animal shelter construction requirements.

Cities and their residents are facing even more daunting federal mandate cost impacts in the years ahead for compliance with federal clean water, landfill and other requirements. Attachments 6 and 7 demonstrate some of the state and federal mandated costs that are currently facing the cities of Junction City and Pittsburg. Attachments 8 and 9 show some of the projections that have been prepared by cities around the country of the potential costs for implementing federal environmental mandates that have not considered the fiscal impacts. Attachment 8 was developed by the City of Anchorage, Alaska and Attachment 9 was developed by a number of Ohio cities.

Mandated expenses are eating up an increasing share of municipal budgets, driving up property taxes and user fees, and depriving locally elected officials of the discretion to set local spending priorities--what many consider the hallmark of "home rule". How Congress and the state legislature respond to this growing problem of federal and state government running local governments will dictate the health of city governments in the future.

One final note. The possible impacts of the proposed federal Balanced Budget Amendment is worth pondering. The League has advocated a position that any such amendment should hold the states and local governments harmless from future congressional mandates. A balanced budget amendment without such protection will leave us open to irresponsible policy making at the federal level.

# Statewide Ad Valorem Levies By Type of Taxing District for 1988 to 1991 (Amounts are presented in thousands)

	Ad Valorem Tax Levy Amounts For				Percent of Total 1991	Percent of Increase		
	1988	1989	1990	1991		88-89	89-90	90-91
State	\$ 17,029	\$ 21,157	\$ 21,381	\$ 21,946	1.20%	24.24%	1.06%	2.64%
County	332,584	365,658	372,746	392,833	21.44%	9.94%	1.94%	5.39%
City	227,754	241,631	248,369	260,611	14.22%	6.09%	2.79%	4.93%
Township	22,958	21,934	22,984	23,441	1.28%	-4.46%	4.79%	1.99%
School	825,601	864,371	929,269	1,070,215	58.40%	4.70%	7.51%	15.17%
Other	54,333	55,859	59,933	63,614	3.47%	2.81%	7.29%	6.14%
Totals	<u>\$ 1,480,259</u>	<u>\$ 1,570,610</u>	<u>\$ 1,654,682</u>	<u>\$ 1,832,660</u>	<u>100.00%</u>	<u>6.10%</u>	<u>5.35%</u>	<u>10.76%</u>

SOURCE: Statistical Report of Property Assessment and Taxation

1991 Taxable Valuation	\$14,650,525
USD Mill Levy	32
	468,817
1991 General Fund Levies	852,776
Reduction in Total Levies	383,959
Percent of Total Tax Levy	21

Municipal Accounting Section  
May 1, 1992

Chart 2  
KANSAS COUNTY REVENUES  
1983-84 Fiscal Year

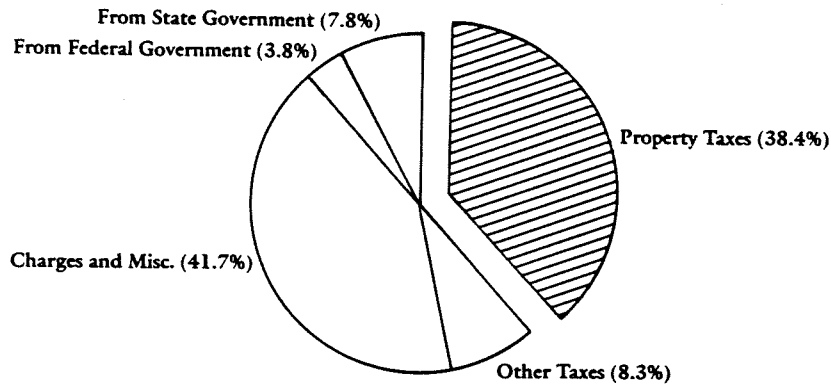
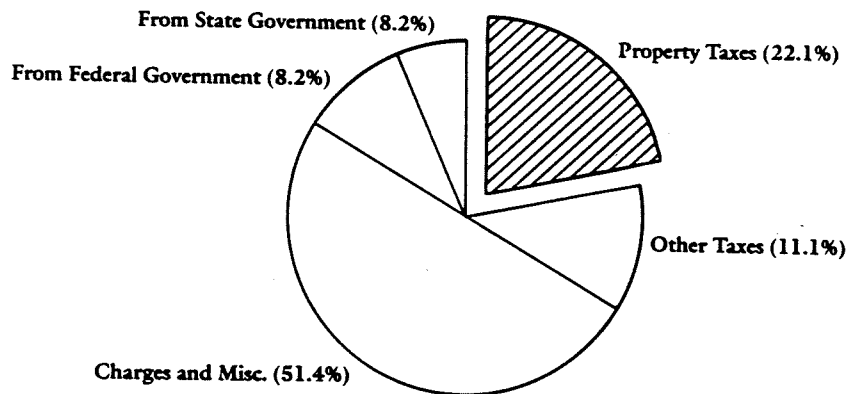


Chart 3  
KANSAS CITY REVENUES  
1983-84 Fiscal Year



Source: The Kansas Property Tax, Glen Fischer,  
Wichita State University, 1987

**TABLE 1**  
**STATE SHARED TAX PAYMENTS TO CITIES: 1987-1993**  
 By Calendar Year for City Purposes, Actual and Estimated--See Notes

	1987	1988	1989	1990	1991	Estim. 1992	Estim. 1993
County & City Revenue Sharing Fund--City Share (½ to Counties)	11,175,900	12,814,019	13,300,744	14,175,358	14,583,048	15,576,525	16,343,187
Local Ad Valorem Tax Reduction Fund-- <u>Estimated</u> City Share <sup>1</sup>	10,350,000	9,510,000	9,875,000	10,450,000	10,795,000	11,304,314	11,580,140
Special City & County Highway Fund--Direct Payments to Cities <sup>2</sup>	31,361,093	32,510,191	34,709,606	43,175,730	43,782,700	46,801,610	49,235,860
Special City & County Highway Fund--City Share of Certain County Receipts <sup>3</sup>	6,894,705	7,159,464	7,664,000	8,681,531	9,197,700	9,418,700	9,867,000
Connecting Link Payments--Certain Cities Only <sup>4</sup>	1,369,060	1,346,918	1,342,940	2,158,681	2,143,733	2,200,000	2,200,000
o Gross Receipts	250,432	244,146	240,370	247,831	272,920	279,128	286,106
Liquor Drink Tax <sup>5</sup>	6,819,253	7,562,196	8,062,769	9,029,979	9,582,000	10,061,000	10,564,155
Total	68,220,443	71,146,934	75,001,613	87,919,110	92,570,972	97,725,150	100,076,448
Ann. Percentage Increase	10.16	4.29	5.42	17.22	5.29	5.57	2.41

<sup>1</sup> Estimated, in proportion that city tax levies relate to tax levies of all taxing subdivisions receiving share of LATRF.

<sup>2</sup> Includes motor carrier property tax transfer.

<sup>3</sup> Counties over 34,000 except Johnson share county allocation with cities: Wyandotte-90% to cities; Sedgwick and Shawnee - 50% to cities; 10 counties 34,000 to 150,000 - 10% to cities.

<sup>4</sup> Paid only to those cities in which the city maintains state highway connecting links.

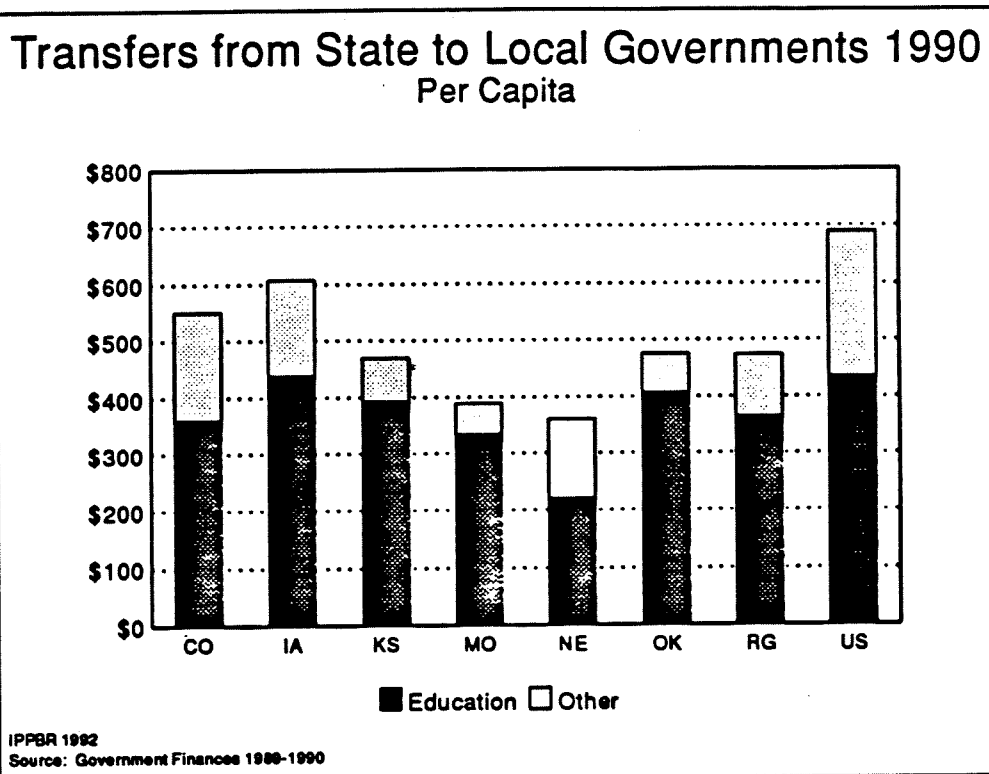
<sup>5</sup> Payments made to those cities in which games held. 1992 and 1993 estimates assume annual increase of 2.5%.

<sup>6</sup> Payments made to cities in which alcoholic liquor drink tax is collected. 1992 and 1993 estimates assume annual increase of five (5) percent.

Note: Data covers general state payments to city governments of a state aid or shared tax nature, distributed on a formula basis. Excludes local racing admissions tax fund and firefighters' relief fund payments to local associations. Also excludes state grants made on an allocation, non-formula basis such as state aid to library boards, health department grants, highway project grants, etc., and any federal "pass-through" payments.

Data Source: Periodic reports of State Treasurer, Department of Revenue, Legislative Research Department and Department of Transportation.

Source: 1993 City Budget Tips<sup>35</sup>, League of Kansas Municipalities  
 ATTACHMENT 2-5  
 1-19-93



Source: Patricia Osmond, Research Associate,  
Institute for Public Policy and  
Business Research, U. of KS  
Jan. 15, 1993 testimony to Senate  
Committee on Assessment & Taxation



## 1993 BUDGET (HUTCHINSON)

## TABLE OF CONTENTS

	<u>Page Number</u>
Table of Contents. . . . .	1-ii
City Manager's Budget Message. . . . .	iii-xxiii
1992 Allocation Services Cost. . . . .	1
Ad Valorem Requirements and Mills Levied . . . . .	2
General Fund Detail. . . . .	3-4
General Fund Expenditures. . . . .	5-6
General Fund Revenues. . . . .	7-9
General Fund Detail	
Animal Control. . . . .	74
Central Garage. . . . .	41-42
City Commission . . . . .	29
City Manager. . . . .	30
Downtown Development. . . . .	32
Engineering & Traffic Signals . . . . .	38-39
Finance . . . . .	34
Fire. . . . .	69-72
Flood Control . . . . .	40
Fun Valley. . . . .	55
Hobart-Detter Field . . . . .	56
Human Relations . . . . .	33
Inspection. . . . .	73
Law . . . . .	36
Parks & Buildings . . . . .	47-56
Personnel . . . . .	31
Planning. . . . .	35
Police. . . . .	57-68
Public Works Administration . . . . .	37
Sanitation. . . . .	75-76
Storm Sewer . . . . .	45
Street. . . . .	43-44
Street Lighting . . . . .	46
General Fund Non-Departmental Summary . . . . .	77-78
Economic Development - Growth Account . . . . .	79
Special Alcohol Program . . . . .	16, 87
Special Park and Recreation . . . . .	15, 86
Other Funds Summary & Detail	
Airport . . . . .	20, 88
Bond and Interest . . . . .	17
Business Improvement District . . . . .	24
Emergency Warrant Funds . . . . .	18
Employee Benefits Contribution. . . . .	19
Golf Course . . . . .	14, 85
Group Health & Dental Fund. . . . .	28
Noxious Weeds . . . . .	10, 80
Parking . . . . .	12, 83
Refuse Collection . . . . .	13, 84

	<u>Page</u> <u>Number</u>
Risk Management Reserve . . . . .	25
Sewer . . . . .	22, 93-95
Special Street. . . . .	11, 81-82
Taxi. . . . .	23, 96
Tourism & Convention Promotion. . . . .	27
Waterworks. . . . .	21, 89-92
Workers Compensation Reserve. . . . .	26

# 1

**MANDATED COSTS**  
JUNCTION CITY, KANSAS

**1992 Costs**

	Americans With Disability Act	\$26,000
Mandate 1	Blood Borne Pathogens Inoculations	10,000
	Water Projection Fees	22,612
*	Underground Storage Tanks	31,718
	Calibration Of Police Radar	245
*	Basic Law Enforcement Training	20,812
*	Police Update Training	3,088
*	KBI Reporting System Changes	1,738
	Lead & Copper Monitoring of Water System	3,900
	Ammonia Nitrogen Treatment (Sewer Plant)	10,000
	Storm Water Monitoring	670
		<u>\$130,783</u>

**1993 Additional Costs**

*	State Solid Waste Tipping Fee	7,864
	Added Solid Waste Disposal Compliance	83,200
	Lead & Copper Monitoring	1,000
	Americans With Disability Act	<u>25,000</u>
		\$117,064

**Future Costs**

	Phase V Water Monitoring	?
	Surface Water Treatment Regulations	10,000
	Whole Toxicity Testing	?
	Stormwater Monitoring	?
	Ammonia Nitrogen Treatment Sewer Plant	2,100,000
	Ammonia Nitrogen Annual Operating	250,000

\* Pursuant to state law

## Federal and State Mandated Costs Pittsburg, Kansas

### 1992 Costs

Mandate - Bloodborne Pathogen Innoculations	\$	9,750	
Lead and Copper Monitoring of Water System		3,000	(Annual)
NPDES Sewer Permit	\$	1,110	
TOTAL-----	\$	13,860	

