

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by the Chairman at 9:00 a.m. February 19, 2001 in Room 519-S of the Capitol.

All members were present except: Representative Mays, excused
Representative T. Powell, excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor
Winnie Crapson, Secretary

Conferees appearing before the committee: Representative Kirk
Representative Toplikar
Representative O'Brien
Linda Schreppel, Labette County Clerk

Chairman Edmonds noted that as requested in hearing on **HB 2091** on February 15, members of the Committee were provided with Attorney General Opinion No. 96-7 Re: Taxation-Listing Property for Taxation-Personal Property to be Listed and Assessed; Business Machinery, Equipment, Materials and Supplies (Attachment #1).

Hearing was opened on:

HB 2166 - Income tax credit for homestead refund claims

Representative Kirk presented testimony in support of **HB 2166** (Attachment #2) and responded to questions from members of the Committee.

Hearing on HB 2166 was closed.

Hearing was opened on:

HB 2377 - Income tax credit for property tax paid by certain individuals

Representative Toplikar presented testimony in support of **HB 2377** (Attachment #3) and responded to questions from members of the Committee.

Hearing on HB 2377 was closed.

Hearing was opened on:

HB 2054 - The basis for property tax levies relating to public libraries

Representative O'Brien addressed the Committee in support of **HB 2054**. He noted that fifteen counties were involved in one library district and data is sent by all Counties to host County where it is compiled. He responded to questions from members of the Committee.

Linda Schreppel, Labette County Clerk, presented testimony in support of **HB 2054** on behalf of the Kansas County Clerks Legislative Committee (Attachment #4) and responded to questions from members of the Committee.

Written testimony was presented by Judy Moler in support of **HB 2054** on behalf of the Kansas Association of Counties (Attachment #5).

Hearing on HB 2054 was closed.

The meeting adjourned at 9:34 a.m. The next scheduled meeting is February 20.

GUEST LIST

DATE Feb. 19, 2001

NAME	REPRESENTING
Judy Meier	Ho. Assn of Am. Rets.
Mark Carpenter	Ks Taxpayers Network
George Petersen	Kansas County Clerks Assoc.
Sherrill L. Kiebel, Allen Co. Clerk	Kansas County Clerks Assoc.
Linda Schreppel, Labette Co. Clerk	Kansas County Clerks Assoc.
Gene O'Brien	
Cynthia Gaten	
Ruford Camp	KODR
Martha Jean Smith	KMHHA
Kelly Kuetala	City of Overland Park
Ann Dukles	DOP
Ker Berone	Men/war Chptd.



State of Kansas

Office of the Attorney General

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ATTORNEY GENERAL

February 6, 1996

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ATTORNEY GENERAL OPINION NO. 96- 7

The Honorable Clyde D. Graeber
State Representative, 41st District
State Capitol, Room 115-S
Topeka, Kansas 66612-1504

Re: Taxation—Listing Property for Taxation—Personal Property to be Listed and Assessed; Business Machinery, Equipment, Materials and Supplies

Synopsis: Machinery, equipment, materials and supplies exempted from taxation pursuant to K.S.A. 1995 Supp. 79-201w are not required to be listed for assessment pursuant to K.S.A. 79-301 *et seq.* Cited herein: K.S.A. 1995 Supp. 79-201w, 79-213, K.S.A. 79-301, K.S.A. 1995 Supp. 79-306.

* * *

Dear Representative Graeber:

You request our opinion regarding K.S.A. 79-301 and whether certain property that is exempt from taxation must nevertheless be listed pursuant to that statute.

The property in question is the machinery, equipment, materials and supplies exempted from taxation pursuant to K.S.A. 1995 Supp. 79-201w which provides 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) Any item of machinery, equipment, materials and supplies **which, except for the operation of the provisions of this section, would be required to be listed for the purpose of taxation pursuant to K.S.A. 79-**

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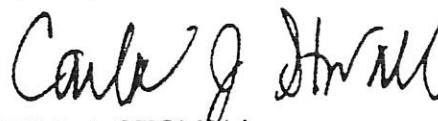
306, and amendments thereto, and which is actually and regularly used exclusively for business purposes, or in the conduct of activities by an entity not subject to Kansas income taxation pursuant to K.S.A. 79-32,113, and amendments thereto, whose original cost when new is \$250 or less.

