

Approved: 4-30-97
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 11, 1997 in Room 519-S of the Capitol.

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Kathy Taylor, Kansas Bankers Association
Rich McKee, Kansas Livestock Association
Alan Alderson, Western Retail Implement & Hardware Association
Leslie Kaufman, Kansas Farm Bureau
Judy Moler, Kansas Association of Counties
Linda D. Peterson, Marion County Commission
Harold Rickers, Meade County Commissioner
Rod Broberg, County Appraisers Association
Doyle Alcorn, Jewell County Commissioner
Gerard Frantz, Sedgwick County Appraiser
Joyce Coker, Johnson County Government
Stanley Rogers
Rep. Gwen Welshimer
Marolin Kelly, Independent Fee Appraiser
LeRoy Burk, Neosho County Appraiser
John Proffitt, Allegiant Real Estate Appraisal Services, Emporia
Stan Sease, Shawnee
Wayne Weaver, Cherokee County Appraiser
Bill Fuiks, Shawnee
David Thornton, Wilson County Appraiser
Elysa Lovelady, Greenwood County Appraiser

Others attending: See attached list

Chair opened hearings on:

SB 162 - Property tax exemption for farm machinery and equipment

Proponents:

Kathy Taylor, Kansas Bankers Association (Attachment 1)
Rich McKee, Kansas Livestock Association (Attachment 2)
Alan Alderson, Western Retail Implement & Hardware Association (Attachment 3)
Leslie Kaufman, Kansas Farm Bureau (Attachment 4)

Proponents requested that the minutes reflect the original intent of the bill which was to make certain that leased farm machinery and equipment is exempt.

Chair closed hearings on SB 162.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on March 11, 1997.

Chair opened hearings on:

SB 142 - County or district appraiser qualifications

Proponents:

Judy Moler, Kansas Association of Counties (Attachment 5)
Linda D. Peterson, Marion County Commission (Attachment 6)
Harold Rickers, Meade County Commissioner (Attachment 7)
Rod Broberg, County Appraisers Association (Attachment 8)
Doyle Alcorn, Jewell County Commissioner (Attachment 9)
Gerard Frantz, Sedgwick County Appraiser (Attachment 10)
Joyce Coker, Johnson County Government (Attachment 11)
Stanley Rogers, Sheridan County Commissioner (Attachment 12)

Written testimony from:

William Bunger, Mitchell County Commissioner (Attachment 13)

Opponents:

Rep. Gwen Welshimer (Attachment 14)
Marolin Kelly, Independent Fee Appraiser (Attachment 15)
LeRoy Burk, Neosho County Appraiser (Attachment 16)
John Proffitt, Allegiant Real Estate Appraisal Services, Emporia (Attachment 17)
Stan Sease, Shawnee (Attachment 18)
Wayne Weaver, Cherokee County Appraiser (Attachment 19)
Bill Fuiks, Shawnee (Attachment 20)
David Thornton, Wilson County Appraiser (Attachment 21)
Elysa Lovelady, Greenwood County Appraiser (Attachment 22)

Chair closed hearings on **SB 142**.

The next meeting is scheduled for March 12, 1997.

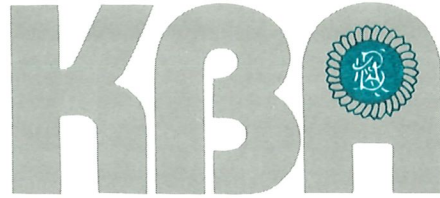
Adjournment.

Attachment - 22

TAXATION COMMITTEE GUEST LIST

DATE: MARCH 11, 1997

NAME	REPRESENTING
Stu Leav WILLIAM FUIKS	Jo Co Tax Payers Group JO CO TAXPAYERS
Stanley Rogers	Sheridan Co.
Doug Mackley	Pogon Co
Steve "Hooley" Alcorn	Jewell County
Siida D. Jensen	Marion County & KCC
Joyce West Randy Allen	Johnson County Farm Kansas Assoc. of Counties
Judy Mole	KAC
Hazel Rubin	Meade County + KAPC.
Rich McKee	KLA
Leslie Kaufman	Ks Farm Bureau
Frank Powell	TAXPAYERS
Marion R Johnson	Douglas County Appraiser
Pod Broberg	Saline County
Rick Stuart	Jefferson County Appraiser
WAYNE WEAVER	CHEROKEE COUNTY APPRAISER
John, Bud	Washo County, Appraiser
Davis Thornton	Wilson County Appraiser



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 11, 1997

To: House Committee on Taxation

From: Kathy Taylor
Kansas Bankers Association

Re: SB 162: Property Tax Exemption for Farm Machinery and Equipment

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to offer testimony in support of **SB 162**. This bill amends KSA 79-201j, which is the provision of law that grants a property tax exemption for farm machinery and equipment.

Since its enactment in 1982, the specific language of the exemption has been to exempt all farm machinery and equipment "actually and regularly used exclusively in any farming or ranching operation".

Up until very recently, the Board of Tax Appeals had affirmed that the statutory exemption included farm machinery and equipment which was acquired under a lease-purchase agreement. However, in the past six months, the Board of Tax Appeals has denied the exemption under these circumstances.

The rationale for the denial is that if property is leased and the lessor collects rent, a dual use exists for that property and, even if the property is used by the lessee for an exempt purpose (farm or ranch work), it is not entitled to the exemption when there is the exclusive use requirement.

In 1986, the voters of Kansas adopted an amendment to the State Constitution which grants a property tax exemption for all farm machinery and equipment. There is no requirement that there be an "exclusive use". In an opinion dated January 30, 1997, the Attorney General concluded that the constitutional exemption from property taxation for farm machinery and equipment does not require that the property be used exclusively for farming.

OVER, PLEASE

SB 162, Page Two

In the opinion, the Attorney General emphasizes that because the statute predates the constitutional exemption and the constitutional exemption is broader than the statute, it appears that the intent was to broaden the exemption for farm machinery and equipment by excluding from the constitutional provision an exclusive use requirement.

The amendment that we originally proposed, while it broadened the exemption as interpreted by the Board of Tax Appeals, did not go as far as the constitutional exemption language. The Senate Taxation Committee amended the statute to embrace the language of the constitution.

Effectively, **SB 162** as now amended, would exempt all farm machinery and equipment from property taxation, which brings the law in line with our state constitution as interpreted by the Attorney General.

Please give favorable consideration to the passage of **SB 162** as amended. Thank you.



Since 1894

Testimony

presented by

Rich McKee

Executive Secretary, Feedlot Division

regarding

Senate Bill 162

before the

House Committee on Taxation

March 11, 1997

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 7,300 members on legislative and regulatory issues. KLA members are involved in all segments of the livestock industry including cow-calf, feedlot, seedstock, swine, dairy and sheep. In 1996 cash receipts from agriculture products totaled over \$7.5 billion, with sixty percent of that coming from the sale of livestock. Cattle represent the largest share of cash receipts, representing ninety percent of the livestock and poultry marketings.

House Taxation
3-11-97
Attachment 2-1

Chairperson Kline and members of the House Committee on Taxation, thank you for the opportunity to testify today. My name is Rich McKee and I am representing the Kansas Livestock Association.

We urge you to give favorable consideration of Senate Bill 162. This bill will clarify and equalize the property tax status of farm machinery and equipment. The bill specifies farm machinery and equipment that is leased and/or used in livestock feeding operations (feedlots) is exempt from property tax.

Recent Orders by the Board of Tax Appeals (BOTA) has generated confusion and concern. One such Order found farm machinery and equipment taxable because the equipment was leased by the operator and deemed not to be used exclusively in a farming or ranching operation. In this Order, BOTA found the use was leasing, not farming or ranching. In another Order, BOTA found farm machinery and equipment used in a feedlot was taxable because the owner of the facility did not own all the livestock. In a later Order BOTA found farm machinery and equipment used in a dairy feedlot was exempt because the owner of the facility owns all of the livestock.

We believe the exemption is not and should not be based on whether the equipment is leased or upon who owns the livestock. The Orders may arguably be within the statutory language found in K.S.A. 79-201(j). However, there is considerable doubt whether the Orders mentioned above are consistent with the Kansas Constitution (Attorney General Opinion 97-11).

We respectfully request favorable passage of Senate Bill 162.

- taxed pursuant to law enacted prior to January 1, 1985 30%
- (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property 25%
- (6) All other tangible personal property not otherwise specifically classified 30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation.

History: Adopted by Convention, July 29, 1859; ratified by electors, Oct. 4, 1859; L. 1861, p. 62; L. 1923, ch. 255, § 1; L. 1963, ch. 459, § 1; L. 1974, ch. 460, § 1; L. 1985, ch. 364, § 1; L. 1992, ch. 342, § 1; Nov. 3, 1992.

Law Review and Bar Journal References:

- "Reappraisal—How Long Will It Last," Bruce Landeck, 58 J.K.B.A. No. 1, 15, 18 (1989).
- "Liberalizing Kansas Real Property Tax Exemptions: The 1988 Legislation," Joan M. Bowen, 37 K.L.R. 597, 615, 639 (1989).
- "Kansas Property Classification and Reappraisal: The 1986 Constitutional Amendment and Statutory Modifications," Nancy Ogle, 29 W.L.J. 26 (1989).
- "Spurring Economic Development in Kansas Through Property Tax Exemptions—Are We Getting the Results We Want?" Laura Ellen Johnson, 30 W.L.J. 82, 83 (1990).
- "Survey of Kansas Law: Taxation," Sandra Craig McKenzie, 41 K.L.R. 727, 735 (1993).
- "Tax Law: Braum, a Valuable Tax Crop [Board of County Commissioners v. Smith, 857 P.2d 1386 (Kan. Ct. App. 1993)]," Nels P. Noel, 34 W.L.J. 381, 388 (1995).

Attorney General's Opinions:

- Exemption of property for economic development; exclusive use requirement. 88-123.
- Shawnee county fair association—tax levy, protest petition and election. 88-136.

- Statewide reappraisal of farm land; methods of establishing valuations. 88-144.
- Tax exempt property; machinery and equipment of electric utility company. 88-158.
- Property valuation, county and district appraisers' duties; valuation methods; pasture and rangeland. 89-63.
- Coal and gas of public utility; system of taxation; classification; exemption. 89-85.
- Statewide reappraisal of real property; CRP land. 89-144.
- Taxation; classification. 89-145.
- Extending deadline for property tax payment; equal protection. 89-146.
- Property exempt from taxation; merchants' and manufacturers' inventory. 89-148.
- Classification; excise tax on inventories. 89-150.
- Classification of property; constitutionality. 90-10.
- County planning and zoning; agricultural purposes; greyhound operations. 90-68.
- Change in property valuation for tax purposes. 90-82.
- System of taxation; classification; exemptions; uniform and equal provisions of constitution. 91-71.
- Community colleges; boards of trustees; powers and duties; political campaign posters and signs on campus. 91-112.
- Taxation; classification; uniform and equal requirement on state assessed taxes. 91-147.
- Taxation; extent of classification for 501 organizations. 93-17.
- Water pollution act; stormwater utility fee; state-owned and operated facility. 93-32.
- Public utilities; definition; constitutionality of excluding certain telephone companies. 93-142.
- Contracts for assistance in collecting property taxes. 94-8.
- Property taxation; classification; commercial and industrial machinery and equipment not in use. 94-52.
- Property tax obligation release; escaped personal property; constitutionality. 94-79.
- Property tax accumulated interest amnesty program in Wyandotte county; uniform operation of law; constitutionality. 94-89.
- Taxation classification; recreational vehicles; application to houseboats. 95-18.

CASE ANNOTATIONS

- 197. Cited; allegations regarding illegal or void valuations or assessments of real property prohibited before exhausting administrative remedies examined. Board of Osage County Commr's v. Schmidt, 12 K.A.2d 812, 813, 758 P.2d 254 (1988).
- 198. Cited; tax exempt status of publicly owned property leased to private business and unavailable to general public examined. Salina Airport Authority v. Board of Tax Appeals, 13 K.A.2d 80, 83, 761 P.2d 1261 (1988).
- 199. County appraiser authorized (79-1461) to scrutinize and revalue taxpayer's filed inventory statement to fair market value. In re Tax Appeal of Wichita Bldg. Material Co., 14 K.A.2d 39, 779 P.2d 875 (1989).
- 200. Taxable status under 79-201a *Second* of property owned to produce revenue for financing governmental function (airport, 27-315 et seq.) examined. Tri-County Public Airport Auth. v. Board of Morris County Commr's, 245 K. 301, 305, 777 P.2d 843 (1989).
- 201. NCAA as educational institution exempt from payment of sales taxes on purchases (79-3606(c)) examined. NCAA v. Kansas Dept. of Revenue, 245 K. 553, 555, 781 P.2d 726 (1989).

- 202. Property r though lessee uses of Wvandotte Cou: K. 161, 168, 786 P
 - 203. Nonexemp gas lease on city-o Seward County; 2-
 - 204. Natural ga ities exempt from inventory. Colorac County Commr's.
 - 205. Personal p company should b First Page, Inc. v. 1238 (1993).
 - 206. Board of t poses of claimant e nee County, 253 K
 - 207. Cited in b outside agencies t Stores v. Lovelady
 - 208. Methods c that meet uniform re Tax Appeal of (1993).
 - 209. Phrase "la owner's intentions Board of Johnson 670, 857 P.2d 138
 - 210. Cited; lac public utilities for state Gas Co. v. E (1993).
 - 211. Whether ment granted to r equal clause exami 254 K. 534, 535, 5
 - 212. Cited; whe definition of lotter ined. State ex rel. S 1034 (1994).
 - 213. Whether B division parcels of ments examined. 643, 645, 648, 875
 - 214. Whether t ifies for education Strecker v. Hixon,
 - 215. Whether v property owners v ment examined. S: 295, 891 P.2d 445
- § 2.**
- 6. Constitution federal military ret ker v. State, 249 K 1619 (1992).
- § 4.**
- Attorney Genera**
Finance and taxa
Motor vehicle ta
districts and comm:



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

January 30, 1997

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

ATTORNEY GENERAL OPINION NO. 96- 11

The Honorable Eugene L. Shore
State Representative, 124th District
Route 2
Johnson, Kansas 67855-9804

Re: Constitution of the State of Kansas--Finance and Taxation--System of
Taxation; Classification; Exemption; Farm Machinery and Equipment

Taxation--Property Exempt from Taxation--Farm Machinery and Equipment;
Exclusive Use for Farming or Ranching

Synopsis: The constitutional exemption from property taxation for farm machinery and equipment does not require that the property be used exclusively for farming. K.S.A. 1995 Supp. 79-201j does have an exclusive use requirement. In that the constitutional exemption postdates the statutory exemption, is broader than the statutory exemption, and the legislature is precluded from limiting self-executing constitutional exemptions such as this, an exemption for farm machinery and equipment may be granted even if the property is subject to more than one use. Cited herein: K.S.A. 79-201j; K.S.A. 1995 Supp. 79-201j; Kan. const., art. 11, § 1.