### 1993 Costs











Upgrading of Sewer Plant (Ammonia Nitrogen Treatment and Dissolved Oxygen)	\$4,500,000
* Basic Law Enforcement Training	8,550
* Required Police Continuing Education (Includes KBI Reporting System Changes)	18,042
NPDES Stormwater Permit at Airport	\$ 10,000
TOTAL-----	\$4,536,592

### Future Costs

* Underground Storage Tanks	\$ 100,000
ADA Compliance	?
Storm Water Monitoring	?
Environmental Testing For Future Land Sales in Industrial Parks	5,000 Per Parcel
Updating of Flood Plain and Drainage Maps & Enforcement	10,000
Additional <u>Annual</u> Operating Costs for Sewer Plant Resulting from Required Upgrade	250,000

\* Pursuant to state law

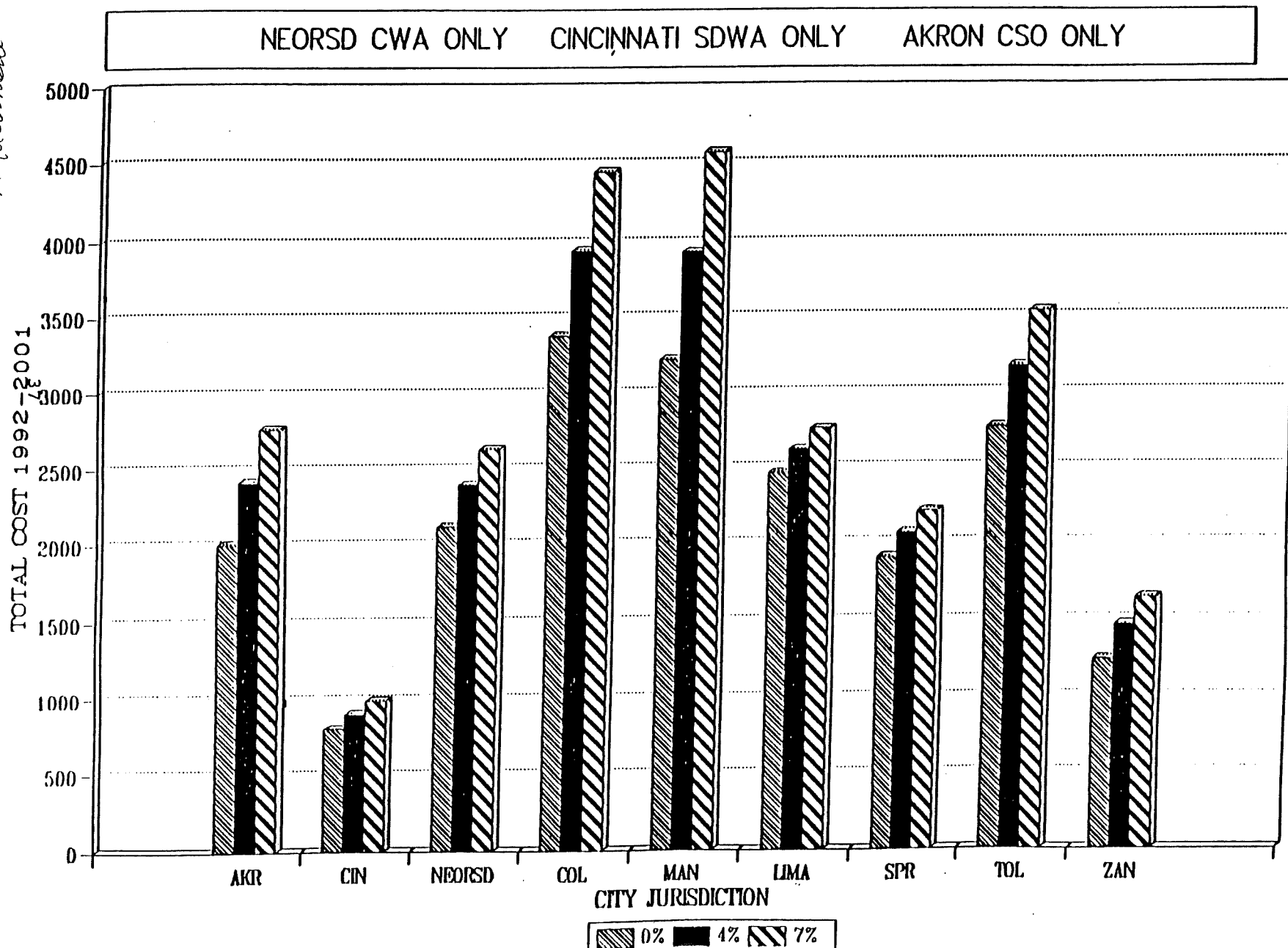
# **CUMULATIVE COST OF FEDERAL ENVIRONMENTAL MANDATES PER HOUSEHOLD 1991-2000**

YEAR	ESTIMATED HOUSEHOLDS	
1991	 84,000	\$ 153
1992	 85,000	\$ 264
1993	 88,000	\$ 256
1994	 89,000	\$ 307
1995	 91,000	\$ 840
1996	 92,000	\$ 409
1997	 93,000	\$ 527
1998	 95,000	\$ 692
1999	 96,000	\$ 580
2000	 97,000	\$ 631
<b>TOTAL</b>		<b>\$ 4,659</b>

Source: City of Anchorage, Alaska

# ENVIRONMENTAL COMPLIANCE COSTS

## TOTAL COSTS PER HOUSEHOLD 1992-2001



Source: City of Columbus, Ohio Health Dept

ATTACHMENT 2-12  
1-19-93

# **Municipal Financial Procedures: A Basic Review for Elected City Officials in Kansas**

## **Introduction**

This report presents a basic review of municipal finance in Kansas, designed primarily for elected city officials. It supplements a similar report entitled **Municipal Revenue Sources**. Both reports are based on Chapters to be included in the 1990 edition of **Handbook for the City Governing Body**, to be published by the League later this year.

The report is divided into the following parts:

- Part A--Budgeting
- Part B--The Cash Basis Law
- Part C--Municipal Funds
- Part D--Purchasing
- Part E--Bid Procedures for Improvements
- Part F--Contracts
- Part G--Claims and Their Payment
- Part H--Investing
- Part I--Tax Exemptions
- Part J--Utility Finances
- Part K--Debt Financing
- Part L--Long-Term Financial Planning
- Part M--Use of Public Funds
- Part N--Miscellaneous

League of Kansas Municipalities  
112 W. Seventh Street  
Topeka, Kansas 66603  
June 1990  
Price: \$3.00

ATTACHMENT 3-1  
1-19-93

## CONTENTS

<u>SUBJECT</u>	<u>SECTION</u>	<u>SUBJECT</u>	<u>SECTION</u>
<b>Part A--Budgeting</b>	<b>A</b>	<b>Part J--Utility Finances</b>	<b>J</b>
(1) Operating Budgets	A-1	Utility Defined	J-1
(2) Capital Budgets	A-2	Use of Utility Revenues	J-2
(3) The Budget Law	A-3	Use of Utility Surplus	J-3
(4) Budget Timing	A-4	Utility Emergencies	J-4
(5) Budget Amendments	A-5		
(6) Federal Aid Budgeting	A-6	<b>Part K--Debt Financing</b>	<b>K</b>
<b>Part B--The Cash Basis Law</b>	<b>B</b>	(1) No-Fund Warrants	K-1
		(2) Temporary Notes for Bonds	K-2
<b>Part C--Funds</b>	<b>C</b>	(3) Temporary Notes, In Lieu of Bonds	K-3
General Explanation of Funds	C-1	(4) Scrip	K-4
Discontinued Funds	C-2	(5) Bonds	K-5
Petty Cash or Revolving Funds	C-3	a. Municipal Bonds Generally	K-5a
Reserve Funds	C-4	b. General Obligation Bonds	K-5b
(a) Special Equipment Fund	C-4a	c. Revenue Bonds	K-5c
(b) Capital Improvements Fund	C-4b	d. Special Assessment Bonds	K-5d
(c) Machinery; Bridges	C-4c	e. Special Obligation Bonds	K-5e
(d) Highway Improvements	C-4d	f. Advance Refunding Bonds	K-5f
(e) Sewerage Funds	C-4e	g. Bonded Authorizations	K-5g
(f) Workmen's Compensation	C-4f	h. Bond Maximum Interest	K-5h
(g) Tort Liability Expense Fund	C-4g	i. Bond Terms	K-5i
(h) Risk Management Reserve Fund	C-4h	j. Public Sale of Bonds	K-5j
(i) Fire Equipment; Ambulance	C-4i	k. Bond Signing	K-5k
<b>Part D--Purchasing</b>	<b>D</b>	l. Bond Elections	K-5l
Purchasing Generally	D-1	m. Bond Registration	K-5m
Purchasing By Bids	D-2	n. Debt Limits	K-5n
Recommended Practices	D-3	o. Bond Information	K-5o
<b>Part E--Bid Procedure For Improvements</b>	<b>E</b>	(6) Lease-Purchase Agreements	K-6
<b>Part F--Contracts</b>	<b>F</b>	<b>Part L--Miscellaneous</b>	<b>L</b>
Contract Signing	F-1	<b>Part M--Long-Term Financial Planning</b>	<b>M</b>
Non Discrimination	F-2	Public Purpose Doctrine	M-1
Prevailing Wage	F-3	Guidelines for Use of Public Funds	M-2
Binding Future Contracts	F-4	Policy Recommendation	M-3
<b>Part G--Claims and Their Payment</b>	<b>G</b>	<b>Part N--Miscellaneous</b>	<b>N</b>
Claims Procedure	G-1	Accounting	N-1
Appropriation Ordinances	G-2	Audits	N-2
Approving Claims	G-3	Depositories	N-3
Law of Triviality--Claims	G-4	Facsimile Signatures and Seals	N-4
Claims For Settlement and Damages	G-5	Insurance	N-5
Payroll Claims	G-6	Lease-Purchase Agreements	N-6
Warrants, Warrant-Checks, Checks	G-7	Parks	N-7
<b>Part H--Investing</b>	<b>H</b>	Major Trafficways	N-8
<b>Part I--Tax Exemptions</b>	<b>I</b>	Public Building Statutes	N-9
Sales and Compensating Taxes	I-1	Public Building Commission	N-10
Ad Valorem Taxes	I-2	Special Assessments	N-1
Exemption From Execution	I-3		
Federal Taxes	I-4		

ATTACHMENT 3-2  
1-19-93



## Introduction

Some understanding of basic municipal financial procedures is essential to effective governing body service. While elected officials are not expected to be financial experts, it is the governing body that is ultimately responsible for the financial soundness of the city, now and in the future. As a result, a working knowledge of statutory procedures and requirements is important.

City fiscal procedures are significantly different than personal, business and corporate finances. For example, as a *general rule*, cities may spend money only if it is budgeted; expenditures are legally made at the time the obligation is incurred rather than when actually paid; revenue is generally in the form of cash actually received and excludes accounts receivable; the purchase of equipment is an expenditure when made and is not expended as depreciation; and the fund approach is used for municipal budgeting and accounting. Some exceptions to these general rules exist, especially for enterprise (utility) funds, but they illustrate that municipal finance is different from common business practices. This report reviews basic municipal finance procedures, and is organized into the following parts:

- Part A--Budgeting**
- Part B--The Cash Basis Law**
- Part C--Municipal Funds**
- Part D--Purchasing**
- Part E--Bld Procedures for Improvements**
- Part F--Contracts**
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- Part K--Debt Financing**
- Part L--Long-Term Financial Planning**
- Part M--Use of Public Funds**
- Part N--Miscellaneous**

### Part A -- Budgeting

**A-1. Operating Budgets.** The financial operation of the city begins with the making of the budget. It is the duty of the governing body to prepare and adopt a budget in the summer for the following calendar, fiscal year. The preparation should be completed not later than

the first of August. Except in cities with a city manager, the statutes do not make it the duty of any single officer, committee or the mayor to prepare the budget. The city clerk and other officers who have records which can be used in making revenue and expenditure estimates should prepare the material in time for assembling into the budget. It is the custom in most cities for the city clerk to prepare a tentative budget. In cities with the commission form of government, the commissioner of finance works up the figures, and in manager cities, this duty falls on the city manager. All final determinations are made by the governing body, regardless of the form of government.

The preparation and adoption of the annual budget is probably the single most important task of the governing body and its chief administrative officials. Budgeting is more than just filling out forms to comply with state law. *The budget is the principal policy management tool of the governing body.* Its purpose is more than an exercise to determine how much property tax should be levied. The budget sets out the work program of the city for the coming year. It is the principal opportunity the city has to evaluate its current services, to measure and compare needs for different services and to balance community public service needs against the tax burden required to finance them. Governing body members should devote adequate time and study to the development of their city budget. Preparation can be delegated, but the judgment and the responsibility for the final budget rest solely on the elected governing body.

**A-2. Capital Budgets.** Careful preparation and review of operating budgets helps a city become more efficient and effective. However, some Kansas cities quickly gloss over a major item that may annually require 20 to 30 percent of the city's annual revenues. This item is the city's capital budget--debt service for outstanding bonds plus current funds set aside for capital improvements. A capital improvement budget and a capital improvement program are logical and necessary instruments for the operation of a city. The use of a capital budget and improvement program, normally in the form of a five-year plan annually extended, can be a rather complex undertaking--but it need not be. The League has a manual, "Capital Improvement

Programming and Budgeting," that describes how to go about financially planning the development and rehabilitation of municipal facilities in an efficient and effective manner. Various methods of debt financing are discussed in Part K of this report.

Some governing bodies are reluctant to participate in capital improvement planning since they do not want to make decisions or establish priorities. In this event, the governing body should at least direct the city staff to identify the city's infrastructure needs.

**A-3. The Budget Law.** The budget law (part of Article 29 of Chapter 79 of the Kansas statutes) prohibits the creation of indebtedness against any fund in excess of the budgeted amount for that fund for the current year. It is immaterial that there may be cash in a fund in excess of the budgeted figure. When the budget is exhausted, expenditures must stop. If an emergency arises during the year that may cause an unforeseen drain on the budget, application should be made to the state board of tax appeals for authority to issue no-fund warrants outside and above the budget. Do not meet the emergency with available money and then claim an emergency at the end of the year. If cash falls short during the year and does not meet budget requirements, the cash basis law must be observed, as explained in Part B. If revenue during the budget year is less than anticipated and cash runs out before the budget of expenditures for the fund is exhausted, application may also be made to the state board of tax appeals for authority to issue no-fund warrants for revenue purposes.