“(b) The provisions of this section shall apply to all taxable years commencing after December 31, 1995.” (Emphasis added).

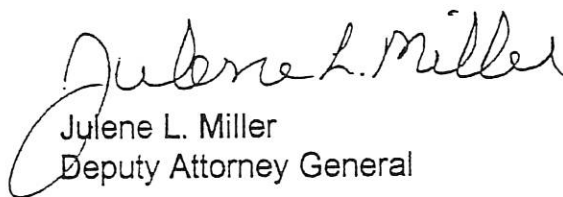
Coincident with the passage of this exemption, the legislature excluded property covered by this provision from the requirements for filing an application for exemption with the board of tax appeals. K.S.A. 1995 Supp. 79-213(l)(13).

K.S.A. 1995 Supp. 79-306 specifies that every person or entity required by the act of which it is a part to list property shall do so in a certain manner. K.S.A. 79-301 establishes that all tangible personal property **subject to taxation** shall be listed in accordance with K.S.A. 1995 Supp. 79-306. **See also** K.S.A. 79-1412a; K.S.A. 1995 Supp. 79-1427a; 79-1475. The inference is that property not subject to taxation would not have to be listed under this provision. **See Masson, Inc. V. County Assessor of Wyandotte County**, 222 Kan. 581, 583 (1977) (tangible personal property not exempt from taxation is to be listed pursuant to K.S.A. 79-301 **et seq.**). Exempt property is not “subject to taxation.” K.S.A. 79-101. **See State ex rel. Tomasic v. Kansas City, Kansas Port Authority**, 412 Kan. 404, 412 (1981) and cases cited therein. We therefore conclude that property exempted from property taxes under K.S.A. 1995 Supp. 79-201w is not required to be listed pursuant to K.S.A. 79-301 **et seq.** While an appraiser may request information regarding certain property, or a property owner may wish to list it to verify or ascertain its exempt status, the statutes do not require listing property that is exempt from taxation.

Very truly yours,



CARLA J. STOVALL
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

CJS:JLM:jm

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NANCY A. KIRK
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TOPEKA

HOUSE OF
REPRESENTATIVES

TESTIMONY ON HB2166

COMMITTEE ASSIGNMENTS
AGENDA CHAIRPERSON
TAXATION
INSURANCE
KANSAS 2000 SELECT
INTERSTATE COOPERATION
JOINT COMMITTEE LONG TERM
CARE SERVICE

HB 2166 seeks to improve taxpayer access to the Homestead Property Tax Rebate. HB2166 makes the current Homestead Property Tax Rebate program a refundable income tax credit. In 1997-98 we substantially improved our efforts to target tax relief for the poor, elderly, and disabled. We passed the first Kansas Earned Income Tax for the working poor and we moved the food sales tax rebate program to an income tax credit after enhancing the eligibility and the benefits. The one change we discussed but left to change at a later date was the Homestead Property Tax Rebate program.

The Homestead Property Tax Rebate program gives a declining percentage of money back to eligible participants for the property taxes they pay up to \$600. The eligible person must be 55 or older, disabled, blind, or have a child under the age of 18 and an income of \$25,000 or less. Social Security Disability is not included in the calculations of total household income. The program is open to homeowners and those who rent.

I have attached to my testimony a report that shows the amount of money that has been rebated to eligible Kansans since 1972 and the number of Kansans who participate in the program each year. You will see the number of participants increasing for the first 5 years and then from 1980 to 1987 there was a steady decline in participation until substantial changes were made in 1988. The pattern of decline resumes through 1997 when the number of participants dropped to fewer than participated in 1974.

In 1999 the interim tax committee discussed the problems with the consistently declining participation and the estimates that most who are eligible do not participate in the program. The Department of Revenue was directed to actively advertise the program in hopes the number of participants would not continue to decline. In lieu of eliminating the sales

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tax on food, the Food Sales Tax Rebate program was moved to an income tax credit. The number of eligible participants jumped from 40383 to 232,400. Although we underestimated the number of persons who would be participating in the program, it is now generally believed that everyone who is eligible is participating in the food sales tax rebate. The same cannot be said for the Homestead Property Tax Rebate. As you can see from the attached tables, the participation in this program is significantly below the food sales tax rebate participation rate.

