

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Representative Jim Braden at
Chairperson

9:00 a.m./~~p.m.~~ on February 2, 1983 in room 519-S of the Capitol.

All members were present except:

Representative Reardon who was excused.

Committee staff present:

Wayne Morris, Research Department
Tom Severn, Research Department
Don Hayward, Revisor of Statutes' Office
Nancy Wolff, Secretary to the Committee

Conferees appearing before the committee:

Paul Fleener, Kansas Farm Bureau
Dee Likes, Kansas Livestock Association
Ann Eslick, Kansas Association of Appraisers
Gary Smith, Kansas Association of Appraisers
Steve Wiechman, Kansas Association of Counties

Wayne Morris of staff handed out a listing of the Estimated Millage Equivalent of Estimated Receipts from a Ten Percent School District Income Tax per HB 2053. When this bill was reviewed a week ago, the only information available was based on 1980 returns filed in 1981. The handout today is based on 1981 returns filed in 1982.
(Attachment I)

Wayne Morris proceeded with a staff review of HB 2018 and HB 2019 for which hearings are scheduled today. (Attachment II) At the current time, it is necessary for an entity that might be classified as exempt, to file for such an exemption each year even though they may be exempted with each filing. HB 2018 would remove the necessity for either the initial exemption or the subsequent filing each year to maintain that exempt status for all property that is constitutionally or statutorily exempt from property taxation with the exception of property that is statutorily exempt for only a specified period of years.

In the course of the committee discussion, several committee members expressed a concern as to how the county appraisers would know that there was exempt property within a county or city if no initial filing is ever made. The current law requires that an initial filing be made for farm machinery and the annual filing for renewal of the exemption.

HB 2019 simply clarifies that farm machinery used for custom farming would also be exempted from property tax.

Paul Fleener, Kansas Farm Bureau, testified to express his organization's support of both HB 2018 and 2019. (Attachment III)

Dee Likes, Kansas Livestock Association, appeared to state that his organization is in full agreement with the remarks made by Mr. Fleener.

Ann Eslick, Chairman of the Legislative Committee for the Kansas County Appraisers' Association, and Gary Smith, President of the Association appeared to give some input on HB 2018. Ms. Eslick stated that it was her feeling that she would prefer that the initial filing be made for most exempt property, but subsequent filings were unnecessary. She testified, however, that she felt farm machinery should be exempt from the initial filing requirement as well as the annual filing requirement. She did state that she felt HB 2018 could be amended in some way to make it more clear and that she would discuss these feelings with Don Hayward of the Revisors' Office to see if a clarification was really necessary.

Steve Wiechman, Kansas Association of Counties, appeared to state that his association has always opposed the type of legislation that creates the need for HB's 2016, 2017, and 2020, but if the farm machinery exemption stands, this legislation is necessary. As far as HB 2018 and HB 2019 are concerned, he stated that his organization has no problem with the concepts that have been discussed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 9:00 a.m.~~p.m.~~ on February 2, 1983.

Don Hayward of staff was requested to clarify exactly what HB 2018 would accomplish and he stated "initial filing for exemption and annual filing for renewal for all property other than that property that has been exempt for a period of years."

Committee discussion on HB 2045 commenced and Representative Rolfs expressed a concern that when the provisions of HB 2045 expire, the Legislature will once again find itself in a situation where another similar bill is presented. To prevent that situation, Representative Rolfs proposed a conceptual motion that would gradually reduce the amount of credit given to taxpayers under this bill. The amendment proposed that for business credits the amount will stay at \$3,500 for 1983, \$2,500 for 1984 and \$1,500 for 1985. For individuals, the amount would stay at \$1,500 for 1983, \$1,250 for 1984 and \$1,000 for 1985. Representative Aylward seconded the motion.

Representative King made a substitute motion that HB 2045 be recommended favorably for passage and Representative Miller seconded the motion. Motion carried.