The governing body should keep itself continually informed of the status of the budget. Each fund of the budget is itemized by general purpose and an amount is allocated to each item. However, the governing body is not bound by the amount allocated to each item—it is bound only by the total budgeted for the fund. More than is budgeted for an item can be spent but the expenditure for other items must be reduced to keep expenditures of the fund within the budgeted total. Such budget changes should be approved by the governing body.

Indebtedness (financial obligations) chargeable against an ensuing year's budget

cannot be incurred unless a statute specifically authorizes such an exception from the budget law. Binding purchase agreements payable in part out of an ensuing year's budget are improper and illegal. In most cases, equipment costing more than can be handled by the current budget can be financed by application to the state board of tax appeals for authority to issue no-fund warrants for street, water, refuse, ambulance, sewer, fire and police equipment under K.S.A. Supp. 12-110a. For some equipment, bonds or temporary notes may be issued. Cities may also enter into limited or conditional lease-purchase agreements that do not violate the cash basis and budget law—see Lease-Purchase Agreements in Section N-6 of Part N below.

A League manual, "Emergency Purchase and Repair of Municipal Equipment," describes how cities may issue no-fund warrants and general obligation bonds for the repair or purchase of equipment.

Each year the League publishes "Budget Tips for Cities." This handy bulletin provides current information required in the preparation of annual city budgets.

**A-4. Budget Timing.** State laws establish certain fixed dates for the preparation, notice and public hearing, adoption and certification of city budgets and the property tax levies necessary to support the adopted budget. Most cities begin their budget preparation in June with the solicitation of department head requests, with the final process ending by not later than August 25, the last day for filing tax levies and the adopted budget with the county clerk. Public hearings on the budget must be held by August 15, following published notice in the official city newspaper.

**A-5. Budget Amendments.** Budgets may be amended during the year to increase expenditures from unanticipated non-property tax revenue sources, in substantially the same manner that the original budget was adopted (K.S.A. 79-2929a). As noted above, accounts within a fund's budget total may be changed by motion or resolution of the governing body.

**A-6. Federal Aid Budgeting.** Federal aid funds can be legally expended outside the

adopted city budget. In addition, temporary notes or no-fund warrants may be issued to temporarily finance the federal share of federally assisted programs, when the federal aid is a reimbursement (K.S.A. 12-1662 et seq.).

#### **Part B -- The Cash Basis Law**

The cash basis law (K.S.A. 10-1101 et seq.) prohibits cities, and other governmental units, from creating indebtedness (any financial obligation) unless there is money on hand in the proper fund, unencumbered by previous commitments, with which to pay the indebtedness. The execution of a contract, or the issuing of a purchase order, or any other act which binds the city to pay money, automatically freezes the money in the fund for the payment of the amount of the commitment.

The fact that the amount may not actually have to be paid until some later point in time when there will be more money in the fund, or even until the following year, makes no difference. One exception to the law is when bonds are to be issued. Another is when the people, by a vote, have authorized the indebtedness. Provision is also made for issuing no-fund warrants in case of emergencies with approval by the state board of tax appeals. There is also a special statutory provision for emergencies arising in a utility department.

The rule, simply stated, is--no available cash, no incurring of indebtedness. The fact that there is still budget authority makes no difference. There are two red stop lights on the incurring of indebtedness: (1) when all cash has been committed--Stop! (2) when the budget of the fund has all been committed--Stop! Stop at the first stop light that shows. The mayor, governing body, city manager, clerk and treasurer are made responsible for seeing that the cash basis law is observed.

If there is cash in a fund in excess of budgeted expenditures, it cannot be spent during the year but must be carried forward to the ensuing year, except where no-fund warrants have been issued. Where the cash is from a nonproperty tax source, budgets may be amended following notice and public hearing to permit the expenditure of unanticipated revenue, as noted above.

#### **Part C -- Municipal Funds**

**C-1. General Explanation of Funds.** A fund is a sort of municipal accounting pocketbook. It is an accounting entity with one or more revenue sources set aside for one or more purposes. A noxious weed tax levy, for example, creates the noxious weed fund. The money from this tax levy can only be used for weed purposes.

The general fund is the principal operating fund of every city. State law no longer specifies the purposes of the general fund, and with only a few exceptions, primarily utility enterprise funds, the general fund may be used for any city operating purposes. Money cannot be transferred from the general fund to another fund when the other fund gets low. Expenses properly chargeable against some other fund should not be paid out of the general fund if the other fund gets low. The general fund is just as separate and distinct for its general purposes as the other funds are for their special purposes.

Each city fund has its own budget. The books of the city clerk and treasurer show the receipts and expenditures of each fund separately. However, the city's bank account does not show the funds separately; it is immaterial to the bank how many funds the city has or how much is in each fund.

**C-2. Fund Transfers.** While moneys in one fund may not be transferred to another fund during the budget year, utility fund surplus moneys may be transferred to the general fund through the budget process--see Section J-3. Another exception occurs in the event a balance remains in a tax supported fund and the need for the fund no longer exists (K.S.A. 79-2958). In this situation, the balance is added to the general fund receipts for next year's budget.

**C-3. Petty Cash or Revolving Fund.** General authority for "one or more" petty cash funds is provided by K.S.A. 12-171. The fund(s) must be authorized by resolution of the governing body and may be in any amount. Utility petty cash funds may be established under the provisions of K.S.A. 12-825a et seq. Many cities utilize these funds to simplify administrative procedures.

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**C-3. Petty Cash or Revolving Fund.** General authority for "one or more" petty cash funds is provided by K.S.A. 12-171. The fund(s) must be authorized by resolution of the governing body and may be in any amount. Utility petty cash funds may be established under the provisions of K.S.A. 12-825a et seq. Many cities utilize these funds to simplify administrative procedures.

**C-4. Reserve Funds.** There are several statutes which provide for a reserve fund. Unlike most other funds, unexpended money in a reserve fund does not have to be annually rebudgeted or reappropriated. After initial budgeting, money in the fund may be spent but the annual budget must report on receipts and expenditures that have been made. Following are the principal reserve funds:

(a) *Special Equipment Fund.* K.S.A. Supp. 12-1,117 permits cities to establish a general municipal equipment reserve fund to finance the acquisition of machinery and equipment, including motor vehicles. About 100 cities have an equipment reserve fund.

(b) *Capital Improvements Fund.* K.S.A. Supp. 12-1,118 authorizes the creation by ordinance of a city capital improvements fund to finance current and future capital improvements. Initial transfers of moneys lawfully available for capital improvement purposes have to be budgeted, except for reimbursed expenses. Prior to creating such a fund, a city must have a formally adopted multi-year capital improvement plan. The fund may be used as both a reserve and operating fund.

(c) *Machinery; Bridges.* All cities may use K.S.A. 68-141f and 68-141g to create a special road, bridge or street building machinery, equipment and bridge building fund by providing for the transfer of not to exceed 25 percent of the amount budgeted for street purposes to the special fund.

(d) *Highway Improvements.* K.S.A. 68-589 and 68-590 authorize cities to establish a special highway improvement reserve fund in substantially the same manner as the machinery fund noted above.

(e) *Sewerage Funds.* K.S.A. 12-631(o) permits cities to establish reserve funds for the maintenance, operation and expansion of sewerage system. Moneys credited to the reserve fund may come from a variety of sources, such as property taxes or sewer service charges.

(f) *Workers Compensation.* K.S.A. 44-505f specifically authorizes cities to establish a workers compensation reserve fund.

(g) *Tort Liability Expense Fund.* The Kansas Tort Claims Act (K.S.A. 75-6101 et seq.) authorizes municipalities to pay the cost of legal defense, claims and "other direct and indirect costs resulting from the implementation of this act" from the general fund, other existing funds or from a special liability expense fund. In addition to a separate tax, moneys received by the municipality "from any source whatsoever which may be lawfully utilized for such purpose" may be placed in the fund. The special fund may be used as a reserve fund.

(h) *Risk Management Reserve Funds.* K.S.A. 12-2615 authorizes the governing body to establish risk management reserve funds. Moneys in this fund may be used to cover any risk which would otherwise be insurable. The act provides that moneys may be paid into this fund from any source which may be lawfully utilized for such purposes, including transfers from the general fund.

(i) *Fire Equipment; Ambulance.* Cities may build up a fire equipment or ambulance fund by an annual levy under K.S.A. 12-110b. However, this fund is not actually a reserve fund since the amount must be rebudgeted each year until spent. Such equipment may also be purchased under K.S.A. 12-110a. Under K.S.A. 12-110c, bonds may be issued for up to 15 years to purchase fire equipment, subject to a petition for a referendum.

## **Part D -- Purchasing**

**D-1. Purchasing Generally.** The city governing body has the final responsibility for purchases made on behalf of the city. The cash basis and budget laws require that the clerk have a timely record of each purchase to prevent spending in excess of budget authority and the amount of cash on hand. So far as possible, for ordinary purchases, a purchase order system should be used, and the city clerk should receive a copy. In many cities only major purchases, such as those exceeding \$5,000, are formally approved in advance by the governing body. *The principal job of the governing body is to make sure a good purchasing system is adopted and followed, not to make purchases.*

**D-2. Purchasing By Blds.** There is no uniform state law that requires cities to make

purchases by bids. Many cities establish such a procedure by ordinance. See Part E for more discussion of bidding procedures.

### **D-3. Recommended Purchasing Practices.**

A procedure indicating responsibilities, forms, timing and similar aspects of purchasing should be adopted. The procedure should be in writing and should include those purchasing procedures of concern to departments, the chief administrative officer, the governing body and potential vendors. These procedures also assist in establishing adequate fiscal controls.

Good specifications should be prepared which adequately describe the product required by the city. Insofar as practical, similar commodities used in different departments should be standardized. The writing of a good specification is frequently a tedious task, but its rewards are substantial in assuring good products and fewer arguments with vendors.

The governing body should also establish guidelines as to when formal bids will be required. Oral bids may be sufficient in many instances, but more formalized procedures should sometimes be used to assure good prices and proper use of taxpayer dollars.

### **Part E -- Bid Procedure For Improvements**

There is no uniform state statute which specifies the manner in which cities prepare and let their construction contracts for bids. Some cities have specified a procedure by ordinary or charter ordinance. Cities of the second class are required to have an engineer's estimate for the improvement submitted to the city governing body and the city is prohibited from entering into a contract for the improvement in excess of this amount (K.S.A. 14-440). This statute may be modified by a home rule charter ordinance. In cities of the first class, those improvements in excess of \$2,000 require an engineer's estimate--detailed and under oath--to be submitted to the governing body and sealed bids are required (K.S.A. 13-1017). A number of cities of the first class have passed charter ordinances modifying the provisions of K.S.A. 13-1017. There is no requirement of public bids in cities of the second and third class.

The city should assure itself that only

qualified contractors receive contracts and that the lowest and best price is obtained through competitive bids. Some federal grant programs require a contract bidding procedure.

*When formal bidding procedures are used, cities should stick to their own rules!* For example, "waiving formalities" may help one bidder, but discourage other contractors from competing in that city in the future and expose the city to charges of favoritism and anti-competitive conduct prohibited by state and federal antitrust laws. Don't open bids in advance. Don't accept late bids, or permit late changes, unless all other bidders are given the same chance. Many cities routinely inform all bidders that the city reserves the right to reject any and all bids. It is helpful to have a check-list of bid requirements that must be complied with before each bid is accepted and read. Some cities use a bid board of administrative officials who follow the rules and then make recommendations to the governing body.

### **Part F -- Contracts**

**F-1. Contract Signing.** For cities of the second and third classes there are no statutes that designate who signs contracts. Some cities prescribe a procedure by ordinance. In others it is simply the custom for the mayor to sign formal contracts and for the city clerk to attest the mayor's signature and affix the city seal.

In cities of the first class, statutes designate the mayor as the officer who signs contracts (K.S.A. 13-506 and 13-2003).

It is good practice for the ordinance, resolution or motion authorizing a formal contract to direct the mayor to sign the contract on behalf of the city and the clerk to attest his or her signature.

**F-2. Non-Discrimination Contracts.** K.S.A. 44-1030 requires cities to include in contracts several nondiscrimination assurances by contractors involved in city contracts. This statute does not apply to a contractor that does less than \$5,000 in annual business with the city.

**F-3. Prevailing Wage Contracts.** The Kansas prevailing wage 8-hour work day law, formerly in K.S.A. 44-201, was repealed in 1987.

However, the federal Davis-Bacon Act requiring the payment of "prevailing wages" is applicable to city contracts where federal funds are involved.

**F-4. Binding Future Contracts.** Generally, cities may not enter into multi-year contracts for services or goods. The cash basis law and the budget law effectively prohibit this practice, although there are some exceptions.

## **Part G -- Claims and Their Payment**

**G-1. Claims Procedure.** A claim is a demand for payment. The general statutes on claims, applicable to most units of local government including cities, require that before any warrant or warrant check is authorized or issued by the governing body, there must be presented in writing a document with a full account of the items of material or service furnished to the city (K.S.A. Supp. 10-802, 12-105a, Supp. 12-105b). A vendor's usual statement of account is sufficient to constitute a proper claim for payment if it is itemized. It need not be sworn to, certified or even signed. Vendor's bills come in different styles, shapes and sizes. For internal financial controls some cities require the information to be duplicated on a standard document (commonly called a voucher) to facilitate an audit and show approval of payment. This voucher may be considered the legal "claim" presented on behalf of the vendor and there is no reason for the vendor to sign or even see the voucher if it is based upon a sufficient vendor's statement detailing a full account of the charges. The vendor is not required by state law to certify whether a claim is due and unpaid.

All claims, other than unliquidated ones, must be audited and approved in whole or in part as correct, due and unpaid by the clerk or other officer charged by law to approve claims before presenting the claim for payment to the governing body.