Our policy of keeping the Homestead Property Tax Rebate program separate from the income tax continues to be the primary factor in the participation rates. Our policy works as a disincentive. We knowingly deferred decisions on this policy because of the fiscal note if everyone eligible participated.

I believe members of the tax committee should review this problem regularly. This tax break is targeted to the poor, elderly, and disabled; the most vulnerable of our citizens. This tax rebate program was never intended to routinely exclude eligible Kansans, but the mechanism we use to provide the tax rebate does just that. We all know it is a barrier to full participation. I am hopeful the members of the tax committee will make changing this program to an income tax credit a priority. These Kansans do not have a lobbyist here to advocate for them so it is up to this committee to begin the process of correcting this benefit disincentive.

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SUMMARY OF THE HOMESTEAD REFUND PROGRAM

Eligibility Requirements

- must be 55 years of age or older, or
- be blind or totally and permanently disabled, or
- have a dependent child who lived with you the entire year who was under the age of 18; and
- household income must be \$25,000 or less.

Refund Table

- maximum refund is \$600;
- no reduction to the refund for incomes of \$3,000 and less; a reduction of 12 percent for an income of between \$3,001 and \$4,000 and a reduction of an additional 4 percent for each \$1,000 of income above \$4,000;

Administrative Provisions

- renter property tax is based on 20 percent of rent paid, not to exceed \$600, as contained on the Certification of Rent Paid;
- homeowners submit a copy of the Property Tax Statement containing the amount of property tax timely paid, not to exceed \$600;
- renters and homeowners file their return no later than April 15;
- homeowners who received a refund the previous year may use the Homestead Refund Advancement Program and receive a part of their anticipated refund to satisfy a portion of their December 20th property tax liability;
- virtually all forms of income from all individuals living in the household are included as "household income"; a minor child's income can be excluded if the child's name is not on the tax statement or rental agreement;
- a refund may be claimed on behalf of a decedent for the period of time the decedent was alive for that refund year;

HOMESTEAD PERCENTAGE TABLE

<u>Household Income Range</u>	<u>Percentage of Property Tax Allowed as a Refund</u>
\$0 to \$3,000	100%
\$3,001 to \$4,000	88%
\$4,001 to \$5,000	84%
\$5,001 to \$6,000	80%
\$6,001 to \$7,000	76%
\$7,001 to \$8,000	72%
\$8,001 to \$9,000	68%
\$9,001 to \$10,000	64%
\$10,001 to \$11,000	60%
\$11,001 to \$12,000	56%
\$12,001 to \$13,000	52%
\$13,001 to \$14,000	48%
\$14,001 to \$15,000	44%
\$15,001 to \$16,000	40%
\$16,001 to \$17,000	36%
\$17,001 to \$18,000	32%
\$18,001 to \$19,001	28%
\$19,001 to \$20,000	24%
\$20,001 to \$21,000	20%
\$21,001 to \$22,000	16%
\$22,001 to \$23,000	12%
\$23,001 to \$24,000	8%
\$24,001 to \$25,000	4%

HOMESTEAD PROPERTY TAX REFUNDS

<u>FISCAL</u> <u>YEAR</u>	<u># OF RETURNS</u>	<u>REFUNDS</u>	<u>AVERAGE</u> <u>REFUND</u>
1972	15,358	\$1,090,790	\$71
1973	30,416	\$3,149,289	\$104
1974	57,576	\$8,306,743	\$144
1975	64,727	\$9,425,929	\$146
1976	67,895	\$9,541,352	\$141
1977	62,955	\$8,824,109	\$140
1978	58,109	\$8,197,638	\$141
1979	64,884	\$9,362,825	\$144
1980	70,944	\$10,331,944	\$146
1981	67,429	\$9,807,634	\$145
1982	60,478	\$9,019,264	\$149
1983	53,789	\$7,988,750	\$149
1984	52,994	\$8,346,914	\$158
1985	49,286	\$7,902,430	\$160
1986	48,628	\$7,951,212	\$164
1987	39,716	\$6,313,513	\$159
1988	54,032	\$8,493,448	\$157
1989	46,625	\$7,372,487	\$158
1990	46,640	\$8,894,033	\$191
1991	43,872	\$8,373,555	\$191
1992	45,253	\$8,818,722	\$195
1993	47,405	\$9,265,585	\$195
1994	46,623	\$9,411,683	\$202
1995	44,210	\$8,684,836	\$196
1996	39,119	\$7,154,927	\$183
1997	35,386	\$6,630,699	\$187
1998	68,911	\$13,592,747	\$197
1999	73,718	\$13,751,159	\$187
2000	65,329	\$14,997,936	\$230
TOTAL	1,522,307	\$251,002,153	

