

Approved On:

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on January 19, 1988 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Crowell and Pottorff

Committee staff present:

Tom Severn, Legislative Research  
Chris Courtright, Legislative Research  
Don Hayward, Reviser of Statutes  
Millie Foose, Committee Secretary

Discussion concerned HB-2650 - AN ACT relating to sales taxation, exempting purchases of seed used for certain purposes therefrom.

Representative Don Crumbaker, one of the sponsors of the bill, explained it and the reasons he believes it is needed.

Harley Duncan, Secretary Kansas Department of Revenue, appeared on behalf of Governor Hayden and endorsed passage of the bill. For the Department, he expressed concerns about some parts of the bill and also suggested an amendment that would place a time limit on the period during which a refund could be requested. (Attach. 1)

Richard Jones, representing Kansas Association of Conservation Districts, said that his Association supports the exemption of Kansas sales tax from all sales of seeds and tree seedlings, including fertilizers, insecticides, etc. (Attachment 2)

Mike Beam, representing Kansas Livestock Association, spoke in support of HB-2650, and also presented a map of the 105 counties showing the number of contracts, acres enrolled, and the percent of cropland enrolled. (Attachment 3)

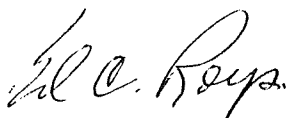
Wilbur Leonard, representing Kansas Farm Organizations, asked that HB-2650 be passed favorably. He also asked that sales tax be refunded to those who have paid it on their purchases. (Attachment 4)

Kenneth F. Kern, Executive Director State Conservation Commission, said that his Commission supports HB-2650 and outlined their reasons for approving it. (Attachment 5)

A Sub-Committee was formed to study and report on property tax exemptions for non-profit organizations. The members are: Representatives Adam, Fuller, Pottorff, Snowbarger, Wagnon, and Wunsch (chairman).

The minutes of the January 14 meeting were approved.

There being no further business, the meeting was adjourned.




E. C. Rolfs, Chairman



**KANSAS DEPARTMENT OF REVENUE**  
*Office of the Secretary*  
**Robert B. Docking State Office Building**  
**Topeka, Kansas 66612-1588**

**MEMORANDUM**

**TO:** The Honorable Ed C. Rolfs, Chairman  
House Committee on Taxation

**FROM:** Harley T. Duncan   
Secretary of Revenue

**DATE:** January 19, 1988

**RE:** House Bill 2650

Thank you for the opportunity to appear before you on House Bill 2650 which exempts from the Kansas Sales Tax grass seed and other items used to prevent soil erosion on land devoted to the federal Conservation Reserve Program. The Administration supports enactment of House Bill 2650.

It has long been the law of this state that other types of agricultural seeds are exempt from tax in that they are consumed in the production of other products which are resold at retail. This is precisely how other items consumed in the production of non-agricultural products are treated. It seems reasonable to extend this principle to land devoted to the Conservation Reserve Program given the extraordinary circumstances facing our agricultural industry.

We are concerned, however, with the provision of the bill which would exempt the purchase of "tree seedlings." By their nature, tree seedlings are not "consumed" in the same way that seed is consumed in that the trees are not harvested for resale. If not amended, we would be assessing sales tax on some sales of tree seedlings (Those not to be harvested), but exempting purchases of tree seedlings used on CRP land. Such disparity is difficult to reconcile. It will lead also to administrative difficulty and create an exemption which would be difficult to verify by audit.

We would suggest also that the bill be amended to place a time limit on the period during which a refund may be requested. A period of 180 days following the effective date of the bill should be sufficient. The Department is prepared to initiate promptly a refund mechanism for taxpayers who have purchased seed and paid the tax. We would anticipate requiring documentation that tax was charged and the landowner is participating in the CRP program. We would then issue a refund voucher payable jointly to the retailer and the purchaser. This would streamline our usual refund procedure which requires the retailer to refund the tax to the consumer and then seek a refund from the state.

For the reasons stated herein, we support passage of House Bill 2650, but request your consideration of the issue raised herein.

HOUSE COMMITTEE ON TAXATION

January 19, 1988

Testimony on House Bill No. 2650 - an act relating to sales taxation; exempting purchases of seed used for certain purposes.

