

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on February 10, 1997, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Bond,
Senator Goodwin, Senator Hardenburger,
Senator Karr, Senator Lee, Senator Praeger,
Senator Sallee and Senator Steineger.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Higgins, Secretary to the Committee

Conferees appearing before the committee: Shirley Sicilian, Department of Revenue
Julene Miller, Deputy Attorney General
Senator Dwayne Umbarger
Bill Wheat, Parsons City Commissioner
Chuck Brown, Parsons Economic Director
Kathy Taylor, Kansas Bankers Association
Rich McKee, Kansas Livestock Association
Mark Burghart, Western Association
Leslie Kaufman, Kansas Farm Bureau

Others attending: See attached list

The minutes for the meetings of February 4, 5, and 6 were approved.

Senator Langworthy opened a discussion of a previously heard bill, **SB 44**, concerning sales tax exemption for labor services used in remodeling.

Shirley Sicilian, Kansas Department of Revenue, stated that clarification of the definition of the difference between "repair" and "remodeling" could be accomplished by the Department through rules and regulations. She summarized the four types of endeavors which can be applied to real property: construction, remodel, repair, and maintenance. She noted that labor on new construction is included in current law; **SB 44** would exempt labor services on remodeling; and if "repair" is amended into the bill as has been considered, three of the four will be covered. The Department questioned if the committee would want to include maintenance to cover all real property, not just buildings and facilities. Senator Bond commented that an important issue surrounding maintenance is the definition of what maintenance is exempted for large, commercial buildings. With regard to the fiscal note, Ms. Sicilian said the Governor's recommendation in **SB 52** includes remodel and repair, and the fiscal note is a total of \$28 million. Ms. Sicilian said this area of law could be simplified further if the committee included an exemption of labor services on maintenance of real property.

Senator Bond moved to amend **SB 44** to include repair and to recommend the bill favorable for passage as amended, seconded by Senator Hardenburger. The motion carried.

Senator Langworthy commented that the intent of **SB 44** was "repair" and that maintenance was not an issue at this point because not enough information was available. The bill could possibly be amended on the House floor with regard to maintenance.

SB 162--Relating to property taxation; concerning the exemption therefrom for farm machinery and equipment.

Julene Miller, Deputy Attorney General, reviewed the Attorney General's opinion regarding K.S.A. 1995 Supp. 79-201j and its application to certain farm machinery and equipment. (Attachment 1) Ms. Miller said

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on February 10, 1997.

the opinion essentially concludes that, because the constitutional exemption for farm machinery and equipment is self-executing and does not contain an exclusive use requirement, the legislature can no longer impose an exclusive use requirement to exempt farm machinery and equipment. Thus, exclusive use, as the Legislature has passed, violates the constitution with regard to this particular statute.

SB 184--Authorizing cities located within Labette County to impose a retailer's sales tax.

Senator Dwayne Umbarger appeared in support of the bill and called on conferees from Parsons to testify further.

Bill Wheat, Parsons Commissioner, testified in support of **SB 184**, explaining that it was enabling legislation needed by the City of Parsons to allow flexibility to put before voters an additional one-half cent sales tax when the need arises. The passage of the bill is vital to the economic development in Parsons. (Attachment 2)

Chuck Brown, Parsons Economic Development Director, explained that the need for **SB 184** arose when the City of Parsons received a proposal from the Department of Commerce and Housing on a manufacturer with 400 jobs with salaries ranging from \$14 to \$18 an hour. This would be a prime company for southeast Kansas and Parsons. It is critical that the sales tax increase be put to a vote within the next 60 to 90 days to meet the deadline for the tax incentive of the prospective business. With this, the hearing on **SB 184** was closed.

Senator Corbin moved to report **SB 184** favorable for passage, seconded by Senator Bond. The motion carried.

Senator Langworthy explained that the statutory limit for the sales tax increase by Class D Cities, such as Parsons, is five years. The bill does not contain language to this effect but is so stated in another statute. Staff confirmed for Senator Karr that the bill is limited to cities within Labette County.