The Kansas Homestead Property Tax Relief Law was created (1970 Session Laws of Kansas, Chapter 403) to provide ad valorem tax relief to certain persons sixty-five (65) years of age and over who own their homestead. The relief is provided through a system of income tax credits and refunds.

The Homestead Statutes (K.S.A. 79-4501 et. seq) were broadened (1972 Session Laws of Kansas, Chapter 383) to include disability and blindness. In addition, the household income limitation amount was increased from \$3,700 to \$5,800.

The statutes were further revised (1973 Session Laws of Kansas, Chapter 404, amended by Chapter 405), to include certain widows fifty years of age or over, and to lower the age of certain other persons to sixty years of age (formerly 65). The household income limitation amount was increased further to \$8,150. The provision allowing refunds as a credit against Kansas income taxes due was eliminated. A minimum refund of \$5 is paid. The term "household" was redefined (1974 Session Laws, of Kansas, Chapter 433) to mean "claimant and spouse" only. Provision was made to allow proration of taxes if a claimant lived in more than one dwelling. Chapter 444 of the 1974 Session Laws of Kansas required the various county officials to provide all taxpayers with a statement of the taxpayer's possible eligibility under the program.

Household was further defined (1975 Session Laws of Kansas, Chapter 403) to include the claimant and spouse of the claimant and "one or more" individuals not related as husband and wife who together own or rent and occupy a homestead. The program was also expanded to apply to more people, in that "homestead" was expanded to include rented dwellings and mobile homes. Renters were allowed to use 12% of their gross rent for dwellings classified as "occupancy only" as property taxes paid.

The 1978 legislature made changes in the scope and the name of the Homestead program. The 1978 Session Laws of Kansas, Chapter 418, contained provisions which:

- (1) decreased the qualifying age by one year per year until it reached fifty-five (55) in 1981;
- (2) liberalized the income limitation amount so that refunds were phased out at \$9,200 rather than \$8,150; and
- (3) expanded eligibility to include all persons with a dependent child under age 18. In addition, the name of the program was changed to Homestead Refund Program.

The 1979 legislature (1979 Session Laws of Kansas, Chapter 328) expanded the rent equivalency factor from 12 percent of rent to 15 percent; and increased the maximum income eligibility per household from \$9,200 to \$13,000.

No significant changes were made to the Homestead statutes in the 1980 through 1986 legislative sessions. Changes were made to the Food Sales Tax Refund Program in 1986, making the qualifications for claimants the same as those for the Homestead Refund Program. The 1988 Legislature (1988 Session Laws, Vol. 2, Chapter 375) amended the Homestead definition: (1) to redefine "homestead" as a site for ad valorem tax purposes; (2) to redefine one qualification for "claimant" as a person of 55 years or older (striking an obsolete table); and (3) to redefine "property taxes accrued" to delete the homestead as an integral part of a farm and the exemption provision for up-to-forty acres of farmland.

The 1989 Legislature (1989 Session Laws of Kansas, Chapter 303) increased the maximum refund from \$400 to \$500, thus raising the maximum household income limit from \$13,000 to \$15,000. The 1989 legislature (1989 Session Laws of Kansas, Chapter 303) also provided a "circuit breaker" program -- for taxpayers whose property tax has increased at least 50% between 1988 and 1989 and with a household income of \$35,000 or less -- of a refund of 50% of the difference, not to exceed \$500, for calendar year 1989 and 25% of the difference, not to exceed \$250, for calendar year 1990.

The 1990 Legislature amended the definition of Homestead to allow "manufactured houses".

The 1992 Legislature amended the Homestead Act to allow filers to assign their Homestead refund to the county for payment of real estate property taxes (Senate Bill 657). This act also increased the maximum refund to \$600 from \$500 per household which increases the income limitation from \$15,000 to \$17,200.

No significant legislation was passed in 1993, 1994, 1995, or 1996.

