

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Paul "Bud" Burke at
Chairperson

11:00 a.m./~~pm~~ on February 14, 1984 in room 526-S of the Capitol.

All members were present ~~except~~:

Committee staff present: Tom Severn, Research Dept.
Wayne Morris, Research Dept.
Don Hayward, Revisor's Office

Conferees appearing before the committee:

- Senator Francisco
- Senator Gannon
- Jack McCreery, custom harvester, Clearwater
- Richard Farris, custom harvester, Edson
- Richard Poage, custom harvester, Augusta
- Sam Smith, Harvey County appraiser, Newton
- John Blythe, Kansas Farm Bureau
- Dee Likes, Kansas Livestock Association

The committee held a hearing on SB 589 which would expand the current property tax exemption of farm machinery and equipment to include machinery and equipment used in custom grain cutting for hire, commencing after December 1983.

The chairman recognized Senator Francisco, co-sponsor of the bill, who stated he introduced this bill primarily because of the lack of uniformity in assessments from county to county and told of several instances. He noted that the Shawnee County District Court decision had upheld a State Board of Tax Appeals ruling that equipment owned by such businesses is not entitled to the farm machinery exemption, but he thinks combines are farm equipment. A possible solution could be to put all farm machinery on the tax rolls, but the way it is now the appraisers are using too much discretion. (Attachment #1)

Senator Gannon said he would echo Senator Francisco's statements, and with this proposed legislation they are trying to provide some order to this chaos of tremendous inequities.

Jack McCreery, a custom harvester, said he is being penalized because he is listing his combines on the tax rolls. He said each county is now determining who is exempt and who isn't. He doesn't think this should be enforced on a county basis, and the legislature needs to do something about this problem.

Richard Farris, Sherman County custom harvester, said when the farm machinery exemption act was passed two years ago he assumed that his combines would be exempted from the property tax, but the Board of Tax Appeals had ruled that a "tie to the land" was necessary to be eligible for this exemption and denied the exemption. He said there were many differences in application between counties with some exempting all combines and some exempting only part of the machinery. In his county there are over 200 combines, many of which are used for some custom work. A large number of combine owners custom harvest more acres than they harvest on their own land, but only his four combines and two belonging to another custom harvester were not exempted in Sherman County last year. This year the other custom harvester left his combines in South Dakota where he owns farm land, and most custom cutters living in Kansas who thought they would not be exempted have moved their equipment to other states where there are more favorable tax structures. (Attachment #2)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 526-S, Statehouse, at 11:00 a.m. ~~pm~~ on February 14, 1984

Richard Poage, Augusta custom harvester, said he was being punished for being honest and turning in his machinery. This year his taxes went from \$3100 to \$6400, and before that they had been excluding his combines from taxation.

Sam Smith, Harvey County appraiser, said that an unfair and unequal tax situation exists now; a man with a \$75,000 airplane can go out and operate a crop dusting operation and his equipment is tax exempt, but a man with a \$35,000 big wheel has to pay taxes. He believes all farm machinery should be taxed.

John Blythe, KFB, spoke in support of SB 589 as a method of trying to bring some uniformity to taxing equipment all over the state. The custom operator is going to leave his machine where the situs will not be in Kansas and will not be taxed in Kansas. He said local units of government have little to gain in future years by continuing to tax the custom cutters farm machinery.

Dee Likes, KLA, believes the intent of HB 2425 was to include the entities talked about today and not only grain operators. He thinks the total language was clear and they were disappointed by the State Board of Tax Appeals and the Shawnee County District Court decision. He presented an amendment designed to clarify the language.

(Attachment #3)

The chairman questioned why farm machinery was exempted from the property tax to begin with, and Dee Likes responded that it was either amend the Constitution or go the route of total exemption, and the legislature chose the latter.

The chairman noted that every exemption narrows the base and someone else will pick up the tax, so it is merely shifted.

The chairman reported he had a request from Senator Doyen to introduce a bill which permits the taxpayer to choose the quarter of the year to be used in determining the fair market value of merchants' inventories.

Senator Allen made a conceptual motion to introduce such a bill and have it referred back to the committee. Senator Mulich seconded the motion and the motion passed.

