



Terrifying Truths
About
Kansas Taxes

Oct 17, 2022

Wool Market & DIY School - Hutchinson, KS

KANSAS TAXES – PAST, PRESENT & FUTURE

Chris W. Courtwright , Governor’s Council on Tax Reform

Thoughts on
Kansas’ Wild Ride



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Who Pays?
Who Benefits?

Why Political Focus on Property Tax?

Visibility

Timing

Squeaky Wheels Get the Grease in Politics



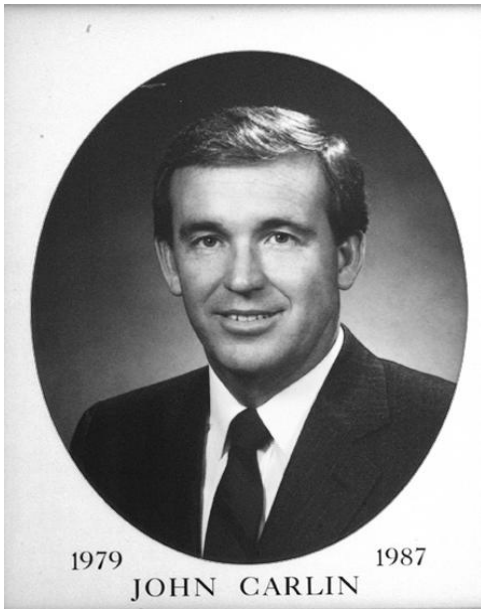
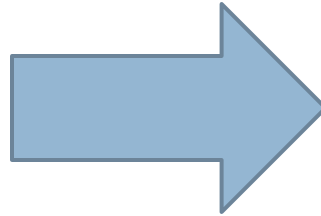
Reappraisal and Classification

- **By mid 80s, property tax system was badly outdated and endemically flawed.**
- **Previous reappraisal had generally occurred in waves from 1959-1972.**
- **Most values had not been updated since 60s.**
- **Coefficients of dispersion for residential parcels in excess of 40 (!).**

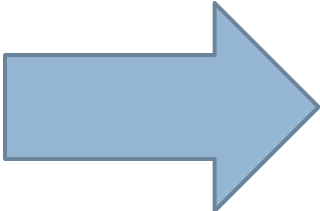
Reappraisal and Classification

- **Legal jeopardy – uniform and equal (KS); Equal Protection (US).**
- **Legislature OKs 1985 reappraisal bill, with new values to kick in 1/1/89.**
- **Classification amendment passed in '86 to mitigate certain shifts.**
- **1989 Special Session, Prop Tax “Revolt”**

1990 Democratic Primary



1990 General Election



School Finance – 1992

After late 80s shockwaves from reappraisal and classification, belief was widespread property taxes were too high. The '92 school finance law substantially altered USD property taxes. In 1991, USD general fund levies ranged from 9.12 mills (Burlington) to 97.69 mills (Parsons). The new law established uniform general fund levies of 32 (1992), 33 (1993), and 35 mills (1994 and beyond). Starting in '97, there were subsequent reductions (currently set at 20 mills) in addition to a \$20,000 exemption for residential property.

Tax Policy Goal – 3 Sturdy Legs



Economists generally believe that with a diversified revenue portfolio not relying too heavily on a single source, Kansas state and local governments are better able to withstand economic downturns. Indeed, the Governor's Tax Equity Task Force in 1995 concluded as a major tax policy objective that:

State of Kansas



Bill Graves, Governor

Report of the

Governor's Tax Equity Task Force



December 1995

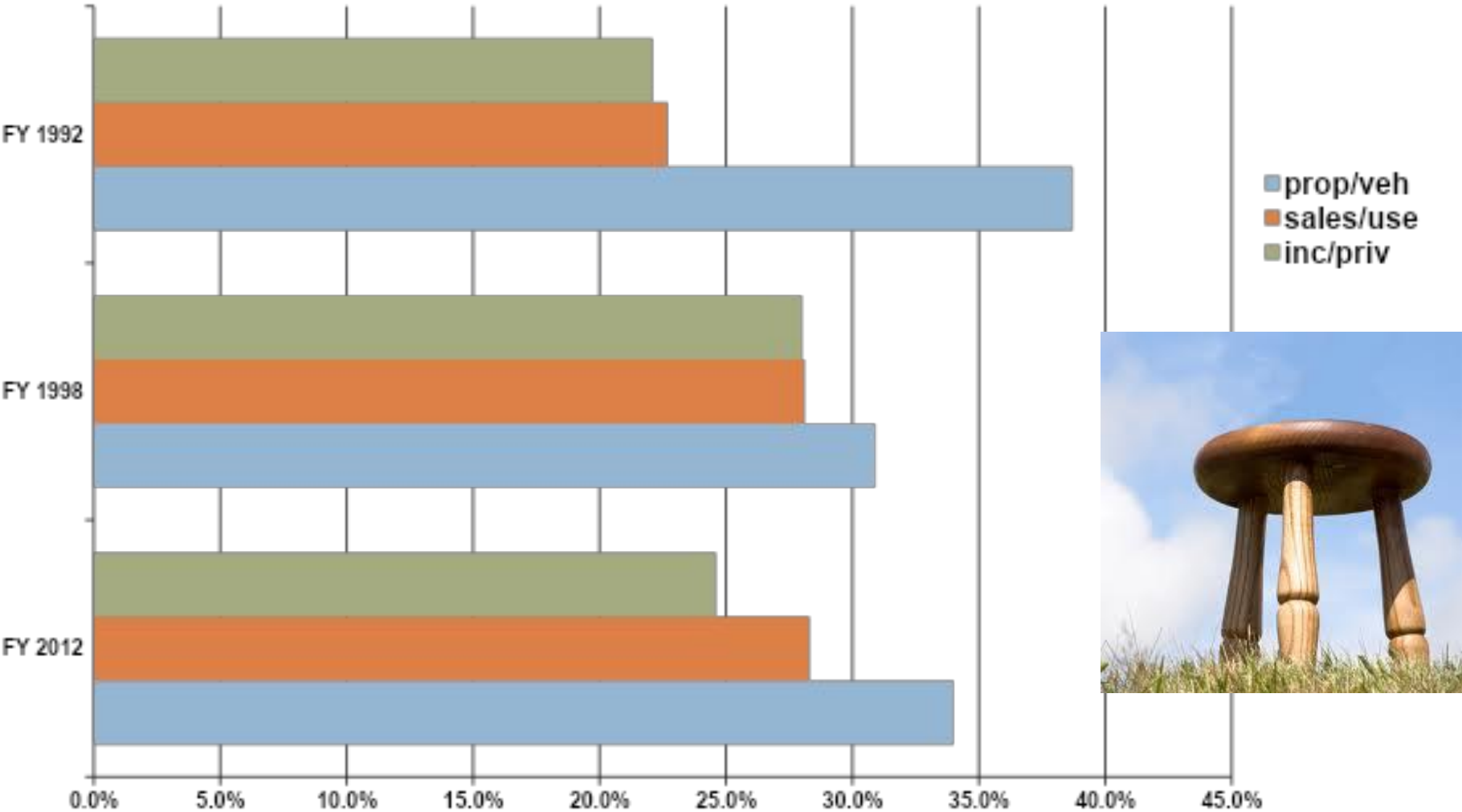
“The state and local tax system should be balanced and diversified. A diversified tax system offers a blend of economic tradeoffs. Because all revenue sources have their weaknesses, a balanced tax system will reduce the magnitude of problems caused by over-reliance on a single tax source. It will also result in lower rates on each tax and reduce the pressure of competition from other states that have lower rates for a particular tax.”