The 1997 Legislature amended the Homestead Act by increasing the household income limitation from \$17,200 to \$25,000, by raising the renter percentage for property tax accrued from 15 to 20 percent and moving the filing deadline from October 16 to April 1. In addition, net operating and net capital losses are no longer allowed in determining household income and the definition of "household" was modified and is now identical to the definition used for the "Food Sales Tax Refund".

The 1998 Legislature did not amend the Homestead Act. However, the Food Sales Tax Refund can now be claimed using the individual income tax form.

The 1999 Legislature made no significant changes to the Homestead Property Tax Refund Program.

The 2000 Legislature excluded income from disability payments and veterans disability pensions from the definition of household income.

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FOOD SALES TAX REFUNDS

<u>FISCAL</u> <u>YEAR</u>	<u>RETURNS</u>	<u>REFUNDS</u>	<u>AVERAGE</u> <u>REFUND</u>
1979	84,950	\$2,149,449	\$25
1980	86,163	\$2,153,955	\$25
1981	79,633	\$1,955,384	\$25
1982	68,868	\$1,650,380	\$24
1983	59,424	\$1,405,787	\$24
1984	55,430	\$1,300,183	\$23
1985	51,246	\$1,190,955	\$23
1986	47,544	\$1,096,559	\$23
1987	54,854	\$2,358,033	\$43
1988	83,313	\$3,835,336	\$46
1989	72,412	\$3,332,604	\$46
1990	68,858	\$3,151,744	\$46
1991	62,876	\$2,915,111	\$46
1992	62,940	\$2,949,184	\$47
1993	52,242	\$2,596,123	\$50
1994	46,564	\$2,437,962	\$52
1995	46,387	\$2,209,348	\$48
1996	41,174	\$1,888,115	\$46
1997	36,012	\$1,760,800	\$49
1998	40,383	\$1,901,606	\$47
1999	233,031	\$22,058,457	\$95
2000	201,151	\$19,846,892	\$99
TOTAL	1,635,455	\$86,143,967	

The Food Sales Tax Refund program was enacted in 1978 and refunded \$20 per person to residents who are disabled or age 59 or older with a household income of not more than \$10,000. The age limitation was lowered to 55 in 1982. In 1986 the household income limitation was raised to \$13,000, eligibility was extended to persons and other members of the household if a dependent under the age of 18 lived in the household and the maximum refund was increased to \$30 for each dependent and \$40 for the claimant. The 1998 Legislature authorized the use of Kansas Adjusted Gross Income rather than household income and increased the income limitation to \$25,000 and the maximum refund to \$60 per exemption for KAGI of \$12,500 and less and \$30 per exemption for a KAGI of over \$12,500 and \$25,000 and less. The refund can now be claimed on the Kansas Individual Income Tax Return. Data for FY 1999 represents the 1998 Legislature's changes to the Food Sales Tax Refund program.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

REPRESENTATIVE, 15TH DISTRICT
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OLATHE, KS 66061



STATE CAPITOL
TOPEKA, KS 66612
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JOHN M. TOPLIKAR

HB 2377

Mr. Chairman and members of the committee HB 2377 is an income tax credit for a percentage of property taxes paid by homeowners age 65 or older based on their Kansas adjusted gross income. I offered this bill last year in the form of an amendment to HB 2589 and the House passed it with 102 votes and the support of every one of your committee members who were here last year. As you can see in the attachments we passed legislation into law that gives a refundable income tax credit to business. I hope that you again will overwhelmingly support this credit for low income and poor seniors, who sometimes have to give up their homes because of fixed incomes and high property tax. Thank you.

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Kinney, Merrick, Minor, Mollenkamp, Jim Morrison, E. Peterson, J. Peterson, Phelps, Ray, Reinhardt, Ruff, Sharp, Showalter, Shriver, Sloan, Stone, Storm, Swenson, Tanner, Toelkes, Tomlinson, Weber, Wells.

Present but not voting: Klein.

Absent or not voting: Flora, Glasscock, Henderson, Jennison, Light, Rehorn, Spangler.

Part B of the motion of Rep. Landwehr did not prevail.