I am Richard Jones, Executive Director of the Kansas Association of Conservation Districts.

The Kansas Association of Conservation Districts represent the 105 county conservation districts in Kansas. Conservation districts provide assistance to landowners and operators for the protection and improvement of their soil, water, plant and animal resources. Conservation districts are governed by a five member board of supervisors made up of local farmers and ranchers.

The Kansas Association of Conservation Districts supports the exemption of Kansas sales tax from all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use which is subject to the federal conservation reserve program.

The federal conservation reserve program is part of the Food Security Act of 1985. It was passed by the U. S. Congress to reduce erosion on some of the nations most highly erodible lands by establishing a vegetative cover on such lands. The same products being used for agricultural production that are presently exempt from Kansas sales tax are used to establish grass or trees on conservation reserve program lands. In most cases, a cover crop

must be established on these lands before seeding grass. That takes at least one crop year and sometimes two. Then the grass is planted and it is usually at least three years before it is considered established. This is a total of four to five years. Under this program a farmer or rancher signs a contract with the U.S. Department of Agriculture to keep these acres out of production for ten years. If it takes four to five years to establish the cover, this only leaves five to six years until it can be farmed again. Under these conditions, this should not be considered a final agricultural product in any sense of the definition.

Kansas farmers and ranchers lead the nation in their participation in the conservation reserve program. They have signed up 1,979,971 acres in the conservation reserve program. This amounts to 18,420 contracts with USDA. The annual payments to Kansas farmers and ranchers is \$103,716,800. \$103,716,800 annually can only be considered as a major economic benefit to rural Kansas. If we step backwards and single out this program to be subject to sales tax, then we will greatly diminish the economic impact it has on rural Kansas.

Kansas farmers and ranchers have contracted with USDA to seed 906,779 acres in 1988 and 605,380 acres in 1989. The average cost per acre to seed grass, including a cover crop, is \$75.25. Additional cost to get the grass established, including mowing and/or spraying pesticides and herbicides brings the total cost of establishing grass to \$93.91 per acre. Total cost for establishing grass on the 906,779 acres to be seeded in 1988 is \$85,155,616, and for the 605,380 acres to be seeded in 1989 is \$56,851,236. These

monies will be spent in Kansas for Kansas seed and services to plant these acres. We do not need additional costs, such as sales tax, to increase the economic hardship for Kansas farmers and ranchers.

There will be more sign ups for this program. One is scheduled for this February. Kansas has a potential for at least another 1,000,000 acres to be signed up in the conservation reserve program. If we add sales tax to the already high cost of establishing cover, many farmers and ranchers will not feel it is economically beneficial to participate and Kansas could loose \$50 to \$55 million of additional annual income for it's rural communities.

In summary, the conservation reserve program is an important program for Kansas farmers and ranchers. The program and the grass planted through the program are in no way a final agricultural product. At the end of each individual contract, the grass can be grazed by livestock, cut for hay, or plowed under for it's organic value and the land returned to production. Even during the contract period, under conditions of severe drought, the grass could be used for livestock feed. This has been done under other similar programs. The Kansas Association of Conservation Districts do not believe that sales tax should be assessed to the cost of this program and urges the Kansas Legislature to pass House Bill 2650.





2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358

Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT  
OF THE  
KANSAS LIVESTOCK ASSOCIATION  
IN SUPPORT OF  
HOUSE BILL 2650  
BEFORE THE HOUSE ASSESSMENT AND TAXATION COMMITTEE  
REPRESENTATIVE ED ROLFS, CHAIRMAN  
PRESENTED BY  
MIKE BEAM  
EXECUTIVE SECRETARY, COW-CALF/STOCKER DIVISION  
JANUARY 19, 1988

The Kansas Livestock Association (KLA) is a trade organization made up of nearly 10,000 members located in all of the 105 counties. KLA, founded in 1894, has members who are actively involved in numerous aspects of livestock production which include cow-calf/stocker producers, feeders, sheep producers, swine operators and general farming and ranching enterprises. At the 75th Annual Convention (December 2-4, 1987) KLA members voted to support legislation exempting seed and inputs, for the Conservation Reserve Program, from sales tax.