**G-2. Appropriation Ordinances.** Although appropriation ordinances are not clearly required by state law, many cities use this method of securing governing body approval of claims. (Several statutes seem to contemplate that appropriation ordinances will be used.) Such an ordinance appropriates money out of the proper fund to pay each claim. The claim may be

payable out of several funds, in which case it must be broken down accordingly. Usually, the city clerk makes up the appropriation ordinance prior to the governing body meeting and lists the various claims under the proper fund items. Then, when the claims have been audited and approved the ordinance can be presented and passed. If a certain item is not approved, the city clerk can strike it out before the ordinance is presented.

The appropriation ordinance, when passed, takes effect without publication (K.S.A. 12-3007). When the appropriation ordinance is passed, the clerk or director of finance writes the warrants and presents them to the mayor or manager for signature. In practice, the city clerk or director of finance usually has the warrants prepared in advance. If a claim is not allowed by the appropriation ordinance, the warrant is voided by the city clerk.

**G-3. Approving Claims.** It is not necessary for the governing body (individually, collectively or by committee) to approve each voucher or claim, particularly if an appropriation ordinance is used. In some cities, the budget is adopted by ordinance as "an appropriation for each fund" (K.S.A. 79-2934), with another ordinance passed at the first meeting in January authorizing the city manager to make payments of claims in accordance with the adopted budget. Whichever claims payment system is used, it is clear that members of the governing body may examine claims and their payment at any time, a privilege also held by law by private citizens.

*The first responsibility of the governing body is to make certain that a good procedure exists by which claims are incurred in the first place, rather than just checking the barn door after the fact.* Time spent in developing a good, workable purchasing system, for example, is better spent than reviewing vouchers at every meeting. Governing bodies should concentrate on preventing problems, rather than on trying to find and correct mistakes. And if the honesty or capacity of the city staff is not trusted, they should be replaced.

Paying a claim out of the wrong fund is the same as making an illegal transfer of money from one fund to another. If there is not enough money in a fund to pay a claim properly

chargeable against it, it is an unlawful misappropriation of money to pay the claim out of another fund.

#### **G-4. Law of Triviality--Claims.**

Commissioners and councilmembers who review claims and vouchers should seek to avoid falling under the influence of what is described in the book Parkinson's Law as the "Law of Triviality." This law holds that the time spent on any item of the agenda will be in inverse proportion to the sum involved. For example, a governing body could spend hours questioning the appropriateness of a \$24.99 expenditure for a shovel because we all know where one can be bought on sale for \$15.00. But when it comes to approving the purchase of a four-way fully-synchronized and signalized set of traffic signals for one street intersection costing \$75,000, we may approve the purchase forthwith because we don't understand it and are human enough to want to avoid asking questions which reveal our ignorance.

#### **G-5. Claims For Settlement and Damages.**

Demands for settlements and damages, sometimes called "unliquidated claims", are not the same as the claims mentioned earlier in this section. They are not contract obligations, but are based upon alleged negligence or wrongful acts of city officials or employees or other purported money demands. The procedure for payment of tort claims is contained in the Kansas Tort Claims Act, set forth in K.S.A. 75-6101 et seq.

**G-6. Payroll Claims.** In small cities, each employee may file a claim for salary or wages before each payday. In other cities, each department often keeps records as to the time employees worked and compensation that is due. Instead of each employee filing a claim for the amount due, a payroll claim voucher for all employees is prepared and the department head certifies it for all of the employees listed (K.S.A. Supp. 12-105b). Payroll claims are audited, approved and paid in the same manner as other claims.

#### **G-7. Warrants, Warrant-Checks, Checks.**

A warrant or warrant-check may be issued only after a claim, properly itemized, has been filed, audited and approved. A warrant is a written order drawn on the city treasurer for a definite

money payment. It is drawn to the order of the party entitled to payment (K.S.A. 12-105a, 10-801). It orders or "warrants" the city treasurer to pay to the named party the sum stated for the purpose stated out of the fund stated. It is not a check, and a depository bank cannot charge the city's account with the demand of it.

A check is that ordinary written statement in the usual form drawn on a depository bank by the city treasurer in favor of the holder of a warrant.

The warrant-check is a combination warrant and check included in the same instrument. It is both an order on the city treasurer and an order on the depository bank to pay the holder thereof (K.S.A. 12-105a and 10-801). The city governing body may authorize the use of the combined warrant-check by passage of a resolution. In nearly all cities the warrant-check has replaced the older warrant procedure because of the ease of handling payment of claims.

In non-city manager cities, warrants and warrant-checks are signed by the mayor or, in his or her absence, the officer authorized by law to act in his or her stead, and by the city clerk or auditor. In city manager cities, they are signed by the city manager and by the director of finance.

The city clerk, auditor or finance director who signs the warrant or warrant-check must keep a record of it. Before the instrument is delivered to the payee it is presented to the city treasurer who also makes a record of it (usually a duplicate) and then signs the instrument on its face. (K.S.A. 10-803, 10-804, 10-805).

Facsimile signatures may be used on warrants, warrant-checks or checks.

### **Part H -- Investing**

Many cities earn substantial revenue by investing public moneys.

Cities may earn interest by investing three types of funds: (1) special funds, (2) inactive funds, and (3) active funds. *Special funds* are invested pursuant to individual statutes, such as building reserve funds under K.S.A. 12-1737 or bond funds under K.S.A. Supp. 10-131. Most



special fund statutes also authorize the use of the K.S.A. 12-1675 procedure, the general investment statute.

Under K.S.A. 12-1675 et seq., moneys which are not immediately required (generally called *inactive funds*) may be invested in (1) temporary notes of the investing unit, (2) TDOA's (time deposit open accounts) or CD's (certificates of deposit), (3) time certificates of deposits of savings and loan associations, (4) repurchase agreements, (5) shares of savings deposits of savings and loan associations, and (6) U.S. Treasury bills. There are certain restrictions as to when treasury bills or notes may be used.

*Active funds* may be invested in different ways. Following is the synopsis of an opinion of the Attorney General issued June 13, 1983 (AG 83-88): "K.S.A. 12-1675, as amended, sets forth the ways in which certain governing bodies. . . may invest moneys which are not immediately required for the purposes for which they were collected or received. Such "idle funds" may only be invested in the five ways set out at subsection (b). Active funds, being those which the governing body makes immediate and regular use, are not subject to the restrictions of K.S.A. 12-1675, as amended. Permissible accounts for active funds include checking accounts, demand deposit accounts, negotiable order for withdrawal (NOW) accounts, savings accounts, and money market deposit accounts, all of which have no minimum maturity and allow withdrawals on demand with no penalty."

Under K.S.A. 12-1671 and 12-1672, investments are considered to be cash under the cash basis law and moneys disbursed for investments are not considered an expenditure under the budget law. Under K.S.A. Supp. 12-1678a, counties may temporarily invest the undistributed tax moneys of cities and other subdivisions but a three-day notice must first be given to the subdivision that the moneys are available for distribution.

#### **Part I -- Tax Exemptions**

Cities in Kansas are not required to pay certain state and federal taxes. The laws in this area are periodically changed.

**I-1. Sales and Compensating Taxes.** The city is exempt from state sales and compensating

use taxes on purchases for its governmental functions. For example, the city does not have to pay the sales tax on a minute book to keep the journal of proceedings. It does not have to pay the sales tax on supplies used for the city hall. It does not have to pay such taxes on the purchase of a street grader. But, it is subject to the sales and compensation taxes on purchases for its gas, water and electric utility plants, except where it purchases some ingredients which become a component part of the product furnished or chemicals to treat water. It has to pay the sales tax on tools, pipes, meters, and the like for its utility departments. However, it does not have to pay the tax on governmental adjuncts of proprietary departments, as for example, fire hydrants, street lights, and other equipment used for general government purposes. In all those activities where a city is engaged in a business (proprietary) function and where it has to collect the sales tax when it sells a service or product, it must also pay the sales tax when it purchases something which will be used to create that service or product.

**I-2. Ad Valorem Taxes.** Generally, the property owned and used by cities is tax exempt--see K.S.A. 79-201a. However, a claim for exemption is required (K.S.A. 79-213). If the state board of tax appeals authorizes the exemption only for a specified period of years (e.g., industrial revenue bond financed property), annual claims for exemption are to be filed by each March 1 (K.S.A. 79-210).

**I-3. Exemption From Execution.** Except for judicial tax foreclosure, all city property is exempt from levy, execution and sale and no judgment against a city constitutes a charge or lien on such property. This exemption does not relieve the city from the obligation of levying taxes or otherwise providing funds to pay judgments against the city (K.S.A. 12-151).

**I-4. Federal Taxes.** Cities are exempt from some federal taxes, such as the income tax. The proper procedure for claiming exemptions from federal excise taxes should be used, such as the exemption from federal motor fuel taxes or requests for reimbursement. The exempt status and federal regulations change from time to time.

## **Part J -- Utility Finances**

**J-1. Utility Defined.** A municipal utility is a publicly-owned instrumentality or facility of a revenue-producing nature. However, a revenue-producing operation is not considered a utility unless it is financed by a separate fund. Thus, for example, a sanitary sewerage system may be self-supporting through service charges but does not constitute a utility unless financed by a separate fund. Certain utilities may be combined.

**J-2. Use of Utility Revenues.** A statute (K.S.A. 12-825d), applying to all cities except Kansas City, controls the use, transfer, and investment of revenue from the city's sale of water, electricity, gas and other utilities. The revenue must first be used for the operation of the utility from which the revenue is derived. The statute provides that the revenue shall be used for the purpose of operating, renewing, or extending a plant or distribution system from which the revenue was derived, the payment of interest on the outstanding bonds issued for the construction, extension, or purchase thereof, and the payment of the salaries of the employees. It clearly is improper to pay claims against the street department or any other department, except the proper utility department, out of the utility fund. If utility revenue is to be used for street purposes, it must first be transferred to the general fund, through the annual budget.

**J-3. Use of Utility Surplus.** If there is a surplus over and above operating expenses and bond payment necessities, the surplus may be transferred and merged into the city general fund or other fund of the city. As an alternative, the surplus, in whole or in part, may be set aside in a depreciation reserve fund. This depreciation reserve fund may be invested.

Where revenue bonds are outstanding, the revenue from the utility should be handled as provided by K.S.A. 10-1204. This statute primarily requires that enough surplus first be set aside to establish a reserve equal to the current year's debt payments on outstanding revenue bonds of the utility. When this requirement is met, the remaining surplus may be used as described above. (K.S.A. 12-825d).

Surplus is not simply a cash balance. Utilities

are entitled to sound financial management, and it should be kept in mind that replacements and extensions may be required at any time. The utility fund should not be depleted by transfers to other funds. On the other hand, when provision has been made for the operation and maintenance of the system, bond payments, and the setting aside of a proper amount for emergencies and replacements, it is proper to provide for the transfer of surplus moneys. Such transfers must be budgeted.

**J-4. Utility Emergencies.** In the event there is no surplus money and an extraordinary emergency occurs which requires expenditures in excess of current utility revenues, the governing body is authorized to declare an extraordinary emergency by resolution, publish it in the official paper and thereafter issue no-fund warrants without approval of the state board of tax appeals. The amount may not be in excess of 25 percent of the preceding year's revenues (K.S.A. Supp. 10-1116a). The warrants must be redeemed within three years of their issuance. The usual no-fund warrant procedure (K.S.A. 79-2938) may also be followed.

## **Part K -- Debt Financing**

Cities, like individuals and businesses, frequently find the cost of needed capital improvements exceeds available revenues. They need to borrow money. This part reviews some of the fundamentals of debt financing. Parts L and M also contain information as to debt financing and financial planning.

**K-1. No-Fund Warrants.** No-fund warrants are instruments for short term borrowing. They constitute evidence of indebtedness and draw interest for the holder. They are usually of short-term duration--1 to 5 years. No-fund warrants are normally issued when there is a shortage of funds available in the budget or insufficient budget authority (K.S.A. 79-2938, 12-2939, 12-2940). They may also be issued to finance the construction of public buildings (K.S.A. 12-1737) and to purchase city equipment (K.S.A. Supp. 12-110a). Frequently they are utilized to make emergency purchases of equipment or major repairs to equipment. A League manual, "Purchase and Repair of Municipal Equipment," sets forth procedures and sample ordinances. The cost of issuing or

handling no-fund warrants may be substantially less than for a bond issue.

In most cases, no-fund warrants require the approval of the state board of tax appeals--check the applicable statute. A 1990 law permits the issuance of no-fund warrants, without board approval, to replace taxes levied but not collected because of reduced property assessments.

#### **K-2. Temporary Notes For Bonds.**

Temporary notes are evidence of indebtedness, usually issued to finance a project until the bond issue can be prepared and sold. When such notes are issued, it is usually anticipated they will be paid at the time bonds are issued for the project. Temporary notes are not to mature later than four years from their date of issuance (K.S.A. Supp. 10-123.) The procedure for issuing temporary notes varies with the purpose for which the notes are to be used. In some instances, temporary notes may be used to finance a project directly, in lieu of issuing bonds.

#### **K-3. Temporary Notes, In Lieu of Bonds.**

K.S.A. Supp. 10-123 was amended in 1989 to clarify that temporary notes may be used to finance an improvement for which bonds may be authorized, with the principal and interest retired from current revenues, rather than bond proceeds. When an improvement can be financed in less than four years, this procedure can reduce the costs of borrowing normally incurred in issuing bonds.

**K-4. Scrip.** Scrip is another form of city short-term borrowing. It is used to pay contractors for sidewalk construction and street lighting installation. It draws interest and the contractor may hold the scrip or discount it to a bank. See K.S.A. 12-1812 and 13-1324 for examples of statutory authorization for the usage of scrip. This form of debt financing is infrequently used.

#### **K-5. Bonds.**

a. *Municipal Bonds Generally.* A bond is a long-term promissory note issued by the city. Municipal bonds are either general obligation bonds, which means they are payable from a general property tax levy, or revenue bonds,

which are payable from a revenue producing facility such as a water system. However, there are other special types of bonds, as noted below.

b. *General Obligation Bonds.* General obligation bonds (G.O. bonds) are backed by the full faith and credit of the issuing unit, which means they are payable by a general tax levy upon all taxable property within the city. They are commonly used for buildings, streets and general public purposes. Sometimes G.O. bonds are used for utility purposes, since the interest cost for G.O. bonds are normally less than for utility revenue bonds. In this event, some of the utility earnings, such as from water rates, are used to reduce the property tax required to pay the principal and interest on the bonds. Various statutes authorize the issuance of G.O. bonds. The general bond law (K.S.A. 10-101 et seq.) governs the issuance procedure.

c. *Revenue Bonds.* A revenue bond exists when money is borrowed with a pledge that the revenue from a specified income generating facility, such as a water system, will be available to pay the principal and interest. By definition, a revenue bond is not guaranteed by the full faith and credit of the issuer. K.S.A. 10-1201 et seq., is the primary statute authorizing and governing the procedure for issuing revenue bonds.

