

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 26, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative Jene Vickrey
Sherrie Riebel, Allen County Clerk
Harriet Lange, President, KS Asso. Broadcasters
Joan Barrett, KWCH Television
Randall Allen, KS Asso. Of Counties

Others attending:

See attached list.

Representative George introduced his intern, Jessie Casterline, a student at Kansas University. Representative Brunk introduced Chris Moffatt, his intern, a senior at Kansas University.

HB 2581 - Libraries; tax levies; based on preliminary of property values.

Chris Courtwright said that the bill related to regional public library systems and their request to change the statute to allow the libraries to use the July preliminary abstract of values instead of the final November action.

The Chairman opened the hearing on **HB 2581**.

Representative Jene Vickrey, the sponsor of **HB 2581** said that the bill would help with the timeliness of mill levy calculation done in the county offices pertaining to regional libraries (Attachment 1). He said that in attendance were three Master County Clerks that would provide answers to technical questions.

Sherrie Riebel, Allen County Clerk, appeared before the Committee in support of **HB 2581** (Attachment 2). She introduced Linda Schreppel, Labette County and Kathy Peckman, Miami County. Riebel testified that problems arise every year because each county has a different time schedule to complete their values, tax levies and tax statements. A variety of reasons may delay a clerk's ability to certify values on time, such as: mistakes on state utilities, clerical errors, and programing programs. The county clerks support the use of the July abstract of values (certified preliminary abstract) for setting levies to produce tax statements, since these would have already been reported. Explanatory letters had been sent to the state and regional libraries and no one had expressed opposition to the bill. She urged passage of **HB 2581**.

The Chairman closed the hearing on **HB 2581**.

HB 2618 - Property tax exemption and credit for certain digital television and radio equipment used in broadcasting television and radio shows.

Gordon Self explained that the bill is a property tax bill which 1) exempts digital broadcasting equipment machinery and equipment purchased after January 1, 2006 from property taxation; and 2) provides a property tax credit on certain digital equipment purchased prior to January 1, 2006.

The Chairman opened the hearing on **HB 2618**.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 26, 2006 in Room 519-S of the Capitol.

Proponents:

Harriet Lange, President, KS Association of Broadcasters testified in support of **HB 2618** (Attachment 3). She said the intent of the bill was to exempt or provide a credit for any equipment which produces, originates, modifies, controls, conveys, enhances, or measures the digital signal that is broadcast as a show, program or commercial. It was their intent that the equipment which would qualify for this special treatment would be limited to the equipment that was in the digital "pipeline" and exclude equipment which could handle an analog signal without conversion. Included in her testimony were: 1) spread sheet which provided the television tax savings by county; 2) proposed amendment, which would allow county appraisers to remove digital equipment from the tax rolls without having an exemption application filed with the Board of Tax Appeals; 3) Definitions and process of television and radio conversion.

Joan Barrett, General Manager, of four Kansas television stations explained that the broadcast business had been forced by a federal mandate to spend millions of dollars on equipment and increased operating costs. While incurring those costs they had not realized any return on that investment (Attachment 4). She urged their thoughtful consideration of **HB 2618**.

Mark Beck said in order to address this issue the Department of Revenue had worked out specific procedures for the counties to identify separate listings in order to differentiate between properties that are exempt and properties that received a credit. They assumed that most purchases made recently would be digital, unless they were replacement systems.

Opponents:

Randall Allen, KS Association Of Counties appeared in opposition to **HB 2618** (Attachment 5). Their objection was that the Legislature was being asked to provide a property tax exemption and credit for something that was ordered by a federal regulatory agency. Although it would provide tax relief to the broadcasters it would shift the burden to everyone else. They suggested that it would be more prudent for the broadcasters in Kansas to seek relief from Congress, or the level of government which imposed the mandate. They believed the bill was an inappropriate mitigation strategy.

In response to a question concerning whether the exemption portion of **HB 2619** would cover broadcasting equipment, etc. if the bill were to pass, there was staff consensus that it would be covered for purchases made *after* January 1, 2007. The Chairman asked for a verification of their consensus before the next discussion of **HB 2618**.

The Chairman closed the hearing on **HB 2618**.

The Chairman queried the Committee to determine if there was any objection to working **HB 2581**. Seeing none, he turned attention to **HB 2581** regarding libraries heard earlier in the meeting.