1995 Graves Tax Equity Task Force

3 Legs: State/Local Finance “Stool”

(Percent of State and Local Taxes by Source for Selected Years)



2010 and 2012 Elections

New policymakers in power in Topeka do not embrace prior bipartisan consensus about tax policy balance and 3-legs approach.

View recovery from Great Recession as a (Hunger Games race-to-bottom?) contest between states in effort to leverage eco devo advantage with tax cuts.

“Real Live” Kansas Tax Experiment

“On taxes, you need to get your overall rates down; and you need to get your social manipulation out of it, in my estimation, to create growth. We’ll see how it works. We’ll have a real live experiment.”

- Kansas Gov. Sam Brownback on MSNBC’s *Morning Joe*, June 19, 2012



What Happened? KS Budget Woes

BALANCING THE BUDGET

State faces \$800M shortfall

Lawmakers left to find up to \$131M

He wants us to do it. He wants the Legislature to make the hard decisions, to take the tough votes. The only way to do this is with by increases."

Brownback unveils \$72M in expense cuts

By Tim Carpenter
 timothy.carpenter@online.com



Gov. Sam Brownback released new ideas for millions in spending reductions Thursday, but nevertheless fell far short of providing lawmakers with a balanced budget proposal. Even assuming the Republican-dominated Legislature implements the conservative governor's recommendations, lawmakers will still be left to scrounge up to an additional \$131 million to balance next year's budget.

The House Appropriations committee met for the first time since a new forecast earlier in the week showed the state's revenue situation will likely be worse than previously expected. At the hourlong meeting, Budget Director Shawn Sullivan said proposals that in total exceed the state general fund spending fiscal year 2016 by about \$131 million.

By Jonathan Shorman
 jonathan.shorman@online.com

Gov. Sam Brownback submitted a budget amendment to the Legislature on Thursday to reduce state general fund expenditures and ease the burden of producing balanced budgets in the next two fiscal years. The recommendation to members of the House Appropriations Committee was in response to a bleak revenue analysis demonstrating lawmakers had to close a \$400 million revenue shortfall for the fiscal year starting July 1. The deficit would expand if budget proposals offered by Brownback in January — borrowing from the state highway fund, for example — aren't accepted by the 2015 Legislature.

Tax collections to Kansas treasury collapsed with implementation of major business and individual income tax reductions approved by Brownback and Republican legislators in 2012 and

Chris Courtwright, principal economist for the Kansas Legislative Research Department, answered questions from members of the House Appropriations Committee.

THAD ALTON/THE CAPITAL-JOURNAL

Beyond Fiscal Woes: New Equity Issues

Repeal Income Taxes for Non-Wage Business Income

Major Rate Cuts; Top Bracket Repealed Altogether

Cuts to Food Sales Tax Rebate Credits

Receptionist in Vet's Office Paid Taxes; Vet Did Not



Major Tax Policy Changes 2012-15

Individual Income Tax Brackets, Married Filing Jointly

	<u>1992-2012</u>	<u>2016-17</u>	<u>2018-20</u>	<u>2021-</u>
\$0-30k	3.50%	2.70%	2.60%	“Glide- Path” Formula
\$30k-60k	6.25%	4.60%	4.60%	
\$60k+	6.45%	4.60%	4.60%	

Note: All non-wage business income exempted in 2013.

Sales Tax increase from 5.70% to 6.15% to 6.50%

Cigarette Tax increase from \$0.79 to \$1.29/pack

Food sales tax rebate credits made non-refundable

Renters removed from Homestead Prop Tax Program



Sales Tax on Groceries Issue

Kansas one of few states applying full rate to groceries.

A refundable credit had been available since 1978.

The refundable credit was repealed in 2012 as one of the former Governor's recommended "pay-for" provisions to help offset the fiscal impact of massive income tax cuts.