Attention was returned to the hearing on **SB 162**.

Kathy Taylor, Kansas Bankers Association, testified in support of **SB 162**. She explained that, until recently, the Board of Tax Appeals (BOTA) had affirmed that the statutory tax exemption for farm machinery and equipment included farm machinery and equipment which was acquired under a lease-purchase agreement. The rationale for the denial recently is that, if property is leased and the lessor collects rent, a dual use exists for the property; and it is not entitled to the exemption when there is the exclusive use requirement. She noted the Attorney General's opinion concluded that the constitutional exemption from property taxation for farm machinery and equipment does not require that the property be used exclusively for farming. (Attachment 3)

Rich McKee, Kansas Livestock Association, urged favorable consideration of **SB 162** which will clarify and equalize the property tax status of farm machinery and equipment. He noted that the bill specifies farm machinery and equipment that is leased and/or used in livestock feeding operations is exempt from property tax, clearing recent confusion and concern generated by orders by BOTA. (Attachment 4)

Mark Burghart, Western Association, testified in support of **SB 162**. He stated the bill is in response to recent decisions of BOTA which restrict the use of the current statutory farm machinery and equipment exemption with regard to machinery and equipment which is leased. He said the bill also may be utilized to correct an apparent flaw in the existing law regarding the exclusive use test. (Attachment 5)

Leslie Kaufman, Kansas Farm Bureau, gave final testimony in support of **SB 162**. She believed the constitutional provision clearly exempted farm machinery and equipment from property taxation based on its use, not on ownership or how it is purchased. She explained that a recent BOTA decision, based on statutory provisions related to the constitutional amendment, taxed irrigation equipment not on its type or use for crop production but rather on the manner in which it was acquired--through lease-purchase agreement. (Attachment 6)

The hearing was closed on **SB 162**.

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for February 11, 1997.

SENATE ASSESSMENT & TAXATION COMMITTEE
GUEST LIST

DATE: February 10, 1997

NAME	REPRESENTING
LINDA McGill	PMA
Glen E. Welden	City of Parsons
Bill Wheat	City of Parsons
Roger Area	City of Parsons
Chuck Brown	City of Parsons
Kathy Taylor	KBA
Jim May	KAA
Jackie Vincent	
RAY D. VINCENT	
Ed Spiess	Peterson Public Affairs
Marty Vanier	KS Agricultural Alliance
Diane Greiner	Ks Coop Council
Leslie Kaufman	Ks Farm Bureau
TOM TUNNELL	KS FERT. & CHEM. ASSN
Doug Wareham	Ks. Grain & Feed Assn.
MARY A. BURGHART	WESTERN ASSN.
Rich McKee	KLA
Don Schuack	KIOGRA



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~~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. 79-201i; K.S.A. 1995 Supp. 79-201j; Kan. const., art. 11, § 1.

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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-

*Senate Assessment & Taxation
2-10-97
Attachment |*

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.

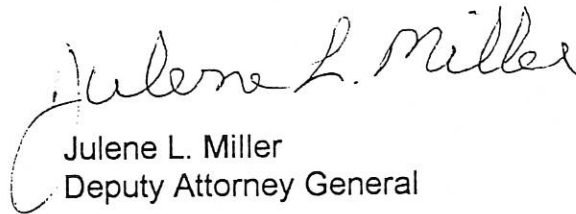
Because our answer to your initial question is that a taxpayer may seek an exemption from property taxation for farm machinery and equipment under the broader provisions of the Constitution notwithstanding the exclusive use requirement of K.S.A. 1995 Supp. 79-201j(a), we need not address your second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

P. O. Box 1037
112 South Seventeenth Street
Parsons, KS 67357-1037

CITY OF PARSONS

316-421-7030 Phone
316-421-7089 Fax

February 10, 1997

Senator Audrey Langworthy
Senate Assessment & Taxation Committee
Kansas State Capitol
Topeka, KS 66612

Senator Langworthy and Senate Members:

This enabling legislation is requested because a need exists for the flexibility to levy an additional one-half cent sales tax. This need arises to be able to accomplish a goal of increasing the job opportunities for the citizens of Parsons and the surrounding area.