The chairman adjourned the meeting at 12:00 noon. The committee will meet at 11:00 a.m. on February 15.

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
Feb. 14	JANICE MARCUM	Topeka	PVD
"	TOM R. TUNNELL	HUTCHINSON, KS	KANSAS GRAIN AND FEED DEALERS ASSN.
	Wilbur G. Leonard	Topeka	KHA
	Nancy Kantola	Topeka	Kansas Co-op Council
	Flarence Schruben	Manhattan, Mo	Farmer
	Leonard Schruben	" "	Farmer
	Orval Requin	Buhler, Ks.	Custom Harvester
	Milford Wohrentz	Buhler, Ks	Custom Harvester
	Waldo Froese	INMAN Ks	Custom Harvester
	John H. Esau	Inman, Ks	Farmer & Custom H.
	PHIL ESAU	TOPEKA, KS	AGRI. (ECONOMIST)
	Jim Deibert	Colby Ks.	Custom Harvesting
	Alvin Deibert	Hoxie Ks.	Custom Harvesting
	Dan Deibert	Colby Ks.	Custom Harvesting
	Richard Farris	Edson Ks	✓ ✓
	RICK NAEGELE	LUCAS, KS	" "
	Russell D. Hammond	Logan, Ks.	" "
	Diels E. Kuntz	Burlingame Ks	Custom Harvester Farmer
	Stanley D Porter	Little River Ks	Farmer Custom Harvesting
	Dennis J. Sukler	Lyon, Ks	Custom Harvesting
	Bob McNeely	Top.	KIN
	Bill Crow	Topeka, Kansas	Farmer
	Chip Wheelen	Topeka	KLPG
	Earl Isquigg	Argonia	Custom Harvester
	Merle Van Winkle	Argonia Ks	Custom Harvester
	Chris Walker	Mayetta, Ks	KANS NFO
	John K. Blythe	Manhattan	Ks Farm Bureau
	Ivan W. Wyatt	McPherson	Ks Farmers Union
	Lois Dodge	Alsburg Ks	Kans Agric Women

February 8, 1984

Senator James L. Franciso
26 th District
Room 526S
State Capitol
Topeka, Kansas 66612

Senator Franciso;

I am writing you in regards to Senate Bill #589, which is the Farm Machinery and Equipment Property Tax Exemption Bill. As I understand the bill as it now reads, only farm machinery used solely for farming is now tax exempt. Since I am a custom harvester, not a farmer, my equipment (the same as many farmers) is not tax exempt. I feel that this was not the original intent of the lawmakers when this bill was written and passed. It seems only fair that all farm machinery either be taxed or removed from the personal property tax rolls, regardless of the owners occupation. Thank you.

Sincerely yours

James Krehbiel

James Krehbiel
Route 1 Box 44
Newton, Kansas 67114

*Atch. 1
2/14/84*

Committee chairman vows to fight tax exemption for agri-business

The chairman of the House Assessment and Taxation Committee has vowed to block any attempts to expand the property tax exemption for farm machinery to commercial agri-business firms.

Rep. Jim Braden, R-Clay Center, said he is aware some efforts are being made this session to extend the personal property tax exemption on farm machinery and equipment to agri-businesses such as combine custom cutters, commercial feedlots and farmer's cooperatives.

Braden made his comments in the wake of a Shawnee County District Court decision last week which upheld a State Board of Tax Appeals ruling that equipment owned by such businesses is not entitled to the farm machinery exemption.

The board ruled in a series of cases last spring that custom cutters, commercial feedlots and farmer's coops do not qualify for the exemption, even though some of their equipment may be identical to exempt machinery owned by farmers.

The board said only the equipment used exclusively for farming and ranching operations was eligible for the exemption from personal property tax that the Legislature approved in 1982.

Shawnee County District Judge Adrian Allen affirmed that position in a ruling he handed down Wednesday.

"The court has studied the excellent briefs furnished by counsel and the arguments made by counsel at the hearing and ... agrees with the conclusions reached by the Board of Tax Appeals in each case," Allen said in his decision.