Representative Owens moved that they report **HB 2581** favorable for passage and due to its non-controversial nature, be placed on the consent calendar. Representative Goico seconded the motion. The motion carried.

The Chairman advised the Committee that they would take action on **HB 2619** on Wednesday, February 1. Copies of a Substitute bill were distributed (Attachment 6). The Chairman reviewed the procedure for the use of a Substitute bill. The Substitute bill before them had been drafted from balloons submitted at the January 25 meeting by representatives from the telecom/communication and railroad industries and addressed the utility portion of **HB 2619**. The Chairman noted that the only change to their balloon was that the effective date was changed to January 1, 2007, instead of January 1, 2006. **HB 2525** would be the vehicle for the new language. He urged the Committee to review the substitute bill before February 1 and if anyone noted problems or had concerns, please document them and pass them on to Revisor Self. It was noted that there would be a fiscal note distributed and reviewed before any action taken.

The meeting was adjourned at 10:30 A.M. The next meeting is January 27, 2006.

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: January 26, 2006

NAME	REPRESENTING
Andrew Couch	Federico Consulting
ROGER BASINGER	
MARIL HANDSHY	
Jessica Casterline	
Matt Shatto	City Lenexa
Derek Hein	Hein Law Firm
Larry R BAER	LKW
Pat Hubbee	KS Railroad
Mike Murray	Sprint
Deann Williams	KMCA
Ed Muf	LBR

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MIAMI COUNTY
502 S. COUNTRYSIDE DR.
LOUISBURG, KANSAS 66053
(913) 837.2585

STATEHOUSE-ROOM 115-S
TOPEKA, KANSAS 66612
(785) 296.6014
EMAIL: Vickrey@house.state.ks.us



CHAIRMAN - HOUSE COMMITTEE ON
GOVERNMENTAL ORGANIZATION
AND ELECTIONS

COMMITTEE ASSIGNMENTS
TRANSPORTATION
FINANCIAL INSTITUTIONS

JENE VICKREY
6TH DISTRICT

January 26, 2006

Testimony for HB 2581
Libraries; tax levies; based on preliminary of property values

Chairman Wilk and Honorable Committee Members:

Thank you for thanking your time to hear **H.B. 2581**. Miami County Clerk Kathy Peckman brought this proposed change that you will hear today. It will greatly help the timely work of county offices to be able to better calculate the mill levy for regional libraries. It is my honor to introduce to you Kathy Peckman. She will explain in more detail the needed change that this bill will provide.

Thank you,

A handwritten signature in cursive script that reads "Jene Vickrey".

Jene Vickrey
Representative, District 6

Testimony to: House Taxation Committee

From: Kansas County Clerk's Association

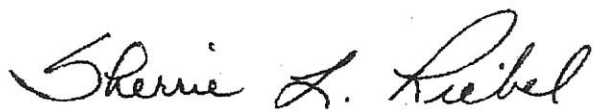
Re: Proponent of HB 2581

Honorable Chairman and Committee Members:

I am Sherrie Riebel Allen County Clerk and I support House Bill 2581. I am the home county for Southeast Kansas Library. Every year each county has a different time schedule to complete their values, tax levies and tax statements. It never fails that the clerk of the home county is waiting on one or two counties for final value. Generally it is not the county clerk's fault; sometimes there are mistakes on state utilities, clerical errors and always programming problems. There could be any number of reasons why a clerk cannot certify value on time. Some county clerks aren't as pressured by the public as others at getting their tax statements out so quickly. I support the use of the July abstract of values (*certified preliminary abstract*) for setting levies to produce tax statements, since these would have already been reported to me. Several counties schedule programmers to come to their counties to help with taxes, therefore the programmers have to schedule different times to help each county.

This bill has come before the legislature in the past and it has not faced opposition from any of the party's involved. I ask for your support and passage of House Bill 2581.

Cordially,

A handwritten signature in cursive script that reads "Sherrie L. Riebel".

Sherrie Riebel

Allen County Clerk



1916 SW Sieben Ct, Topeka KS 66611-1656
(785) 235-1307 * FAX (785) 233-3052
Web site: www.kab.net * E-mail: harriet@kab.net

Testimony
HB 2618
House Committee on Taxation
January 26, 2006
By
Harriet Lange, President
Kansas Association of Broadcasters

Mr. Chairman, Members of the Committee, I am Harriet Lange, president of the Kansas Association of Broadcasters (KAB). KAB serves a membership of free-over-the-air local broadcast stations in Kansas. We appreciate the opportunity to appear before you in support of HB 2618.