2017 SB 30: Income Tax Reform

<u>Individual Income Tax Brackets, Married Joint</u>				
	Tax Year	Old Law	New Law	New Law
<u>Taxable Income</u>	<u>1992-2012</u>	<u>2017</u>	<u>2017</u>	<u>2018-</u>
\$0-\$30k	3.50%	2.70%	2.90%	3.10%
\$30k-60k	6.25%	4.60%	4.90%	5.25%
\$60k+	6.45%	4.60%	5.20%	5.70%

Enacted over veto, requiring 2/3rds legislative majorities (84 and 27 votes needed instead of 63 and 21). Three brackets restored. Non-wage exemption repealed. Glide-path formula repealed. Certain itemized deductions and credits restored.

2016 and 2018 Elections

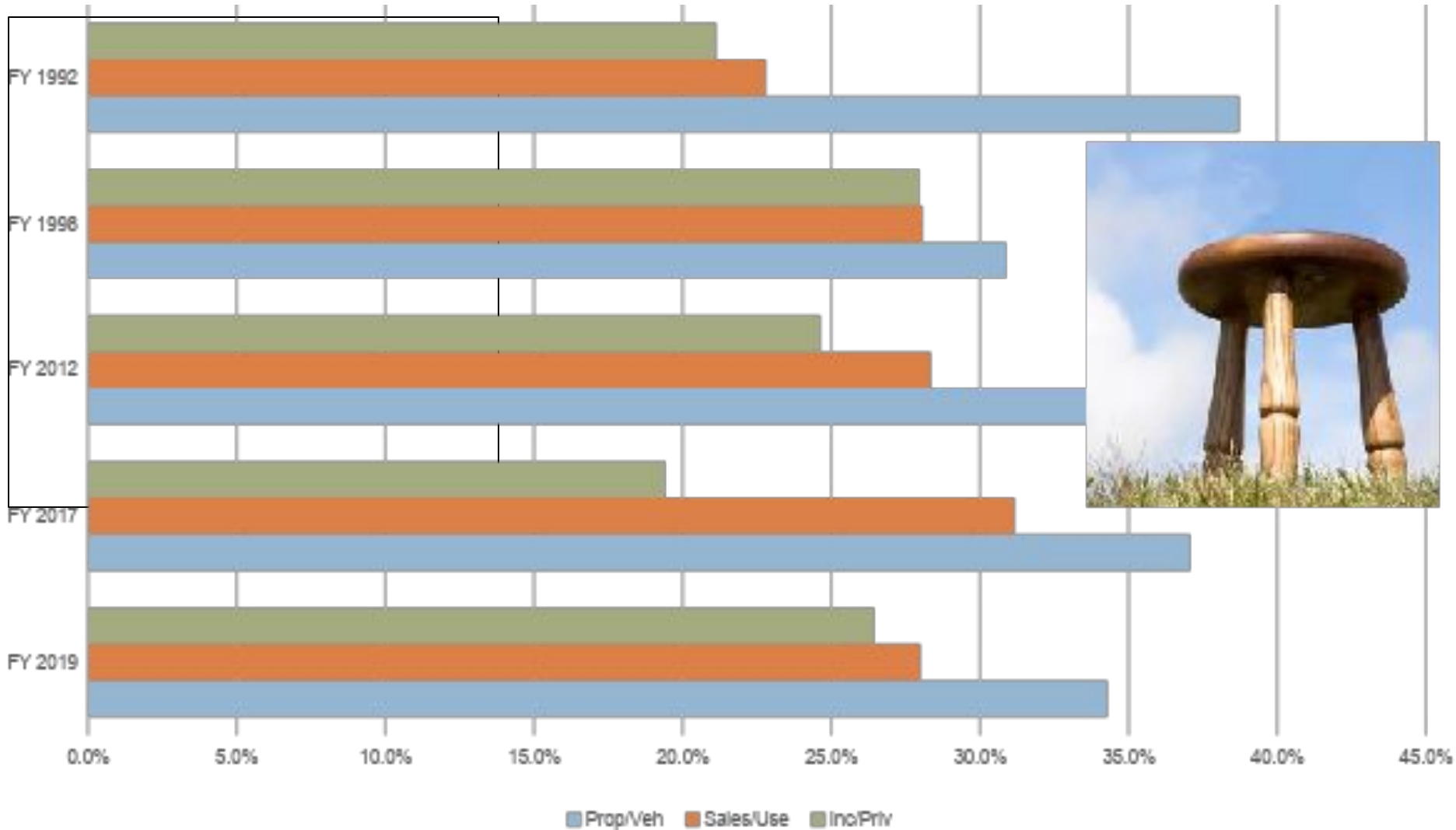
Results interpreted as rejection of thinking behind failed experiment.

Lawmakers elected in 2016 instrumental in shepherding badly needed veto override vote re income taxes through in 2017.

Governor Kelly defeats Kobach, who generally embraced much of the Brownback/Colyer era dogma about state and local tax policy.

3 Legs of State/Local Finance “Stool”

(Pct of Total Kansas State and Local Taxes by Source for Selected Years)



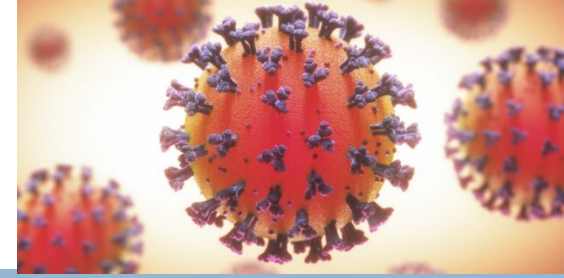


Council on Tax Reform - 2019

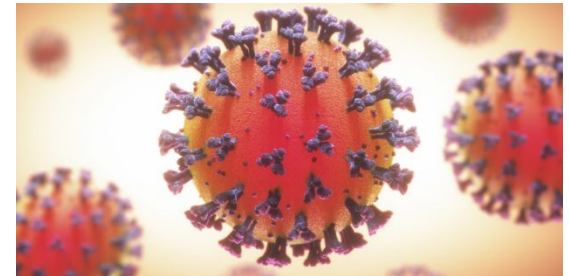
Initial report calls for increased progressivity, esp restoration of refundable food sales tax credit and “3-legged stool” approach to state/local finance (Dec 2019)



But ... COVID-19 Arrives



COVID-19 truncated 2020 session and its policy deliberations, while creating a new set of public-sector demands amid reduced resources because of collapsing economy and its impact on receipts. Governor Kelly (Nov'20) announced the Council would be extended for another year to help policymakers digest the latest economic and revenue forecasts and continue discussing tax reform proposals given still-emerging realities of the ongoing nature of the COVID-19 crisis.



