

Approved: January 26, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on January 20, 1993 in Room 531-N of the Capitol.

All members were present except: Sen. Gooch - Excused

Committee staff present: Michael Heim, Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

John Torbert, Kansas Association of Counties
Chris McKenzie, League of Kansas Municipalities

Others attending: See attached list

The Chairman began the meeting by announcing that the committee will not meet for the requests for the introduction of bills tomorrow as scheduled but rather on Tuesday, January 26. He then called on John Torbert, Kansas Association of Counties, to begin the conclusion of the panel discussion of a financial overview of local government.

Mr. Torbert discussed the financial aspects of county revenue, the role of county government in the property taxation process and the duties of county officers. He explained that the county tax lid relates back to a base year. It is set to expire June 30 of this year, therefore, there will need to be a decision made as to if it is still needed. If so, policy questions will need to be answered. The most controversial portion of the lid is what is exempt from it. He also discussed sales tax and explained that this is used to provide services such as administrative costs, road and bridge fund and employee benefits. He concluded with a discussion of county mandates which is a means of the county acting as an agent for the state. However, counties do look to the legislature for consideration that the mandates must be paid for by the counties.

Sen. Ramirez requested that Mr. Torbert submit his presentation in writing, and he agreed to do so.

The Chairman called on Chris McKenzie, League of Kansas Municipalities, for his review of municipal revenues, expenses and mandated costs of cities. (See Attachment 1) He also spoke on municipal revenue sources. (See Attachment 2)

Mike Heim, Legislative Research, followed with an explanation of state controls of the expenditures of local units of government which are the Cash Basis Law, the Budget Law and the Accounting and Auditing Law. He concluded with briefly touching on local government borrowing, referring to long term and short term debt instrument exceptions to the Cash Basis Law.

The meeting was adjourned at 9:57 a.m.



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.

*Senate Local Gov't
1-20-93
Attachment 1*

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
	<u>468,817</u>
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

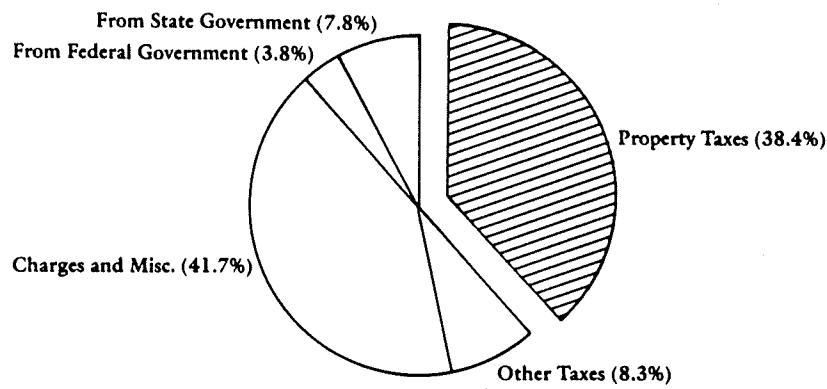
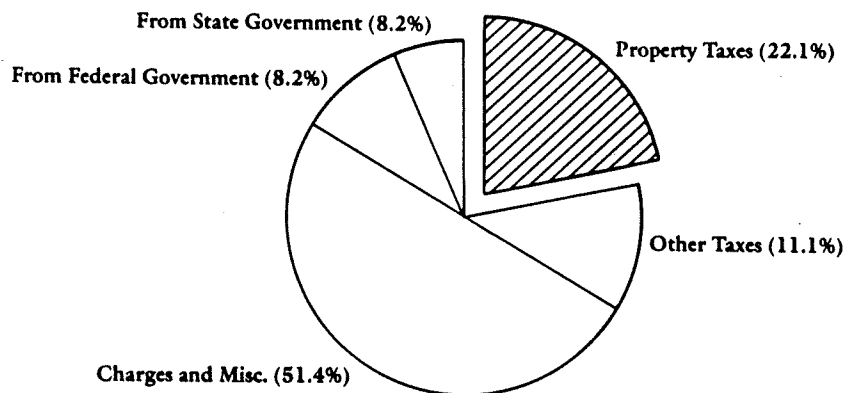