HB 2618 will provide temporary property tax relief to commercial television and radio stations in Kansas as they make the transition from analog to digital technology.

The Telecommunications Act of 1996 authorized the Federal Communications Commission to issue a mandate to all free, over-the-air television broadcasters to start transitioning from the analog technology to digital technology. The FCC granted each existing broadcaster an additional channel to be used for digital transmissions, while retaining and continuing programming on their analog channel until the transition is complete and consumers have the capability to receive digital transmissions.

What this mandate means, is that television broadcasters were required to build a second station for digital broadcasting along side their analog station. The mandate requires them to make huge capital outlays for digital equipment and requires them to operate both their analog and digital stations with double operating costs, in order to avoid depriving viewers from their local television broadcast service. Even though broadcasters are making these investments and paying the operating costs, they are NOT receiving any additional viewers or advertising revenue from these investments or operations and they will not until the transition to digital is complete.

From the broadcasters' standpoint, the roll-out of digital television has been incremental, with the largest markets required to be on the air with their digital stations

by May 1, 1999. The next in line by market size, were required to be on the air by November 1, 1999. All commercial television stations were required to be on the air with their digital signal by May 1, 2002. And all commercial stations had to be at full power with their digital signal by July 1, 2005. In some cases, these construction deadlines were waived by the FCC if there were delays by equipment manufacturers or in cases of financial hardship.

Television broadcasters have made the commitment to transition to digital technology, however, consumers have not yet caught up. To receive the digital signal, viewers must purchase a digital television set or a converter box for their analog sets if they do not receive their television programs through cable or satellite. Additionally, set manufacturers continue to produce and sell analog sets at bargain basement prices, although they will be rendered obsolete in 2009 when the analog signal is turned off. The Consumer Electronics Association (CEA) reported that in 2003 only three (3) percent of the total sets in the U.S. were digital capable sets (6.8 million out of 222 million). By 2005, CEA estimates that percentage increased to ten (10) percent, and by 2009, CEA projects that 67 percent of all sets in the U.S. will be digital sets.

DTV technology allows television broadcasters to offer free television programming with movie-quality picture and CD-quality sound (high definition). It also makes possible the rapid delivery of large amounts of information services over a television set (data-casting), or multiple channels offering a variety of programs (multi-casting). In order for consumers to take advantage of all of these enhanced services that will be offered, they must have a high definition/digital capable set.

The transition for radio, to HD Radio, is somewhat different than the DTV transition. The FCC approved HD Radio as the AM and FM digital broadcasting system in October of 2002. HD Radio was developed and is licensed by iBiquity Digital Corporation. This digital audio broadcasting technology provides for enhanced sound fidelity, improved reception and new wireless data services which might include scrolling of traffic, weather, news and sports scores, song and artist identification, and digital music and data download capabilities. Digital radio technology is different than DTV, in that it allows broadcasters to use the current radio spectrum to transmit AM and FM analog simultaneously with the new higher quality digital signals. The technology allows for a

transition to digital for broadcasters and consumers by using the existing infrastructure and spectrum and at the same time preserving the existing analog service for as long as necessary. There is no hard-date for the end of analog radio broadcasting. Consumers may continue listening to the same local AM/FM stations but with the added services and benefits that HD Radio offers. As with television, however, a digital radio set will be required for consumers to take advantage of all the services and benefits of HD Radio.

Radio stations are slowly beginning to transmit a digital signal in addition to their analog signal. As of December 2005, 18 KAB member radio stations have an iBiquity license to broadcast in digital. Nine (9) of these are currently broadcasting in digital HD Radio. Nationwide, 250 stations are broadcasting in digital with an additional 200 having acquired their iBiquity license.

Other states have provided temporary tax relief for broadcasters as they make the transition to digital and while paying dual tax bills. Wisconsin passed legislation a few years ago. Missouri passed legislation last year. In other states like Alabama, Tennessee, Massachusetts, Kentucky and Washington the state broadcast associations have or are working with their respective revenue departments in establishing guidelines for a "special depreciation schedule" for digital broadcasting equipment.

Because an "administrative" fix by the Department of Revenue isn't an option in Kansas due to the inflexibility rendered by the state Constitution, we're asking the legislature to provide some temporary relief until analog broadcasting goes away.