Also, roll call was demanded on motion of Rep. Toplikar to amend **HB 2589** on page 2, after line 7, by inserting a new section to read as follows:

* "Sec. 2. (a) For all taxable years commencing after December 31, 1999, there shall be allowed as a credit against the tax liability imposed by the Kansas income tax act upon a resident individual who is 65 years of age or older an amount equal to the product of the property tax actually and timely paid upon such individual's principal dwelling during the appropriate income tax year multiplied by the applicable percentage determined in accordance with the following schedule:

Taxpayers Kansas Adjusted Gross Income	Applicable % of Property tax paid
\$0 to \$10,000.....	30%
Over \$10,000 but not over \$20,000	20%
Over \$20,000 but not over \$30,000	10%
Over \$30,000.....	0

(b) As used in this section, "taxpayer's Kansas adjusted gross income" shall be determined without regard to the modifications specified by subsections (c)(i), (ii) regarding Kansas public employee retirement system retirement benefits, (vii), (ix) and (xii) of K.S.A. 79-32,117, and amendments thereto, and shall not include social security disability payments.

(c) If the amount of the tax credit determined pursuant to this section exceeds the individual's tax liability for any taxable year, such excess amount shall be refunded to the individual.

(d) Any individual who claims the credit allowable pursuant to this section shall not be eligible to make a claim pursuant to the homestead property tax refund act.;"

By renumbering existing section 2 as section 3;

In the title, in line 11, before the period by inserting "and individuals";

On roll call, the vote was: Yeas 102; Nays 17; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aday, Alldritt, Allen, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Crow, Dahl, Dean, Edmonds, Faber, Farmer, Feuerborn, Findley, Flaharty, Flora, Flower, Garner, Gatewood, Gilbert, Grant, Gregory, Haley, Hayzlett, Helgerson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Jenkins, Johnson, Johnston, Kirk, Klein, Phil Kline, Phill Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Lightner, Lloyd, M. Long, P. Long, Loyd, Mayans, Mays, McClure, McCreary, McKinney, Merrick, Minor, Judy Morrison, Myers, Neufeld, Nichols, O'Brien, O'Connor, O'Neal, Osborne, Palmer, Pauls, E. Peterson, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Swenson, Tanner, Tedder, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Vining, Wagle, Weiland, Wells, Welshimer.

Nays: Aurand, Carmody, Cox, Dreher, Empson, Freeborn, Geringer, Mason, McKechnie, Mollenkamp, Jim Morrison, J. Peterson, Ray, Reinhardt, Stone, Weber, Wilk.

Present but not voting: None.

Absent or not voting: Adkins, Ballou, Glasscock, Henderson, Jennison, Spangler.

The motion of Rep. Toplikar prevailed.

Also, on motion of Rep. Howell **HB 2589** be amended on page 2, after line 7, by inserting a new section to read as follows:

"Sec. 2. (a) For all taxable years commencing after December 31, 1997, there shall be allowed as a credit against the tax liability of a taxpayer who operates a food locker plant imposed under the Kansas income tax act, an amount equal to any taxes paid for im-

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suant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2000 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(c) There shall be subtracted from federal adjusted gross income:

* (i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

* (ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to

the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

* (vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) *et seq.*

* (ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14.106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14.106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

* (xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 1993, the amount of income earned on contributions deposited to an individual development account under K.S.A. 79-32,117h, and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of

to be propelled by an
 any person who owns
 ervative-fueled vehicle
 ansas or who makes an
 alternative-fuel fueling
 ery natural person, as-
 ited liability company,
 oration.
 his section shall apply
 ncing after December
 262. § 6; L. 1999. ch.

edit for required im-
 l swine facility. (a) As
 meanings provided by
 17S and amendments

facility" means a swine
 and operated by a sole
 hip or by a family farm
 corporation, limited
 ny, family farm limited
 ny, limited agricultural
 uthorized trust or tes-
 d by K.S.A. 17-5903 and
 (B) is utilizing its swine
 on January 1, 1998.
 vements to a qualified
 pital improvements that
 nd environment certifies
 n A. Are required for a
 comply with the stan-
 established pursuant to
 17S through 65-1.198 or
 ents made by this act to
 are not required because
 permit has not been is-
 re the effective date of

lowed as a credit against
 ayer imposed under the
 an amount equal to not
 osts incurred by the tax-
 ovements to a qualified
 edit allowed by this sub-
 d from the taxpayer's in-
 taxable year in which the
 by the taxpayer. If the

amount of such tax credit exceeds the taxpayer's
 income tax liability for such taxable year, the tax-
 payer may carry over the amount thereof that ex-
 ceeds such tax liability for deduction from the tax-
 payer's income tax liability in the next succeeding
 taxable year or years until the total amount of the
 tax credit has been deducted from tax liability, ex-
 cept that no such tax credit shall be carried over
 for deduction after the fourth taxable year suc-
 ceeding the year in which the costs are incurred.