Like the Legislature, Parsons is concerned with the property tax impact on our citizens. The citizens voted on the use of a one-half cent sales tax for five years for property tax reduction. The tax passed 63% yes; 37% no. This is an astounding majority. This had a 16 mill property tax reduction impact on the Citizens of Parsons.

Since the citizens had previously passed a one-half cent sales tax for three years dedicated for streets 25%; parks and recreation 25%; and economic development 50%, the City is at the maximum allowed by statute. As you are well aware, all sales tax issues at the local level must be submitted to the voters for passage. It is the choice of the citizens of Parsons to pay for services, economic development, and infrastructure with the use of sales tax.

The opportunity to add jobs and improve our local economy is now. There has been a 360 net increase in jobs in the City of Parsons in the last year, through new and existing industry. The City has actively and aggressively pursued employment opportunities for its citizens. The private sector has committed 8.2 million dollars in new and expanded facilities in the last year. This expansion has not been a single company, but a diversity of manufacturing firms.

*Senate Assessment & Taxation
2-10-97
Attachment 2*

In economic development the difference between success and failure is the ability to act in a timely manner. Flexibility has been a vital part of the success of the last year. In order to maintain that flexibility, help is required from the elected officials of this state by passing the legislation that would give the City of Parsons the flexibility to put before the voters an additional one-half cent sales tax, when and if the need arises.

It is vital to have enabling legislation for the authority to put before the voters the additional ½ cent increase for the retailer's sales tax for Economic Development.

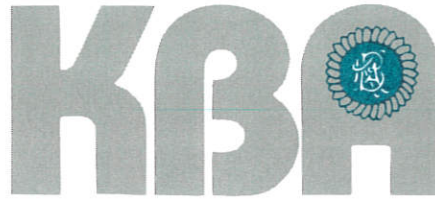
I cannot stress how vital economic development is to Southeast Kansas and the City of Parsons. Southeast Kansas is in an area that has historically struggled in the area of economic development. We have a very high rate of public assistance and a lower than average median income. According to Kansas Inc., Labette County ranked 104th of the state's 105 counties for economic distress. The per capita property valuation rank in 1994 was 102nd and the use of welfare-general assistance rank is 101st in the state. In short, we are a depressed area. We have decided to do something about it. The plan is in place and it is working, but we must have this legislation.

This legislation gives the citizens the opportunity to be in charge of their own fate. It does not ask the State legislature to pick up the price tag for them. We ask for you to give our citizens the opportunity to make their own choice on economic development.

Sincerely,



William Wheat
City Commissioner, City of Parsons, Kansas



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 10, 1997

To: Senate Committee on Taxation

From: Kathy Taylor
Kansas Bankers Association

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

Madam Chair 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.

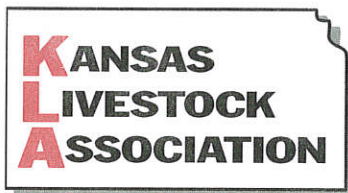
Senate Assessment & Taxation

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 we are proposing to the statute, while it broadens the exemption as interpreted by the Board of Tax Appeals, does not go as far as the constitutional exemption language. Therefore we believe that it is well within the scope of the intent of those enacting the property tax exemption for farm machinery and equipment in the State Constitution.

While the Attorney General's Opinion raises questions about the constitutionality of KSA 79-201j, we believe these amendments will resolve the issue for our membership and we will leave the larger question at hand to you, our elected officials.

For these reasons we ask that you give favorable consideration to the passage of **SB 162**.
Thank you.