A special type of revenue bond includes bonds issued for economic development, commonly called industrial development bonds (IDBs) or industrial revenue bonds (IRBs). This type of bond is issued in accordance with K.S.A. 12-1740 et seq. The revenue pledged for payment of the bonds is the rental payments made by the lessee of the facility constructed with the bond revenues. The maximum amount of IRBs issued statewide that are exempt from federal income taxes is subject to federal law. Other types of special revenue bonds include housing mortgage revenue bonds.

d. *Special Assessment Bonds.* Special assessment bonds, issued by a city to finance improvements to be paid for in whole or in part by property within a special assessment benefit district, are really general obligation bonds. They are backed by the full faith and credit of the city. Delinquencies in the payment of special assessments has occurred in some cities in recent years, resulting in the need for levying a

city-wide property tax to retire these bonds.

e. *Special Obligation Bonds.* Some state laws refer to special obligation bonds, including the downtown tax increment financing (TIF) law (K.S.A. 12-1770 et seq.). Under certain conditions, TIF bonds become tax supported general obligation bonds.

f. *Advance Refunding Bonds.* Under K.S.A. Supp. 10-427 et seq., cities may refund bonds in advance of their due date. In effect, a new set of bonds is issued, with the resulting revenue invested in U.S. government securities which, with interest, are sufficient to retire the outstanding bond issue. The advance refunding of bonds is occasionally advantageous to the issuing unit (as well as profitable to those private parties involved in handling the refinancing). Sometimes, there is no significant real savings to the public, or the purported savings may result only from changing the maturity schedules to the disadvantage of the city.

g. *Bonded Authorizations.* A number of statutes authorize the issuance of bonds for various municipal purposes. Reference to many of these statutes are contained in various sections of this Handbook, including Part L of this chapter. One statute often overlooked is K.S.A. 13-1024a, which applies to all cities. That statute authorizes cities to issue G.O. bonds for a variety of purposes. Certain bonds issued by larger cities under this statute are exempt from voter approval. Since the act is not uniformly applicable to all cities, some cities have "amended" the provisions by home rule charter ordinance.

h. *Bond Maximum Interest.* The maximum interest rate on municipal bonds varies according to a national index of recent municipal bond sales--see K.S.A. Supp. 10-1009.

i. *Bond Terms.* Generally, general obligation bonds may be issued for not to exceed 30 years, with special assessment bonds limited to 20 years (K.S.A. Supp. 10-103). Revenue bonds are limited to a 40 year term under K.S.A. Supp. 10-1207.

j. *Public Sale of Bonds.* Public sale of bonds is advisable when the issue is large enough to attract more than one potential bidder. General

obligation bond issues exceeding \$100,000 require public notice of sale (K.S.A. Supp. 10-106). No mandatory requirement for public sale of revenue bonds exists although this procedure is advisable when the issue can attract competitive bids.

k. *Bond Signing.* The mayor signs all bonds issued by the city. The mayor also signs the interest coupons attached to the bonds. The city clerk attests the mayor's signature (K.S.A. Supp. 10-105). It is possible to have municipal bonds and coupons signed with a facsimile signature of any officer required by law to sign. See Part N-4, below.

l. *Bond Elections.* The approval of the voters is required in many instances before bonds may be issued, especially in the case of general obligation bonds. Special assessment bonds and most revenue bonds are not subject to a direct referendum. Some bond issues are subject to a voter petition for a referendum. Referendum requirements depend on the state law under which the city has authority to issue the bonds. The general procedure for conducting bond elections is set forth in K.S.A. Supp. 10-120.

m. *Bond Registration.* As a result of federal requirements, tax exempt municipal securities, including bonds, no-fund warrants and temporary notes, must be registered. The applicable state law is K.S.A. Supp. 10-620 et seq.

n. *Debt Limits.* The home rule amendment to the Constitution exclusively reserves to the state legislature the power to set bonded debt limits. This means the legislature may set debt limits that are not uniformly applicable to all cities and yet cities would nonetheless be prohibited from using home rule to exempt from those debt limits. Bonded debt limitations do not apply to revenue bonds (K.S.A. 10-1205). The general bonded debt limitations can be found in Article 3, Chapter 10 of the Kansas Statutes Annotated. K.S.A. Supp. 10-308 fixes the general bonded debt limit of all cities (except Olathe) at 30 percent of the city's assessed valuation (adjusted). Sometimes bonded debt limits are fixed for a specific purpose, or a statute may set certain bonds outside the general debt limit.

o. *Bond Information.* For further information on bonds, see "Moody's on Municipals: An

Introduction to Issuing Debt." This 88-page report is available without charge from Moody's Investors Service, Inc., 99 Church Street, New York, NY 10007.

**K-6. Lease-Purchase Agreements--COPs.** While lease-purchase agreements are considered by some persons to be a form of debt, the legal conditions prescribing their use in Kansas prevent their use for unconditional multi-year borrowing purposes. Certificates of Participation (COPs) are sometimes used as a device to market shares of lease-purchase agreements in large amounts. Lease-purchase agreements are discussed in Part N-6, below.

## **Part L -- Long-Term Financial Planning**

Kansas laws governing local financial procedures place an emphasis on current financing. For example, the budget law relates only to the annual budget. Long-term, multi-year financial planning is something different, and probably deserves as much consideration as does the concern of city officials that budgeted money is available today to meet today's bills. Cities are continuing institutions, and there is a tomorrow! Taking on new projects and programs without planning for their future financing is not unlawful in Kansas, but it probably is as bad a public policy as spending money outside the budget. Cutting revenue because there is a surplus this year, thereby leaving an unfunded deficit for the future, is as questionable as borrowing money that isn't needed.

The consequences of inadequate multi-year financial planning are many. For example, it may mean a cut-back in the maintenance of existing public facilities, creating a public infrastructure problem for the future. It may mean that service charges, such as for sewage disposal or water, are adequate to cover current operating costs but not to meet new requirements or needed improvements. It may cause the excessive need for borrowing, for purposes that could have been met from current resources. It may also, for example, require firing a police officer who was hired when there was some extra money in the general fund, but only for one year.

One aspect of financial planning is capital improvement budgeting and programming, as noted in Part A-2 above. Under this approach,

the community's physical needs are annually identified and prioritized on a moving five-year basis, and then matched with projected available revenue.

Also important is multi-year financial planning of operating programs. This would include a three-to five year projection of revenues based on current sources, and then comparing those resources with the projected cost of continuing the current level of all existing programs and services, recognizing inflation.

This type of planning helps avoid future financial problems, relates the cost of neglecting maintenance and rehabilitation to new programs which could be undertaken, and puts proposed tax reductions or increases in future focus. For example, a current operating surplus may justify reducing the city franchise tax, reducing property tax levels or eliminating the gross earnings tax on intangibles, only to result in the need for substantial new revenues in the future. On the other hand, future fiscal realities may justify such reductions. What is important is that current financial decisions are made in the context of time, recognizing that the city will be here tomorrow.

## **Part M -- Use of Public Funds**

**M-1. The Public Purpose Doctrine.** Local officials face many demands for the use of public funds, including requests for grants for economic development promotion and other purposes. These often come from non-profit organizations and other community agencies. In considering these requests, and any other appropriation of public funds, local officials should keep in mind the public purpose doctrine--*governments exist for public purposes; public funds may be spent only for public purposes.*

To paraphrase McQuillin, the authoritative writing on municipal law, a municipal corporation is a public institution created to promote public, as distinguished from private, objects. All of its powers and offices constitute a public trust and any power conferred must be exercised for the public good (see McQuillin, *The Law of Municipal Corporations*, Section 10.31 (3rd Ed)). The public purpose rule of common law is basic to a system of responsible, representative government. It will not be found in explicit terms

in the Kansas statutes, nor in the Kansas Constitution. It is a rule of law so inherent that its enumeration in statute is superfluous.

If the rule is that public funds may be used only for public purposes, what are public funds? The answer is simple--public funds are those moneys in the hands of a public or governmental agency. Contrary to the belief of some people, the source of the money is not relevant. The essential point to remember is that public funds are public funds, whether they come from property taxes, economic development tax levies, sales taxes, utility charges, federal grants, state aid, or any other source. The governing body charged with the management of public funds has the same level of stewardship responsibility, regardless of where the money comes from. And the public purpose doctrine applies to any expenditure of public funds.

**M-2. Guidelines for Use of Public Funds.** These guidelines are offered for local officials to consider when faced with questions on the propriety of the use of public moneys:

\* Is the proposed purpose commonly accepted as a public purpose by other governmental units?

\* Does the public itself generally consider it to be an appropriate use of public funds? (Note: While this certainly is not definitive, it is, after all, the public's money.)

\* Can the results of the expenditure be identified, and is the governing body willing to characterize those results as public benefits?

**M-3. Some Policy Recommendations.** The following is a listing of policy recommendations to use when considering making grants or contributions to private persons or entities:

1. Use public funds only for public purposes--it is unlawful to do otherwise.

2. If there is doubt that the proposed use of the money will meet the public purpose doctrine, check with your legal counsel. If doubt remains, either don't do it, or clearly define that purpose in writing, and document the expected benefits to the public that will flow from the expenditure.

3. Consider and treat such allocations of public funds as a service contract--an agreement

to perform a public service.

4. Make sure that the recipient understands that the public agency is buying a public service--that you are not just giving them public money to spend as they deem fit.

5. Make sure that the proposed benefits are actually delivered, and that some, or all, of the benefits are local.

6. Keep in mind that a "grant" to one group will probably result in a request for a "grant" by another group, and that "unequal" treatment of similar proposals by similar groups can lead to allegations of unlawfully arbitrary and capricious action.

7. Because legislative actions of governmental units enjoy a presumption of legality when challenged, it is probably better to have the governing body, rather than an administrative officer or agency make the decisions to grant public funds to other agencies (public or private).

8. If the city's action is going to be done by an administrative officer or agency rather than the governing body, make sure that action is done under clear guidelines set by the governing body. This should help to color the city's action as a nondiscretionary, ministerial implementation of a legislative policy, and thereby retain the presumption of legality.

9. Place into the governing body minutes or in the service agreement approved by the governing body, specific statements as to what the public purpose behind a particular action or expenditure is, and how that action or expenditure is going to promote that public purpose (i.e. a rational ends-means relationship).

For more information on this subject see "Handling Grants of Local Public Funds: Guidelines to Secure the Public Purpose" published in the September 1989 issue of *Kansas Government Journal*.

## **Part N -- Miscellaneous**

**N-1. Accounting.** Every municipality must utilize accounting and fiscal procedures conforming to generally accepted accounting principles, with certain exceptions. However, under K.S.A. 75-1120a, this requirement (including fixed asset accounting) may be waived under certain conditions.

The Municipal Accounting Section of the Kansas Department of Administration is charged

by state law with prescribing a system of fiscal procedure, auditing, accounting and fiscal reporting for municipalities. The Division's manual entitled "Small City Accounting System" provides comprehensive information as to municipal fiscal procedures and model forms.

**N-2. Audits.** Under K.S.A. 75-1122, every municipality with annual gross receipts in excess of \$275,000, or with general obligation or revenue bonds outstanding in excess of this amount, must have an annual audit. Under K.S.A. 10-1208, audits of all municipal utilities must be made if revenue bonds have been issued. Audits must be made by a licensed municipal accountant or by a certified public accountant. For a discussion of municipal auditing, see the April 1985 issue of Kansas Government Journal.

**N-3. Depositories.** The statutes require a taxing unit such as a city to designate a bank or banks within the county as depository or depositories. Before a bank can be designated, it must have agreed to act as a depository and to protect the taxing unit's money in certain manners. In addition, the treasurer is entitled to protection if he or she must put the money into a bank. Therefore, the governing body should take notice of the depository laws to see that proper depositories are designated. The general depository law is Chapter 9, Article 14 of the Kansas Statutes Annotated.

**N-4. Facsimile Signatures and Seals.** Officers required to sign warrants, checks, temporary notes, bonds, etc., may use facsimile signatures instead of signing manually. A facsimile signature is a reproduction by engraving, imprinting or stamping. On bonds and temporary notes, one officer must sign manually. Before using a facsimile signature an officer must file with the secretary of state his or her manual signature certified under oath. A facsimile seal may also be used instead of the common seal which makes an impression in the paper (K.S.A. 75-4001).

**N-5. Insurance.** Most cities carry liability and casualty insurance on physical structures such as buildings and on personal property such as vehicles. Liability insurance on public vehicles is effectively required by state law.

Many cities carry tort liability insurance. The

Kansas Tort Claims Act is set forth in K.S.A. 75-6101 et seq. The law provides a variety of methods to finance tort risks.

K.S.A. 12-2615 authorizes cities to establish risk management reserve funds. The law is broad enough so that governing bodies can develop their risk management practices to meet local conditions. It permits self-insurance to cover everything from tort liability for highway defects to glass breakage from vandalism in a recreation building. It may also be used to self-insure insurance policy deductibles so that commercial insurance is necessary only to cover large losses that cannot be absorbed by local funds. While the discretion granted to local governing bodies to self-insure is very broad, it should be noted that there are few state laws which mandate local governments to purchase any kind of insurance, except for vehicle liability.

Many cities also carry public officials' (errors and omissions) liability insurance to protect the city and its officers and employees. However, K.S.A. 75-6108 effectively requires the city to provide or pay the costs of legal defense and judgments as to claims against officers and employees. Under K.S.A. 75-6116, this same requirement extends to federal civil rights cases.

Cities are subject to the Kansas Workers Compensation Act--see K.S.A. Supp. 44-501 et seq. Employers with an annual payroll of less than \$10,000 are exempt. Chapter 9 on Personnel discusses this topic more fully.