Second Tax Council Report



“... a great many medium- and long-run social costs that have yet to be realized that are going to continue to provide additional stress on governments at all levels. Some research has shown that significant mental health costs from the 1919 flu pandemic lasted for well over a decade.”

So said that tax reform proposals in 2021 were likely going to need to be relatively modest and have “any tax reductions targeted to the people most in need of relief.”

Also strongly supported inclusion of state and local aid as part of American Rescue Plan.

“Axe the Food Tax” Plan



Announced by Governor Kelly last fall; new higher revenue forecast plus federal funds (that Kansas GOP members of Congress opposed) made possible. A major issue since 1937.

Was to kick in on July 1. Does not apply to food in restaurants, just groceries. Local sales taxes on food would stay on.

Of the 45 states with sales taxes, only 7 (incl Kansas) fully tax groceries; and only one (Mississippi at 7%) at a higher rate.



Could save family of 4 more than \$500 per year.

“Axe the Food Tax” Plan



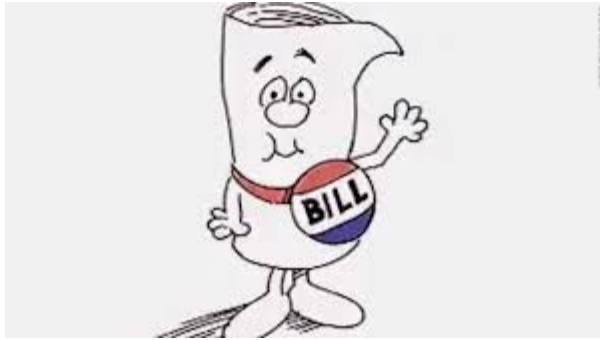
Only possible because state’s fiscal situation has recovered, notwithstanding the pandemic and its impact, under Governor Kelly after Brownback’s spectacularly failed “tax experiment”. Estimates are taxes would be reduced by \$450 million.

Multiple politicians in both political parties said “yes” - it is time to do this. Governor asked for the bill to be on her desk by Kansas Day (January 29). Why didn’t it happen?

***2022 Election
Year Political
Dynamics at the
Statehouse
unfortunately set a
nasty tone***



How Bills REALLY Become Law ...



Schoolhouse Rock too simplistic



**The Real World:
Conference
Committees**

Tax “Conference Committees”

House and Senate negotiators – often meeting in wee hours of morning – supposedly to hammer out differences and develop a “compromise” version that can pass both chambers – end up writing the only proposal that may get voted on.

No official minutes kept of Kansas conference committee meetings, so where’s the accountability and transparency?



Tax “Conference Committees”

GOP concocted a plan that will take until 2025 years to phase in the 6.5% full exemption and would NOT start until January 1 (after the election). Denied everyone a chance to vote on the “real” bill proposed by the Governor – full and immediate July 1 exemption.



State Sales Tax Enactment History

1921 – West Virginia

1930 – 12 states

1937 – Kansas sales tax enacted (2.0%)

1940 - 30 states

2022 – 45 states (not Alaska, Delaware, Montana, New Hampshire, Oregon)



Depression Era Concerns re Equity

Food Taxation, Regressivity an Issue for Many States

1938: 8 states exempt food (3 limited to only “off-premise” consumption)

Kansas F Note would be \$2.6 m to exempt all food, \$2.1 m for off-premise. (Total receipts were \$10 m).

Source: October 1938 Report to Committee on Assessment and Taxation by F. H. Guild, Director of Kansas Legislative Research Department



Kansas Food Tax Issue History



1971: 17 states exempt off-premise food purchases

Kansas off-premise F Note would be \$22.1 m. (Total receipts were \$166.5 m).

Income tax credit as exemption alternative proposed in Kansas. (Indiana had enacted one in 1963).

Credits believed less costly and better targeted.

Source: 1971 Special Committee on Assessment and Taxation Report to 1972 Kansas Legislature

Kansas Food Tax Issue History



1978: Kansas enacts Food Sales Tax Rebate Program

Refundable Income Tax Credit Requiring Both Income and Demographic Tests to be Met

Major Legislative Expansions: 1986, 1998, 2002, 2010

2012: Refundable Piece Repealed for Tax Year 2013, Wiping Out 2/3rds of Program

2013-22: State rate hike (2015) and continued local sales tax proliferation increase regressivity, burden

Kansas Sales Tax Rate History



1937 – 2.0%

1958 – 2.5%

1965 – 3.0%

City and county sales taxes began in early 1970s

1986 – 4.0%

1989 – 4.25%

1992 – 4.9%

2002 – 5.3% (drop to 5.0% later repealed)

2010 – 6.3% (drop to 5.7% later amended)

2013 – 6.15%

2015 – 6.50%

State Sales Tax Tokens

How to handle a 10-cent purchase and 2 percent tax?