* * *

Dear Representative Shore:

You request our opinion regarding K.S.A. 1995 Supp. 79-201j and its application to certain farm machinery and equipment. You explain that the Board of Tax Appeals has taken the position that farm machinery and equipment, such as center pivot irrigation systems, is not entitled to exemption under K.S.A. 1995 Supp. 79-201j(a) if it is financed through a lease-

purchase agreement. The board, in at least one of its decisions, cites to Kansas Supreme Court cases that have concluded that if property is leased and the lessor collects rent, a dual use exists for that property and, even if it is used by the lessee for an exempt purpose, it is not entitled to exemption when there is an exclusive use requirement. You explain that the issue of exemption is a significant one for farmers needing to finance purchase of center pivot irrigation systems because of the cost of the systems and their rate of depreciation. You pose two questions:

"1--The Kansas Constitution specifically exempts 'farm machinery and equipment' from property tax in the classification amendment. There is no use test applied, farm machinery and equipment is exempt. As I understand it, statutory law can not restrict the constitution. Does K.S.A. 79-201j restrict the constitution by applying a use test?

"2--If the statutory use test is constitutional does the means of financing the farm machinery and equipment change the exemption status? In other words does lease-purchase vs. a conventional loan make a sprinkler system non exempt?"

To our knowledge, the Board of Tax Appeals has not addressed the first of these issues. Neither are there any reported decisions of the Kansas appellate courts directly on point.

K.S.A. 1995 Supp. 79-201j provides in part:

"The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

"(a) All farm machinery and equipment. The term 'farm machinery and equipment' means that personal property actually and regularly used exclusively in any farming or ranching operation. . . .

"The provisions of this subsection shall apply to all taxable years commencing after December 31, 1984."

By contrast, article 11, section 1(b) (1995 Supp.) of the Kansas Constitution provides as follows:

"All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchant's and manufacturer's inventories and livestock and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

While the Constitution establishes an exclusive use requirement for property used for government, literary, educational, scientific, religious, benevolent and charitable purposes, it contains no such requirement for farm machinery and equipment. Clearly K.S.A. 1995 Supp. 79-201j(a) does contain a requirement for exclusive use of this property. ***Farmers Co-op v. Kansas Board of Tax Appeals***, 236 Kan. 632, 636-638 (1985). The question you pose is whether the statutory requirement for exclusive use limits the constitutional exemption for farm machinery and equipment and, if so, is such a limitation constitutional.

Arguably, K.S.A. 79-201j(a) was not intended as a restriction, but rather to define the term "farm machinery and equipment" in the absence of a constitutional definition. However, the chain of events regarding the enactment of the statute and the constitutional amendment suggest otherwise. The K.S.A. 79-201j farm machinery and equipment exemption was first enacted in 1982 with the purpose to "promote, stimulate and develop the general welfare, economic development and prosperity of the state of Kansas by fostering the growth and development of agricultural endeavors within the state. . . ." K.S.A. 79-201i. At the time of its enactment, there was no constitutional exemption for farm machinery and equipment. The Article 11, Section 1(b) farm machinery and equipment exemption was crafted in 1985 and adopted by the electorate on November 4, 1986. L. 1985, ch. 364, § 1. Because the statute predates the constitutional exemption, its original intent could not have been to implement the constitutional exemption or define the term farm machinery and equipment as used in the Constitution. Further, there is no evidence of a subsequent legislative intent for K.S.A. 79-201j to implement or define the constitutional exemption. While K.S.A. 79-201j has been amended twice, once in 1985 and once in 1992, neither amendment mentioned the constitutional exemption or stated that the statute was intended at that time to define the constitutional provision. The 1985 amendment was for the sole purpose of including the performance of farm or ranch work for hire in the statutory definition of "farming or ranching operation," and the Legislature changed the effective date of the provision from 1982 to 1984. The 1992 amendment did not affect the farm machinery and equipment provision. Not only is there a lack of evidence of intent for the statute to be purely definitional, the constitutional provision was actually seen by the Legislature as an expansion of the then existing exemption for farm machinery and equipment. The constitutional exemption for farm machinery and equipment was added in the Senate committee during consideration of 1985 House Concurrent Resolution No. 5018. Just prior to adopting the amendment, a question was raised as to its relation to K.S.A. 79-201j. "Senator Parrish questioned whether the amendment would broaden the current farm machinery exemption. Staff said that this would probably be the case." Minutes, Senate Committee on Assessment and Taxation, April 11, 1985. Thus, even if one could argue that the common understanding of the term "farm machinery and equipment" in 1985 was as it was then defined in the statute, legislative intent appeared to grant a broader exemption for farm machinery and equipment by excluding from the constitutional provision an exclusive use requirement. Based on these factors, it is our opinion that K.S.A. 1995 Supp. 79-201j(a) was not intended to define the constitutional exemption. In fact, we believe the statute was intended to, and does, do much more. K.S.A. 1995 Supp. 79-201j actually establishes an exemption (one

that was not provided for in the Constitution at the time the statute was enacted) and limits the scope of that exemption by providing for exclusive use of the property. (**See e.g. Farmers Co-op**, 236 Kan. 632.) We must therefore determine whether such a limitation is permissible.

In **Colorado Interstate Gas Co. v. Board of Morton County Comm'rs**, 247 Kan. 654 (1990), the Kansas Supreme Court found that subsection (b) of Article 11, Section 1 of the Kansas Constitution is self-executing. "The exemptions are granted by the amendment itself as opposed to empowering the legislature to enact legislation in the subject area." 247 Kan. at 659. The Court then quoted the following excerpt from 16 Am.Jur.2d, **Constitutional Law** § 139 *et seq.*:

"The rule is that a self-executing provision of the constitution does not necessarily exhaust legislative power on the subject, but any legislation must be in harmony with the constitution and further the exercise of constitutional right to make it more available. Thus, even in the case of a constitutional provision which is self-executing, the legislature may enact legislation to facilitate the exercise of the powers directly granted by the constitution; legislation may be enacted to facilitate the operation of such a provision, prescribe a practice to be used for its enforcement, provide a convenient remedy for the protection of the rights secured or the determination thereof, or place reasonable safeguards around the exercise of the right. And, even though a provision states that it is self-executing, some legislative action may be necessary to effectuate its purposes. . . .

"It is clear that legislation which would defeat or even restrict a self-executing mandate of the constitution is beyond the power of the legislature. . . ." 247 Kan. at 659. **See also State, ex rel., Miller v. Board of Education**, 212 Kan. 482, 488-489 (1973) (the legislature cannot thwart a self-executing provision of the constitution)

The rule is that while the Legislature may act in harmony with a self-executing provision, the power of the Legislature is limited to procedural aspects or expanding on any right granted. K.S.A. 79-201j(a) is not procedural in nature. The exclusive use requirement of K.S.A. 1995 Supp. 79-201j(a) does not facilitate operation of the constitutional exemption, nor does it provide a procedure or a remedy for enforcement. In fact, K.S.A. 1995 Supp. 79-201j(a) cannot be said to implement the constitutional exemption in any way because it predates the constitutional amendment and the statute's substantive provisions dealing with farm machinery and equipment have not since been amended in a way that would indicate an attempt to implement the Constitution. We have already determined that K.S.A. 1995 Supp. 79-201j(a) is more limited in its application than the constitutional exemption. To conclude that the statutory exemption that predated this constitutional amendment effectively limits its application would not only be contrary to legislative intent, but would also lead to an unconstitutional result in the sense that it would operate to limit

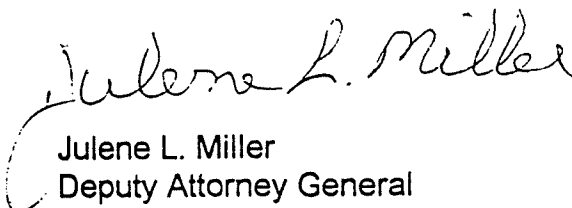
a self-executing provision of the Constitution. *See Tri-County Public Airport Auth. v. Board of Morris County Comm'rs*, 245 Kan. 301, 305 (1989) (property expressly exempt from taxation by the Constitution cannot be taxed); *State, ex rel., Fatzer v. Board of Regents*, 167 Kan. 587, 595 (1949) (property expressly exempt from taxation by the Constitution cannot be taxed, but statutory exemption may be broader than the constitutional one). Thus, in our opinion, K.S.A. 1995 Supp. 79-201j(a) cannot be applied to limit the exemption for farm machinery and equipment granted in the Constitution by requiring that the property be used exclusively for farming or ranching operations.

Because our answer to your initial question is that a taxpayer may seek an exemption from property taxation for farm machinery and equipment under the broader provisions of the Constitution notwithstanding the exclusive use requirement of K.S.A. 1995 Supp. 79-201j(a), we need not address your second inquiry.

In conclusion, unlike K.S.A. 1995 Supp. 79-201j, the constitutional exemption from property taxation for farm machinery and equipment does not require that the property be used exclusively for farming. In that the constitutional exemption postdates the statutory exemption, is broader than the statutory exemption, and the legislature is precluded from limiting self-executing constitutional exemptions such as this, a tax exemption for farm machinery and equipment may be granted even if the property is subject to more than one use.

Very truly yours,


CARLA J. STOVALL
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General

CJS:JLM:jm

Denial

BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE APPLICATION
OF FIRST NATIONAL BANK OF WAMEGO
FOR EXEMPTION FROM AD VALOREM
TAXATION IN WABAUNSEE COUNTY, KANSAS

Docket No. 96-7402-TX

O R D E R

Now, on this 16th day of October, 1996, the above captioned matter comes on for consideration by the Board of Tax Appeals of the State of Kansas.

The Board finds and concludes as follows:

- 1. The Board has jurisdiction of the subject matter and the parties, an application for exemption having been filed pursuant to K.S.A. 1995 Supp. 79-213.
- 2. The subject matter of this tax exemption application is described as follows:

Vermeer Baler, ID# 5486.

- 3. The applicant requests exemption from ad valorem taxation pursuant to K.S.A. 1995 Supp. 79-201j(a). The statute provides an exemption from ad valorem taxes for:

[a]ll farm machinery and equipment. The term "farm machinery and equipment" means that personal property actually and regularly used exclusively in any farming or ranching operation. The term "farming or ranching operation" shall include the performing of farm or ranch work for hire. The term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer

- 4. The applicant leases the above property to a farmer, who uses it for farming purposes. The applicant states that the lessee is the sole user of the property.
- 5. The County recommends the request for exemption from ad valorem taxation be denied.
- 6. The Board finds that the use of the property does not meet the requirements of the statute. The statute states that the

Docket No. 96-7402-TX
Wabaunsee County, Kansas
Page 2

property is to be used "exclusively in any farming or ranching operation." "The renting by the lessor and the physical use by the lessee constitute simultaneous uses of the property and when an owner leases the property to another, the lessee cannot be said to be the only one using the property." In Re. Board of Johnson County Commissioners, 225 Kan. 517, 592 P.2d 875 (1979). Since the lessee is not the sole user, the property is not being used exclusively for farming purposes and the exemption must be denied.

IT IS THEREFORE, BY THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS, CONSIDERED AND ORDERED that the application requesting an exemption from ad valorem taxation be denied pursuant to K.S.A. 1995 Supp. 79-201j(a).

Any party to this appeal who is aggrieved by this decision may file a written petition for reconsideration with this Board as provided in K.S.A. 1995 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Board of Tax Appeals, DSOB Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. A copy of the petition, together with all accompanying documents submitted, shall be mailed to the opposing party at the same time the petition is mailed to the Board. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Board within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute if the Board serves the order by mail). If at 5:00 pm on the last day of the specified period the Board has not received a written petition for reconsideration, this order will become a final order from which no further appeal is available.

*see letter lead include Marked
Co Doc'd #*

Docket No. 96-7402-TX
Wabaunsee County, Kansas
Page 3

IT IS SO ORDERED

THE BOARD OF TAX APPEALS



Rita Maichel
RITA MAICHEL, SECRETARY

August Bogina, Jr.
AUGUST BOGINA, JR. P.E. CHAIRMAN

Fred J. Hirsch
FRED J. HIRSCH, MEMBER

Perl M. Bass
PERL M. BASS, MEMBER

J. Lyn Entrikin Goering
J. LYN ENTRIKIN GOERING, MEMBER

Robert G. Frey
ROBERT G. FREY, MEMBER

CERTIFICATION

I, Rita Maichel, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of the order in Docket No. 96-7402-TX, and any attachments thereto, was placed in the United States Mail, on this 25rd day of October, 1996, addressed to:

David D Nelson, EVP
First National Bank of Wamego
PO Box 226
Wamego, KS 66547

Wabaunsee Co. Appraiser
215 Kansas
Alma, KS 66401-0278

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.

Rita Maichel
Rita Maichel, Secretary

BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE APPLICATION
OF TULS DAIRY FARMS
FOR EXEMPTION FROM AD VALOREM
TAXATION IN SEWARD COUNTY, KANSAS

Docket No. 95-4247-TX

O R D E R

Now, on this 25th day of October, 1995, the above captioned matter comes on for consideration and decision by the Board of Tax Appeals of the State of Kansas.

This Board conducted a hearing in this matter on September 13, 1995. After considering all of the evidence presented thereat, and being fully advised in the premises, the Board finds and concludes as follows:

1. The Board has jurisdiction of the subject matter and the parties hereto, an application for exemption having been filed pursuant to K.S.A. 79-213.
2. The subject matter of this tax exemption is described as follows:

Personal Property as described on Exhibit "A".