Cities are also subject to state unemployment compensation requirements--see the Employment Security Law in K.S.A. 44-701 et seq. This is a state-administered program.

Under home rule, a city may carry group health, accident, medical, hospitalization, or life insurance, or any combination of these types of insurance for the benefit of its officers and employees. Insurance coverage should be established by an ordinance which specifies how much, if any, of the premium is to be paid by the city and how the officers and employees are to pay their contribution.

**N-6. Lease-Purchase Agreements.** As noted in the discussion of the budget law and cash basis law in Part B, above, municipalities

may not enter into multi-year financial commitments unless authorized by law. Thus, the normal binding lease-purchase agreement common to private business may not be used by Kansas municipalities. However, certain written conditional purchase agreements, commonly called lease-purchases, are permissible.

Under K.S.A. 10-1116b, as amended by 1990 House Bill No. 3109, the cash basis law does not apply to a lease-purchase agreement where the payments are conditioned on the municipality's budgeting and appropriating the money for that purpose. For example, if a city agrees to lease a piece of equipment by paying \$200 per month for 36 months, and to obtain title to the equipment at the end of the three years, then the agreement must specify that payments made in other than the current year will be made only if the money is budgeted and appropriated for that purpose. A fully binding multi-year agreement to make payments is contrary to this law and thus contrary to the cash basis law. The lease-purchase law contains other procedural requirements, including a provision that the agreement must be approved by a majority vote of the full membership of the governing body.

Lease-purchasing can be a simple, expeditious way to acquire equipment, or even land and buildings. It can also prove expensive, compared with the cost of issuing bonds, temporary notes or no-fund warrants, or financing acquisitions on a planned basis using current revenues or equipment or capital improvement reserve funds. The 1990 amendments to the law requires the effective interest cost, separate from the capital and other costs, to be specified in the agreement. A carefully structured, tax exempt lease-purchase financing agreement can save public money, but should be considered in the same manner as other debt financing tools. If the amount is substantial, shares of a lease-purchase agreement are sometimes sold as Certificates of Participation (COPs).

**N-7. Parks.** Cities are authorized to purchase or acquire park lands or sell or exchange park lands (K.S.A. 12-1301). Although cities are authorized to sell park land by statute, they cannot sell park land dedicated for such purposes or where title for park purposes only was taken by condemnation prior to 1964 (See

*Cooper v. City of Great Bend*, 200 Kan. 590 and *Isley v. Bogart*, 338 F. 2d 33). Bonds can be issued for the purpose of paying the cost of acquisition of park lands and to make improvements for park purposes. However, the park land acquisition bonds are subject to a protest petition and the bonds for park improvements require an election authorizing their issuance (K.S.A. 12-1302). The cost of acquiring or constructing swimming pools is often financed under the park improvement provisions of these statutes.

**N-8. Major Trafficways.** City governing bodies are authorized to designate all or parts of certain streets as main trafficways or trafficway connections (K.S.A. 12-685 et seq.). Such designation authorizes their improvement including bridges, drainage, illumination, traffic control devices or other improvements in connection with the streets. The expense of this improvement is payable by the city-at-large from the general fund, any internal improvement fund or the issuance of general obligation bonds. The bonds are subject to a protest petition which, if sufficient, requires a referendum.

**N-9. Public Building Statutes.** Cities have general authority to acquire land and construct all types of public buildings (K.S.A. 12-1736 et seq.). They may finance these improvements by expending gift money, state or federal aid money, issuing bonds, creating an annual tax levy for up to 10 years, issuing no-fund warrants, using money from the general fund or any other appropriate budgeted fund, using money from the sale of other buildings or sites, or a combination of such methods. In the event bonds are to be issued, an election is required if the financing is to acquire or construct city offices, public libraries, auditoriums, community or recreational buildings.

**N-10. Public Building Commission.** Cities are authorized to create by ordinance a public building commission of three to nine members for the purpose of acquiring sites for and constructing facilities of a revenue-producing nature. These facilities can include county offices, city offices, school administration offices, state offices and federal agencies (K.S.A. Supp. 12-1757 et seq.). A public building commission has the authority to issue revenue bonds subject to a protest petition (mandatory in cities of



175,000-200,000 population) and collect rentals on the facilities to pay the bonds and interest.

**N-11. Special Assessments.** A special assessment is in the nature of a tax but can only take the form of a lien upon land. The amount of the assessment is based upon the benefits conferred to that land by the proposed improvement. It is not a tax levied for the support of the city generally. A variety of special statutes exist authorizing special assessments for various purposes. K.S.A. 12-6a01 et seq., commonly called the 12-6a procedure, is the only statutory assessment procedure applicable to all cities for all types of improvements. It is a flexible procedure for cities to use in determining the improvement to be made, defining the area to be benefited (the benefit district), setting a cost sharing arrangement, if any, between the benefit district and the city-at-large, financing the cost of the improvement and determining an equitable method of assessing the costs among the property owners within the district.

For further information, see "6a Special Assessments, A Procedural Manual on the General Improvement and Assessment Law for Kansas Cities," published by the League.

Cities have discretion as to whether special assessments are used, even when petitioned for by the property owners. Because of delinquencies in special assessment payments in new subdivisions, which results in city-at-large taxes to pay the bonds used to finance the improvements, some cities restrict the use of special assessments.

# **MUNICIPAL REVENUE SOURCES:**

## **A Basic Review for Elected City Officials in Kansas**

**League of Kansas Municipalities**



ATTACHMENT 4-1  
1-19-93



# **Municipal Revenue Sources: A Basic Review for Elected City Officials in Kansas**

## **Introduction**

This report presents a basic review of municipal revenue sources in Kansas, designed primarily for elected city officials. It supplements a similar report entitled **Municipal Financial Procedures**. Both reports are based on Chapters to be included in the 1990 edition of **Handbook for the City Governing Body**, to be published by the League later this year.

The report is divided into the following parts:

Part A--Local Taxes

Part B--Local Non-Tax Revenues

Part C--State Aid and Shared Taxes

Part D--Federal Assistance

Part E--The Property Tax Lid

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## CONTENTS

<u>SUBJECT</u>	<u>SECTION</u>	<u>SUBJECT</u>	<u>SECTION</u>
<b>Part A--Local Taxes</b>	<b>A</b>	<b>Part D--Federal Assistance</b>	<b>D</b>
(1) The Property Tax	A-1	(1) Federal Grants in Aid	D-1
(2) Special Motor Vehicle Tax	A-2	(2) Pollution Control	D-2
(3) Vehicle Dealers Inventory Tax	A-3	(3) CDBG	D-3
(4) Intangibles Gross Earnings Tax	A-4	(4) Highway Grants	D-4
(5) Local Sales Taxes	A-5	(5) Airport Aid	D-5
(6) Occupational Taxes	A-6	(6) Recreation Grants	D-6
(7) City Vehicle Taxes	A-7	(7) Other Federal Grants	D-7
(8) Local Income Taxes Prohibited	A-8	(8) Drug Enforcement Programs	D-8
(9) Transient Guest Tax	A-9		
(10) Telephone Taxes--911	A-10	<b>Part E--The Property Tax Lid</b>	<b>E</b>
(11) Utility Franchise Fees	A-11	(1) General Explanation	E-1
		(2) Exemptions	E-2
<b>Part B--Local Non-Tax Revenues</b>	<b>B</b>	(3) Increasing Taxes Subject	
(1) Major Service Fees		to the Tax Lid	E-3
and Charges	B-1	(4) Levy Rate Limitations	E-4
(2) Other Major Local Sources	B-2	(5) Terms of Tax Lid Law; Information	E-5
(3) Miscellaneous Non-Tax			
Local Sources	B-3		
<b>Part C--State Aid and</b>			
<b>Shared Taxes</b>	<b>C</b>		
(1) State-Local Revenue Sharing	C-1		
(2) Local Ad Valorem Tax			
Reduction Fund	C-2		
(3) Highway Aid	C-3		
(4) Highway Aid-Connecting Links	C-4		
(5) Bingo Gross Receipts Tax	C-5		
(6) Liquor Drink Tax	C-6		
(7) State Grants	C-7		

ATTACHMENT 4-3  
1-19-93

## **Introduction**

This report briefly reviews the various revenue sources available to Kansas cities and is divided into the following parts:

- Part A--Local Taxes**
- Part B--Local Non-Tax Revenues**
- Part C--State Aids and Shared Taxes**
- Part D--Federal Assistance**
- Part E--The Property Tax Lid**

### **Part A--Local Taxes**

#### **A-1. The Property Tax**

(1) **Importance.** The property tax has long been the principal tax source used to finance local public services in Kansas. It is the single most important revenue source available to Kansas cities. Statewide, excluding the special vehicle tax, it produced an average of about \$125 per capita for Kansas cities for use in 1990. The property tax lid is separately reviewed in Part E of this report.

(2) **What is a Property Tax?** It is a general tax on all real and personal property not exempt from taxation by law. It is sometimes called an "ad valorem" property tax, which means it is based on value. Cities may not exempt property from taxation, except for certain economic development purposes.

(3) **What Property is Taxable?** Property subject to the property tax is divided into two general categories: (a) real property--often called real estate--which consists of land and the permanent improvements attached to the land such as buildings; and (b) tangible personal property, consisting primarily of machinery and equipment. Merchants' and manufacturers' inventory and livestock are now exempt from taxation.

(4) **When Is Property Assessed?** Property is assessed as of January 1. The actual amount of an assessment may not be fixed until after January but is still based on the value of the property as of January 1.

(5) **How Is the Valuation Fixed?** The assessment of property is fixed by the county appraiser. The basic requirement is that the assessment be based on fair market value. Various factors in addition to sales value are used in determining fair market value. The Kansas constitution requires that different classes of property be assessed at different percentages of its fair market value. For example, residential real estate is to be assessed at 12% of value and commercial and industrial real estate at 30%.

(6) **How Is the Tax Rate Figured?** It is determined by dividing the total amount of dollars which must be collected from property taxes by the total assessed valuation of all taxable property in the taxing district (city). This tax rate is then applied to the assessed valuation. For example, if \$85,000 must be raised from property within a city which has a total assessed valuation of \$1 million, the tax rate would be 85 mills. One mill is equal to \$1 of taxes per \$1,000 of assessed valuation.

(7) **How Is the Tax Collected?** The county treasurer collects the tax and distributes the revenue to each taxing unit. Generally, the tax may be paid in two installments, by December 20 and June 20. K.S.A. Supp. 12-1678a requires the county to distribute the revenue in six payments, including the major payments by January 20 and July 20. The county is also responsible for collecting delinquent taxes.

(8) **Tax Levy Authority.** Cities may levy taxes only in accordance with legal authority. When cities certify their budgets to the county clerk by August 25, they must certify the *amount* (not the levy mill rate) of taxes to be levied for each property tax fund. The actual mill levy rate is determined by the county clerk. The city must also identify the legal authority and the maximum mill levy rate, if any, that may be legally levied for each tax fund used.

Cities have considerable discretion, by statute and/or home rule, as to the tax funds they utilize. While most cities have several tax fund levies, only a general fund levy is required, plus any tax levy required for debt payments. The use of several tax levy funds, which effectively duplicate that which may be done by the general fund, is

not recommended as a general accounting principle.

**(9) The Property Tax Lid.** In brief, the Kansas property tax lid law limits the total amount of property taxes a city may levy, in the aggregate for all purposes not legally exempt from the lid, to the same amount of property taxes levied for expenditure in either 1989 or 1990. Provision is made for increased tax dollars over that limit for growth in assessed valuation resulting from (1) new improvements on real estate and added personal property and (2) annexations. Taxes levied for certain purposes, primarily for debt service and employee benefits, are exempt from the tax lid. Cities may modify their tax lid amount, or elect not to be governed by the tax lid law, by home rule action. More information on the tax lid is presented in Part E of this report.

**(10) Avoid Playing the Numbers Game.** Sometimes an irate taxpayer, and less frequently a city official, will succumb to the temptation to compare the tax levy rate of one city to another. It is argued the city with the lowest levy is the more efficiently operated city. While that assumption may be correct, it is just as possible it is incorrect. The assessed valuations of cities of similar size vary greatly. In addition, no two cities finance improvements in an identical manner. Also, some cities use a local sales tax or a gross receipts tax on intangibles, while others do not. Unless the city's taxable wealth, needs, programs, population and services are the same, a comparison of tax levy rates proves little. And a low tax rate may even mean that some of the real costs of government, like maintaining streets, are being deferred to future taxpayers.

#### **A-2. Special Motor Vehicle Tax**

Beginning in 1981, cities began receiving revenue in lieu of property taxes on most motor vehicles. Vehicles were taken off the general property tax assessment roll and the owners of motor vehicles (with some exceptions) began paying a special tax at the time the vehicle was registered. The amount of tax is based on a statutory amount set for various classes of vehicles, based on original value and age, and is taxed according to the countywide average tax

rate for the next preceeding year. The amount received from this source is often substantial. For most cities, vehicle taxes amount to more than 20 percent of general property taxes. It produces about \$50 million annually for cities, an average of about \$26 per capita. The amount estimated to be received by a city in the following year is certified by the county treasurer to each city prior to budget making time. (K.S.A. 79-5111.)

#### **A-3. Vehicle Dealers Inventory Tax**

In past years, motor vehicles in the hands of vehicle dealers were subject to a stamp tax on each vehicle sold in lieu of general property taxes. The revenue was distributed by the county treasurer to cities and all other taxing subdivisions in proportion to the amount of general property taxes levied. This law was repealed in 1989 and vehicle inventories are no longer subject to taxation.

#### **A-4. Intangibles Gross Earnings Tax**

The governing bodies of cities, as well as counties and townships, may levy a tax on the gross earnings of resident individuals and businesses from intangibles--primarily interest earnings on investments (K.S.A. Supp. 12-1,101).

Cities which levy the local intangibles tax may set the rate at between 1/8 of 1% up to 2¼%. The Kansas Department of Revenue provides intangibles tax return forms which are filed with the state and then returned to the county. The local intangibles tax is then assessed and subject to collection and distribution by the county in the same manner as the general property tax.

The voters may petition for a referendum on the question of repealing a local intangibles tax and authorizing additional taxes, sufficient to replace the lost revenue. The city governing body may levy the tax by ordinance, even if the voters in the past voted to repeal the tax. A referendum to levy the tax is not required.