Mr. Chairman and members of the committee, I'm Mike Beam with the Kansas Livestock Association. Our organization believes the purchase of seeds and other inputs, for land in the Conservation Reserve Program (CRP), should be exempt from sales tax. Therefore, we support the passage of HB 2650 and thank the 79 sponsors of this legislation.

KSA 79-3606(m) provides for the exemption of agricultural seed. As I understand, the department has ruled that grass seed for the CRP program is different because it's not used to produce plant products for resale. I

disagree with the ruling. Yes, the federal law prohibits haying and grazing on CRP acres during the 10 years of the contract. However, the forage produced from CRP acres will likely be utilized in beef production in the form of pastures or hay land.

There is one exception to this haying and grazing provision. The 1985 Farm Bill specifically allows USDA to authorize haying and grazing under emergency situations. This would usually be a severe drought. If we have a very dry summer, the Secretary of Agriculture could announce that all CRP land could be grazed so cattle owners would have another food source to hold off herd liquidations. My point here is, even if haying and grazing is prohibited for 10 years, there always remains the possibility that CRP land would be opened up for agricultural use. It would be no different than purchasing grass seed to plant pastures for immediate use.

I sense little opposition to passing legislation such as HB 2650 and clarify that all agricultural seed and inputs are exempt. I'd like to add, however, that it would be very beneficial if this legislation received prompt action by the Kansas Legislature. I feel that quick action is necessary for several reasons.

First, we are in the middle of the CRP planting season. The Kansas Soil Conservation Service specifies that grass planted in this program must be seeded between December 1 and May 15. Consequently, there are a lot of farmers and ranchers (CRP participants) who are ready to purchase the seed for immediate planting. I know they would like a firm commitment by the legislature as soon as possible. Furthermore, seed dealers are likely charging the sales tax now on seed which is being purchased. It looks to me like the department would have fewer refund requests the sooner the legislation is passed and signed.

Secondly, I'd like to mention the next sign up period for the CRP starts

February 1. For those of you who are not familiar with the process, landowners will place a per acre bid with the county ASCS Office for what they would take to enroll their land in the CRP program.

I've heard various per acre costs for the approved mixtures of grass seed. Some have quoted as high as \$75.00 per acre. Assuming \$75.00 per acre on seed and the 4% tax rate, you'll find this amounts to an even \$3.00 per acre additional cost. It's essential to know all costs before you make a bid. This \$3.00 per acre, does not include additional inputs which could also be subject to sales tax if HB 2650 isn't passed. Promptly passing HB 2650 would be a very clear and appropriate signal to send farmers and ranchers. February 1 is an important date to consider.

One final point that I'd like to make is that all farmers and ranchers are competing with their neighbors and producers in other states. They realize that it's the least cost producer that will likely survive. I don't think it's the intent of the legislature to place Kansas farmers and ranchers at a \$3.00 per acre competitive disadvantage to producers in other states. Thanks for letting us testify before the committee and again I hope you will quickly approve the passage of HB 2650. Thank you.





Committee of . . .

# Kansas Farm Organizations

Wilbur G. Leonard  
Legislative Agent  
109 West 9th Street  
Suite 304  
Topeka, Kansas 66612  
(913) 234-9016

TESTIMONY IN SUPPORT OF HB NO. 2650

BEFORE THE HOUSE COMMITTEE ON TAXATION

January 19, 1988

Mr. Chairman and Members of the Committee:

I am Wilbur Leonard, appearing for the Committee of Kansas Farm Organizations. The roster of our membership, which numbers 21 agricultural organizations, is attached to my brief statement. We have a firm policy of appearing on only those legislative issues where we have no dissenting members.

Seeds, seedlings, fertilizers and agricultural chemicals are used by farmers in the same manner, whether it be to produce crops for resale or in a regulated conservation program. The principal difference is that one field is harvested and the other is not.

These various materials become either an ingredient or component part of the mature crop or are consumed during the growing season.

Farmers purchase seeds, fertilizers and chemicals for their overall use, not on a field by field basis. Admittedly, there are times where certain items could be earmarked for use in the conservation program and others for crop production. Under normal circumstances more record keeping would be required as well as more segregation of the materials for farm storage.