3. The Applicant and the County waived their appearances at the hearing of this matter and are requesting the Board to base its decision on evidence in the record.
4. The Applicant, Tuls Dairy Farms, is a general partnership that owns and operates a dairy business. The Applicant asserts that the subject personal property is used regularly and exclusively by the Applicant for the operation of the dairy. The operation of the dairy includes the production of milk, the care and feeding of dairy cattle, and farming for the production of feed for the dairy cattle. The Applicant does not use in its operation dairy cattle owned by anyone other than the Applicant and does not produce milk for anyone other than the Applicant. See Affidavit of Todd Tuls, General Partner Tuls Dairy Farms.
5. The Applicant asserts that the subject personal property is farm machinery and equipment as that term is used in K.S.A. 79-201j. The Applicant contends that its dairy and farming operation clearly falls within the purview of farming and ranching operations. The Applicant cites *T-Bone Feeders, Inc. v. Martin*, 236 Kan. 641, 648 wherein the Kansas

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Supreme Court found K.S.A. 17-5903 persuasive in determining whether or not an operation constitutes a farming or ranching operation. The Applicant points out that K.S.A. 17-5903 (h) defines "farming" to include "the production of milk." Based on the foregoing, the Applicant requests that the subject personal property be exempt from ad valorem taxation pursuant to K.S.A. 79-201j from January 1, 1995, forward.

6. The County recommends that the exemption be granted. The County does indicate that two of the items are leased by the Applicant. The JCB Model 505-19 Loadall, S/N #570977 is leased by the Applicant from Associated Supply Company, Inc. The Ford FWA tractor, Model 8770 is leased by the Applicant from Garden City Ford New Holland, Inc.

7. K.S.A. 1994 Supp. 79-201j provides in part as follows:

"The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All farm machinery and equipment. The term 'farm machinery and equipment' means that personal property actually and regularly used exclusively in any farming or ranching operation. The term 'farming or ranching operation' shall include the performing of farm or ranch work for hire. The term 'farm machinery and equipment' shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by K.S.A. 8-126 and amendments thereto."

8. In *T-Bone Feeders* the applicants for exemption were commercial feedlot operators who fed some of their own cattle but also feed cattle owned by others. The Court recognized that the Kansas Legislature has drawn a distinction between agricultural endeavors and farming and ranching. The Court further recognized that K.S.A. 17-5903 distinguishes between "feedlots" and "farming." The Court made it clear that its decision was restricted to commercial feedlots maintained separately and apart from a farm or ranch. In the matter before the Board, the Applicant does not milk dairy cattle owned by others. Therefore, the Applicant's business would not be considered a "commercial" operation similar to a feedlot. Also K.S.A. 17-5903 (h) specifically includes the "production of milk" as "farming." The Board concludes that the Applicant's dairy and farming operation constitutes a "farming or ranching operation" as that term is used in K.S.A. 1994 Supp. 79-201j.

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9. The next question is whether the subject personal property is "actually and regularly used exclusively" in the Applicant's dairy and farming operation. A review of the personal property at issue results in the Board questioning only two of the personal property items listed. Specifically, these items are:
- a. JCB Model 505-19 Loadall, S/N #570977; and
 - b. Ford FWA tractor, Model 8770.

The Board finds that these items are leased by the Applicant. Leasing for profit has been recognized as a "use" of property. See *In re Board of Johnson County Comm'rs*, 225 Kan. 517 (1979). The lessors are receiving income and as such are using these items to generate a profit from their investment. The renting by the lessor and the physical use by the Applicant constitute simultaneous uses of the property. As such, these two items are not exclusively used in a farming or ranching operation. Therefore, they do not meet the statutory requirements for exemption.

10. In summary, the Board finds and concludes that all of the personal property listed on Exhibit "A", except for the JCB Model 505-19 Loadall, S/N #570977 and the Ford FWA tractor, Model 8770, should be exempted from ad valorem taxation pursuant to K.S.A. 1994 Supp. 79-201j from January 1, 1995, forward for so long as the property is owned by the Applicant and used for exempt purposes. All taxes assessed against these items from January 1, 1995 through December 31, 1995, shall be abated. The JCB Model 505-19 Loadall, S/N #570977 and the Ford FWA tractor, Model 8770 are not being exclusively used for exempt purposes and are not exempt from ad valorem taxation.

IT IS THEREFORE, BY THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS, CONSIDERED AND ORDERED that the findings and conclusions set forth herein, shall be, and are hereby made orders of this Board.

If any party to this appeal feels aggrieved by this decision, they may file a written petition for reconsideration with this Board. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's order is unlawful, unreasonable, capricious, improper or unfair. A copy of the petition, together with all documents submitted therewith, shall be mailed to the opposing party at the same time the petition is mailed to the Board. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Board within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute if the Board serves the order by mail). If at 5:00 pm on the last day of the specified period the Board has not received a written petition

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Docket No. 95-4247-TX
Seward County, Kansas
Page 4

for reconsideration, this order will become a final order from which no further appeal is available.

IT IS SO ORDERED

THE BOARD OF TAX APPEALS



Rita Maichel

RITA MAICHEL, SECRETARY

Tony R. Folsom

TONY R. FOLSOM, ATTORNEY

August Rogina, Jr.

AUGUST ROGINA, JR. P. E., CHAIRMAN

Jack Shriver

JACK SHRIVER, MEMBER

Fred J. Hirsch

FRED J. HIRSCH, MEMBER

Lawrence L. Tenopir

LAWRENCE L. TENOPIR, MEMBER

✓

PERL M. BASS, MEMBER

CERTIFICATION

I, Rita Maichel, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of the order in Docket No. 95-4247-TX, and any attachments thereto, was placed in the United States Mail, on this 25 day of July, 1995, addressed to:

Todd Tuls, General Partner
Tuls Dairy Farms
Rt 1 Box 166A
Liberal, KS 67901 ✓

Seward Co. Appraiser
415 North Washington
Liberal, KS 67901-3474 ✓

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.

Rita Maichel

Rita Maichel, Secretary

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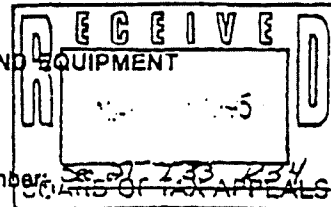
SEWARD COUNTY

SCHEDULE 5: CLASS 2E: COMMERCIAL/INDUSTRIAL MACHINERY AND EQUIPMENT

Name: Tuls Dairy Farms

Address: Rt 1 Box 146A

Parcel or ID Number: 88-01-23-234



NOTE: If additional lines are needed, attach supplemental schedules or computer printout with same format.

NOTE: Taxpayer Complete Columns 1 to 5 and 7. County Appraiser Complete Columns 6 and 8 to 10.

Item (1)	Purchase Date (2)	Purchased New/Used (3)	Age at Purchase (4)	Current Age (5)	Economic Life (6)	Purchase Price (7)	X	Used Factor (8)	X	Tax Factor (9)	=	Value (10)
1. Robt Mfg wagon	6-94	New		8 mos	5 yrs	45000						
2. Montana Hay Fork	6-94	New		8 mos	5 yrs	17,000						
3. TCB Loadall	2-94	used	1 yr	2 yrs	5 yrs	46,000						
* 4. TCB Loadall	12-94	used	2 yrs	2 yrs	5 yrs	51,000						
5. New Holland Spreader	8-94	New		4 mos	3 yrs	11,000						
6. Stack Trailer	10-94	used	7 yrs	7 yrs 4 mos	10 yrs	2500						
7. Dmg Scraper	6-94	New		8 mos	10 yrs	2200						
8. Ford 1715 tractor	6-94	used	2 yrs	2 yrs 8 mos	5 yrs	2700						
9. 6' mower	8-94	new		6 mos	10 yrs	475						
10. 1 computer	6-94	new		6 mos	3 yrs	1400						
11. 1 Laser Printer	6-94	new		6 mos	3 yrs	475						
12. 60 milk machines	6-94	new		6 mos	5 yrs	13,500						
13. 60 milk shakers	6-94	new		6 mos	5 yrs	25,000						
14. 1 3000 gal tank	5-94	new		6 mos	15 yrs	61,000						
15. 1 3000 gal tank	5-94	new		6 mos	15 yrs	22,000						
16. 1 1000 gal tank	5-94	used	10	10 yrs 6 mos	5 yrs	3700						
* 17. 2 vacuum pumps	6-94	new		6 mos	5 yrs	5700						
* 18. Ford FWA	6-94	New		8 mos	5 yrs	53,000						
19. Tractor 8770												
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SCHEDULE 5 TOTAL: Transfer to Summary

* Items #4 and #18 are currently leased by Tuls Dairy Farms. Under the terms of the lease, Tuls Dairy Farms is responsible for payment of taxes, if any, which are assessed against the property. PV-PP-2E (New 11/88) (LOCKWOOD CO., INC. ATOKA, OKLA)



2-16

ALDERSON, ALDERSON, WEILER,
CONKLIN, BURGHART & CROW, L.L.C.
ATTORNEYS AT LAW

W. Robert Alderson, Jr.
Alan F. Alderson*
Joseph M. Weiler
Darin M. Conklin
Mark A. Burghart*
Daniel W. Crow**
John E. Jandera

2101 S.W. 21st STREET
TOPEKA, KANSAS 66604-3174

(913) 232-0753
Facsimile: (913) 232-1866
E-mail: alderson1@cjnetworks.com

MEMORANDUM

Mailing Address:
P.O. BOX 237
TOPEKA, KANSAS 66601-0237

*LL.M., Taxation
**Licensed to Practice in
Kansas and Missouri

TO: The Honorable Phill Kline, Chairman
House Committee on Taxation

FROM: Alan F. Alderson, Legislative Counsel, Western Association

RE: Senate Bill No. 162

DATE: March 11, 1997

Thank you for the opportunity to speak in support of Senate Bill No. 162 on behalf of the Western Association. The Western Association is an organization serving farm equipment, industrial equipment, outdoor power equipment, hardware, home center, lumber and agribusiness retailers in six (6) states.

Western's farm equipment dealer members have an economic stake in the passage of S.B. 162. This legislation was introduced in response to recent decisions of the Board of Tax Appeals which restrict the availability of the current statutory farm machinery and equipment property tax exemption. The Board has determined that machinery and equipment which is leased does not qualify for the exemption. This issue is identical to that previously addressed by this body in other contexts in which statutory exemptions were extended to equipment purchased under lease-purchase agreements.

Senate Bill No. 162 will also correct an apparent constitutional flaw in the existing statute. The exclusive use test mandated by K.S.A. 79-201j conflicts with the constitutional exemption provided for farm machinery and equipment in Art. 11, § 1 of the Kansas Constitution. The Constitution unconditionally exempts farm machinery and equipment. It contains no language which would limit the exemption to that equipment which is used exclusively for farming or ranching. Any language in K.S.A. 79-201j which would restrict the exemption should be stricken.

By striking the exclusive use requirement, leased equipment should qualify for the exemption. We would urge the Committee to make certain, however, that the record reflects that this is the intended purpose of the legislation. We want to eliminate any threat of additional litigation in the future to obtain clarification.

Thank you for the opportunity to address the Committee. We urge your favorable consideration of S.B. 162. I would be happy to respond to any questions you might have.

House Taxation
3-11-97
Attachment 3-1



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

Re: SB 162 - Property tax exemption for agricultural machinery and equipment purchased through a lease-purchase agreement.

**March 11, 1997
Topeka, Kansas**

**Presented by
Leslie Kaufman
Assistant Director
Public Affairs Division**

Chairman Kline and members of the Committee, thank you for the opportunity to appear before you today in support of SB 162. I am Leslie Kaufman. I serve as the Assistant Director of Public Affairs for Kansas Farm Bureau.

Our members take a very keen interest in matters such as property taxation. At our KFB Annual Meeting this past November, more than 400 voting delegates, themselves agricultural producers, again articulated their support for the general intent of the limited classification amendment now contained in the Kansas Constitution. We strongly supported this amendment and worked hard to see it ratified.

It is clear to us, this Constitutional provision exempts farm machinery and equipment from property taxation based on its use, not ownership or how it is purchased. We believe a recent opinion by the Attorney General is supportative of this interpretation. However, Board of Tax Appeals decisions, based on statutory provisions related to this Constitutional amendment, have

taxed farm machinery and equipment not on type or use for crop production, but rather on the manner in which it was acquired -- through lease-purchase agreement. BOTA deemed this a dual use, not exclusive to farming, and therefore denied the tax exemption under K.S.A. 1996 Supp. 79-201j.

The changes proposed in SB 162 would bring the statute BOTA relies on in-line with the intent of the Kansas Constitution's limited classification amendment. As such, we would respectfully request the committee support SB 162.

Thank you.

Property Classification and Reappraisal AT-2

The Kansas Constitution and proper implementing legislation provide for appraisal of agricultural land on the basis of its income producing capability. Equitable procedures for determination of net income and the methodology for establishment of an appropriate capitalization rate for agricultural land are set forth in law. These factors and procedures must be retained and properly utilized by the Property Valuation Division of the Department of Revenue in order to assure equity and stability in valuation of agricultural land.

We support the general intent of the limited classification amendment which is now part of the Kansas Constitution.

Costs associated with the annual updating of values should not be borne entirely by the counties. Not less than 50 percent of this additional expense should be paid by the state.

When land or water rights are purchased by business, industry, non-profit organizations or local units of government, the valuation of the land should be maintained at a level no less than its immediate prior use, and property taxes should continue to be paid by the new owners.



"Service to County Government"

TESTIMONY
SB 142
by Judy Moler
Kansas Association of Counties
March 11, 1997

Thank you, Chairman Kline and Members of the Committee for the opportunity to speak to you on SB 142. I am Judy Moler, General Counsel and Legislative Services Director for the Kansas Association of Counties.

The Kansas Association of Counties has identified five primary legislative objectives for the 1997 legislative session. This issue...that of appraiser certification... is the NUMBER ONE PRIORITY of the KAC.

K.S.A. 19-430 currently requires all county appraisers to be certified by the Kansas Real Estate Appraisal Board (KREAB) as a General Certified Appraiser as of July 1, 1997. A county appraiser can be reappointed to a position that they hold as of that date without meeting the KREAB certification (grandfather clause). No one, however, can be newly appointed to a County Appraisal position without meeting the KREAB certification requirement. Prior to 1996 General Certification could be achieved by demonstrating 2000 hours experience in mass appraisal. In 1995 the KREAB through regulation changed license requirements to allow only 500 hours of mass appraisal experience to count toward the 2,000 hours required for General Certification. The other 1500 hours must be single property appraisal experience.