Chart 3
KANSAS CITY REVENUES
1983-84 Fiscal Year



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--Estimated City Share ¹	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 ²	31,361,093	32,510,191	34,709,608	43,175,730	43,782,700	46,801,610	49,235,860
Special City & County Highway Fund--City Share of Certain County Receipts ³	6,894,705	7,159,464	7,664,000	8,881,531	9,197,700	9,418,700	9,667,000
Connecting Link Payments--Certain Cities Only ⁴	1,369,060	1,346,918	1,342,940	2,158,681	2,143,733	2,200,000	2,200,000
Net to Gross Receipts	250,432	244,146	240,370	247,831	272,320	279,128	286,106
Liquor Drink Tax ⁵	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

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

² Includes motor carrier property tax transfer.

³ 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.

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

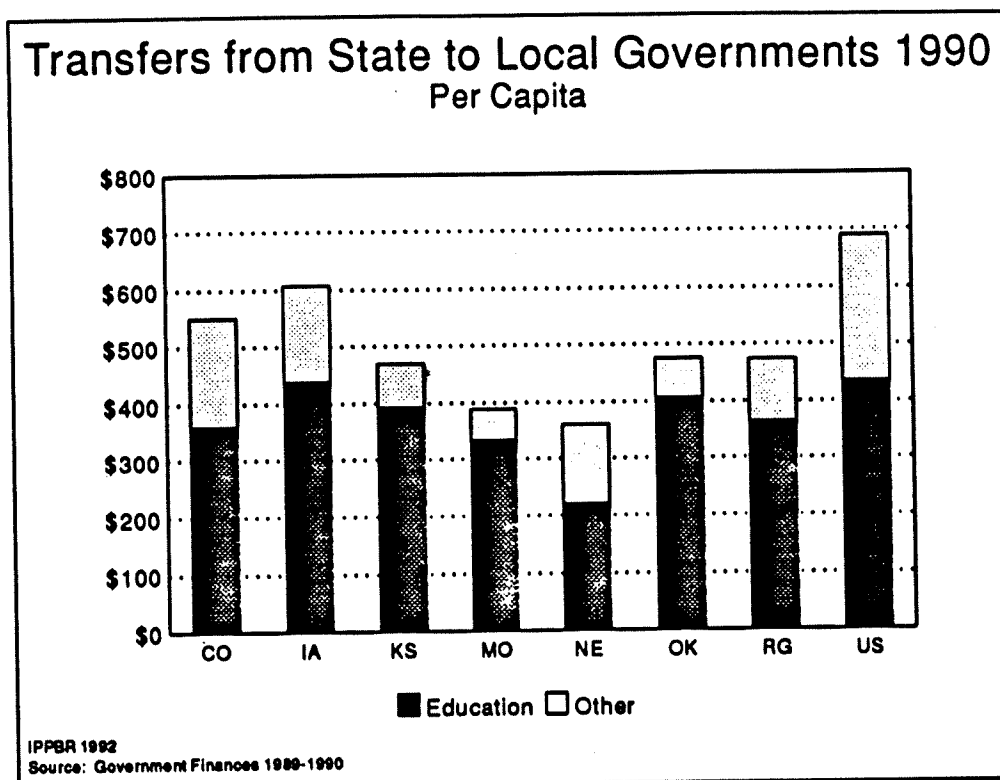
⁵ Payments made to those cities in which games held. 1992 and 1993 estimates assume annual increase of 2.5%.

⁶ 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 exception, 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 Tips³⁵, League of Kansas Municipalities



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

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MANDATED COSTS
JUNCTION CITY, KANSAS

1992 Costs

Americans With Disability Act	\$26,000
* 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

Bloodborne Pathogen Innoculations	\$	9,750	
Lead and Copper Monitoring of Water System		3,000	(Annual)
NPDES Sewer Permit	\$	<u>1,110</u>	
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	\$	<u>10,000</u>	
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