Agri-business operators representing the custom cutters, feedlots and cooperatives had appealed the board's denial of their request for exemption to the district court, arguing some of the machinery and equipment used in their operations was identical with farmer-owned machinery which was exempt.

Braden said the board of tax appeals decision, and Allen's affirmation of that decision, "is consistent with the intent of the Legislature.

"The Legislature wanted to reserve the farm machinery exemption for

bona fide farmers and ranchers in Kansas."

The lawmakers finally exempted farm machinery and equipment entirely from personal property tax after several frustrating attempts to partially exempt such property.

The attorney general and the courts said partial exemption or attempts to reduce the value of farm machinery through gradual depreciation were unconstitutional because of the Kansas requirement that all property be assessed and taxed uniformly.

Braden already has blocked one attempt this legislative session to expand

Legislature '84

the exemption to commercial agri-business operations.

The Senate tax committee last year added commercial operators to the exemption with an amendment to a bill which was designed to relieve farmers and non-profit organizations from requirements to continuously file lists of their exempt equipment with local assessors.

When the Senate refused to remove the amendment, Braden successfully amended the reporting relief provisions into another tax exemption bill that was introduced this session.

The Senate accepted his amendment to the 1984 bill and the measure was given to Gov. John Carlin for his signature.

The 1984 measure into which Braden amended the reporting relief provisions would allow political subdivisions such as school districts to rent vacant space and not lose their property tax exemption on the space if the tenant was another entity entitled to exempt status, such as a city or county agency.

The 1983 bill with the farm machinery tax exemption for commercial agri-business operators is still in a House-

Senate conference committee, and probably will stay there until the session adjourns, Braden said.

The chairman of the House tax panel said he has heard talk since the district court decision about renewed attempts to grant the exemption to commercial agri-business operations.

"There may be strong enough support in the Senate to try it," Braden said.

"But I don't believe the House tax committee will go along with it. And I'm pretty sure the full House of Representatives won't go along with it either.

"The whole idea behind the exemption was to provide relief for financially hard pressed individual farmers and ranchers."

Fred Weaver, chairman of the board of tax appeals, said commercial feedlots had sought the exemption on equipment such as tractors, farm trailers and other equipment they use in their operations.

He said equipment owned by the feedlots and actually used in farming and ranching associated with the feedlot, plus some equipment peculiar to commercial feedlots, probably would be exempt.

The farmer cooperatives had sought the exemption for equipment such as the "Big Wheel" liquid fertilizer applicators that are equipped with out-sized rubber tires, and other applicators called fertilizer buggies.

Weaver said he has been approached by several state legislators who asked about the possibility of extending the exemption to farmers who lease equipment.

At the present time, a farmer who leases a tractor must pay personal property taxes on the equipment because title to the machinery remains with the manufacturer or implement dealer from whom the equipment is leased.

Weaver said the board does not believe it can exempt leased equipment but added the Legislature could change the law to make such machinery eligible.

Police find suspect who left holding cell

WICHITA (AP) — A 19-year-old bank robbery suspect, who escaped from custody earlier in the week, was captured at a house in east Wichita Friday night, police said.

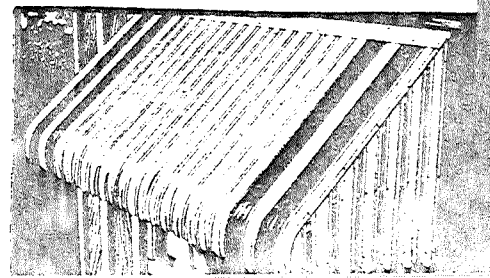
Jason M. Thomas had escaped from

PRE-SEASON AWNING SALE

SAVE

15%

through March 15th



STATEMENT BY RICHARD G. FARRIS ON SENATE BILL 589

Attachment #2

My name is Richard Farris. I have been a resident of Sherman County all of my life. My father started custom harvesting before I was born, our family has been involved in custom harvesting over 40 years. We have operated as Farris Brothers Inc. since 1980.