The majority of Kansas counties prohibit County Appraisal staff from performing single county appraisals for fee within their county. In addition, an appraiser working full time within their job would have little time to work single property appraisals. The result is that the 1500 hours of single property appraisal is difficult, if not impossible, for a County Appraiser or staff member to obtain. This leaves many counties in a CRITICAL situation on July 1, 1997.

At the time of the KAC Annual Meeting in November of 1996, the resolution of this issue was still being debated among commissioners and appraisers. A task force of county commissioners and appraisers was convened in order to resolve this dilemma.

The result of this one day meeting is the crux of SB 142 which is before you today. This bill provides for three different ways by

Jayhawk Tower Office
700 SW Jackson, Suite 805 Topeka, KS 66606
913/233-2271 FAX 913/233-483

House Taxation
3-11-97
Attachment 5-1

which county appraisers can be certified. In addition to the current KREAB certification, appraisers could also be certified if they met the IAAO (International Association of Assessing Officers) designation for certification as well as having three years of mass appraiser experience. The third option for certification would be a new designation of "registered mass appraiser". There would be specific educational requirements for this certification as well as 2000 hours of mass appraisal experience required. County appraisers or potential county appraisers who meet one of the three certification standards could be appointed by the county commission to a four year term on July 1, 1997. Those who do not have any of the three certifications, but who have three years mass appraisal experience and are approved by PVD could be appointed for a two year term. This would give them until July 1, 1999, to qualify for one of the three options.

We have several County Commissioners and County appraisers here today to speak favorably regarding SB 142.

TESTIMONY
SB 142
March 11, 1997

I am Linda Peterson, Marion County Commissioner and President of the Kansas County Commissioners Association.

First of all, I want to reemphazise a point that Judy Moler made. We brought together county Commissioners and County Appraisers from across the state. We comprised among ourselves on two additional certifications for county appraisers in addition to the current certification.

The certification that we are proposing does not mean that we are asking for a lesser quality in our appraiser. If you review the education hours required under the mass appraisal certification you will see that those appraisers will be well qualified for the position of county appraiser.

The current requirements make it difficult for many counties to find and retain qualified personnel. There are currently 65 certified individuals in the state of Kansas to serve 105 counties. These 65 individuals are not all county appraisers or wish to be. Where counties can retain a qualified appraiser, the market force (supply and demand) may require commissions to pay the appraiser far more than other county employees. This could (would) create severe internal pay equity problems.

Marion County is one of the counties looking for an appraiser. We have an employee on staff who would like to become certified but cannot without quitting his job with the county to get enough hours in fee appraisal. The current certification requires 1500 hours of fee appraisal.

Marion County is required to hire an individual who meets the certification set by KREAB. Those individuals are hard to come by. Yes, we are even looking at sharing an appraiser but "what if" we can't retain an appraiser? Do we turn the county over to PVD? Is that what the legislators want?

As a reminder we are not proposing to diminish the standards for county appraisers. We ask that you look at this bill seriously.

Thank you for your time.

TESTIMONY PRESENTED

TO THE

HOUSE TAXATION
COMMITTEE

BY

HAROLD RICKERS

ON BEHALF OF

THE KANSAS LEGISLATIVE POLICY GROUP

ON

SB 142

MARCH 11, 1997

Testimony on Senate Bill 142

Mr. Chairman and Members of the Committee:

My name is Harold Rickers, County Commissioner from Meade County located in southwest Kansas. Today, I am appearing on behalf of the Kansas Legislative Policy Group which is an organization of county commissioners from 38 counties in western Kansas in support of Senate Bill 142.

The problem facing many county commissioners is what to do to get qualified county appraisers. With the passage of Senate Bill 142 we can establish a set of guidelines for our appraisers.

Currently, many county appraisers and appraisers working in the offices of county appraisers are finding it difficult to obtain the license or certification issued by the Kansas Real Estate Appraisal Board. Recent regulations adopted by the Appraisal Board restrict the number of hours of mass appraisal experience that may be applied towards attaining the certification, requiring county appraisers to do fee appraisals after hours and on weekends. Thus, an individual very experienced in mass appraisal may not qualify for the Appraisal Board certification.

With Senate Bill 142 as amended, we feel confident that the Kansas Department of Revenue can set guidelines that can be obtained and will guarantee quality people to be county appraisers. Also, we believe that it is essential that the rules and regulations for the new designation be maintained by the Kansas Department of Revenue to ensure that what has happened under the current guidelines does not happen again.

We respectfully request your support for Senate Bill 142.

Thank you for your consideration. I will respond to questions.

TO: House Assessment and Taxation Committee
FROM: Rod Broberg, Kansas County Appraisers Association
RE: Senate Bill 142
DATE: March 11, 1997

I am Rod Broberg and I appear on behalf of the Kansas County Appraisers Association in support of Senate Bill 142.

This bill was originally introduced in the Senate with the intention of achieving two objectives. The first was to make it possible for County Appraisers to obtain a license or certification from the Kansas Real Estate Appraisal Board without undue obstacles. These obstacles, in the form of new rules pertaining to experience requirements, made it nearly impossible for persons working in mass appraisal to obtain the needed certification to become a County Appraiser.

The second objective would be to head off a shortage of qualified appraisers in July of 1997 under the current appraiser qualification statute. This objective would be achieved with the passage of this bill.

While these two objectives are important, it is also important that the qualifications of county appraisers not be diminished. That is the reason that the original bill provided for participation of both the KREAB and the Department of Revenue in administering the RMA designation. The Senate, apparently not willing to deal with the prospect of joint administration, deleted this language from the bill. I would encourage you to find a way to implement the RMA designation, without diminishing appraiser qualifications.

I would be happy to answer any questions that you may have about this subject.

Respectfully submitted,
Rod Broberg, Saline County Appraiser
300 W. Ash
Salina, Kansas 67401
913-826-6620

JEWELL COUNTY COMMISSIONERS

**307 N. Commercial
Mankato, KS 66956
913-378-4040**

Meeting Each Monday

**John E. Stover
1st District
913-545-3269**

**Doyle H. Alcorn
2nd District
913-378-3055**

**Frank D. Langer
3rd District
913-875-4931**

January 28, 1997

The Honorable Governor Bill Graves
2nd Floor, State Capitol
Topeka, Ks 66612-1590

Subject: Appraiser Certification

Dear Governor Graves:

I'm writing this letter asking for your help on the appraiser's certification bill.

We are a county of 4,200 plus population and have a valuation of \$26,548,040. Out of this valuation we are keeping up all the state and federal requirements plus all the necessary county services. We have 1500 miles of road to maintain plus 375 bridges that need repair or replaced and all local department's (Clerk, Treasurer, Register of Deeds, Sheriff, County Attorney and Ambulance). The only way we can operate is all these department heads are very budget minded and doing a great job.

Now we have the appraiser problem. We are now sharing an appraiser with Osborne County which is fifty five miles away. Approximately one year ago we interviewed three applicants. Two were not qualified under the new requirements and the other wanted \$45,000 per year. Our Sheriff only makes \$22,000 and is the highest paid of all elected employees. The other two applicants could have handled the job, but didn't have all the requirements of new certification rules.

By sharing with Osborne County we are still paying \$25,860.00 and still have to have three people working in our appraiser's office. Two of these people have had years of experience and are doing most of the work, but can't meet the rigid certification requirements.

House Taxation
3-11-97
Attachment 9-1

If the mass appraisal experience could be lowered to three years experience under qualified appraiser it would sure help. I know there are people who have worked in large appraisers office who would like to move out to smaller counties to make there homes. That is what we need, bring people back to the county. They will establish homes and pay taxes here not in some other county.

All our department heads here are really working hard to keep taxes down and still provide necessary services.

We feel you are and will continue to do a very fine job as our Governor.

Respectfully,

Doyle "Hooley" Alcorn
Jewell County
Chairman, Commissioner 2nd District

cc: Rep. Aurand
Rep. McClure
Sen. Lee
Judy Moler, KAC

JEWELL COUNTY

PARCEL COUNTS

MARCH 10, 1997

Town Residential	1,155
Rural Residence w/farms	199
Town Farmstead	14
Farmstead Rural	<u>779</u>
Total Residence	2,147

Ag parcels Urban	53
Ag parcels Rural	<u>4,299</u>
Total Ag parcels	4,352

Vacant Lots Urban	362
Vacant Lots Rural	<u>181</u>
Total Vacant Lots	543

Commercial Urban	168
Commercial Rural	<u>34</u>
Total Commercial	202

Total overall parcels	7,244
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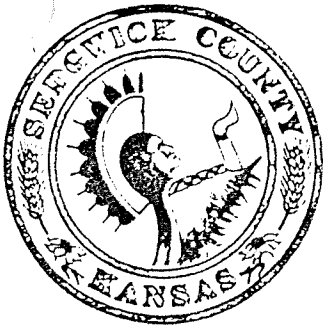
TESTIMONY TO THE
HOUSE TAX COMMITTEE
MARCH 11, 1997
GERALD C. FRANTZ
SEDGWICK COUNTY APPRAISER

- SEE MY EXPERIENCE AND EDUCATION (ATTACHED)
- NOTE: I AM A KANSAS "LICENSED" APPRAISER
- NOTE: I HAVE A COLLEGE DEGREE, 20 YEARS OF MASS APPRAISAL EXPERIENCE AND AN IAAO "CAE" DESIGNATION.
- WHILE I AM ELIGIBLE AND WILL BE REAPPOINTED AS THE SEDGWICK COUNTY APPRAISER, I WILL NOT BE ELIGIBLE TO BE APPOINTED AS A COUNTY APPRAISER TO ANY OTHER COUNTY IN KANSAS AFTER JULY 1, 1997
- BEING A CERTIFIED GENERAL APPRAISER HAS NO BEARING ON A COUNTY APPRAISER'S FITNESS FOR PERFORMING HIS OR HER DUTIES.
- SEDGWICK COUNTY HAS MANDATORY MINIMUM STANDARDS REGARDING JOB RELATED TRAINING AND EDUCATION FOR ITS ENTIRE APPRAISAL OFFICE STAFF (SEE ATTACHED).
- SEDGWICK COUNTY DOES NOT ALLOW ITS APPRAISAL STAFF TO PERFORM FEE APPRAISALS IN SEDGWICK COUNTY.
- UNDER CURRENT KREAB STANDARDS ASPIRANTS MUST PERFORM 1500 HOURS OF COMMERCIAL FEE TYPE INDIVIDUAL APPRAISALS IN ORDER TO QUALIFY FOR ITS "CERTIFIED GENERAL" CLASSIFICATION.
- CURRENT KREAB RULES EXCLUDE ANYONE ON OUR STAFF NOT CURRENTLY HOLDING THE "CERTIFIED GENERAL" CLASSIFICATION FROM QUALIFYING TO BE A COUNTY APPRAISER UNLESS THEY QUIT AND WORK 1500 HOURS AS A FEE APPRAISER.
- THE CURRENT KANSAS LAW AND KREAB STANDARDS DISCRIMINATE AGAINST QUALIFIED MASS APPRAISAL PROFESSIONALS.
- THE CURRENT KANSAS LAW AND KREAB STANDARDS PLACE SMALL COUNTIES AT AN EXTREME DISADVANTAGE. TO REPLACE OR HIRE A COUNTY APPRAISER UNDER THE 7/1/97 RULES A SMALL COUNTY WILL BE FORCED TO LOOK OUTSIDE OF ITS AREA TO FIND A KREAB "CERTIFIED GENERAL" APPRAISER AND WILL BE FORCED TO PAY MUCH MORE THAN CURRENT MARKET SALARIES WITH NO GUARANTEE THAT THE INDIVIDUAL IS OTHERWISE COMPETENT.
- WHILE THE APPRAISAL PRINCIPALS PRACTICED ARE IDENTICAL FOR BOTH, THE FUNCTIONS OF THE COUNTY APPRAISER AND THE FEE APPRAISER ARE OTHERWISE MUTUALLY EXCLUSIVE.
- THE ROLE OF THE KREAB IS TO OVERSEE AND REGULATE THE FEE APPRAISAL INDUSTRY. INDEED, FREE APPRAISERS ARE OFTEN PAID TO DISPUTE THE APPRAISED VALUES OF THE COUNTY APPRAISER.

- ONE OF THE ROLES OF THE DEPARTMENT OF REVENUE IS TO OVERSEE AND REGULATE TAXATION IN THE STATE OF KANSAS.
- I BELIEVE THAT THE QUALIFICATIONS AND CONTINUING EDUCATION REQUIREMENTS FOR COUNTY APPRAISERS SHOULD BE MORE DEMANDING PARTICULARLY RELATING TO PROPERTY TAX LAW, OFFICE ADMINISTRATION AND MASS APPRAISAL TECHNIQUES.
- I BELIEVE THAT THERE SHOULD BE MINIMUM STANDARDS FOR ALL APPRAISAL STAFF IN THE COUNTY APPRAISER'S OFFICES.
- I BELIEVE THAT THE COUNTY APPRAISER AND HER/HIS STAFF SHOULD BE TAKEN OUT FROM UNDER THE POWER OF THE KREAB AND REGULATED BY THE DEPARTMENT OF REVENUE AND THE INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS.