The meeting was adjourned.

DATE: Feb. 2, 1983

GUEST REGISTER

HOUSE

ASSESSMENT & TAXATION
COMMITTEE

NAME	ORGANIZATION	ADDRESS
Timothy N. Hagemann	Ks. City Appraisers Assoc.	LARKIN KS. 67860
Ann Eslick	Ks County App. Assoc	Ulysses, Ks. 67880
Brad Welch	Ks Co. Appraisers Assoc.	LARKIN, KS. 67860
GARY Smith	" " " "	SHAWNEE Co.
Pat Hubbell	Kansas Railroad Assn.	Topeka, Ks.
Ruth Wilkin	Girl Scouts	" "
Jake Koenig		Lewing, Ks
Lynne Helt	KCC	Topeka
Cindy Entler	WSU Intern	Wichita
Ron Cochran	KACI	TOPEKA
Paul E. Fleener	Kansas Farm Bureau	Manhattan
Leroy Jones	B. L. E.	Overland Park
Kenneth M. Wilke	Board of Agriculture	Topeka
Tom R. Tunstall	KANSAS GRAIN & FEED DEALERS ASSN	HUTCHINSON
Dee Lipes	KLA	Topeka
BIL EDDY	REVENUE	"
PAUL MARTIN	PVD	"
LYLE CLARK	"	"
B & WHITEHEAD	FRAC	KCK
RON CALBERT	U. J. U.	Newton

ESTIMATED MILLAGE EQUIVALENT OF ESTIMATED RECEIPTS
FROM A TEN PERCENT SCHOOL DISTRICT INCOME TAX
PER H.B. 2053

U.S.D. No.	District Name	1 10% Based on 1981 Returns*	2 1982 District Valuation Excluding Farm Machinery**	3 Est. Mill Equivalent of Col. 1
205	Leon	\$ 39,227	\$ 19,675,247	1.99
253	Emporia	434,981	77,147,428	5.64
259	Wichita	6,654,693	984,540,111	6.76
263	Mulvane	129,519	17,753,481	7.30
278	Mankato	24,050	8,231,707	2.92
283	Elk Valley	10,704	5,065,312	2.11
305	Salina	721,410	120,887,625	5.97
331	Kingman	102,460	65,449,722	1.57
342	McClouth	27,442	6,867,827	4.00
367	Osawatomie	70,806	14,960,275	4.73
379	Clay Center	110,688	33,651,502	3.29
444	Little River	26,519	29,959,185	0.89
445	Coffeyville	269,811	57,194,706	4.72
453	Leavenworth	336,586	53,372,989	6.31
475	Junction City	233,851	52,866,518	4.42
480	Liberal	337,086	74,415,036	4.53
489	Hays	337,688	97,555,740	3.46
500	Kansas City, Ks.	1,857,393	308,328,501	6.02
501	Topeka	2,047,777	283,047,817	7.23
512	Shawnee Mission	6,165,386	663,433,824	9.29

Source: Reports of the Department of Revenue and the State Department of Education.

* Based on school district rebates for 1981 returns filed in 1982.

** Based on fall, 1982 assessed valuations as reported to the State Department of Education for school aid purposes.

MEMORANDUM

September 15, 1982

TO: Special Committee on Assessment and Taxation
FROM: Kansas Legislative Research Department
RE: Proposal No. 2 - Property Tax Base

PROCEDURE FOR OBTAINING A PROPERTY
TAX EXEMPTION

This memorandum summarizes the current statutory procedure that is to be followed by taxpayers who claim a property tax exemption and the procedure followed when a taxpayer fails to follow the prescribed procedure.

Claiming an Exemption

There are two statutes which set forth the procedure that is to be followed by taxpayers requesting an exemption from property taxes. One statute, K.S.A. 1981 Supp. 79-213, provides the procedure for an initial request for a property tax exemption. The second statute, K.S.A. 1981 Supp. 79-210, sets forth the procedure that is to be followed in all years after an initial request for exemption has been approved (copies of each statute are contained in Attachment I).