Illinois first state to issue tokens in 1935

12 states issued tokens, valued in mills (tenths of a cent)

Kansas sales tax included a token system in 1937



State Sales Tax Tokens

Feds suggested states prohibited from coining money

Tokens proved to be wildly unpopular in Kansas

Kansas in 1939 first state to abolish tokens

Adopted the rounding/bracket system

Missouri last state to abolish tokens in 1961



1936 KS Gubernatorial Election

Walter Huxman (Democrat) 51% ✓

Will West (Republican) 48%

Others 1%

(Presidential:

FDR 54% ✓

Alf Landon 46%)

Governor Walter A. Huxman ('37-39)

Reno County native (born Pretty Prairie, 1887)

ESU, KU Law ('14), Hutch City Attorney ('19-'21)

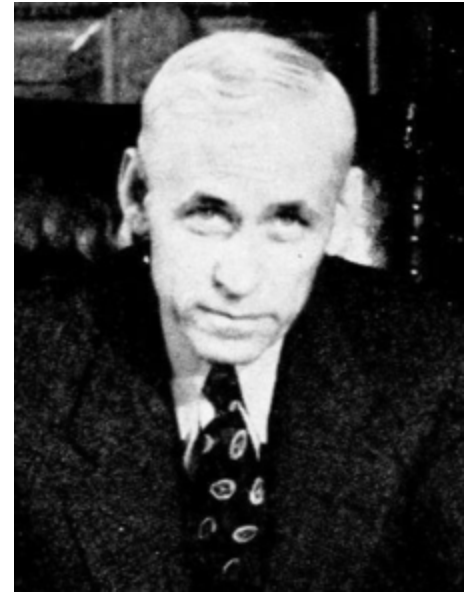
Democrat elected in 1936 (succeeding GOP's Alf Landon)

Signs 1937 sales tax adopted by GOP lawmakers

Successes in '37-'38: Unemp comp, WWI bonuses

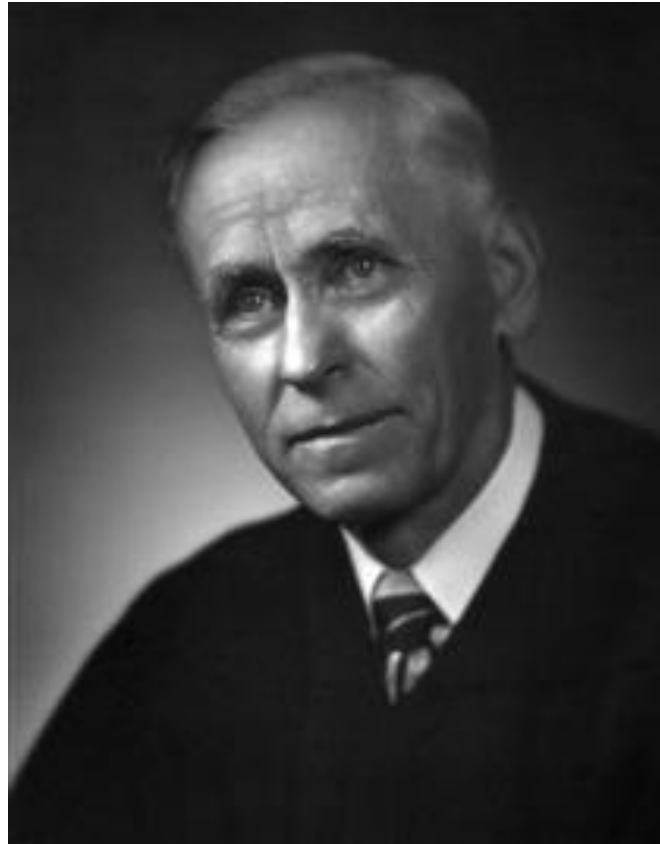
GOP runs in '38 on token unpopularity ("Huxies")

Appointed to federal bench by FDR in '39



The Hon. Walter A. Huxman

Long, Distinguished Legal Career on US Tenth Circuit Court of Appeals (1939-1962) included historic role in *Brown v. Board*



Brown v. Board

When hearing the *Brown v. Board* case at the Court of Appeals in 1951, the Tenth Circuit had its hands tied by the 1896 *Plessy v. Ferguson* precedent. But Huxman, the presiding judge and brilliant tactician, in his ruling nevertheless appended nine “Findings of Fact” based on the testimony of multiple social scientists. Fact VIII - the psychological premise that segregation had a detrimental impact on black children - was a particularly critical finding. “This was the windfall the NAACP needed to (successfully) appeal the case to the Supreme Court.”

- Library of Congress



Brown v. Board

Huxman himself in an oral interview later confirmed that he knew his ruling would have to be crafted in just such a specific and surgical manner, enabling SCOTUS to overturn its own 1896 precedent:

“We weren’t in sympathy with the decision we rendered. If it weren’t for *Plessy v. Ferguson*, we surely would have found the law unconstitutional. But there was no way around it - the Supreme Court would have to overrule itself.”

– The Hon. Walter A. Huxman



1938 KS Gubernatorial Election

**A referendum on tokens (“Huxies”) or
the tax itself?**

Payne Ratner (Republican) 52%



Walter Huxman (Democrat) 45%

Others 3%

Gov. Payne Ratner in Later Years



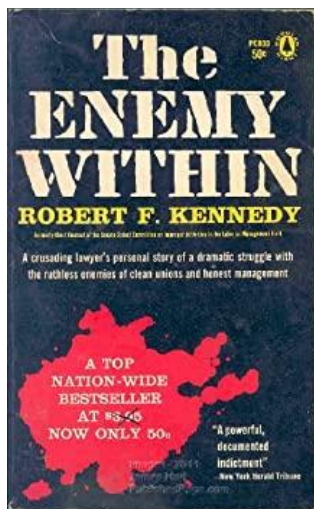
Payne Ratner



Jimmy Hoffa

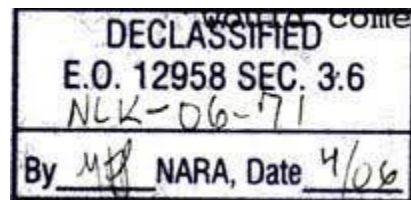
Gov. Payne Ratner in Later Years

Ratner in the 1950s is hired by Jimmy Hoffa to pressure a Kansas congressman to drop a US House probe into Teamsters racketeering. Ratner is subsequently dragged in to face Senator John McClellan's US Senate racketeering panel and forced to testify about the matter. (*The Enemy Within*, Robert F. Kennedy, Harper, 1960).