The gross earnings tax is often considered one of the fairest revenue sources legally available to cities, especially with the substantial exemptions to the tax provided by state law for the elderly. In some cities, it produces substantial revenue--



equivalent to several mills of general property taxes. The tax is currently used by about 162 cities.

#### **A-5. Local Sales Taxes**

The principal nonproperty tax revenue source available to cities is the local sales tax. The basic act is set forth in K.S.A. Supp. 12-187 *et seq.* Comprehensive information on the local sales tax is available from the League, but a few brief facts are worth noting here.

A city governing body may call a referendum on a ½¢ or 1¢ city sales tax by resolution. One or more cities containing at least 25 percent of the population of a county may force a referendum on a countywide tax, at either the ½¢ or 1¢ level. County boards may submit the proposition of a ½¢ or 1¢ tax by majority vote. If approved by the voters, local sales taxes are collected by the state, together with the state's 4.25¢ tax, at no cost to the recipient units. Utility services are within the local sales tax base.

City sales taxes are returned directly to the city in which collected. Countywide taxes are shared by the county and the cities therein, under a statutory formula. The revenue varies from place to place, depending on the volume of retail transactions. Kansas counties and cities received about \$217 million in 1989 from local sales taxes. The statewide median average per capita collections for sales taxes in 1989 was about \$35 per half cent.

As of June 30, 1990 there were 119 cities and 62 counties with a local sales tax, which represent 88.3 percent of the state's population. About 449 different cities will receive revenue from either a city and/or countywide sales tax in 1990 and these cities contain about 94 percent of the population of all cities. Over the years, more than three-fourths of the city sales tax referendums have been approved by the voters. Kansas cities with local sales taxes range in population from Spivey (84) to Kansas City (169,468).

#### **A-6. Occupational Taxes**

Cities have authority under the home rule amendment to impose an occupational tax.

However, the tax must be levied in accordance with K.S.A. 12-137 *et seq.*, and is thus subject to a petition for a referendum. There are several statutory exemptions from a city imposed occupational tax and the tax cannot be based upon gross receipts or income (K.S.A. 12-194). About 20 Kansas cities levy occupational taxes.

There is an important distinction between a city occupational or business license tax levied for revenue purposes and a license fee imposed for regulatory purposes. An occupational tax is levied or imposed under the city's taxing power. A license fee for regulation is levied or imposed under the police power of the city. License fees for regulation must be based upon the cost to the city of regulating the particular conduct—they reimburse the city for the cost of regulation. Occupational or business license taxes, being only for revenue, are levied simply as taxes. Usually, an attempt is made towards a reasonable tax classification and equitable amounts. Occupational taxes are usually based on the square footage of the business or are flat amounts for various classes of business.

#### **A-7. City Vehicle Taxes**

Cities may impose a vehicle tax of \$5 or \$10 per vehicle with the approval of the voters (K.S.A. 12-143 *et seq.*). No city presently has such a tax.

#### **A-8. Local Income Taxes Prohibited**

K.S.A. 12-140 prohibits cities from levying taxes on income. K.S.A. 19-101a prohibits countywide taxes based on income.

#### **A-9. Transient Guest Tax**

Under K.S.A. 12-1696 *et seq.*, both cities and counties may levy a transient guest tax of not to exceed two percent of the gross receipts on the rental of hotel and motel rooms, with the revenue to be allocated to a "tourism and convention promotion fund." The applicable statute is subject to home rule charter ordinance and some cities have increased the rate above two percent and some have expanded the purposes for which the moneys may be used. The tax may be levied by resolution and is not subject to a referendum or petition therefor. A city may not levy the tax

where its county has such a tax in effect. A county may not levy the tax within a city where a city tax is in effect. The money is collected by the state department of revenue with the income, less two percent for administration, returned quarterly to the levying unit. There are currently 43 cities and 15 counties which levy the tax, usually at the rate of two percent.

#### **A-10. Telephone Taxes--911**

Cities and counties may establish an emergency telephone service (9-1-1) to be financed by a tax on telephone service rates in those portions of the jurisdiction for which the service has been contracted. The tax may not exceed 75¢ per month per exchange access line. A petition signed by five percent of the voters may force a referendum on the tax amount. The revenue may be used to pay monthly charges made by the service supplier as well as the cost of installation and improvements. See K.S.A. 12-5301, as amended by 1990 House Bill No. 2675.

#### **A-11. Utility Franchise Fees**

Most Kansas cities receive franchise fees or payments from privately owned utilities operating within the city limits. It is common for cities to receive from two to five percent of gas utility gross receipts, with five percent of domestic service receipts being the most common practice of cities of the first and second classes. For electric franchises, three percent is the most common rate, with some cities receiving five percent. Telephone compensation agreements often call for 15¢ to 25¢ per month per main station or three percent of gross receipts. See K.S.A. Supp. 12-824 and Supp. 12-2001 *et seq.* Community antenna television (CATV) franchises are often at three percent or more of gross receipts. See K.S.A. 12-2006 *et seq.* A 1984 federal law limits cable television franchise fees to five percent of gross receipts.

For many cities, the amount of revenue from franchise taxes or compensation fees is substantial. Information as to franchise fees charged by Kansas cities is available from the League.

### **Part B -- Local Non-Tax Revenues**

#### **B-1. Major Service Fees and Charges**

(1) **Utility Rates.** All cities operating municipal water, electric or gas systems levy a service charge or rate. Information as to municipal utility rates is annually published by the League. See Subsection (4) of Section B-2, below, as to utility transfers. A few cities operate cable television utilities.

(2) **Sewerage Service Charges.** Sewerage service charges, usually collected on a monthly basis together with water bills, are almost universal in Kansas cities providing sewerage treatment. Average monthly charges of \$5 to \$10 per residence are common. Such charges are usually a flat amount or an amount based on water consumption. Cities which have revised their charges in recent years tend to have much higher rates than those established some years ago, indicating the need to periodically examine service charges.

(3) **Refuse Collection and Disposal Fees.** Most cities providing a refuse collection and disposal service, whether by city employees or by a city-paid contractor, require payment of a monthly service charge. Monthly residential charges vary, with \$4 to \$5 being a common amount.

(4) **Special Assessments.** About half the cities of Kansas special assess the cost of *water main* extensions, with assessments at 100% of cost being the most common practice. About 90% of the cities special assess *sanitary sewer* extensions, with about 80% of these cities assessing 100% of the cost. About 90% of the cities also special assess the cost of *street improvements* in residential areas, with about two-thirds of these cities levying 100% special assessments. The cost of *curb and gutter* improvements is also assessed against abutting property in most cities, with about 80% of these cities assessing at 100% of the cost. About half the cities of Kansas levy special assessments for *storm sewer* improvements, with about two-thirds of such cities assessing 100% of the cost. About three-fourths of the cities levy special assessments for *sidewalk improvements*, with



about 70% of such cities assessing 100% of the cost against benefiting property.

Generally, the cost of higher than standard improvements is assumed by the city and is not included in the cost base for special assessments.

Delinquencies in the payment of special assessments, which then become a city-at-large financial burden, have caused many cities to review their policies. See the article "A Model Special Assessment Policy for Financing Public Improvements" in the December 1989 issue of *Kansas Government Journal*.

**(5) Swimming Pool Admissions.** More than 100 cities in Kansas operate one or more municipal swimming pools, and admission charges are almost universal. Adult admission charges usually range from \$.50 to \$2.00, with \$1.00 being the most common charge. The admission fee for children usually varies from 50¢ to 75¢.

**(6) Costs in Municipal Court.** While court costs are not authorized by K.S.A. Supp. 12-4112, many cities have adopted home rule charter ordinances modifying the municipal court procedure act to provide for the imposition of court costs.

**(7) Golf Course Green Fees.** Green fees charged by municipal golf courses are often in the \$10 range. Fees for weekends and holidays are often higher. Annual single memberships are typically in the \$150 to \$200 range. A few cities provide weekday discounts for senior citizens.

**(8) Business Improvement Service Tax.** K.S.A. 12-1782 *et seq.* authorizes and prescribes the procedure for cities to establish business improvement districts and to levy annual business improvement service fees to finance special and extended public services provided to such districts. About 20 cities have such districts.

## **B-2. Other Major Local Sources**

**(1) Beer and Liquor Fees.** Cities are required to impose and collect an annual license fee of from \$100 to \$250 for each state-licensed

Class "A" or Class "B" private club; (K.S.A. Supp. 41-2622). Most cities with private clubs charge the \$250 maximum. License fees for liquor stores may range from \$100 to \$300 annually (K.S.A. Supp. 41-310); about two-thirds charge the \$300 maximum. License fees for stores selling packaged cereal malt beverage (CMB) beer may range from \$25 to \$50 (K.S.A. Supp. 41-2702). The most common practice is to charge the maximum, with a few cities increasing the amount by a home rule charter ordinance. License fees for beer (CMB) taverns may range from \$25 to \$200 (K.S.A. Supp. 41-2702). Through the use of their home rule powers, cities may increase their license fees on the sale of cereal malt beverages for off-premises or on-premises consumption.

**(2) Building Construction Fees.** Various fees, such as building permit fees, electrical inspection fees, plumbing inspection fees and gas inspection fees are charged by cities. In many smaller cities, building regulatory code requirements and the quality of inspection services are minimal, resulting in a permit fee in the \$10 to \$20 range. In cities with comprehensive code requirements and inspection services, total fees in the \$100 to \$300 range are common for a typical new residence.

**(3) Fines and Forfeitures.** The limits of fines and "infractions" penalties for ordinance violations are fixed by ordinance and the actual amount imposed is determined by the municipal court judge. Fines, and forfeited bail money or bonds in municipal court, are deposited in the general fund. Some cities have increased their ordinance penalty provisions in recent years. See also Costs in Municipal Courts, above.

**(4) Utility Fund Transfers.** The budgeted transfer of municipal utility funds to the city general fund is common. The amount varies widely from city to city. Factors to be considered in determining the amount of such a transfer include: (a) an amount in lieu of property taxes which would be paid by a comparable private utility; (b) an amount in lieu of franchise fees equal to that paid by a comparable private utility; (c) a return on the public's investment in the enterprise; and (d) an amount to cover services provided by the city for the utility operation not

credited as a direct expense against the utility fund. The combination of these charges, such as 3 to 5% of receipts as a "franchise fee" equivalent, a 10 to 12% "rate of return", and full property tax (including school tax) equivalent, adds up to a substantial amount. The amount of the transfer is restricted in some cities by utility revenue bond covenants. See K.S.A. 12-825d and 10-1204.

Most cities operating municipal electric systems transfer moneys to the general fund, often in the per capita range of \$15 to \$20 per year. About half the cities operating municipal gas systems make such transfers, with the median per capita amount being about \$10 per year. Some cities transfer moneys from their water utility fund to the general fund. Comparatively few cities transfer money from a sewerage system fund to the general fund.

**(5) Investment Earnings.** Many cities earn substantial revenue by investing inactive funds. General fund earnings of \$5 or more per capita per year are common, and some cities earn more than \$10 per capita for the general fund, plus earnings for utility, bond and other funds. Investment procedures are discussed in Part H of Chapter 7.

**(6) Dog License Fees.** Annual dog license fees are found in about three-fourths of the cities of Kansas. The average fee in cities with a single fee for both male and female dogs is about \$3.00. In cities with separate fees, the annual fee for a male or spayed female dog is often \$2.50, and \$5 for an unspayed female dog. These are averages, and many cities charge more.

**(7) Parking Meters and Charges.** While parking meters on streets are intended for regulatory purposes rather than for revenue, the gross receipts from on-street meter revenue in some cities is significant. The typical city with on-street parking meters annually collects about \$2 per capita. A number of cities also use parking meters for parking lot control purposes.

### **B-3. Miscellaneous Non-Tax Local Sources**

This section reviews most locally determined revenue sources not noted above. In some cities,

the revenue from these miscellaneous sources are significant, such as for ambulance service.

**Abandoned Motor Vehicles, Sale.** See K.S.A. 8-1101 *et seq.*

**Airport.** Lease payments by operator or for hangers, restaurant concessions, space rental, land rental for crops, sale of fuel, etc.

**Ambulance Service.** Charges, based on cost for service.

**Animal Impounding.** Most cities which provide for the impounding of animals running-at-large in violation of an ordinance make various impounding charges against the owner who redeems the animal.

**Auditorium.** Cities with auditoriums usually have a schedule of charges for the use of facilities.

**Bicycle Licenses.** A number of cities require the payment of a small annual fee by the owners of bicycles. A license tag is usually furnished.

**Bond Issues, Incidental Costs.** Reimbursement of related general fund expenses from each bond issue.

**Boxing and Wrestling.** Gross receipts fees for professional matches. See K.S.A. 12-5102.

**Building Demolition and Removal Fee.** Used mostly by larger cities.

**Building Rental.** Sometimes there are city owned buildings or space to rent.

**Cat Licenses.** Used by a few cities.

**Cemetery.** Sale of grave spaces or lots and charges for digging graves. Investment of endowment or perpetual care funds.

**Charges in Lieu of Taxes.** Cities are authorized by statute to enter into contracts with tax exempt organizations for the payment of service charges to the city in lieu of taxes, and the city is authorized to receive and expend the revenue received (K.S.A. 12-147 *et seq.*). Such contracts can be made with churches and other tax exempt agencies in payment of the police and fire protection furnished them. Under K.S.A. Supp. 12-1742, payments in lieu of taxes for facilities financed by industrial revenue bonds are to be paid to the county treasurer for distribution as if the money were direct property taxes. K.S.A. 17-2349 provides for in lieu tax payments for public housing units.

**Contributions.** Some cities encourage voluntary contributions from citizens and/or organizations,

and occasionally receive substantial estate bequests.

**Dangerous Structure Removal.** Assessment and sale of salvage. (K.S.A. 12-1750).

**Eating Establishments.** Inspection fees are common if there is a regulatory ordinance.

**Electrician Examination Fees.** Many cities license electricians.

**Fire Inspection Fees.** Not common.

**Fire Fighting Service Outside City.** Several statutes provide for contracts by individuals, corporations and fire districts and a city.

**Gas Inspection Fees.** See Building Construction Fees, above.

**Hospital.** City-owned hospitals make charges for services provided.

**Lakes.** Cities which have lakes in parks or reservoirs make charges for fishing, hunting, boating, shelter house rental, camping, etc.