Initial Requests. Under K.S.A. 1981 Supp. 79-213, all taxpayers seeking an initial request for an exemption must file an initial request for an exemption on forms approved by the State Board of Tax Appeals and provided by the county appraiser. The initial request must identify the property for which the exemption is sought and specify the legal and factual basis for the claim. The request is to be filed with the county appraiser, who is to make a recommendation regarding the request and who then files the request and recommendation with the State Board of Tax Appeals. The Board may, and upon request of the taxpayer must, schedule a hearing on the request. If a hearing is held the county must be represented by the county attorney or county counselor. After making a determination on the request, the Board sends notice of its order to the taxpayer, the county attorney and the county appraiser. If the request is granted, the exemption is to be effective for the period beginning with the date of the property's first exempt use and ending on December 31 of the tax year in question. The tax exemption is to be renewed thereafter by the filing of an annual claim for exemption pursuant to K.S.A. 1981 Supp. 79-210.

Annual Renewal Claims. In years after the approval of an exemption request by the Board of Tax Appeals, taxpayers must file an annual claim for exemption with their county appraiser, under the terms of K.S.A. 1981 Supp. 79-210. The claims are to be made upon forms prescribed by the Director of Property Valuation, and are to be filed by March 1 of the year in which the exemption is claimed. The section further requires that the county appraiser list and value all property within the county for which no claim for exemption has been filed. The following property has been exempted

from the annual filing requirement: (1) tangible personal property owned by the state or a political subdivision and used for a governmental or nonproprietary function; (2) wearing apparel; (3) household goods and personal effects not used for the production of income; (4) cemetery lots owned by individuals and used or to be used as a grave site by the owner or owner's family; (5) hay and silage; (6) the right-of-way of public streets and highways; and (7) all property belonging exclusively to the United States.

Legislative History

K.S.A. 1981 Supp. 79-213 was enacted in 1980 with the passage of H.B. 3216. That bill was introduced at the request of members of the Board of Tax Appeals, who had testified at the end of the 1979 Special Committee on Assessment and Taxation study and at the beginning of the 1980 Session regarding recommended changes in the statutes pertaining to the Board. They testified that no uniform procedure was being followed for the granting of property tax exemptions. The exemption for farm machinery and business aircraft in 1982 H.B. 2425 is the first major exemption enacted since the enactment of K.S.A. 1981 Supp. 79-213 in 1980.

Penalties for Failing to Follow the Required Procedure

Although K.S.A. 1981 Supp. 79-210 requires the county appraiser to list and value all property for which an exemption claim is not filed, subsection (m) of K.S.A. 1981 Supp. 79-213 allows the State Board of Tax Appeals to abate all unpaid taxes that have accrued from and since the date of the first exempt use of the property. In the event that taxes have already been paid on the property for a period during exempt use, the Board has the authority to order a refund of taxes for up to three years.

County appraisers informed the 1980 Special Committee on Assessment and Taxation that it was difficult and expensive to enforce the requirement that taxpayers file the annual claim for property tax exemption. The appraisers said that if the property was added to the tax rolls, the taxpayer could obtain a hearing before the State Board of Tax Appeals. The Board, under the above authority in K.S.A. 1981 Supp. 79-213, would, upon proof of facts, grant the exemption and abate any unpaid taxes.