Since 1894

Testimony

presented by

Rich McKee

Executive Secretary, Feedlot Division

regarding

Senate Bill 162

before the

Senate Committee on Assessment and Taxation

February 10, 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.

*Senate Assessment + Taxation
2-10-97*

Chairperson Langworthy and members of the Senate Committee on Assessment and 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 96-11).

We respectfully request favorable passage of Senate Bill 162.

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

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.

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

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

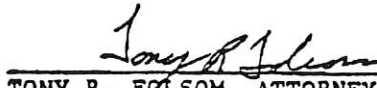
for reconsideration, this order will become a final order from which no further appeal is available.

IT IS SO ORDERED

THE BOARD OF TAX APPEALS



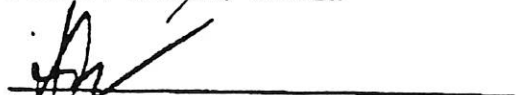

RITA MAICHEL, SECRETARY


TONY R. FOLSOM, ATTORNEY


AUGUST ROGINA, JR. P. E., CHAIRMAN


JACK SHRIVER, MEMBER


FRED J. HIRSCH, MEMBER


LAWRENCE L. TENOPIR, MEMBER

✓
PERL M. BASS, MEMBER

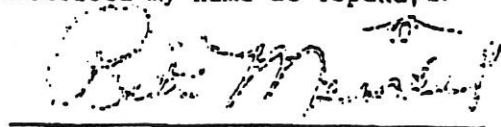
CERTIFICATION

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 25th day of July, 1945, 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, Secretary

4-4

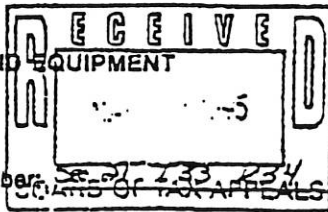
SEWARD COUNTY

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

Name: Tuls Dairy Farms

Address: Rt 1 Box 146A

Parcel or ID Number: 233 234



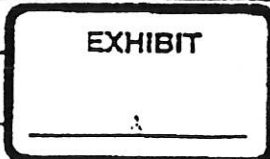
NOTE: If additional lines are needed, attach supplemental schedules or computer printout with same format.

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. Roto Mty wagon	6-94	New		8 mos	5 yrs	45000						
2. Montana Hay Fork	6-94	New		8 mos	5 yrs	17000						
3. JCB Loadall	2-94	used	1 yr	2 yrs	5 yrs	46,000						
* 4. JCB Loadall	12-94	used	2 yrs	2 yrs	5 yrs	51,000						
5. New Holland Spader	8-94	New		4 mos	3 yrs	11,000						
6. Stock Trailer	10-94	used	7 yrs	7 yrs 4 mos	10 yrs	2500						
7. Drag Sweeper	6-94	New		8 mos	10 yrs	2200						
8. Ford 1715 tractor	6-94	used	2 yrs	2 yrs 6 mos	5 yrs	2700						
9. 60 mower	8-94	New		6 mos	10 yrs	475						
10. 1 acquirer	6-94	New		6 mos	3 yrs	1400						
11. 1 Laser Printer	6-94	New		6 mos	3 yrs	475						
12. 60 milk mixers	6-94	New		6 mos	5 yrs	13500						
13. 60 milk mixers	6-94	New		6 mos	5 yrs	75,000						
14. 1 300 gal tank	5-94	New		6 mos	15 yrs	61,000						
15. 1 300 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)