**Library.** Rental of books and other library material, charges for overdue books and nonresident user fees.

**License Fees.** These are related to regulations pertaining to certain businesses and occupations such as pool halls, video games, bowling alleys, circuses, etc. The fee is supposed to bear some relationship to the cost of the city in enforcing the regulations.

**Machinery and Equipment.** Rental of.

**Maps.** Some cities sell maps of the city.

**Mobile Home.** Fees for mobile home park permits.

**Motor Vehicle Accident Reports.** Copying charges.

**New Goods, Public Auction.** License fee of \$25 a day. See K.S.A. 58-1020.

**Nuisance Abatement.** The cost may be assessed against the property.

**Ordinances.** Cities which have adopted codes of ordinances usually charge for a copy. Charges for copies of ordinances.

**Parks.** The income from a city park depends upon the chargeable facilities. Concessionaires usually must pay the city for the privilege. Fees are often charged for using the swimming pool, golf course, cabin site rentals, hunting and fishing permits on city property, zoo admission, tennis courts, etc. Additional fees are sometimes imposed for nonresidents.

**Pawnbrokers.** License fee under K.S.A. 16-707.

**Personal Property.** Sale of surplus property.

**Personal Property, Unclaimed, Lost or Stolen.** Periodic sales.

**Plans for Public Works.** Usually a prospective bidder on a public works project is required to pay a stated charge for a copy of the plans and specifications or to make a deposit which is forfeited in case the plans and specifications are not returned.

**Plumbers Fees.** Some cities charge for examinations given to plumbers and for license fees.

**Police.** Charges for funeral and money escorts.

**Precious Metal Dealers.** License fee under K.S.A. 16-707.

**Recreation.** Fees for services, use of facilities.

**Rentals.** Auditoriums, real estate, etc.

**Royalties.** Oil, gas and other minerals.

**Scales.** Fees for use of public scales.

**Sewage.** Sale of sewage and sludge for fertilizer, irrigation.

**Sewer, Connection Charge.** Often substantial.

**Signs On Buildings.** Permit fee for.

**Street Privileges.** Permit fees, either as a single charge or annually, and other charges, are made by some cities for special street privileges such as: overhanging signs, areas under sidewalks, scales or truck docks and loading platforms, crossings over streets, tanks under street, etc.

**Streets, County Support.** Some cities receive payments from the county for city maintenance of county connecting links or for general street purposes.

**Street Charges.** Permit fees or charges for cutting pavement, replacing trenches, cutting curb, marking driveways, etc.

**Subdivision Plans.** Charge for processing and reviewing.

**Taxis.** Annual license fee.

**Trees.** Charges for removal from right-of-way.

**Transient Merchants and Peddlers.** License fee.

**Water, Connection Charge.** Both initial hook-up and reconnections.

**Weeds.** Assessment for destruction, mowing.

**Weights and Measures Inspections.** Fees.

**Zoning Fees.** Charge, based upon costs for publications and processing.

## **Part C -- State Aid and Shared Taxes**

Cities receive certain payments from the state, usually in the form of shared taxes. Following is a brief description of the state aid and shared tax

payments received by cities. Cities are also eligible for various state-funded grant programs, as noted in Section C-7.

**C-1.State-Local Revenue Sharing.** Annually, 3½ percent of the revenue from state sales and use tax collections (at the 4% rate) is set aside for the "county and city revenue sharing fund" (K.S.A. 79-2964 *et seq.*). The money is apportioned to each county area based 65 percent on population and 35 percent on assessed valuation. The amount apportioned to each county area is then paid 50 percent to cities therein based on population and 50 percent to the county, with all payments made directly by the state. In 1991, cities will receive about \$14.7 million from this source.

**C-2.Local Ad Valorem Tax Reduction Fund.** Under K.S.A. 79-2959, all local taxing subdivisions other than school districts receive money from the local ad valorem tax reduction fund (LATRF). This fund receives revenue equal to 4½ percent of total state sales and use tax collections (at the 4% rate). The money is first distributed to county areas, based 65 percent on population and 35 percent on valuation. On receipt of the money, the county treasurer distributes the money to all the taxing subdivisions within the county (except school districts) on the basis of relative property taxes levied for the previous year, excluding state and school district taxes. Local budgets must show, in effect, that the money received from LATRF is used to reduce property taxes which would otherwise be required. In 1991, cities will receive about \$10.7 million from this source.

**C-3.Highway Aid.** A portion of state motor fuel tax collections is distributed to cities quarterly. In addition, the state levied tax on motor carrier property is paid into the "special city and county highway fund". Cities will receive about \$47 million from this source in 1991, which is equivalent to about \$24.00 per capita. In addition, cities within counties of over 34,000 population, except in Johnson county, receive a share of the highway aid payments made to the county. (K.S.A. 79-3425).

**C-4.Highway Aid--Connecting Links.** Cities which maintain state highway connecting links receive \$2,000 per lane mile. The money is

distributed quarterly. In most cities, the state department of transportation maintains state highways within the city and no connecting link aid payment is received. (K.S.A. Supp. 68-416).

**C-5.Bingo Cross Receipts Tax.** One-third of the state's three percent tax on the gross receipts of licensed bingo operators is transmitted back to the city or county in which the bingo game was conducted. The amount paid to cities, usually in January, is about \$240,000 each year. (K.S.A. 79-4701).

**C-6.Liquor Drink Tax.** About 220 cities receive revenue from the state's 10 percent tax on the sale of drinks containing alcoholic liquor (K.S.A. 79-41a01 *et seq.*). Currently, 70 percent of the tax paid by private clubs and drinking establishments within a city is returned to that city. The money is distributed quarterly and must be credited one-third to the city general fund, one-third to a special parks and recreation fund, and one-third to a special alcohol and drug programs fund. Counties are paid the one-third share for alcohol programs in the case of cities under 6,000. In 1991, cities will receive about \$7.9 million from this source.

**C-7.State Grants.** In addition to the above, cities are eligible for various state grant payments. Grants require applications for specific purposes and differ from shared tax payments distributed on a formula basis. Following are some of the principal state grant programs currently available: (a) Local firefighter's relief associations receive about \$3.6 million annually from a state insurance premium tax, but this money is not subject to city budget control. (b) Local health departments receive certain state and federal grants totaling about \$5 million. (c) About \$2 million in state grants for various library purposes will be distributed in 1991. (d) A small amount of state aid for emergency medical service programs was available for 1990 and 1991. (e) In addition to state highway aid payments, and cooperative agreements whereby cities and counties effectively contributed to state highways of local benefit, the Kansas Department of Transportation annually provides for grants under three programs known as: (1) KLINK Resurfacing, (2) Geometric Improvements of Connecting Links, and (3) Economic Development. Applications for these

project grants are normally submitted three to four years in advance.

A few other grant programs are available, including environmental grants funded by the state water plan fund and administered by the Kansas Department of Health and Environment. There are several more grant programs that have limited state funding.

## **Part D -- Federal Assistance**

**D-1.Federal Grants in Aid.** Comparatively few federal categorical grant programs still exist. Further, most federal aid programs are now administered by state agencies. The following briefly describes most direct municipal-assistance programs financed in whole or in part by the federal government. These programs, and the annual amounts available, frequently change and are only briefly described.

**D-2.Pollution Control.** In past years, Kansas received about \$20 to \$25 million annually in federal wastewater pollution control grants, administered by the Kansas Department of Health and Environment (KDHE). However, this program is now limited to loans, under a revolving loan program administered by KDHE.

**D-3.CDBG.** The federal Community Development Block Grant program (CDBG) provides about \$25 million annually for Kansas, with the non-entitlement grant share for the "small cities" program amounting to about \$12 to \$15 million in recent years. The small cities CDBG program is administered by the Kansas Department of Commerce. The grants are made for public facilities and housing assistance, subject to federal and state guidelines. Part of the state administered federal CDBG grants to cities and counties is allocated for local economic development loans.

**D-4.Highway Grants.** All federal highway aid is administered by the Kansas Department of Transportation. KDOT also administers or provides assistance in obtaining federal aid for mass transportation programs, including programs for the elderly and handicapped.

**D-5.Airport Aid.** Federal airport aid is still available, with assistance provided to obtain direct federal grants by the aviation division of KDOT.

**D-6.Recreation Grants.** A small amount of "BOR" outdoor recreation grants have been available in recent years, administered by the Kansas Wildlife and Parks Department.

**D-7.Drug Enforcement Programs.** In Kansas, the Office of the Governor administers federal Drug Enforcement Agency grants.

**D-8.Other Federal Grants.** Other federal programs include (a) water and sewer grants and loans administered by the Farmers Home Administration, (b) economic development grants from the Economic Development Administration, and (c) various housing assistance programs administered by the Farmers Home Administration and the Department of Housing and Urban Development. As noted above, some federal assistance moneys are administered by the state as if they were state grant programs.

## **Part E -- The Property Tax Lid**

**E-1.General Explanation.** The Kansas property tax lid law, originally enacted in 1970 and set forth in K.S.A. 79-5021 *et seq.*, as amended by 1990 House Bill No. 2700, applies to counties, cities and townships. It limits the total property taxes a city may levy, for all purposes and funds not legally exempt from the tax lid, to the same amount levied in either 1988 or 1989. Increased tax dollars are permitted from growth in assessed valuation resulting from (a) new improvements on real estate and added personal property and (b) annexations. Increased taxes are also authorized by state law, for purposes covered by the lid, when approved (a) by the voters or (b) by the state board of tax appeals. In addition to statutory exemptions or authorized increases, cities may modify their tax lid by home rule action.

Some special points to remember are: (1) that the lid is on the total dollars for all covered purposes, not on each fund separately; (2) all property taxes levied are covered by the lid unless there is a legal exemption; (3) exemptions

must be granted by state law or obtained by home rule action.

**E-2.Exemptions.** As previously indicated, the tax lid law prohibits any increase in tangible property taxes, other than from natural growth in valuation, for all purposes unless there is an exemption. The principal exemptions applicable to cities are (a) *Debt Service*. "Principal and interest upon state infrastructure loans, bonds, temporary notes, no-fund warrants" (all no-fund warrants) "and payments made to a public building commission"; (b) *Liability*. "judgments, settlements and expenses for protection against liability to the extent such expenses are authorized by article 61 of chapter 75 of the Kansas Statutes Annotated" (this covers the tort claims act and statutory provisions as to federal civil rights liability); (c) *Employee Benefits*. "employer contributions for social security, workers compensation, unemployment insurance, health care costs, employee benefit plans, and employee retirement and pension programs"; (d) *Motor Vehicle Taxes Replacement*. Further, the aggregate lid total may be increased to replace revenue lost as a result of decreased special motor vehicle property taxes, which may occur in 1991 when the 1989 average countywide tax rate applied to vehicles in 1991 is reduced as result of higher 1989 valuations following reappraisal. (e) *Intangibles Tax*. As in the case of replacement revenue for reduced special vehicle tax revenue (authorized within the tax lid law itself), cities may increase their general property taxes to replace lost intangibles tax revenue, depending on when the referendum was held. This occurs since K.S.A. Supp. 12-1,101 was *not* amended in 1990. That statute continues to authorize taxes "in addition to any aggregate *amount* limitation" when voters approve the elimination of a local tax on gross earnings (intangibles).

**E-3. Increasing Taxes Subject to the Tax Lid.** The state tax lid law provides methods by which a city, county or other unit under the tax lid law may increase its taxes under the lid. These are explained below. There are two forms: (a) automatic increases, or (b) local action increases.

**(a) Automatic Increases**

(1) *Increases from new improvements and added personal property.* If the assessed valuation of a local unit, for example, is 2% higher

as of January 1, 1990 than it was for 1989, and this increase resulted from new improvements on real estate and/or added personal property, the maximum amount of taxes that may be levied under the lid may be increased by 2%.

(2) *Increases from territory changes.* If territory is added to a taxing unit, the proportional increase in valuation raises the property tax lid amount. For example, if a city annexes territory which has a valuation equivalent to .5% of the city's previous valuation, its tax lid authority is increased by .5%.

**(b) Increases By Local Action**

(1) *Board of Tax Appeals.* Under K.S.A. 79-5030, a taxing unit may apply to the State Board of Tax Appeals for authority to increase its taxes under the lid. The board must find that there is an "extreme emergency need." The procedure involves three legal publications, with the possibility of a voter petition for a referendum on the board-approved increase. *Similar authority in the past has rarely been used.*

(2) *Voter approval.* Under K.S.A. 79-5029, a referendum of the voters may be held to increase the tax lid amount, but these referendums may only be held on the first Tuesday in June, at a general election held in April or November or at any primary election. *This procedure has also rarely been used in the past, because of the home rule option flexibility explained below.*

(3) *Home rule option.* A local unit may use what is called a home rule option to either exempt itself from the tax lid law or to modify its provisions, under K.S.A. 79-5036 as amended. The complete exemption approach would be similar to many past city charter ordinances that simply elected not to be governed by the previous property tax lid law in its entirety. The modification provision could include such approaches as (1) increasing the tax lid by a specific amount or percentage amount, or (2) exempting taxes levied for a certain purpose, such as for drug abuse control programs or for street and highway purposes. In the case of cities, the constitutional home rule provision (section 5 of article 12) is to be used. See Chapter 3.

**E-4. Levy Rate Limitations.** Generally, there are few state laws that specify tax levy rate limits for city tax funds. Under K.S.A. 79-5022, as amended, all statutory fund mill levy rates are

suspended. It is the aggregate total taxes that is controlled. For example, the statutory industrial development fund levy limit of 1 mill, or the noxious weed levy limit of 1 mill, are no longer relevant--statutory rate limits are suspended. The governing body has rate levy discretion to levy whatever it wants for these purposes. However, the taxes levied for these and all other non-exempt purposes uses up part of the limited tax lid authority. If taxes levied for these purposes are increased, then taxes levied for other purposes must be proportionally decreased to meet the total lid controlled amount. The tax lid controls total taxes, not individual tax funds.

**E-5. Terms of Tax Lid Law; Information.**

The current 1990 tax lid law expires July 1, 1991. However, since Kansas has had a tax lid law since 1970, it will probably be continued. For more information on the current tax lid law, see the June 1990 issue of *Kansas Government Journal*.