Gov. Payne Ratner in Later Years

In 1958, Ratner rages at an investigative staffer for McClellan's committee, telling him that he was glad McClellan's son had recently been killed in an accident. "It serves him right," Ratner said. (Walter Sheridan Oral History Interview, March 23, 1970, RFK Oral History Program, JFK Presidential Library, NARA)



Gov. Payne Ratner in Later Years

Ratner in 1960s is indicted for a series of unethical legal activities, but the charges were somewhat suddenly and mysteriously dropped. His *Wikipedia* and National Governors' Association pages note only dryly that "his case was dismissed, and he was cleared of all charges."



“Where the Bodies are Buried”



“Where the Bodies are Buried”



**The Hon. Walter A. Huxman
(1887-1972)**

Topeka Memorial Park Cemetery



**Payne Ratner
(1896-1974)**

Wichita Park Cemetery and Mausoleum

**Jimmy Hoffa
(1913-1975?)**

The Meadowlands?



Contours of Prop Tax Debate

Property tax traditionally is least popular tax (since at least 1907).

Timing & visibility create unpopularity. (Squeaky wheels get the grease?)

Residential share of tax base has grown a lot. (35 pct in 1992; and 54 pct in 2022). Now Residential growing fast! What about Dark Store Theory?

If schools levy 43 percent of all property taxes, but their funding has laying on of hands from the courts, how can overall property tax burden be addressed holistically?

Policymakers often fail to understand how taxes shift when certain targeted changes made. (Squeezing balloon). But wasn't always this way – inventories in 1989; slider payments in 2006.

Prop Tax Hikes from Statehouse

Slider payments almost immediately repealed with onset of Great Recession, causing big shifts on to other classes (esp residential).

LAVTRF/CCRSF – demand transfer payments for locals that helped hold down property taxes since 1930s were abolished in 2002 in wake of 9/11 recession. (\$3.2+ billion withheld)

R/V Tax (weight and age); Boat Tax (5 pct) – more tax shifts

Insatiable appetite to cut taxes extended to mortgage registration taxes in 2014 (an election year). More tax shifts

Evolution of Prop Tax Debate

In late 80s/early 90s, over half the bills in tax committees were property-tax related.

In 2010s, property tax issues took a back seat in Topeka as state dealt with the Great Recession and tax cut/reform rollercoaster.

Activity in Legislature, especially Senate since 2018, indicates renewed focus on property taxes is here.

What property tax issues will be on the table in 2023 and will shape the future?

Valuation Notices Each Spring ...



Ideas and Issues – Any Good?

Valuation limitations and caps. Prop 13 style restrictions on growth in valuations for certain types of property. (Could increase mill levies and shift tax burden onto other properties, further exacerbating perceived inequities.)

Deceleration of annual valuations could be on the table. (Slippery slopes on multiple fronts).

Storm damaged property abatements. (Tax Council said “no”)

Can P Tax Debate be Modified?

Rather than messing with tax base and causing more inequitable balloon-squeezing shifts, or ever-changing obsession with trying to control local units' budgeting from Topeka (tax lids; Truth in Taxation) ...

Can debate be shaped to convince policymakers to consider: (1) Additional homestead circuit breaker enhancement to assist fixed income homeowners; (2) reinstitute LAVTRF to reduce local taxes; (3) expand smorgasbord of alternative revenue options; (4) further expansion of K-12 residential exemption; (5) classification amendment to reduce residential assessment level to offset squeezed balloon since early 90s.

Selected Council Subcommittee Recs

Increase residential exemption from 20 mill USD levy from \$20k to \$40k (Yes); (New Proposal: to \$65k)

Increase SBOTA funding, especially for IT services and website functionality (Yes);

Expand Homestead Property Tax Refund eligibility (Yes);

Restore LAVTRF funding (No); (New Proposal: \$128 million)

Authorize additional local taxing options as alternatives to property taxes (No);

Revenue Forecasting in Kansas



“Consensus” Revenue Estimating (CRE) Process

State General Fund (SGF) Receipts

Individual Sets of Estimates Made Independently

Qualified Unanimity (Everyone Agrees, Supports Final Product)

Governor Required by Law to Utilize

Open Meetings Act Exemption - Confidentiality

Economic Outlook Agreement – Key Metrics and Industries

6 Members: Dept of Revenue; Budget Division; Legislative Research; 3 Consulting Economists: KU (Juhl), K-State, WSU

Consensus Estimating Timing



Main CRE Group Convenes Twice – November and April (in the spring, required to meet “on or before April 20”). Always assumed to have perfect omniscience about current state and federal law.

November – Revise Outlook, Revise Current FY Forecast, Make First Forecast for the Out-Year (for year starting the next July 1)

April – Revise Outlook; Revise Current, Upcoming Year Forecasts

June – Change April Ests for Legislation Enacted in May, June

Monthly Tracking Reports Serve as Interim Proxies

CRE Estimates – April 20, 2022



Total taxes had been up \$302 million thru March (mostly from “Big 4” sources – indiv inc \$144m; corp inc \$63m; sales \$52m; use \$13m)

No surprise then that FY 22 tax receipts were raised by \$411 million. FY 23 taxes raised by \$349 million. (Growth rate slowed from November – concern over inflation, war, etc).

New estimate factors in law change of \$500 m transfer to rainy day fund.