(c) The provisions of this section shall be ap-
 plicable to all taxable years commencing after De-
 cember 31, 1997.

(d) On or before the first day of the 1999,
 2000 and 2001 regular legislative sessions, the sec-
 retary of revenue shall submit to the senate stand-
 ing committee on energy and natural resources,
 the house standing committee on environment,
 the senate standing committee on assessment and
 taxation and the house standing committee on tax-
 ation a report of the number of taxpayers claiming
 the credit allowed by this section and the total
 amount of such credits claimed by all taxpayers.

History: L. 1998, ch. 143, § 28; May 7.

79-32.205. Earned income tax credit.

(a) There shall be allowed as a credit against the
 tax liability of a resident individual imposed under
 the Kansas income tax act an amount equal to 10%
 for tax year 1998, and all tax years thereafter, of
 the amount of the earned income credit allowed
 against such taxpayer's federal income tax liability
 pursuant to section 32 of the federal internal rev-
 enue code for the taxable year in which such
 credit was claimed against the taxpayer's federal
 income tax liability.

(b) If the amount of the credit allowed by
 subsection (a) exceeds the taxpayer's income tax
 liability imposed under the Kansas income tax act,
 such excess amount shall be refunded to the tax-
 payer.

(c) The provisions of this section shall be ap-
 plicable to all taxable years commencing after De-
 cember 31, 1997.

History: L. 1998, ch. 130, § 22; July 1.

**79-32.206. Credit for property tax paid
 on commercial and industrial machinery and
 equipment.** For all taxable years commencing af-
 ter December 31, 1997, there shall be allowed as
 a credit against the tax liability of a taxpayer im-
 posed under the Kansas income tax act, the pre-
 miums tax upon insurance companies imposed
 pursuant to K.S.A. 40-252, and amendments

thereto, and the privilege tax as measured by net
 income of financial institutions imposed pursuant
 to article 11 of chapter 79 of the Kansas Statutes
 Annotated, an amount equal to 15% of the prop-
 erty tax levied for property tax year 1998, and all
 such years thereafter, actually and timely paid
 during an income or privilege taxable year upon
 commercial and industrial machinery and equip-
 ment classified for property taxation purposes
 pursuant to section 1 of article 11 of the Kansas
 constitution in subclass (5) or (6) of class 2 and
 machinery and equipment classified for such pur-
 poses in subclass (2) of class 2. If the amount of
 such tax credit exceeds the taxpayer's income tax
 liability for the taxable year, the amount thereof
 which exceeds such tax liability shall be refunded
 to the taxpayer. If the taxpayer is a corporation
 having an election in effect under subchapter S of
 the federal internal revenue code, a partnership
 or a limited liability company, the credit provided
 by this section shall be claimed by the sharehold-
 ers of such corporation, the partners of such part-
 nership or the members of such limited liability
 company in the same manner as such sharehold-
 ers, partners or members account for their pro-
 portionate shares of the income or loss of the cor-
 poration, partnership or limited liability company.

History: L. 1998, ch. 130, § 23; July 1.

**79-32.207. Tax credit for plugging
 abandoned oil or gas well.** (a) As used in this
 section, "abandoned oil or gas well" means an
 abandoned well, as defined by K.S.A. 2000 Supp.
 55-191 and amendments thereto:

(1) The drilling of which was commenced be-
 fore January 1, 1970; and

(2) which is located on land owned by the tax-
 payer claiming the tax credit allowed by this sec-
 tion.

(b) For any taxable year commencing after
 December 31, 1997, and before January 1, 2001,
 a credit shall be allowed against the tax imposed
 by the Kansas income tax act on the Kansas tax-
 able income of a taxpayer for expenditures made
 for the purpose of plugging any abandoned oil or
 gas well in accordance with rules and regulations
 of the state corporation commission applicable
 thereto, in an amount equal to 50% of such ex-
 penditures made in the taxable year.