GERALD FRANTZ
MASS APPRAISAL EXPERIENCE

- 1/77 - 1/79 - PRC JACOBS - ERIE COUNTY, NEW YORK - RESIDENTIAL DATA COLLECTION, COMMERCIAL DATA COLLECTION AND DATA COLLECTION SUPERVISION, INDUSTRIAL COSTING (MARSHALL-SWIFT), RESIDENTIAL NEIGHBORHOOD DELINEATION, RESIDENTIAL FINAL REVIEW (325,000 PARCELS).
- 1/79 -6/79 - COLE-LAYER-TRUMBLE CO., CLEVELAND, OHIO - MAJOR COMMERCIAL PROPERTY VALUATION
- 6/79 - 5/80 - CLT - RESIDENTIAL AND COMMERCIAL HEARINGS, SEVERAL COUNTIES AND CITIES IN EASTERN NEW YORK AND WESTERN MASS.
- 5/80 - 10/80 - ONE MAN REVALUATION PROJECT - CHILLMARK, MASS. (900 PARCELS)
- 10/80 - 12/81 - PROJECT MANAGER - CLT - YARMOUTH , MASS (16,000 PARCELS)
- 1/81 -6/83 - CLT - ROCHESTER, N.Y. - DIRECTOR OF RESIDENTIAL APPRAISAL (150,000 PARCELS).
- 6/83 - 1/85 - CLT - HOUSTON, TEXAS - COORDINATOR OF PHASE III OF HARRIS COUNTY REVALUATION (350,000 PARCELS)
- 1/85 - 9/94 - HARRIS COUNTY APPRAISAL DISTRICT (HOUSTON, TX.) DIRECTOR OF FIELD OPERATIONS, DIRECTOR OF APPRAISAL SYSTEMS, DIRECTOR OF MARKET ANALYSIS AND RESEARCH, DIRECTOR OF COMMERCIAL APPRAISAL OPERATIONS (1,200,000 PARCELS)
- 9/94 - PRESENT - SEDGWICK COUNTY APPRAISER - WICHITA, KS. (185,000 PARCELS)
- LICENSED REAL ESTATE SALESMAN SINCE 1986 - TEXAS)
- REAL ESTATE BROKER - SINCE 1990 - TEXAS
- KANSAS REAL ESTATE APPRAISAL BOARD LICENSED SINCE 1994
- IAAO - CERTIFIED ASSESSMENT ADMINISTRATOR (CAE) DESIGNATION - SINCE SEPTEMBER 1996.
- BACHELORS DEGREE FROM THE UNIVERSITY OF HOUSTON - ECONOMICS (1995)



MEMORANDUM

OFFICE OF THE APPRAISER

TO: ALL APPRAISAL OFFICE STAFF

FROM: GERALD C. FRANTZ

SUBJECT: NEW MINIMUM STANDARDS POLICY

DATE: FEBRUARY 06, 1997

As you are aware several Appraisers formed an independent Committee to address the issue of my policy on minimum standards. This committee reviewed the current policy and then proceeded to formulate a revised plan which was presented to me several weeks ago. After reviewing the committee's proposal and consulting with various staff members I have redefined our current policy. While much of the original policy remains intact I have incorporated parts of the committee's proposal.

I am still of the opinion that in order to ensure that our entire staff is knowledgeable in the field of Property Tax Assessment we **must** meet various educational goals. While I also believe that performance standards are important, I do not feel that they take the place of educational standards.

This revised policy will impact each and every staff member within the Appraiser's Office. All staff **members must meet minimum standards**. An employee who cannot meet a minimum standard may be reclassified or demoted to a position at a lower salary classification, if a vacant one exists at the time. The reclassification or demotion may result in a decrease in pay within a range of 8% to 20% depending on current range and step. If a vacancy at a lower position does not exist, the employee may be terminated.

The mandatory requirements for each level are listed on pages 3 through 8. Educational courses above the mandatory standard are voluntary. For employees that seek the opportunity to advance, standards for the position sought must be met before being eligible for promotion/reclassification. **Please be aware**, however, that unless otherwise stated in this policy, should an employee complete the standards for a given area above their present level it does **not mean** that you will automatically receive a promotion and/or an increase in pay. **First**, a vacant position must be available. **Second**, other

professional criteria will be evaluated as well as the completed standards. Meeting the standards merely allow an employee to be considered for a vacant position at the level the standards were met.

COURSE REQUIREMENTS:

Non-IAAO course requirements will be sponsored three times by the Appraiser's Office. Three Failures will constitute failure to meet the standard. IAAO courses will be paid for two times for IAAO members seeking a designation only. Any additional attempts to pass IAAO Courses will be paid for by the employee. The County Appraiser **must** authorize additional attempts.

The career ladder through the established standards will coexist with the policy (resolution) defined in the memo dated May 25, 1995. This policy states that all staff members currently classified as Appraiser I's will be reclassified as Appraiser IIs upon completing the State Eligibility Exam. In addition, all Appraiser IIs who have five years or more experience will be reclassified as Appraiser IIIs upon successful completion of the State Eligibility Exam and completion of their Professional Designation Program (CAE, PPS, AAS, or CMS). In addition, a person may be chosen for an Appraiser III position by passing the State Eligibility Exam and by going through an interview process where additional characteristics would be considered such as prior job performance, actual educational level, specific job skills, etc.

The information on pages 3 through 8 shows the **mandatory educational requirements** at each level. The report is broken into either Administrative/Support positions, or Appraiser Operation positions.

There are four main areas for each different job defined as follows:

1. **Employee Type**--either a new hire or current employee.
2. **Timing**--The amount of time allowed to meet the mandatory standards.
3. **Range**--The current classification level of the employee
4. **Mandatory Requirements**--Courses, seminars, and exams that must be successfully completed to meet the standards at each level.

ADMINISTRATIVE/SUPPORT (ALL POSITIONS)

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	42 months	15 or lower
Current Employee	42 months	15 or lower
	(to be completed by 7/1/2000)	
<u>MANDATORY REQUIREMENTS:</u>		
ASSESSMENT ADMINISTRATION CERTIFICATION LEVEL I -		
In-House Introduction to Appraisal		
In-House Legal Description		
Kansas Property Tax Law		
In-House Personal Property		

<u>Employee Type</u>	<u>Timing</u>	<u>Range</u>
**New Hire	42 months	16
Current Employee	42 months	16
	(to be completed by 7/1/2000)	
<u>MANDATORY REQUIREMENTS:</u>		
ASSESSMENT ADMINISTRATION CERTIFICATION II:		
In-House Introduction to Appraisal		
In-House Legal Description		
Kansas Property Tax Law		
In-House Personal Property		
In-House Assessment Administration		

CONT. ADMINISTRATIVE/SUPPORT POSITIONS

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	42 months	17 or higher
Current Employee	(to be completed by 7/1/2000)	17 or higher

MANDATORY REQUIREMENTS:

ASSESSMENT ADMINISTRATION CERTIFICATION LEVEL III -

- In-House Introduction to Appraisal
- In-House Legal Description
- Kansas Property Tax Law
- In-House Personal Property
- In-House Assessment Administration
- In-House Cost Approach
- In-House Market Approach
- In-House Income Approach

APPRAISER OPERATIONS

APPRAISER I--REAL ESTATE

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	42 months	17
Current Employee	Current Time Frame	17

MANDATORY REQUIREMENTS:

(OPTION A)

IAAO Course I

IAAO Course II

In-House Personal Property

Kansas Property Tax Law

In-House Legal Description

(OPTION B)

AAC Level III (See page 4)

(OPTION C)

PVD Eligibility Exam (Plus Kansas Property Tax Law and Legal Description)

APPRAISER I - - PERSONAL PROPERTY

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	42 months	17
Current Employee	Current Time Frame	17

MANDATORY REQUIREMENTS

(OPTION A)

IAAO Course I

IAAO Course II

IAAO Course V

Kansas Property Tax Law

In-House Legal Description

(OPTION B)

AAC Level III (See page 4)

(OPTION C)

PVD Eligibility Exam (Plus Kansas Property Tax Law and Legal Description)

CONT. APPRAISER OPERATIONS

APPRAISER I—MAPPING

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	42 months	17
Current Employee	Current Time Frame	17

MANDATORY REQUIREMENTS:

(OPTION A)

IAAO Course I

IAAO Course II

IAAO Course VI

Kansas Property Tax Law

In-House Legal Description

(OPTION B)

AAC Level III (See Page 4)

(OPTION C)

PVD Eligibility Exam (Plus Kansas Property Tax Law and Legal Description)

*(16 or lower can be employees not currently working in Appraiser Operations.)

APPRAISER II—REAL ESTATE

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	12 months	19
Current Employee	Current Time Frame	19

MANDATORY REQUIREMENTS:

(OPTION A)

All Appraiser I – Real Estate Requirements

IAAO Course IV or In-House Equivalent

IAAO Course 310 or 320 or Equivalent

PVD Eligibility Exam (Plus Kansas Property Tax Law and Legal Description)

CONT. APPRAISER OPERATIONS

APPRAISER II—PERSONAL PROPERTY

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	36 months	19
Current Employee	Current Time Frame	19

MANDATORY REQUIREMENTS:

(OPTION A)

All Appraiser I - - Personal Property Requirements
IAAO Course IV or In-House Equivalent
Personal Property Approved Elective
Course 310 or 320 or In-House Equivalent
PVD Eligibility Exam (Plus Kansas Property Tax Law and Legal Description)

APPRAISER II—MAPPING

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	36 months	19
Current Employee	Current Time Frame	19

MANDATORY REQUIREMENTS:

(OPTION A)

All Appraiser I - - Mapping Requirements
Approved Mapping Elective
IAAO Course IV or In-House Equivalent
In-House Mass Appraisal/Statistics
PVD Eligibility Exam (Plus Kansas Property Tax Law and Legal Description)

CONT. APPRAISER OPERATIONS

APPRAISER III—REAL ESTATE, PERSONAL PROPERTY OR MAPPING

<u>EMPLOYEE TYPE</u>	<u>TIMING</u>	<u>RANGE</u>
**New Hire	12 months	21 or higher
Current Employee	Current Time Frame	21 or higher

MANDATORY REQUIREMENTS:

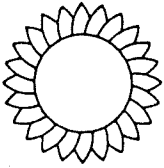
Appraiser II Requirements
Standards & Ethics
IAAO CAE/PPS/AAS/CMS Designation or Merit

**New Hire - Employee hired for the first time in the Appraiser's Office.

COURSE EQUIVALENTS:

- IAAO I Course Equivalent In-House Intro to Appraisal
In-House Cost Approach
In-House Market Approach
- IAAO II Equivalent In-House Income Approach
- IAAO 310 or 320 Equivalent In-House Mass Appraisal/Statistics or
IAAO Course 301 or 302
- IAAO IV Equivalent In-House Assessment Administration
- IAAO V Equivalent In-House Personal Property

(If you are not seeking a professional designation through IAAO you will need to take the In-House equivalent courses unless otherwise approved by Administration.)



March 11, 1997

TESTIMONY FOR THE HOUSE TAXATION COMMITTEE

Regarding SB 142

A bill supported by the Johnson County Board of Commissioners

Presented by Joyce Coker, Johnson County Intergovernmental/ Community Relations Coordinator

Mr. Chairman, members of the committee, my name is Joyce Coker, Intergovernmental and Community Relations coordinator for the Johnson County Board of Commissioners. I am appearing today on behalf of the board to request that you pass SB 142, pertaining to qualifications of county appraisers. Among those who worked to draft this bill was Johnson County Appraiser Paul Welcome.

The bill proposes three specific methods through which appraisers can be certified as defined in K.S.A. 19-430. All three require that the applicant pass the PVD eligibility examination. **An applicant would only need to meet the standards required by one method to be appointed by the county commission to a four-year term.**

- **Existing method--** Through KREAB (Kansas Real Estate Appraisal Board) general appraiser certification, which requires 2,000 hours for general certification-- 500 hours of which can be mass appraisal experience, 1,500 hours of which must be single-property appraisal experience.

Problem: Most counties do not allow county appraisal staff to perform single property appraisals for fee within their county, a task which would be difficult to perform for full-time workers in any event. Many counties, therefore, are finding it difficult to recruit qualified persons to fill positions.

- **First new option--** Through meeting IAAO (International Association of Assessing Officers) standards as well as obtaining three years of mass appraiser experience.
- **Second new option--** Through meeting educational requirements and obtaining 2,000 hours of mass appraisal experience to qualify for a new designation of "registered mass appraiser."

Johnson County believes that the Kansas Association of Counties and a task force of professionals have crafted a good solution to the difficulty counties face in recruiting highly qualified appraisers to help deal with growing work loads.

Thank you for this opportunity to express our support of this bill.

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March 11, 1997
Senate Bill 142

Sheridan County
Stanley Rogers, Commissioner

Members of the Committee:

Sheridan County is honored to once again testify on behalf of SB 142. We feel this bill as amended by senate committee will be beneficial to counties who will be in the hiring process for this new contract period beginning July 1, 1997.

Our county is currently in the process of acquiring a new appraiser. We have been fortunate at this time to have three individuals interview for the position. With these three interviews, the asking price has been between \$40,000. and \$70,000. per year annual salary. Our former appraiser was paid \$24,000. annually). We have resigned ourselves to the fact that we will have to pay, even though it will exceed our 1997 personal services budget line item.

SB 142 will alleviate this financial situation for many counties, due to the fact they would in most cases have trained personnel within their departments who could assume the responsibilities of county appraiser. Unfortunately, we are not in that position.


MITCHELL COUNTY COMMISSIONERS
PO Box 190
Beloit, KS 67420

Mitchell County would like to support the passage of Senate Bill 142 which deals with the requirements of county appraisers.

As the requirements stand now, it is difficult if not impossible to find a qualified individual for the position of county appraiser and if an individual is found, the cost is at a premium to the county.

Again, we urge the passage of Senate Bill 142.

Board of County Commissioners
Mitchell County, Kansas


by William P. Bunger, Chairman

STATE OF KANSAS

GWEN WELSHIMER
REPRESENTATIVE, EIGHTY-EIGHTH DISTRICT
SEDGWICK COUNTY
6103 CASTLE
WICHITA, KANSAS 67218
316-685-1930
DURING SESSION
LEGISLATIVE HOTLINE
1-800-432-3924
OFFICE: 913-296-7687



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ADMINISTRATIVE RULES & REGULATIONS—
MINORITY LEADER
GOVERNMENTAL ORGANIZATION—
MINORITY LEADER
FINANCIAL INSTITUTIONS
HEALTH & HUMAN SERVICES

DATE: March 11, 1997
TO: Rep. Phill Kline, Chairman, and
Members, House Taxation Committee
FROM: Rep. Gwen Welshimer
SUBJECT: SB 142, County Appraiser Licensing Requirements

In 1992, the Legislature passed a bill to improve the image and the work product of county appraisers. This bill required county appraisers to become state certified or licensed under the Real Estate Appraisal Board. This Board regulates fee appraisers as to compliance with the Uniform Standards of Professional Appraisal Practice as set out by federal law. The federal legislation was passed in response to the failures of savings and loan institutions in the 1980's.