HB 2618 would exempt from personal property tax, digital broadcast equipment acquired on or after January 1, 2006. For digital equipment purchased prior to January 1, 2006, a credit on the station's property tax bill would be granted, based on the percentage of NON-digital (analog) sets in the U.S. For television, the exemption and credit would remain in place until the end of 2009 as broadcasters will discontinue analog broadcasting in February of that year. Since no hard date has been set for radio, the exemption and credit would remain in place until at least 50% of all radio sets in the U.S. are digital sets.

The intent of the bill is to exempt or provide a credit for any equipment which produces, originates, modifies, controls, conveys, enhances, or measures the digital signal that is broadcast as a show, program or commercial. It is our intent that the equipment

which would qualify for this special treatment would be limited to the equipment that is in the digital “pipeline” and exclude equipment which can handle an analog signal without conversion – that being the older equipment in the station.

To determine the potential impact on counties of the television portion of HB 2618 we surveyed the 23 full power commercial television stations with property in Kansas. We asked them to provide information on past and future digital equipment purchases. All 23 stations responded, reporting past and projected expenditures (through 2009) for digital equipment in 19 Kansas counties totaling \$33,158,883. Based on the expenditures reported, tax savings for television stations over the three years (2007, 2008 and 2009) totals a little over \$1,000,000. Attached is a spread sheet which provides the television tax savings by county.

We estimate that a radio station will spend under \$100,000 to make the transition to digital. The total expenditure by radio stations in the state over the multi-year period of the transition will be an estimated \$17.5 million. There are 175 commercial radio stations located in 52 Kansas counties.

Attached to my testimony also is an amendment, which allows county appraisers to remove digital equipment from the tax rolls without having an exemption application filed with the Board of Tax Appeals. We propose that this language be added to HB 2618, as Section 3 and that the current Section 3 be renumbered to Section 4.

I’d be happy to respond to questions now if appropriate, or after Joan Barrett’s testimony, she and I can answer questions.

Thank you for your consideration.

The Conversion to Digital Television

- Digital Television (DTV) is a new broadcast technology that is transforming television.
- DTV technology allows television broadcasters to offer free television programming with movie-quality picture and CD-quality sound.
- DTV also makes possible the rapid delivery of large amounts of information services over a television set (data-casting), or multiple channels offering a variety of programs (multi-casting).
- The Telecommunications Act of 1996 authorized the FCC to issue a mandate to all free, over-the-air television broadcasters to start transitioning from the analog technology to digital technology. To that end the FCC granted each existing broadcaster an additional channel (6 MHz of spectrum) to be used for digital transmissions, while retaining and continuing programming on their analog channel until the transition is complete, i.e. consumers have the capability to receive digital transmissions.
- All commercial television stations were required to be on the air with their digital signal by May 1, 2002; all non-commercial stations by May 1, 2003. These construction deadlines were waived if there were delays by equipment manufacturers or in cases of financial hardship.

What broadcasters had to do to comply with the mandate:

- Local broadcast television stations have spent billions of dollars and thousands of manpower hours bringing digital television (DTV) to the American consumer. It is estimated that when the DTV transition is completed, broadcasters will have spent \$10-16 billion on their digital build outs. Moreover, during this transition period, stations continue incurring the additional costs of putting two signals on the air: one in analog and one in digital. Kansas full power television stations report total projected spending on digital equipment through 2009 to be \$33,160,000.
- If broadcasters did not comply with the mandate and convert to digital, they risk loss of their broadcast licenses when the transition is complete.
- The building of DTV stations required a large outlay of capital and effort by broadcasters. In some cases a new broadcast tower or significant modifications to an existing tower were required for the digital antennas.
- Broadcasters were required to purchase digital transmission equipment, obtain digital programming, and acquire equipment for converting analog programming to digital.
- Additionally, broadcasters must incur the cost of running two stations simultaneously during the transition period, even though viewership and advertising revenues remain the same.