When the farm machinery exemption act was passed 2 years ago I assumed that my combines would be exempted as did most of the legislators that I have talked with since. The Board of Tax Appeals ruled that a "tie to the land" was necessary to be eligible for this exemption even though the conference committee re wrote the sentence that required ownership and changed it to use. Last week Judge Allen agreed with the board in their denial of the exemption to custom cutters. He also agreed with their denial of exemption to 2 Sherman County feed lots even though the owner of one has a large cow herd and owns about 25 sections of grass and owns over 50% of the cattle in his lot. The other Feeder farms over 7000 acres of land and owns over 50% of the cattle and raises over 70% of the grain that they feed. I mention these feedlot cases because the board ruled nearly opposite by granting an exemption to a Kearny County man for his equipment that he used to farm and harvest 1200 acres of rented land and 3200 acres on a contract basis.

There are many differences in application between counties with some exempting all combines, some requiring a minimal tie to the land, and some counties exempting only part of the machinery. In Sherman County there is over 200 combines, many of which do some custom work with a large number of them custom harvesting more acres than they harvest on their own land. My 4 combines and Orville Redlin's 2 were the only combines not exempted in Sherman County last year. This year Mr. Redlin left his combines in South Dakota where he owns farm land. Most cutters living in Kansas who thought they would not be exempted have moved their equipment out of state.

Twenty years ago the majority of custom harvesters were based out of Kansas. Today this is not the case as most have relocated to states with more favorable tax structures. Nebraska, Colorado, and Texas have no property tax on combines and the county that I harvest in in Oklahoma charges less than $\frac{1}{2}$ the amount that I pay in Kansas. The cost to liscense a large farm truck in Oklahoma is \$97 and this includes the property tax. Oklahoma also signs reciprocity agreements with any state that will do so thereby decreasing the cost of permits when operating our trucks in other states.

I employe 2 men full time and 5 men seasonally. Most of these men and myself are Kansas taxpayers. If I have to relocate my machinery I will have to relocate my full time help and myself and I would also employe more non-residents of Kansas. I would also be purchasing more of my repairs and equipment in other states. All of this adds up to decreasing agricultural activities with in the state of Kansas.

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In November I paid \$6,732.80 property tax on my 4 combines and \$3,316.85 on my trucks and support equipment. If one also considers other taxes which are lower in Texas and Oklahoma, I could build a house and shop in either of those states and pay for them by savings in lower taxes alone. I would not be here today if I did not want to stay in Kansas, however these are the reasons that more cutters are leaving Kansas.

SENATE BILL No. 589

By Senators Francisco and Gannon

1-26

0015 AN ACT concerning the taxation of property; relating to the
0016 exemption of farm machinery and equipment; amending
0017 K.S.A. 1983 Supp. 79-201j and repealing the existing section.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. K.S.A. 1983 Supp. 79-201j is hereby amended to
0020 read as follows: 79-201j. The following described property, to the
0021 extent specified by this section, shall be exempt from all prop-
0022 erty or ad valorem taxes levied under the laws of the state of
0023 Kansas:

0024 All farm machinery and equipment. The term "farm machinery
0025 and equipment" means that personal property actually and reg-
0026 ularly used exclusively in farming or ranching ~~operations ac-
0027 tivity. The term "farming or ranching activity" shall include the
0028 performing of custom grain cutting for hire.~~ The term "farm
0029 machinery and equipment" shall not include any passenger
0030 vehicle, truck, truck tractor, trailer, semitrailer or pole trailer,
0031 other than a farm trailer, as the terms are defined by K.S.A. 8-126
0032 and amendments thereto.

0033 The provisions of this section shall apply to all taxable years
0034 commencing after December 31, ~~1982~~ 1983.

0035 Sec. 2. K.S.A. 1983 Supp. 79-201j is hereby repealed.

0036 Sec. 3. This act shall take effect and be in force from and
0037 after its publication in the statute book.

operations. The term "farming or ranching operations" shall include in its meaning, in addition to the generally accepted practices and uses of farm machinery and equipment in crop production, animal husbandry and custom feeding, the performing of custom tillage, cultivation, fertilizer and chemical application, and harvest procedures for hire.

ADD

Alch. 3
2/14/84