(c) If the amount of the tax credit allowed by
 this section exceeds the taxpayer's income tax li-
 ability for such taxable year, the amount thereof
 which exceeds such tax liability may be carried

over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability.

(d) The total amount of credits allowed taxpayers pursuant to this section, including the amount of credits carried over under subsection (c), shall not exceed \$250,000 for any one fiscal year.

(e) The secretary of revenue shall adopt such rules and regulations as necessary to carry out the purposes of this section.

History: L. 1998, ch. 122, § 6; Apr. 30.

79-32.208.

History: L. 1999, ch. 154, § 2; Repealed, L. 2000, ch. 184, § 33; Jan. 1.

79-32.209. Federal innocent spouse rule conformity. In all cases where husband and wife file a joint Kansas income tax return and one spouse is relieved of liability under section 6013(e) or section 6015 of the federal internal revenue code, or would have otherwise been relieved of liability under either such section had there been a liability, such spouse shall be relieved of liability for tax, including interest and penalties, imposed under the Kansas income tax act for such taxable year.

History: L. 2000, ch. 184, § 6; July 1.

79-32.210. Credit for property tax paid by telecommunication companies. (a) For all taxable years commencing after December 31, 2000, and with respect to property initially acquired and first placed into service in this state on and after January 1, 2001, there shall be allowed as a credit against the tax liability imposed by the Kansas income tax act of a telecommunications company, as defined in K.S.A. 79-3271 and amendments thereto, an amount equal to the difference between the property tax levied for property tax year 2001, and all such years thereafter, and actually and timely paid during the appropriate income taxable year upon property assessed at the 33% assessment rate and the property tax which would be levied and paid on such property if assessed at a 25% assessment rate.

(b) If the amount of the tax credit determined under subsection (a) exceeds the tax liability for the telecommunications company for any taxable year, the amount thereof which exceeds such tax liability shall be refunded to the telecommunications company. If the telecommunications com-

pany is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of income or loss of the corporation, partnership or limited liability company.

(c) As used in this section, the term "acquired" shall not include the transfer of property pursuant to an exchange for stock securities, or the transfer of assets of one business entity to another due to a merger or other consolidation.

History: L. 2000, ch. 184, § 30; July 1.

Article 33.—CIGARETTES AND TOBACCO PRODUCTS

Cross References to Related Sections:

Requirements for sale of cigarettes, escrow accounts required of certain tobacco product manufacturers, see 50-6a01 et seq.

79-3301. Definitions. As used in this act:

(a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.

(b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.

(c) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

(d) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.

(e) "Dealer" means any person who engages in the sale or manufacture of cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.

(f) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes are sold, and where records are kept.

(g) "Director" means the director of taxation.

(h) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought,

February 19, 2001

House Taxation Committee
Honorable Representative Edmonds and Members
Proponent of HB 2054

Thank you for allowing me to address this Committee regarding this really simple issue:

As County Clerks it is our responsibility to set the levies for the taxing districts. The District Libraries have always posed a problem for us because of the number of counties involved. Numerous problems can arise at tax rate time, which makes it difficult to certify the final value to the home county in time for the home county to calculate the final tax rate and in turn get the information back to each County in the district. Increases or decreases of final value would be adjusted the next budget year.

Our County Clerks Legislative Committee has tried to get this bill passed for about five years now. The first year it made it to committee and was heard but was never passed out of committee. We have had support all along for this bill by the Division of Accounts and Reports. Property Valuation has no problem with it and above all the Library Districts have no problem with it. The bill is very simple, it is merely helping us with a time issue.

Thank you and I am willing to field any questions you might have.

Sincerely,

Linda Schreppel
Labette County Clerk
Member of the Kansas County Clerk's Legislative Committee

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Date 2-19-01
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KANSAS
ASSOCIATION OF
COUNTIES

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Kansas Association of Counties
Written Testimony on HB 2054
By Judy A. Moler, General Counsel/Legislative Services Director
February 19, 2001

The Kansas Association of Counties is in support of HB 2054. The passage of HB 2054 will expedite the administrative duties of county clerks in a county with library districts. All parties involved in this legislative change have agreed to this legislation. We urge passage of this bill.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 272-2585.

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Date 2-19-01
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