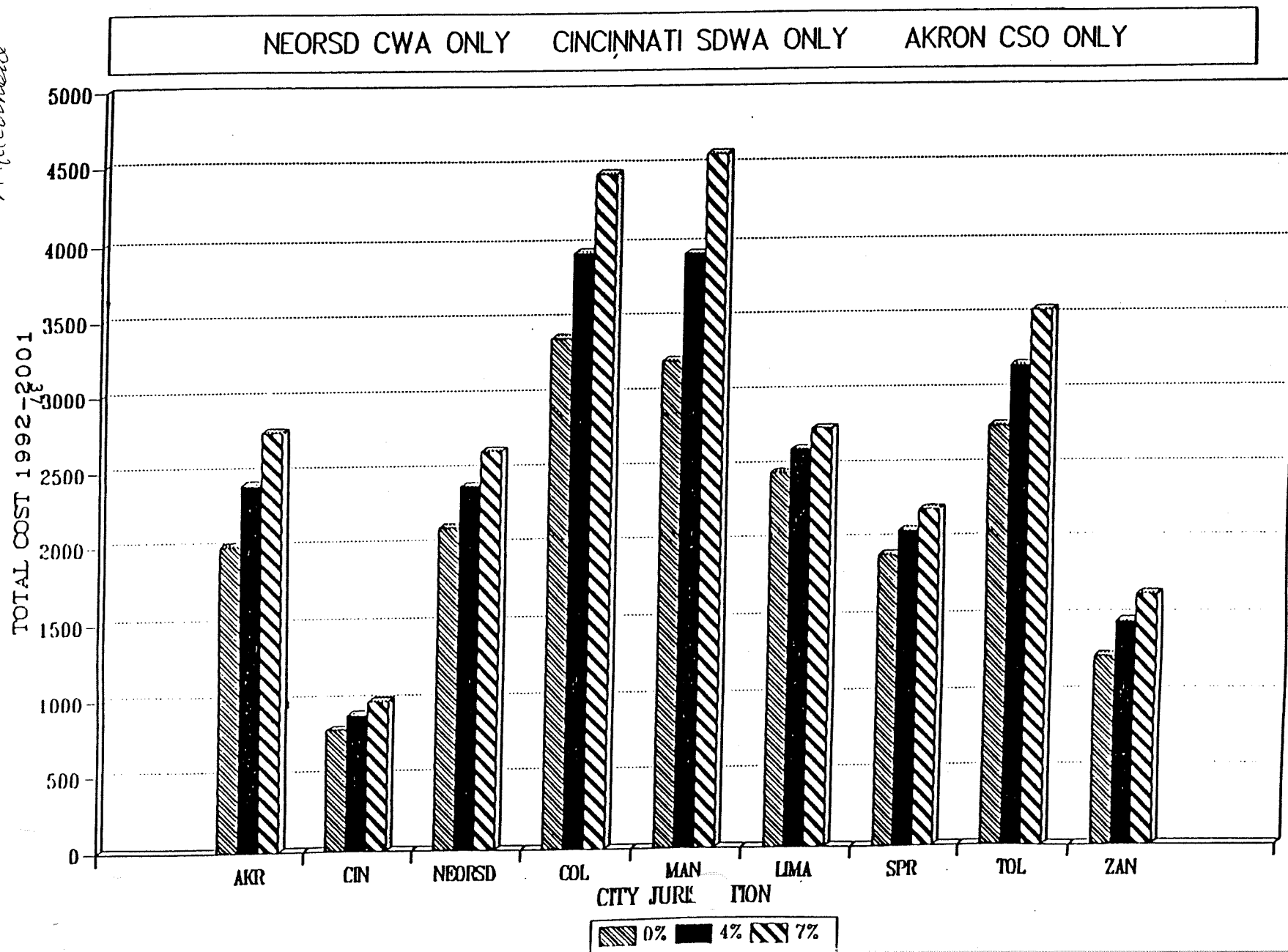
CUMULATIVE COST OF FEDERAL ENVIRONMENTAL MANDATES PER HOUSEHOLD 1991-2000

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
TOTAL		\$ 4,659

Source: City of Anchorage, Alaska

ENVIRONMENTAL COMPLIANCE COSTS

TOTAL COSTS PER HOUSEHOLD 1992-2001



Source: City of Columbus, Ohio Health Dept

MUNICIPAL REVENUE SOURCES:

A Basic Review for Elected City Officials in Kansas

League of Kansas Municipalities



*Senate Local Govt
1-20-93
Attachment 2*

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

League of Kansas Municipalities
112 W. Seventh Street
Topeka, Kansas 66603
June 1990
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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 2 1/4%. 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 75c 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*.