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- According to a national survey in 2002, the average total cost per station to comply with the initial requirements for digital transmission was \$3.1 million.
- According to the 2002 survey, the increased energy costs of running the digital station was \$6,342 per month (at a time when only 54% of the DTV stations responding to the survey were broadcasting at full-power).
- Added to the cost of capital, purchasing and maintenance expenses will continue to increase as stations build and maintain digital equipment while keeping analog equipment in operation.
- Bottom-line - Broadcasters have been required to make substantial investments in economically and functionally obsolescent digital equipment that will not generate revenue until the transition to digital technology is complete. Analog equipment has a very nominal value, at least until the end of the transition. And because broadcasters are required to continue to broadcast their analog signal, they must continue to replace, maintain and repair their analog equipment until the analog spectrum is returned to the government.

When will the transition be complete?

- To receive a digital signal, consumers must purchase a digital set or a converter box for their analog sets if they do not receive their broadcast programs through cable or satellite. Projections indicate that no more than 1/3 of the television households in the U.S. will have a digital set by the end of 2006.
- Federal legislation initially called for the return of the analog spectrum by television broadcasters on December 31, 2006 or when 85% of the television households in a licensee's market are capable of receiving the signals of digital broadcast stations, whichever is later. However, the 2005 U.S. Senate in its budget reconciliation bill called for a hard-date of April 7, 2009, for turning off analog stations. The House bill called for a hard-date of December 31, 2008. The Conference Committee charged with reconciling the House and Senate versions decided on a hard date of February 17, 2009, when analog television stations will be turned off.

While there are numerous examples of technological change making equipment obsolete, including cellular telephones and the move from wire to fiber optics, there is no other case of a Federal agency forcing businesses to buy and run two sets of equipment (simultaneously) and then turn off one group of assets (rendering them useless and of no value).

The Conversion to Digital Radio

- The FCC approved HD Radio as the AM and FM digital broadcasting system for the U.S. in October 2002. HD Radio was developed by iBiquity Digital Corporation. For more information on HD Radio and the technology, go to www.ibiquity.com/hdradio.
- Radio stations are beginning to transmit a digital signal in addition to their analog signal. However, this transition has not been mandated by the FCC, but is market-driven. As of December 2005 – 18 KAB member radio stations have an iBiquity license to broadcast in digital. Nine of these are currently broadcasting in digital HD Radio. Nationwide, 250 stations are broadcasting in digital with an additional 200 having acquired their iBiquity license.
- Digital audio broadcasting technology provides for enhanced sound fidelity, improved reception and new wireless data services such as station, song and artist identification, scrolling of traffic, weather, news and sports scores, digital music and data download capabilities, and much more. This technology allows broadcasters to use the current radio spectrum to transmit AM and FM analog simultaneously with new higher quality digital signals. The digital technology will enhance both the AM and FM band's audio fidelity. AM will sound like FM does today and FM will have compact-disc-like audio quality.
- HD Radio technology allows for a transition to digital for broadcasters and consumers by using the existing infrastructure and spectrum and at the same time preserving the existing analog service for as long as is necessary. There is no hard-date for the end of analog radio broadcasting. Consumers may continue listening to the same local AM/FM stations but with the added services and benefits that HD Radio offers. However, a digital radio set will be required for consumers to take advantage of the services and benefits of HD Radio.
- Unlike television, the radio transition will only impact the value of the transmitters and antennas. Stations with relatively new transmitters may be able to modify the transmitter to send out the digital signal in addition to the analog signal. Antennas will have to be replaced or modified. It is estimated that the average cost of equipment for the transition to HD Radio will be about \$100,000 per station. There are 175 commercial radio stations in 52 Kansas counties.