In 1993, the Kansas Legislature upgraded the requirement for county appraisers to a certified general classification. This classification is the only one which certifies that an appraiser is qualified to appraise non-residential properties such as commercial or industrial with values over \$250,000. County appraisers have many of these properties, for example, warehouses, industrial parks, and commercial buildings of all styles and shapes. Not only must these properties be appraised, but their values defended upon appeal.

Under the Kansas State Certified and Licensed Real Property Appraisers Act, KSA 58-4109, the Real Estate Appraisal Board is charged with adopting rules and regulations to assure that the education, experience, and examinations provide confidence in the applicant's ability to perform appraisals within the scope of their practice.

To provide this confidence, in 1994 the Real Estate Appraisal Board changed the allowable mass appraisal experience for county appraisers to 500 hours. This subjected county appraisers to having to produce, unless grandfathered, 1,500 experience hours from appraising commercial/industrial/agricultural properties and influences on real estate values, legal considerations, types of value, economic principles, real estate markets and analysis, property descriptions, highest and best use analysis, appraisal

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math and statistics, site valuation, sales comparisons, cost approach to value, income approach, estimating income and expenses, operating statement ratios, direct capitalization, cash flow estimates, measures of cash flow, discounted cash flow analysis, valuation of partial interests, standards and ethics, and narrative report writing.

County appraisers who had not met these requirements apparently have ignored the law. Applications for licensure and experience documentation have not been coming in to the Board. This is bewildering, since county appraisers are able to appraise any property from their records, enlist the help of data collectors, and submit their narrative reports at hearings to gain these hours.

PVD has also ignored the licensing law. Again, this is bewildering because PVD's own ratio studies have consistently revealed compliance problems which have prompted court rulings and ultimatums.

This bill will detrimentally eliminate the general license and give county appraisers a PVD designation, in return for county appraisers completing only a residential designation from the International Association of Assessing Officers.

If we return county appraiser certification to PVD, we will be running backwards, returning to the PVD meltdown and putting the Legislature's feet back to the fire.

A better idea would be to give the county appraisers who are not certified a one-year extension and study the issue in the interim. The county appraiser certification process needs to be removed from the oversight of the tax generators (Dept. of Revenue). Perhaps we could take the valuation supervisors and auditors from PVD and put them under the Appraisal Board as well, moving their funding with them. PVD could remain adequately funded for developing ratio studies, agricultural soil-type values, and state appraisal of utilities. With this needed staff from PVD, the Appraisal Board could assure that counties comply with the Uniform Standards of Professional Appraisal Practice and help to build more property owner respect for the process.

The creation of a Board of Valuation Appeals with members appointed by the Real Estate Appraisal Board who have demonstrated the experience and background to decipher the evidence could replace the BOTA process. Right now, business decisions are being made, not appraisal decisions. Attorneys argue for and "make the deal," not appraisers. Therefore, market value required by the statutes is not the objective or the result.

The Legislature has been told that compliance is impossible under

mass appraisal and the ratio studies should be ignored. This is not true. We can be under compliance and produce a reliable market value on Kansas properties for ad valorem taxation. We can do this and should because county appraisals effect every citizen in the state. Not only do we have property owners at the mercy of the county appraiser, but the community banks are gearing up to use county appraiser market values by computer to speed up the closing of mortgage loans.

County appraisers have awesome responsibility, powerful authority, and must have the experience to follow through on all types of properties.

Right now, Kansas property owners are subjected to county appraisers without appropriate experience and qualifications. The public knows this. Taxpayers hire qualified appraisers and unqualified county appraisers often throw the appraisal in the trash can or ignore it because they don't understand it. An appraiser is an appraiser is an appraiser. They all should speak the same professional language.

County appraisers were put under the license act because the Legislature said, "we want the quality of values to improve because there is something very wrong with them, we want change and we want accountability." Let's not go back.



Gwen Welshimer
State Certified Residential
Property Appraiser, Lic.#954

MAROLIN KELLY APPRAISALS

1816 S. Stacey Ct.
Wichita, KS 67207
316-685-2137
Fax 316-685-0648

TO: HOUSE TAXATION COMMITTEE

FROM: MAROLIN KELLY, KS CERTIFIED REAL PROPERTY APPRAISER

SUBJECT: SENATE BILL #142, QUALIFICATIONS FOR APPOINTMENT AS A COUNTY OR DISTRICT APPRAISER

Thank you for the opportunity to testify. I am appearing at my own volition as a self employed fee appraiser and tax payer and not in the interest of an organization.

The area of Senate Bill 142 that I oppose are the requirements for qualification for County Appraisers. A County Appraiser should have education and experience as required for a Kansas General Certified Appraiser.

A designation from an appraisal organization such as International Association of Assessing Officers is certainly to be commended, but, not as the only qualification for the position of County Appraiser. This is the equivalent of a designation from an organization such as National Association of Independent Fee Appraisers or Appraisal Institute for fee appraisers. These designations certainly cannot be used to become State Certified fee appraisers.

I, as a fee appraiser doing appraisals for lending institutions and individuals requiring appraisals for various reasons, am regulated and governed by the Kansas Real Estate Appraisal Board and Uniform Standards of Professional Appraisal Practice. County Appraisers should be held to equally high standards which are governed by the State and Federal governments--not private organizations.

It is against taxpayers interests in the event of a charge against a County Appraiser, of having to deal with an organization of the County Appraiser's peers rather than a governmental agency such as the Appraisal Board.

A County Appraiser has a very critical responsibility to the tax payers in being capable of valuing their property fairly and should be held to high standards.

Again, I appreciate the opportunity to discuss this important matter with the committee and will be happy to answer any questions which the committee has.

LeRoy Burk
Neosho County Appraiser
Neosho County Court House
Erie, KS 66733

March 11, 1997

Representative Phill Kline - Chairman
and Members
House Taxation Committee
State House
300 S.W. 10th Avenue
Room 519-S
Topeka, KS 66612-1504

RE: Senate Bill #142

Dear Representative Kline & House Taxation Committee:

In reference to the proposed qualifications for certification of appraisers (please note the highlighted portions of the attached copy of the January 1997 "County Comment" publication). I feel that we have had four (4) years to attain our certifications and some of the County Appraisers elected and chose not to go through additional training, testing, etc. to attain certification. Under our present law, these Appraisers, who are not certified, are grandfathered in their present positions and are upset because they cannot move to another county without certification. In all honesty, will another two years aid in getting these county appraisers certified? I do not know; but under reappraisal guidelines I am not sure the counties can afford to wait another two years.

With the strict guidelines set forth by Judge Bullock for reappraising properties, I am not convinced that lowering standards or eligibility requirements will help County Appraisers perform their duties efficiently or effectively. A County Appraiser has the responsibility to the taxpayers to be equipped through training, schooling, and experience to perform his or her job in the most efficient and professional manner.

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I have heard testimony that due to the reduction of mass appraisal hours, County Appraisers who are not currently licensed, will not be able to attain a license from the Kansas Real Estate Appraisal Board. The Kansas Real Estate Appraisal Board has approved Demonstration Appraisals to obtain required hours for licensing. This method may require additional work but it is possible.

I am one of the County Appraisers to obtain my Certified General License. I feel that holding a certified license gives an appraiser more credibility with the taxpayers. It is not unusual or unique that professional people hold a license, certification, or degree in their specialized field: Teachers, Doctors, Nurses, Lawyers, Certified Public Accountants, Engineers, Financial Consultants, Insurance Agents, etc. and the list goes on.

I am also convinced that by having Standards under the Kansas Real Estate Appraisal Board, gives the County Appraiser concrete guidelines on appraisal practices. Since I have been County Appraiser in Neosho County, we have had two Directors of Property Valuation. Under our present Director, Mark Beck, we have a more open and helping attitude with regard to our job. I have also seen the reverse in the past.

In reference to the possibility of creating severe internal salary problems: County government has always had this problem - County Engineer, County Appraiser, County Attorney, County Health - just to name a few. County Appraiser's annual salaries can range from \$23,000 to \$64,000. etc. I realize that there are differences in our individual jobs: elected/appointed, stress levels, locations, etc, which create salary. I know that in some of the western counties, salary is a large incentive for the location. This is no difference than teachers, and other professionals moving and relocating, as some professional individuals will not move unless they are compensated in salary for the relocation. Equity issues should be like comparing apples to apples and not apples to oranges. I feel that salary should commensurate or be proportional with the job requirements, one's education, training, experience in that particular field, etc.

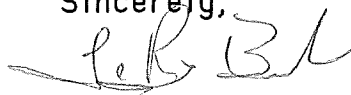
When I accepted the appointment as County Appraiser in Neosho County in July 1993, certification was a requirement for the County Appraiser position in the state of Kansas.

If two years will help an Appraiser, who currently is a County Appraiser, stay in his or her position, and in his or her present location, I have no problem as long as he or she is not moving to another county or moving up to County Appraiser status without certification.

In retrospect, it would be satisfactory if Senate Bill #142 remain as presented to the Senate Committee on Assessment and Taxation before amendments were made to Senate Bill #142. As in present form, this Bill could be detrimental not only to the counties but to the Kansas taxpayers as well. If this cannot be accomplished, then stand on Statute 19-430 which is presently in effect.

Thank you for allowing me to share my concern about this situation. If you have any questions, please call me at my office (316 244-3822) or my home (316 763-2025).

Sincerely,

A handwritten signature in cursive script, appearing to read "LeRoy Burk".

LeRoy Burk
Neosho County Appraiser
License #G-838

attachment

County COMMENT

A Publication of the Kansas Association of Counties

From the Executive Director...

As this edition of the *County Comment* reaches your desk, members of the Kansas Legislature are assembling in Topeka for a new legislative session beginning Monday, Jan. 13. As you may recall, the KAC membership adopted the 1997 Legislative platform at the Annual Conference in Wichita last November. The platform is comprised of five primary legislative objectives which the KAC will give major emphasis and attention during the session. The KAC's five primary legislative objectives include the following:

- 1) appraiser certification;
- 2) individual fund levy limits;
- 3) road/bridge bonding authority;
- 4) protection/expansion of non-property tax revenue generation capacity; and
- 5) collection of delinquent taxes.

The KAC's specific position regarding appraiser certification was not presented or resolved at the Annual Conference. Instead, responsibility for developing the position was given to a ten-member ad hoc committee comprised of five commissioners and five appraisers. The committee includes: *Linda Peterson*, Marion County Commissioner and President of the Kansas County Commissioners Association; *Kathy Bowman*, Pawnee County Commissioner; *Glenn Jones*, Wilson County Commissioner; *Gary Fraser*, Cloud County Commissioner; *Ken Meier*, Harvey County Commissioner; *Rod Broberg*, Saline County Appraiser; *Mark Low*, Meade County Appraiser; *Brad Welch*, Kearny County Appraiser; *Bob Gardner*, Wyandotte County Appraiser; and *Marian Johnson*, Douglas County Appraiser.

The committee made the following recommendation to the KAC Governing Board, which adopted the position at its meeting of Dec. 13, 1996:

"Licensing requirements governing the qualifications of county appraisers should be reasonably constructed so as to not discourage the hiring of persons with mass appraisal experience. The current requirements make it difficult for many counties to find and retain qualified personnel. Where counties can retain a qualified appraiser, the market force (supply-demand) may require commissioners to pay the appraiser more than other county employees. This could create severe internal pay equity problems.

The current requirements need to be changed to recognize the mass appraisal discipline to allow persons working in that discipline to be eligible for certification. To this end, the Kansas Association of Counties proposes legislation allows for two additional options for county appraiser certification.

In addition to the current KREAB certification, appraisers could be certified if they met the IAAO designation for certification as well as have three years of mass appraisal experience. The third option for certification would be a new designation, "Registered Mass Appraiser." There would be specific education requirements for this designation and 6,000 hours of mass appraisal experience would be required. The Registered Mass Appraiser would be certified by the KREAB. All three options would require an appraiser to pass the PVD eligibility exam. County appraisers or potential county appraisers who meet one of the above three certification standards could be appointed by a county commission to a 4-year term, July 1, 1997. Those who do not have any of the three certifications could be appointed to a two-year term. This would give them until July 1, 1999 to qualify for one of the three options. In addition, this bill would require the appointment of two mass appraisers to the KREAB Board. These would not be additions to the Board but two existing positions.

16-4

This solution of offering three ways to be certified does not solve the problem of counties who will not have an appraiser after July 1, 1997. The KAC is proposing a companion piece of legislation be introduced allowing counties having less than 20,000 parcels of land to share a county appraiser if they so desire."

Now that the KAC Board has approved the above statement, the KAC legislative efforts will focus on seeking legislative approval of this position.

As we proceed through the legislative session, we will keep you informed of legislative developments concerning appraiser certification and other county issues through our Legislative Fax-line. If you have questions or need information, please contact our office at (913)233-2271 and we will respond as quickly as possible.

...Randy Allen
Executive Director

Inquiring Minds

This new column authored by Judy Moler, Director/General Counsel, KAC Legislative Services, will feature frequently asked questions each month.

Q. Do the Kansas statutes require each county to have a county engineer?

A. No. K.S.A. 68-501 states the board of county commissioners of each county shall appoint a county engineer. The duties are contained in K.S.A. 68-502. However, K.S.A. 68-503 allows for the Board of County Commissioners to unite with the Board of County Commissioners of an adjoining county or counties to form an engineering district when there is not a sufficient amount of road and bridge work to keep the engineer employed throughout the year.

Q. Do county engineers have to be licensed professional engineers?

A. Yes. To have the title County Engineer a licensed professional is required. However, some counties have hired road supervisors or highway administrators to do road administrative duties. There are, however, limitations to the types of projects that road supervisors/highway administrators can oversee. In order to do engineering or land surveying a person must be licensed by a licensed land surveyor. Engineering work, for instance, may include preparation of major improvement plans, upgrading of roads, replacement of drainage structures, or other work involved in safeguarding life, health and property. A consultant can be hired to perform engineering services.

Q. Can counties hire a Public Works Director?

A. Yes. K.S.A. 19-4501 provides for the establishment of a public works department. K.S.A. 4502 requires the Director of Public Works to be the County Engineer.