Good conservation practices are an important part of sound agricultural management. We also believe the state has a vital interest in preventing erosion and the deterioration of farmlands.

Since this tax, at the present time, is being imposed by administrative ruling and without prior legislative approval, we consider

it only fair that those persons who have paid the sales tax on their purchases of the various items receive a refund for such tax.

We respectfully urge the committee to report HB No. 2650 favorably for passage.

# # #

MEMBERS OF THE COMMITTEE OF KANSAS FARM ORGANIZATIONS

ASSOCIATED MILK PRODUCERS

KANSAS AGRI-WOMEN

KANSAS ASSOCIATION OF SOIL CONSERVATION DISTRICTS

KANSAS ASSOCIATION OF WHEAT GROWERS

KANSAS COOPERATIVE COUNCIL

KANSAS CORN GROWERS ASSOCIATION

KANSAS ELECTRIC COOPERATIVES

KANSAS ETHANOL ASSOCIATION

KANSAS FARM BUREAU

KANSAS FERTILIZER & CHEMICAL INSTITUTE, INC.

KANSAS GRAIN & FEED DEALERS ASSOCIATION

KANSAS LIVESTOCK ASSOCIATION

KANSAS MEAT PROCESSORS ASSOCIATION

KANSAS PORK PRODUCERS COUNCIL

KANSAS RURAL WATER DISTRICT ASSOCIATION

KANSAS SEED DEALERS ASSOCIATION

KANSAS SOYBEAN ASSOCIATION

KANSAS STATE GRANGE

MID-AMERICA DAIRYMEN

KANSAS VETERINARY MEDICAL ASSOCIATION

KANSAS WATER WELL ASSOCIATION



# State Conservation Commission

109 S. W. 9TH STREET, ROOM 300

TELEPHONE (913) 296-3600

TOPEKA, KANSAS 66612-1299

House Taxation Committee  
House Bill No. 2650  
January 19, 1988

Testimony by  
Kenneth F. Kern  
Executive Director

The State Conservation Commission has administrative responsibilities for the 105 conservation districts that were organized according to K.S.A. 2-1901 et seq., the Conservation District Law.

The conservation districts were organized to provide local leadership in the conservation of our natural resources.

The 1985 Food Security Act (FSA) provides a major national emphasis on acreage reduction and soil conservation. One provision of the FSA is the Conservation Reserve Program (CRP), whereby landowners can, when the land meets certain criteria, take highly erodible land out of production and seed it to grass or plant trees. The United States Department of Agriculture (USDA), through the Agricultural Stabilization and Conservation Service (ASCS), will cost-share up to fifty percent on the establishment of permanent cover. The USDA will also pay ten annual rental payments for the CRP acreage based on the rental payment submitted by the applicant. The landowner cannot harvest the cover crop during the ten-year period.

As a result, there has been a tremendous demand for grass seed for the 2,000,000 acres of highly erodible land that has been accepted in the CRP. The demand for seed and a resulting increase in price per pound has placed an added financial burden on landowners.

Seventy conservation districts have been involved in providing grass seed as a service to landowners in their districts as authorized by K.S.A. 2-1908(6). The districts have charged a mark-up of five to ten percent to recover cost of handling. In one instance, a higher mark-up is charged, and the districts have developed a conservation district land treatment cost-share program with the revenues. Several districts provide a discount for payment by a certain time.

The State Conservation Commission supports House Bill No. 2650 because:

1. The collection of sales tax retroactive to the beginning of the program in March of 1986 would be a major financial burden for the conservation districts. Payment of the tax would probably require additional tax funds from the county commissioners in many cases.
2. A number of programs are in place to control soil erosion. Now that a program is in place to remove for a ten-year period the highly erodible land from production, a tax burden has been added in establishing the cover crop.

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3. A sales tax of four percent is really a charge of eight percent or more on the seed that the landowner purchases. This is because the USDA will cost-share up to one-half of the cover crop establishment, but not the tax.
4. Controlling erosion on highly erodible land through the CRP will assist the state in providing for water quality improvements to our streams and lakes.

The Commission requests your support for House Bill No. 2650.