Bottom line: Kansas’ Receipts Held Up Better than Many States During Pandemic. Why?

Why Always Exceeding Estimates?

Why did Kansas taxes and public sector hold up so well during the pandemic and why are revenue forecasts almost always revised upwards twice a year now?

- **Slight CRE institutional conservatism (literature)**
- **Repeal of failed tax experiment in 2017 restored higher revenue elasticity to individual income tax**
- **SCOTUS *Wayfair* decision garners more use taxes – especially critical during pandemic stay-at-home days and acceleration of e-commerce**
- **Federal relief packages included state/local aid**

\$\$\$ Current Status SGF \$\$\$

Tax receipts for FY 22, which ended June 30, crashed in above the final estimate made in late April by over \$438 million. (The excess would have been well over \$500 million but for a one-time refund to the Bicknell estate as a result of litigation that had not been factored in prior to a court decision.)

The final forecast for FY 22 total tax receipts that turned out to be far too low had just weeks earlier (in late April) been increased by over \$411 from the prior estimate made in November. This means final FY 2022 receipts finished more than \$900 million higher than the forecast last November.



Snowballing Cumulative Impact



SGF thru September: \$237 million ahead of current FY 23 cumulative July-Sep estimate just 3 months into the fiscal year, with no indication that any of it is one time money that won't be built into the base and repeated next year.

So let's say at the end of October, we gave gained another \$63 million for that month by itself. That puts us up \$300 m four months in when CRE reconvenes on November 9. Then let's assume they ONLY add \$500 million to FY 23 CRE. (The \$300 m they are up thru October and a more modest \$200 m more assumed to beat the old estimate over the last 8 months of the fiscal year.)

Then with FY 24 estimate coming off that much higher of a base, the FY 24 estimate will be \$500 m or so higher than it currently appears on any budget profile. So in an FY 24 ending balance sense, there will be an extra \$1 billion of available resources for the budget policymakers will be writing in January above and beyond any profile that they are now looking at (\$500 m in FY 23 and another \$500 m in FY 24).

So on the Table in 2023 ...



Tax Cuts

Tax Cuts Coming in 2023

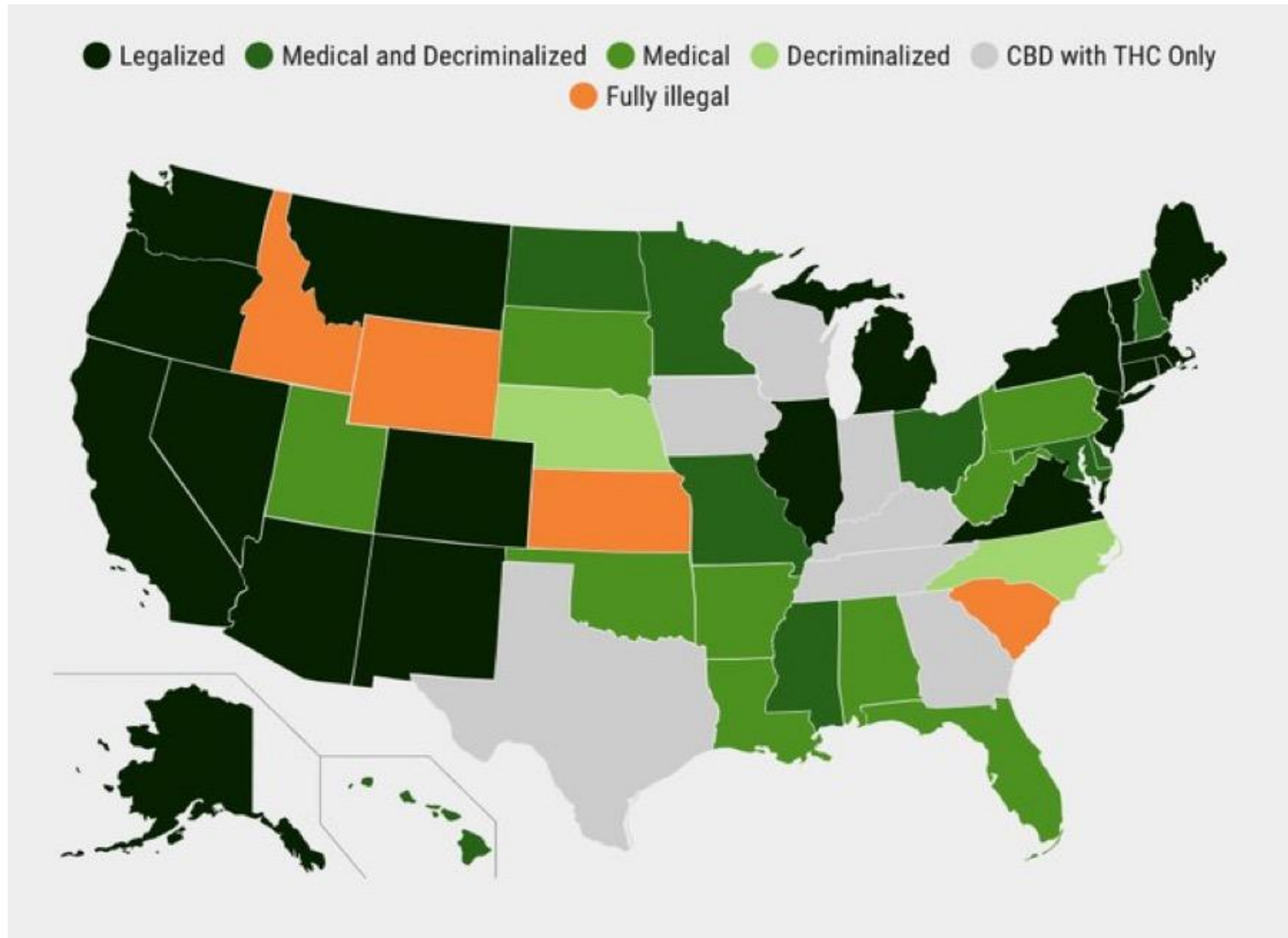


Which Ones and How Much?