Investment of Public Monies

A recent inquiry was made to the Attorney General's office regarding the deposits of public monies in a bank with no home office in the State of Kansas. Julene Miller, Deputy Attorney General, cited two Attorney General Opinions AGO 95-39 and AGO 95-95 from 1995 which indicate the Idle Funds Law and the Banking Law of the State of Kansas require public entities to invest public monies only in financial institutions with a home office in the State of Kansas. This is important because the provision of K.S.A. 9-1406 provide an exemption from liability or loss by an official depository for public officers maintaining those funds, *only* if the investments of deposits are made pursuant to the Kansas Banking Act found at K.S.A. 9-1401 et seq.

We are advising counties to review their investment policies and to contact their official depositories to ask these banks if they maintain a home office in the State of Kansas. If your bank does not maintain a home office in Kansas, you may wish to check with your county attorney or counselor.

Any county having further questions on this issue should contact the KAC office at (913)233-2271 for further information.

Job Openings - Please Post

County Appraiser - Sheridan County. Applicants must be qualified by the Director of Property Valuation as an eligible Kansas appraiser with two or more years of appraisal experience; be licensed as a Kansas Certified Real Property Appraiser; and meet all Kansas statutory requirements. Sheridan County has a population of approximately 3,000 with 4,000 parcels. Benefits include vacation, sick leave, KPERS, and health insurance. Salary based on experience.

Deadline for application is Feb. 28. Position opens July 1. Send resumes to Sheridan County Clerk, PO Box 899, Hoxie, KS 67740.

County Appraiser - Clark County. This FT/PT position requires at least one year of appraisal experience and must be qualified by the Director of Property Valuation.

form an appraisal district and employ an appraiser for such district. The boards of county commissioners shall fix the salary to be paid the district appraiser and the portion thereof which each county shall pay, the conditions of his employment, and the terms for dissolution of the district, by joint resolution published in the official county newspaper of each county. In the absence of specific agreement in such joint resolution on any matters the respective county boards entering into such agreement shall act jointly as a district board in such matters and shall be governed by the provisions of this act relating to county appraisers appointed for one county. All meetings of district boards shall be held at the county seat of the county within the district having the greatest population.

History: L. 1968, ch. 206, § 8; L. 1974, ch. 112, § 10; June 1, 1976.

19-429.

History: L. 1968, ch. 206, § 9; Repealed, L. 1974, ch. 112, § 11; June 1, 1976.

19-430. County appraiser; appointment, term and qualifications; vacancies. On July 1, 1993, and on July 1 of each fourth year thereafter, the board of county commissioners of each county shall by resolution appoint a county appraiser for such county who shall serve for a term of four years and until a successor is appointed. County appraisers appointed in counties having a population of more than 20,000 shall devote full time to the duties of such office but county appraisers appointed in counties having a population of 20,000 or less may be appointed either as a full-time or a part-time county appraiser as prescribed in the resolution providing for such appointment. No person shall be appointed or reappointed to or serve as county appraiser in any county under the provisions of this act unless such person shall have at least one year of appraisal experience and be qualified by the director of property valuation as an eligible Kansas appraiser under the provisions of this act. Whenever a vacancy shall occur in the office of county appraiser the board of county commissioners shall appoint an eligible Kansas appraiser to fill such vacancy for the unexpired term and until a successor is appointed. The person holding the office of county assessor or performing the duties thereof on the effective date of this act shall continue to hold such office and perform such duties until a county appraiser is appointed under the provi-

sions of this act. No person shall be appointed to the office of county or district appraiser or to fill a vacancy therein unless such person is currently a state licensed real property appraiser, a certified general real property appraiser or certified residential real property appraiser pursuant to article 41 of chapter 58 of the Kansas Statutes Annotated, and amendments thereto, except that from and after July 1, 1997, no person shall be appointed to the office of county or district appraiser or to fill a vacancy therein, in any county under the provisions of this act unless such person is currently a certified general real property appraiser pursuant to article 41 of chapter 58 of the Kansas Statutes Annotated and amendments thereto. Notwithstanding the foregoing provision, any person who holds the office of county appraiser upon the expiration of the term of such office shall be eligible for reappointment to such office regardless of whether such person is so certified or licensed.

History: L. 1974, ch. 112, § 1; L. 1990, ch. 90, § 1; L. 1992, ch. 282, § 1; L. 1994, ch. 241, § 2; April 28.

Law Review and Bar Journal References:

"The Kansas Property Tax: Mischievous, Misunderstood, and Mishandled," Lori M. Callahan and Linda Parks, 22 W.L.J. 318, 335 (1983).

"Survey of Kansas Law: Taxation," Sandra Craig McKenzie, 41 K.L.R. 727, 732 (1993).

Attorney General's Opinions:

Listing and valuation of real property; lands or improvements omitted from rolls. 81-187.

Duties of county appraiser; determination by county commissioners. 86-2.

19-431. Same; suspension or termination of officer; hearing; determination and order by director of property valuation or board of tax appeals; removal of officer and filling of vacancy. (a) Whenever it shall be made to appear to the board of county commissioners of any county or the district board of an appraisal district by evidence satisfactory to such board that the appraiser of such county or district has failed or neglected to properly perform the duties of office, by reasons of incompetency or for any other cause, the board shall enter upon its journal an order suspending or terminating the county or district appraiser from office. Such order shall state the reasons for such suspension or termination, and upon the service of any such order upon the appraiser suspended or terminated such appraiser shall at once be divested of all power as county or district appraiser and shall immediately

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February 27, 1997

Representative Phill Kline, Chairman
House Committee on Taxation
Room 514-S
State Capitol Building
Topeka, Kansas 66612

RE: Senate Bill 142

Dear Representative Kline:

I have been watching with interest the status of S.B.142. Today I spoke with Senator Karr who indicated that the bill has passed out of the Senate with an amendment, for consideration now by the House. I feel that I must write and express my concern over the bill. I feel that the bill has been weakened from the original bill, and from the legislature's intent when they originally required certification by county appraisers. I see a number of concerns about the ability of the bill to adequately accomplish what is needed in terms of professionalism among County Appraisers, or protection of County Appraisers currently certified by KREAB from those that would be judged under standards as yet to be determined by the Department of Revenue. I will attempt to enumerate the issues that I see with the current language.

Before I start, I should say that I am currently employed as the Commercial Real Estate Appraiser for Lyon County in Emporia, Kansas. The position I take on this bill is not to be construed as the position of Lyon County or the Commissioners of Lyon County, but my own personal opinion. I am quite sure, that the position is contrary to what the KAC is taking, and will be contrary to what many, if not most, County Appraisers will be taking. However, I believe the issue is worthy of an antagonistic view.

The predominant issues I see in the bill are as follows:

1. Professionalism among the County Appraisers
2. Ability of the Department of Revenue to adequately perform an oversight function
3. Equity of treatment among County Appraisers
4. Competency issues regarding appraisals
5. County Budgetary Issues

I believe it was the intent of the legislature when the original certification bill was passed to upgrade the professionalism among the county appraisers, and to provide minimum standards for their level of competency and performance. This is a noble public policy that will ultimately best serve the interest of the citizens of the state who own property, and the counties by having competent appraisers setting values on property. I also understand that

there have been problems in recent times for the county appraisers in getting certified for their work experience through the KREAB. With the current legislation, the time frame will be unable to be met for most current appraisers in counties, and the pool of qualified candidates for those counties that currently have, or anticipate vacancies is almost certainly inadequate.

So there is a legitimate need for some form of bill which will provide relief to the counties for the current certification requirement. However, I do not believe this bill is the best bill to resolve that problem. Simply by extending the time period before mandatory certification occurs for another three years to July 1, 2000 you can accomplish the same thing. But we still need to address the best way to provide for competency among the county appraisers, and to ensure that the level of professionalism is raised and maintained.

It is my personal belief that there needs to be oversight for professional appraisal practices among all appraisers including county appraisers. USPAP specifically addresses the issues of the mass appraisal segment in its standards. If I as an appraiser understand and employ the appropriate methods of appraisal practice under those guidelines, I have nothing to fear from complaints filed against me. And I believe the enforcement standards need to be uniformly applied to all appraisers including county appraisers. Frankly, the only appraisers who need to fear review of their work are the ones who aren't qualified, or aren't willing to become qualified within the time period specified to meet those standards.

Frankly, I don't believe that the Department of Revenue is the Department to give oversight responsibility for a designated appraiser certification. I think their role should appropriately be limited to setting the qualifications for County Appraisers and administration of the eligibility examination. I have not seen them willing to take the harder steps of enforcement against county appraisers who have not been able to meet even the PVD guidelines, let alone the ability to ensure compliance with USPAP standards for professional appraisal practices. County appraisers do not deal solely with real estate values, and the Department of Revenue through the Property Valuation Department can best serve the interest of the state and the county appraisers by providing the tools and mechanisms to assist in the overall responsibilities that appraisers have in this state.

It would therefore be my recommendation to either strike the RMA portion of the bill, or restore administration of the promulgation of rules and regulations to the KREAB which is the more appropriate place for such regulation. I think the strongest reason for keeping regulatory oversight with that body is their obvious lack of conflict of interest that is not readily apparent if the oversight is given to the Department of Revenue and PVD.

At the same time, I must confess, I have not seen recent past members of the KREAB being willing to give credit to ad valorem appraisers for the work that they do in performing their mass appraisal function. This has severely limited the mass appraisers ability to obtain the general certification that they are required to have to perform appraisals on any properties other than residential. I see some members of the current board recognizing these past errors, and a willingness to attempt to resolve how best to certify the appraisal experience of county appraisers to provide for certification and still maintain the high standards set by USPAP.

USPAP has specific standards written for the mass appraisal segment, and there must be a willingness by the KREAB to recognize the specific limitations and methods utilized in the mass appraisal field. Credit must be given in order for county appraisers to obtain the

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appropriate certification level to appraise the properties in their counties. I believe I have seen a willingness on the part of some members of the KREAB to address and resolve those outstanding issues. If in the upcoming year, there has been no indication by the KREAB that they can or will establish reasonable guidelines under which mass appraisers can have their work certified, the issue could then be revisited by the legislature. I would personally favor some form of mandatory representation on the Board by a representative from the mass appraisal field. I think this would aid in providing a knowledge base to the Board to those issued related to mass appraisal that they will be dealing with in establishing those guidelines initially, as well as dealing with questions and any complaints filed with the Board over time.

My personal belief is that those county appraisers who currently do perform their jobs well will be able to certify their work, and those that don't currently perform well will have significant trouble in certifying their work. It will be incumbent on the individual county commissions to monitor the status of their county appraiser through the certification process to see whether or not their appraiser can actually then achieve the certification by the time the new requirement would be established.

One problem with the KREAB/County Appraiser certification statute at the present time is that the current law allows for the county appraisers to have either a license or certificate from the KREAB to be appointed as a county appraiser, however, KREAB regulations further restrict licensed appraisers to the practice of residential appraisals. There is one county appraiser who has had a letter of complaint filed with KREAB because he has rendered value on commercial properties while only licensed for residential appraisals with KREAB. If a county appraiser values a commercial property, it is their opinion that he is practicing outside the scope of his or her license. I do not know the specifics of the case, however, there would exist the possibility that a county appraiser could be competent by training and education under USPAP standards to perform commercial appraisals, but would be specifically prohibited by KREAB regulations from appraising commercial and complex properties by virtue of his license limitation.

Under the proposed legislation, by offering county appraisers the RES and CAE designation under IAAO as an alternate method of certification, there would exist a dual standard. The RES designation would be similar to the KREAB residential license in terms of education and experience requirements, while the CAE designation would be comparable to the general certification requirement. The competency provision under USPAP would still require sufficient training, education, and experience for an appraiser to render a value on a property, but my concern would be that there would be a number of appraisers who might take a shorter time track to get an RES designation who would not be qualified for commercial property valuation, who would be rendering value on those property types.

I personally believe that from a competency standpoint, county appraisers should have a general certification or its equivalent. I believe that the appraisal of commercial real estate is sufficiently complex that it demands special training, education and experience. Further the competency provision in USPAP demands that appraisers limit themselves to the appraisal of properties for which they have adequately prepared themselves by education and training. I can't think of a county that doesn't have commercial real estate or at least one or two complex properties that would require a general certified appraiser to perform. As a general certified appraiser I readily admit that I am not competent to perform an appraisal on every property in this county. For a level playing field between the two oversight organizations, and to ensure

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competency among the county appraisers for all properties in all counties, limiting the designation option to the CAE under the alternate designation provision would be most appropriate.

I know that budgetary issues will be paramount for counties, both in salary considerations for appraisers who have gained the education, experience and training to achieve these designations, and for the possibility of having special purpose properties appraised outside the traditional KSCAMA system. This will be especially true for counties with small numbers of properties. However, that should not mitigate our responsibilities statutorily to provide the citizens of this state with accurate appraisals of their properties. That will only be accomplished by ensuring that the appraisers rendering those opinions of value are qualified to do so. In the long run, this should provide for more equitable treatment of all property across the state, and by virtue of the professionalism and adherence to sound appraisal practice and methods, in the long run reduce appeals in the counties.

It is my hope that all appraisers, whether they are fee appraisers or county appraisers, would aspire to be professional in their work. I have been an appraiser for 10 years and have been involved in all levels from Savings and Loans and regulatory agencies, fee appraisals, and now ad valorem appraisals. I personally find the ad valorem field to be the most challenging in terms of rendering good values. I think there has been a feeling among other appraisal professionals and organizations in the past that ad valorem appraisers are really not professionals. Unfortunately, I think there have been some in our ranks who have contributed to that opinion through attitudes and work product, as there have been some in the fee world who have put black marks on their organizations in the same manner. It is time for us to end these differences, and establish mutual respect for the differing legitimate appraisal segments through our level of training and professional conduct in our practices.

I see this as an opportunity to increase our professionalism within our ranks, and to establish our reputation as professionals within the larger body of the professional appraisal community. I believe that the suggestions I have made will both provide a window of opportunity for those in the ad valorem appraisal community who want to achieve and maintain a standard of professionalism in the organization to do so, and it will ensure that the most competent appraisers will eventually be the ones selected to fill those rolls in the counties. Those unwilling to move up to the higher standards will be left, but at that point it will have been their choice to not participate.

Thank you for your time in allowing me to express my opinions.