4-7

- 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 Comm'r'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 Comm'r'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 re: though lessee uses pr of Wyandotte County K. 161, 168, 786 P.2d 247 (1993).
 203. Nonexempt t. gas lease on city-own. Seward County; 247 P.2d 247 (1993).
 204. Natural gas c. ities exempt from t. inventory. Colorado County Comm'r's, 247 P.2d 247 (1993).
 205. Personal pr. company should be c. First Page, Inc. v. c. 1238 (1993).
 206. Board of tax : poses of claimant exa. nee County, 253 K. 1 207. Cited in hold. outside agencies to a Stores v. Lovelady, 253 K. 1 208. Methods of v that meet uniform a re Tax Appeal of A. (1993).
 209. Phrase "land owner's intentions fo Board of Johnson Co. 670, 857 P.2d 1386 (1993).
 210. Cited; lack of public utilities for tax. state Gas Co. v. Bes (1993).
 211. Whether BC ment granted to railr equal clause examine 254 K. 534, 535, 536 (1993).
 212. Cited; wheth definition of lottery. ined. State ex rel. Ste 1034 (1994).
 213. Whether BC division parcels of pro ments examined. Hix 643, 645, 648, 875 P.2d 247 (1993).
 214. Whether taxp ifies for educational- Strecker v. Hixon, 20 K. 301, 305, 777 P.2d 843 (1989).
 215. Whether wav property owners viola ment examined. State 295, 891 P.2d 445 (1993).
 § 2. C.
 6. Constitutionali- federal military retire ker v. State, 249 K. 1619 (1992).
 § 4.
 Attorney General's Finance and taxat Motor vehicle tax districts and commu

Attorney General's Opinions:

Personal property moving in interstate commerce (Freeport exemption). 84-93.

79-201g.**Research and Practice Aids:**

Taxation = 234.

C.J.S. Taxation §§ 271, 279.

79-201h.**Research and Practice Aids:**

Taxation = 219.

C.J.S. Taxation § 240 et seq.

79-201i.**Research and Practice Aids:**

Taxation = 219, 225.

C.J.S. Taxation § 240 et seq.

CASE ANNOTATIONS

3. Property rented for profit is nonexempt regardless if used for purpose stated in Kan. Const., Art. 11, §13. Board of Wyandotte County Comm'rs v. Kansas Ave. Properties, 246 K. 161, 171, 786 P.2d 1141 (1990).

79-201j. Property exempt from taxation; farm machinery and equipment; aquaculture machinery and equipment; Christmas tree machinery and equipment. 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.

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

(b) (1) All aquaculture machinery and equipment. The term "aquaculture machinery and equipment" means that personal property actually and regularly used exclusively in any aquaculture operation. The term "aquaculture operation" shall include the feeding out of aquatic plants and animals; breeding, growing or rearing aquatic plants and animals; and selling or transporting aquatic plants and animals. The term "aquaculture machinery and equipment" shall not include any pas-

senger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

(2) All Christmas tree machinery and equipment. The term "Christmas tree machinery and equipment" means that personal property actually and regularly used exclusively in any Christmas tree operation. The term "Christmas tree operation" shall include the planting, cultivating and harvesting of Christmas trees; and selling or transporting Christmas trees. The term "Christmas tree machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1992.

History: L. 1982, ch. 390, § 3; L. 1985, ch. 311, § 4; L. 1992, ch. 102, § 4; July 1.

Cross References to Related Sections:

Aquaculture defined, see 47-1901.

Research and Practice Aids:

Taxation = 219, 225.

C.J.S. Taxation § 240 et seq.

CASE ANNOTATIONS

4. Property rented for profit is nonexempt regardless if used for purpose stated in Kan. Const., Art. 11, §13. Board of Wyandotte County Comm'rs v. Kansas Ave. Properties, 246 K. 161, 171, 786 P.2d 1141 (1990).

79-201k.**Research and Practice Aids:**

Taxation = 219.

C.J.S. Taxation § 240 et seq.

CASE ANNOTATIONS

3. Property rented for profit is nonexempt regardless if used for purpose stated in Kan. Const., Art. 11, §13. Board of Wyandotte County Comm'rs v. Kansas Ave. Properties, 246 K. 161, 169, 786 P.2d 1141 (1990).

79-201m. Property exempt from taxation; merchants' and manufacturers' inventory. To the extent herein specified, merchants' and manufacturers' inventory shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas.