- * **Food Tax Cut Accelerator (from 2025 to 2023)**
- * **Other Sales Tax Exemptions to Reduce Regressivity: diapers, feminine hygiene, baby formula, non-Rx drugs**
- * **Property Tax Package (LAVTRF, residential exemption from 20 mills increase from 40k to 65k, reduce residential assessment level)**
- * **Higher Ed Tax Package (Enhance L Quest, tuition tax credit, biz credit for helping repay employee student loans)**
- * **“Retirement” income tax exemption**



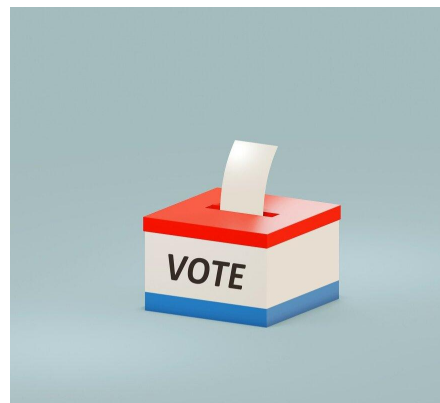
Another 2023 Issue: Marijuana



Another 2023 Issue: Marijuana



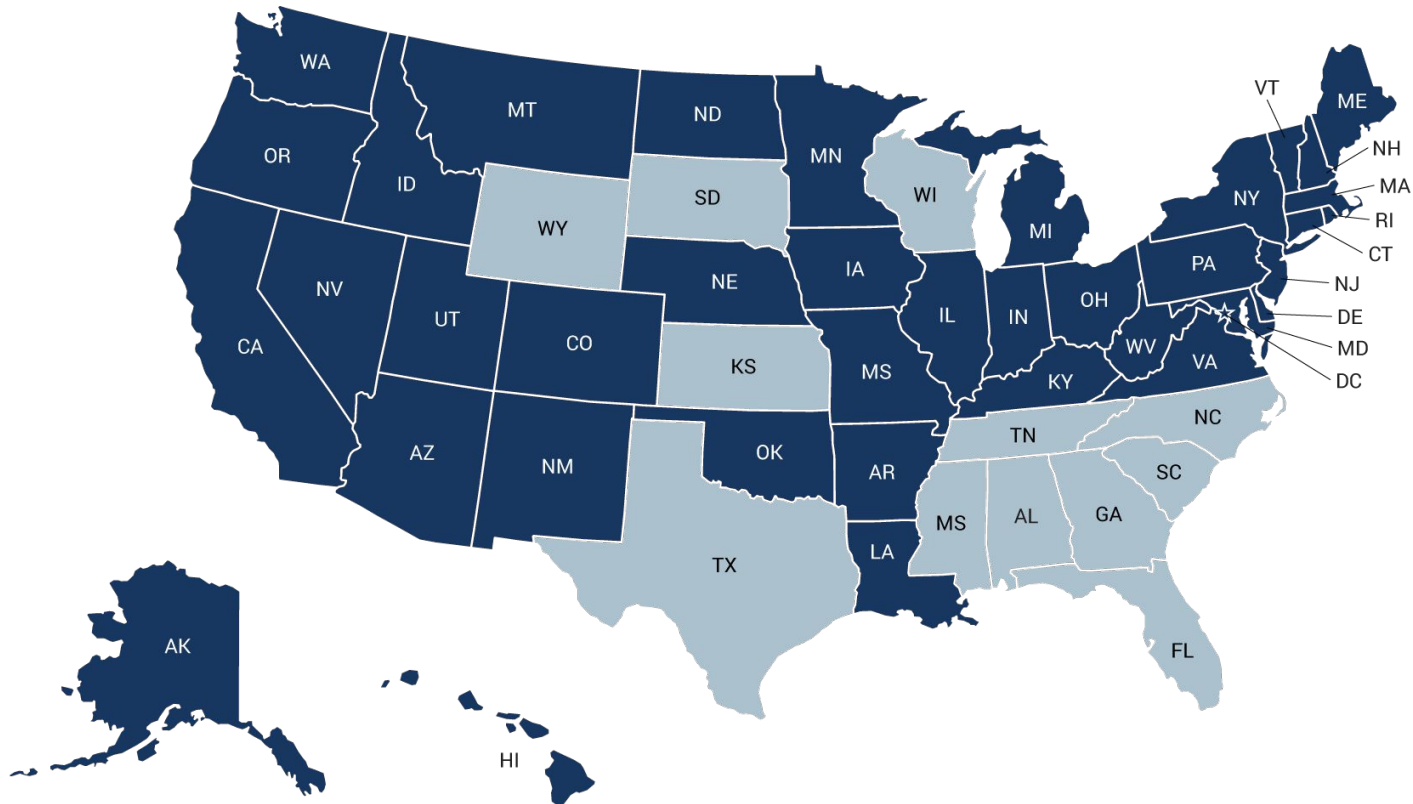
In just a few weeks, voters in Missouri, Arkansas, North Dakota, and South Dakota will consider some form of citizen-initiated ballot measures to relating to legalization of recreational marijuana; and the issue will be before voters in Maryland as a result of action by that state's legislature (similar to last session's HCR 5025 in Kansas).



Medicaid Expansion – When?

State Medicaid Expansion Decisions, March 2022

Not expanding (12 states) Expanding (38 states and DC)



Medicaid Expansion – When?

Failure to expand Medicaid has almost certainly caused higher property taxes, especially in rural counties and areas (see work of Dr. Donna Ginther for Governor's Council on Tax Reform).

Tax Policy Rollercoaster Continues...



Thank You!