The 1980 interim Committee thus recommended enactment of a penalty provision for failure to file the annual claim for exemption. The Committee's report stated:

The Committee supports the current requirement of K.S.A. 79-210 that owners of certain exempt property file an annual claim of exemption with the county appraiser. Because there currently are no practicable means to enforce this requirement, and because failure to file leads to unnecessary expenses for the county, The Committee recommends that a penalty provision be enacted for use against owners of exempt property who fail to file a timely annual application. The penalty would be an amount equal to the property tax on: 10 percent of the value for filing within 15 days of the deadline; 20 percent of value for filing within 15 to 30 days; 30 percent of value for filing within 30 to 45 days; and 50 percent of value for refusal to

file. Any such penalty could be abated by the Board of Tax Appeals where excusable neglect on the part of the property owner is shown. The penalty would match the penalty for failure to file a statement of assessment, found in K.S.A. 79-1422. The Committee also recommends that county appraisers be required to notify the owners of exempt property of the need to file the application. Enactment of H.B. 2009 would carry out these recommendations.

During the hearings on the bill in the 1981 Session, a question was raised about whether a penalty could be assessed on property that was exempted by the Kansas Constitution. The Revisor of Statutes was quoted in the minutes as saying that he thought that constitutionally exempt property could be made to conform to reasonable standards, but he also thought that any penalty should be limited to the county's actual administrative costs. After discussion, H.B. 2009 (Attachment II) was killed by the House Committee on Assessment and Taxation on February 11, 1981.

82-303/WM

STATEMENT TO THE
HOUSE ASSESSMENT AND TAXATION COMMITTEE
RE: H.B. 2018 - CLAIMING EXEMPTIONS
AND H.B. 2019 - FARM MACHINERY
EXEMPTION

Feb. 2, 1983
Topeka, Kansas

by
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman, and Members of the Committee:

My name is Paul E. Fleener. I am Director of Public Affairs for Kansas Farm Bureau and come to you today on behalf of farmer & rancher members of Farm Bureau in the 105 counties of Kansas. Our brief comments will address both of the bills before you ... H.B. 2018 and H.B. 2019.

The Interim Committee Report to the 1983 Legislature indicates (p. 48) that the Committee "voted to introduce H.B. 2018, without recommendation, to repeal K.S.A. 1982 Supp. 79-210 and to amend K.S.A. 1982 Supp. 79-213." The statute to be repealed (79-210) presently requires owners of MOST exempt property to file an annual claim for the exemption.

Farm Bureau Statement to
House A. & T. Committee in re
H.B. 2018 & H.B. 2019

Feb. 2, 1933

In regard to farm machinery and equipment, our members believe it should NOT be necessary to file for the exemption granted by the legislature. For that reason, we support H.B. 2018 and the repeal of K.S.A. 1982 Supp. 79-210.

In connection with the other provisions of H.B. 2018, again according to the Interim Committee Report, the purpose of the bill is to amend K.S.A. 1982 Supp. 79-213 "to require approval by the Board (of Tax Appeals) ONLY (emphasis added) for property whose exemption is limited to a period of years, such as that for industrial revenue bond property or grain storage and drying equipment." The Interim Committee intent to accomplish that is set forth on lines 86 to 88. Based on questions arising during your Committee's discussion of this bill, we would suggest amendments "line 87 to clarify. After the word "been," by adding "statutorily"; and after "a" by adding "specified"

We support H.B. 2018.

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Farm Bureau Statement to
House A. & T. Committee in re
H.B. 2018 & H.B. 2019

Feb. 2, 1983

CONCERNING H.B. 2019...

The Interim Committee recommended this bill
"to clarify that the farm machinery exemption
will cover custom cutters' equipment or the
equipment used by one farmer on another
farmer's field."

We believe such equipment to be exempt.
We believe ownership is not a material factor.
The legislature granted the exemption
based on "use," and the sole question
to be determined and upon which the
exemption is based is — Is the
equipment actually and regularly
used exclusively in farming and
ranching operations?

The Board of Tax Appeals will hear
a case next week on this very question.
If the Board finds on the basis of "use,"
which was legislative intent in 1982 H.B. 2925,
then this bill - H.B. 2019 - may not be necessary.
If the Board finds otherwise, this bill may
very well be necessary to carry out legislative
intent — that "use" is the test and
qualification for the farm machinery and
equipment exemption.