(a) As used in this section:

(1) "Merchant" means and includes every person, company or corporation who shall own or hold, subject to their control, any tangible personal property within this state which shall have been purchased primarily for resale in the ordinary course of business without modification or change in form or substance, and without any intervening use, except that, an incidental use, including but not limited to the rental or lease of

any such property, shall not be intervening use;

(2) "manufacturer" means a person, company or corporation in the business of transforming bining materials and labor to co-sonal property from one form to packaging; and

(3) "inventory" means a items of tangible personal pro primarily held for sale in the business (finished goods); (2) production for such sale (work are to be consumed either dire the production of finished go and supplies). A capital asset ation or cost recovery account come tax purposes that is retir by its owner and held for se surplus equipment by such classified as inventory.

(b) The provisions of this ply to any tangible personal utility as defined by K.S.A. 79 ments thereto.

The provisions of this sect taxable years commencing a 1988.

History: L. 1988, ch. 37 289, § 1; L. 1989, ch. 1, § 1 (S 14.

Research and Practice Aids:

Taxation = 219.

C.J.S. Taxation § 240 et seq.

Law Review and Bar Journal R- "Survey of Kansas Law: Taxation. 41 K.L.R. 727, 738 (1993).

Attorney General's Opinions:

Coal and gas of public utility; sy tion; exemption. 89-85.

Property exempt from taxation: turers' inventory. 89-148.

Merchants' and manufacturers' ations of public utility property; t

CASE ANNOT

1. Natural gas owned and store- determined tax-exempt inventory § 1. Colorado Interstate Gas Co. Comm'rs, 247 K. 654, 656, 663, -

2. Legislative history of admini tax exemption pursuant to 74-24. cussed and applied. J. Enterpri. County Comm'rs, 253 K. 552, 55

ALDERSON, ALDERSON & MONTGOMERY, L.L.C.

ATTORNEYS AT LAW

W. ROBERT ALDERSON, JR.
ALAN F. ALDERSON
STEVEN C. MONTGOMERY
JOSEPH M. WEILER
DARIN M. CONKLIN
JOHN E. JANDERA
DANIEL W. CROW*
MARK A. BURGHART

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

(913) 232-0753
FACSIMILE: (913) 232-1866

MAILING ADDRESS:

P.O. Box 237
TOPEKA, KANSAS 66601-0237

LICENSED TO PRACTICE IN
KANSAS AND MISSOURI

MEMORANDUM

TO: The Honorable Audrey Langworthy, Chairperson
Senate Committee on Assessment and Taxation

FROM: Mark A. Burghart - Western Association

RE: Senate Bill No. 162

DATE: February 10, 1997

Thank you Madam Chairman 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. The legislation is in response to recent decisions of the Board of Tax Appeals which restrict the use of the current statutory farm machinery and equipment exemption. The Board has determined that machinery and equipment which is leased does not qualify for the exemption. This is the identical issue which has been considered previously by this body wherein statutory exemptions were extended to equipment purchased under lease-purchase agreements.

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

Assuming that the Committee considers it appropriate to strike the exclusive use test, the suggested language regarding the qualification of lease-purchase equipment should still be added to existing law. This language would be a clear statement of legislative intent and would eliminate any future litigation on the issue of lease-purchase equipment.

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

*Senate Assessment & Taxation
2-10-97
Attachment 5*



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

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

**February 10, 1997
Topeka, Kansas**

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

Senator Langworthy 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.

As many of you know, Farm Bureau is the state's largest general farm organization. Over 129,000 families, all across Kansas, belong to the 105 county Farm Bureaus.

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, a recent Board of Tax Appeals decision, based on statutory provisions related to this Constitutional amendment, taxed irrigation equipment not on its 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.

*Senate Assessment + Taxation
2-10-97
Attachment 6*

The changes proposed in SB 162 would bring the statute BOTA relied on in this opinion 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. I am willing to stand for any questions the committee might have.

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.