Sincerely yours:



John W. Proffitt
Kansas Certified General Real Property Appraiser No. G-1186

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QUALIFICATIONS OF JOHN W. PROFFITT

Education:

- * Attended Kansas State University with a concentration in Physical Education and Guidance Counseling

Real Estate Courses:

- * Basic Valuation Procedures (Exam 1A-2) March, 1987 - AIREA
- * Capitalization Theory Part A (Exam 1B-A) October, 1987 - AIREA
- * Capitalization Theory Part B (Exam 1B-B) December, 1987 - AIREA
- * Case Studies (Exam (2-1) January, 1988 - AIREA
- * Report Writing (Exam 2-2) February, 1988 - AIREA
- * Standard of Professional Practice (Exam SPP) March, 1989 - AIREA
- * Real Estate Appraisal Principals (Exam 1A-1) March, 1989

PVD and IAAO Courses:

- * IAAO-1, 1995
- * IAAO-2, 1996
- * Commercial/Industrial Data Collection, 1995
- * Residential/Agricultural Data Collection, 1995
- * Depreciation Workshop
- * Income Data Processing in KSCAMA
- * Cost Index Workshop
- * Introduction to Commercial/Industrial Valuation Functions in KSCAMA
- * Advanced Commercial/Industrial Valuation Functions in KSCAMA

Seminars:

- * Implications of R41c - The Lenders Perspective - October, 1986 - SREA
- * Evaluating Residential Construction - January, 1992 - Appraisal Institute
- * Appraising from Plans and Blueprints - January, 1992 - Appraisal Institute
- * Other local seminars on cash flow analysis, discount rate selection, and other subjects

Experience:

- * Commercial Real Estate Appraiser for Lyon County Appraisers Office since April, 1995. Duties include collection of data as well as analysis of market trends for development of commercial real estate values. Responsible for representing County at informal and HOP level hearings, and BOTA cases. Prepared narrative support on special purpose properties.
- * Contract appraiser for Aaron & Wright Incorporated from December, 1994 through March 1995. Assignments included subdivision analysis, retail centers, church, office/service, motel, and multi-family properties.
- * Staff appraiser for Dugger, Canaday, Grafe & Woelfel, Inc. November, 1993 through November, 1994. Assignments included multi-family, subdivision, office, retail, and industrial properties as well as vacant land analyses.
- * Contract review appraiser for the State of Kansas Real Estate Appraisal Board from July, 1992 through November 1993. Reviewed residential and agricultural appraisals on a contract basis for compliance with USPAP regulations.
- * Commercial appraiser with David Craig & Co., Inc. in Topeka, Kansas from July, 1989 through September, 1993. Prepared appraisals for all property types including industrial, retail, office, multi-family, and subdivision analysis in Kansas, Colorado, Missouri, and Nebraska.
- * District Appraiser with Federal Home Loan Bank of Topeka, Kansas from July, 1988 to July, 1989. Reviewed appraisals of major commercial properties and complex residential land developments. Provided consultation to on-site examiners and assisted the Office of Enforcement in the deposition of appraisers.
- * Real estate analyst and review appraiser for Alamo Savings Association of Texas from July, 1986 through July, 1988. Reviewed appraisal prepared on all commercial real estate assets. Loan officer for the Association's \$25,000,000 investment loan portfolio and loan review officer for the commercial REO portfolio.

Memberships and Certifications:

- * Certified General Real Property Appraiser
State of Kansas, Certificate G-1186
- * International Association of Assessing Officers, Member

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Bease

Comments on Senate Bill No. 142

The appraisal system in Kansas is already seriously flawed. Any attempt by appraisers to weaken it or make it even less effective is a blatant move to put an even less uniform and equal tax burden on the people, you in Government are supposed to represent.

The International Association of Assessing Officers is a business incorporated in the State of Illinois, with headquarters in Chicago. They are in the business of training people associated with property assessment. Note their name is "Assessing Officers" not Appraising Officers. Kansas law requires compliance with the Uniform Standards of Professional Appraisal Practice, there is no mention of IAAO standards. The appraiser does a lot of business with them and is a member of IAAO. It is a serious conflict of interest and compromises the already troubled appraisal process.

The IAAO is not likely to **not** certify one of its members that gives it many thousands of dollars worth of business.

Any changes in the appraisal law should increase the qualifications for the office and make noncompliance with laws governing the appraisal process a felony. As is, each appraiser makes his own rules and their in no uniformity as the Constitution requires, and the taxpayers take a beating.

Wayne E. Weaver
Cherokee County Appraiser
100 East Maple
Columbus, KS. 66725

March 11, 1997

Representative Phill Kline Chairman
and Members
House Taxation Committee
State House
300 S. W. 10th Avenue
Room 519-S
Topeka, KS. 66612-1504

RE: Senate Bill 142

Representative Kline and House Taxation Committee:

I deeply appreciate the opportunity to address this committee concerning the proposed changes in the qualifications for persons appointed as county appraiser . I am possibly the newest County Appraiser in the state. The testimony that I am about to give will most likely make me as popular with the Kansas County Appraisers Association as I am with the taxpayers of my county after mailing value changes last Friday. However I did not take my job nor appear before you to win a popularity contest.

I am very much aware of the reasons behind our current system of valuing property in the State of Kansas. As much as we needed uniform and equal valuations state wide in the 1970's and 1980's we need them more today. Even with the chance of eventual elimination of the state wide school levy the need does not diminish. We have numerous school districts and other taxing units that cross county lines all across the state. To that end I believe the people of Cherokee County as well as every one of the other 104 counties deserve the most qualified personnel possible to fill the position of County Appraiser.

While I must agree with the proponents of SB 142 that being a Certified Kansas Appraiser does not automatically make you a great county appraiser, it does however lend credibility and a certain degree of trust with the public. I also believe that if one continues to practice outside the office of county appraiser as a fee appraiser from time to time it tends to keep you grounded so to speak. It gives a completely different perspective when your fiduciary responsibility lies with a banker or an attorney rather than the county , state or even the taxpayer. If you've ever had a banker throw your

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appraisal back across the desk, you can learn quickly what contributory value means. And just because something might cost out in a CAMA system doesn't mean it has market value.

To those who might tell you that it is impossible to obtain certification from the KREAB I'm living proof that it just ain't so. Although the road to Certification is not easy it is an attainable goal for just about anyone who really wants it.

My fear in regard to this bill is that it moves us farther away from the path that was set with the first reappraisal legislation. I believe that the original drafters of that legislation intended for the valuation process to move as far from the reaches of political game playing as possible. This newest proposal will move the office of county appraiser away from KREAB who's purpose it is to help insure that appraisers (both Fee and Mass) adhere to the Uniform Standards of Professional Appraisal Practice "USPAP". USPAP is national in scope and came into being after the Savings and Loan scandals.

At the current time and under the current director this bill would not pose a problem. I am comfortable that Mr. Beck will do all in his power to see that only truly qualified people are appointed as appraisers. However no one knows what steps the next director might take to fill future positions.

The problems that face this state in achieving uniform and equal valuation and taxation, as you should be well aware, go far beyond the appointment of highly qualified appraisers. One only needs to look at the ever increasing disparity of tax dollars paid by business owners and homeowners as compared to agriculture. As I say that I cringe because I also live on and work my own second generation family farm. This along with the ever increasing number of exemptions has moved us from every one paying a little and no one getting hurt to badly to homeowners and small business operators carrying more and more of the burden every year.

If this bill passes as now amended, I feel it will create more problems than it will cure and will ultimately be changed as voters demand more professional and better service from all levels of government. I believe they have every right to expect that level of professionalism now.

Respectfully,
Wayne E. Weaver
Cherokee County Appraiser

Date: Tuesday, March 11, 1997

From: **William E. Fuiks**
JO CO Taxpayers Group, Inc.
8708 West 92nd Street
Overland Park, KS 66212

Phone: (913) 649-8058

Fax: (913) 649-4783

Re: Senate Bill No.142, Arguments against

Senate Bill No. 142 is a terrible bill and must be stopped.

1. It dilutes the ability of the Kansas Appraisal Board to maintain a high level of professional and ethical competence for appraisers, by allowing a political appointee with little or no requirement for appraisal knowledge) to decide if an appraiser is qualified. (Lines 22-26, page 1)
2. It creates the opportunity for politicizing the appraisal process allowing PVD to participate with the Kansas Appraisal Board in establishing and administrating the guidelines for certifying mass appraisers. (Lines 41-43, page 1, and lines 1 & 2, page 2)
3. It extends the length of time that an unqualified appraiser can remain in his position. (Lines 5-11, page 2)
4. It allows the International Association of Assessing Officers to certify that appraisers are qualified, setting a definite conflict of interest situation. (Lines 3-5, page 2)

I am concerned about the loss of professionalism that occurs when you allow a non elected official with no requirement for appraisal background to determine an appraiser's qualification. It is upsetting any time someone tries to extend the tenure of unqualified incumbents in any field. There is "conflict of interest" when any company has the authority and ability to determine the qualification of the same people with whom they do business ("Do business with me or you are not qualified to keep your job!"). Perhaps most of all, I am outraged when someone tries to make a political football out of property appraisal. It brings up the specter of an appointed bureaucrat with relatively unfettered power to raise taxes with the stroke of an appraiser's pen; decide whose taxes will be raised and whose will be lowered; and pick and choose which, if any, statutes, standards, or directives he will obey.

If I were a suspicious person, I would see this bill as a "power grab" by PVD and "pay back" for IAAO for their glowing support of Paul Welcome.

William E. Fuiks

David W. Thornton
Wilson County Appraiser
Wilson County Courthouse
Fredonia, KS 66757

March 11, 1997

Representative Phill Kline - Chairman
and Members
House Taxation Committee
State House
300 S.W. 10th Avenue
Room 519-S
Topeka, KS 66612-1504

RE: Senate Bill #142

Representative Kline and House Taxation Committee:

My concerns are the possibility of the standards for county appraisers being lowered, the movement of non-certified appraisers to other counties, and the ability to meet compliance specifications.

The adoption of the amended SB 142 allows for qualifications to be established by October 1, 1997 for the designation of registered mass appraiser. Shouldn't we have these qualifications in place before the adoption of such a bill? I feel that if they are not in place before the adoption of this bill that the standards will be lowered due to the pressure applied from those who are not certified and the counties in need of an appraiser. If these qualifications were in place prior to the adoption of this bill, I feel that the qualifications would probably remain fairly high. However, we will not know until we actually see the guidelines.

As for the movement of non-certified appraisers, I question the benefits that this would provide to them and the counties they serve. I question also why they have not pursued the certification options available to them prior to this time. I understand that the way the qualifications are currently set for certification it would be difficult for an appraiser to attain it. What percentage of those appointed as county appraisers under the grandfather clause of statute 19-430 have pursued certification over the past few years? Why have they waited until the end to try to attain certification?

I began working in a county in 1993 with the understanding of what was required to meet the qualifications to become a county appraiser. I accepted those guidelines and became a certified general appraiser in April of 1995. I knew for several months before the change went into effect that the minimum hours of fee experience were going to be raised and the maximum hours of mass experience were going to be lowered. At that time I submitted my experience in order to be accepted before the change went into affect. Many

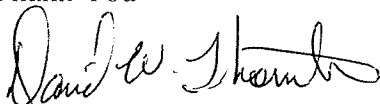
of the current county appraisers have been in place since before my entrance into the mass appraisal field. Do you believe two more years will help them meet the new guidelines which have not been established yet? If it is October 1, 1997 before these guidelines are adopted, this will leave only 21 months to obtain their designation or certification before July 1, 1999. Is this long enough this time?

If an appraiser currently has not pursued or met the qualification opportunities presented to them, why would they want to move, change, or take on additional counties at this time? I believe that if you ask any county appraiser or fee appraiser who has changed locations it takes time to familiarize yourself with a new area. How are the non-certified appraisers going to take on more responsibility or move to another area and concentrate on the responsibilities of their job while at the same time trying to meet these new requirements? I feel that this would be detrimental to the quality of work performed for the county. If we are to adopt new guidelines for the registered mass appraiser, why not fall back on statute 19-430 and extend the grandfather clause for these two years with the appraisers remaining in the counties they are familiar with. This would not jeopardize the quality of work being performed for the county.

Both issues already addressed herein relate to the last. It is not easy (in fact it is rather difficult) to adhere to the standards for the quality of work required from the county appraiser. I feel that the county appraiser should be one of the best appraisers in the county. Not only is this important from the public relations stand point, but also from the stand point that the county appraiser frequently must defend the values that he places on properties.

A reappraisal in a county costs hundreds of thousands of dollars. If the push is for lowering standards, you can be sure that millions of more dollars will be spent on reappraisals throughout the state. I question whether that is good stewardship of the taxpayers dollars. I do not believe that the taxpayers of Kansas would think that it is. Qualified people in any profession are held to standards. If they cannot meet those standards they must find another occupation. Appraisers should not be any different. Hold the standards high. People strive to achieve the goals placed before them if it is truly a desire within themselves to be good at what they do. If some appraisers need two more years than they have already had, allow them to have it. But don't allow movement because this would only jeopardize the meeting of the qualifications in 1999. Help the taxpayers of the state of Kansas get what they are paying for - quality work.

Thank You



David W. Thornton
Wilson County Appraiser

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March 11, 1997

Chairman Phill Kline and Members
House Taxation Committee
State Capitol Building
Topeka, Ks 66612-1505

Dear Chairman and Committee Members,

My name is Elysa Lovelady and I am the Greenwood County Appraiser. I am a General Certified Appraiser under the Kansas Real Estate Appraisal Board. I am here today to testify in opposition of Senate Bill No. 142 in its current form.

While I think highly of my colleges, I do not feel this bill is the answer. This bill has a provision for a mass appraiser pursuant to rules and regulations adopted by the secretary of revenue. I have reservations about what these rules and regulations may be and how often they may change as the Division of Property Valuation under the Department of Revenue has a history of constant re-organization and general lack of direction.

I also question where we will be in two years should this bill pass. I question how many will be able to obtain as residential evaluation specialist or certified assessment evaluation designation from the International Association of Assessment Officers during this two year time frame while still holding the office and serving as a county appraiser.

I feel we, as County Appraisers, need to work with the Kansas Real Estate Board to adopt a mass appraiser designation. We need to educate them on our records and ways we could better document hours of mass appraisal experience to allow working towards a mass appraiser designation or certified general appraiser under the KREAB.

Sincerely,

Elysa K. Lovelady
Greenwood County Appraiser

House Taxation
3-11-97
Attachment 22-1