Kansas Association of Broadcasters, Inc.
Tax Savings Assessment

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County	01/01/2009		01/01/2008		01/01/2007		Total per Category		Total Tax Savings
	Post 1/1/06	Pre 12/31/05 Est. Credit	Post 1/1/06	Pre 12/31/05 Est. Credit	Post 1/1/06	Pre 12/31/05 Est. Credit	Post 1/1/06	Pre 12/31/05 Est. Credit	
Barton	\$ 40,112	\$ 577	\$ 48,146	\$ 1,425	\$ -	\$ 2,699	\$ 88,259	\$ 4,701	\$ 92,960
Cherokee	25,823	1,510	22,494	3,560	1,509	5,704	49,827	10,774	60,600
Decatur	19,239	1,639	-	4,246	-	7,139	19,239	13,025	32,264
Ellis	38,845	123	-	303	-	575	38,845	1,001	39,845
Finney	20,427	365	22,809	901	-	1,707	43,236	2,973	46,209
Ford	1,699	-	-	-	-	-	1,699	-	1,699
Gray	59,673	-	-	-	-	-	59,673	-	59,673
Harvey	-	2,403	-	4,172	-	7,150	-	13,725	13,725
Haskell	-	1,008	-	2,493	-	4,708	-	8,209	8,209
Johnson	15,549	4,945	17,028	11,421	-	18,281	32,576	34,647	67,223
Ottawa	-	1,067	-	1,891	-	3,202	-	6,160	6,160
Reno	-	7,276	-	16,956	-	26,922	-	51,154	51,154
Russell	-	185	-	456	-	865	-	1,506	1,506
Saline	-	139	-	344	-	652	-	1,135	1,135
Sedgwick	18,361	21,122	19,672	47,360	17,145	75,677	55,178	144,158	199,336
Shawnee	71,872	6,850	69,834	15,451	61,629	25,183	203,335	47,484	250,819
Sherman	46,674	-	-	-	-	-	46,674	-	46,674
Thomas	-	1,155	-	2,885	-	5,313	-	9,353	9,353
Wabaunsee	26,180	2,219	31,979	5,310	16,621	9,464	74,780	16,994	91,774
Total Tax Savings	\$ 384,455	\$ 52,583	\$ 231,961	\$ 119,175	\$ 96,903	\$ 195,241	\$ 713,320	\$ 366,998	\$ 1,080,318

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Notes to Digital Television Survey, Tax Savings Assessment

*The urban average rate was taken from the Kansas Department of Revenue website at <http://www.ksrevenue.org/pdf/02-04TableIVavglevies.pdf>

Each county's 2004 urban average rate according to the chart was used in the calculation of tax savings and tax credit.

*The rates used for calculating the tax savings and tax credits per county were taken from the 2005 Personal Property Valuation Guide prepared by the Kansas Department of Revenue, Division of Property Valuation.

The rates were presented in Section V, page 61, and were revised as of 12/2004.

*The assessment percentage of 25% used in the calculation of tax savings and tax credits was also taken from the 2005 Personal Property Valuation Guide prepared by the Kansas Department of Revenue, Division of Property Valuation. The assessment of 25% was used due to the assets being characterized in Class/Subclass 2.05, (Commercial and Industrial Machinery and Equipment)

*The estimated DTV factory shipment used to calculate the current percentage of digital television expected to be sold was found in the publication *Washington Insider Series: The HDTV Transition*, published by the Consumer Electronics Association.

DTV rates used to determine amount of the projected tax credit: 2007 - 28%; 2008 - 43%; and 2009 - 67%

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- Sec 3. K.S.A. 2005 Supp. 79-213 is hereby amended to read as follows: K.S.A. 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.
- (b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.
- (c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.
- (d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.
- (e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.
- (f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.
- (g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

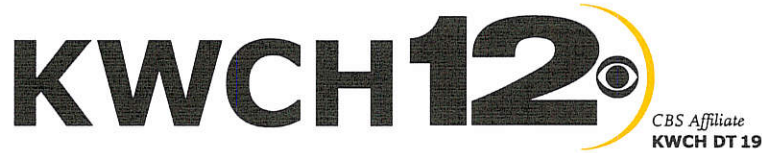
(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain

exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*; ~~and~~ (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto; *and digital television and digital radio equipment which is exempted from property taxation pursuant to sections 1 and 2 of this act, and amendments thereto.*

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.



A MEDIA GENERAL STATION

Testimony – HB 2618
Before House Committee on Taxation
January 26, 2005
By: Joan Barrett, Vice President & General Manager
KWCH, KBSL, KBDS, KBSH

Mr. Chairman, Members of the Committee, I am Joan Barrett, the Vice President and General Manager of four Kansas television stations: KWCH, KBSH, KBSL, and KBSD. I appreciate the opportunity to appear before you today on HB 2618.

I manage and operate four television stations for Media General Broadcasting. The stations are located in Wichita, Hays, Goodland and Dodge City. We serve 65 counties in Kansas. In television broadcasting terms, we cover one of the largest geographical areas in the country. To cover this large area over-the-air, we have four high power transmitters to cover three-quarters of the state. Most television stations in the country operate with only one.

We spent millions to install the four analog transmitters currently in operation. Transmitters have a book life of 15 years, but can operate up to 30 years with proper maintenance. We installed the transmitter in Dodge City in 1988 and Goodland's transmitter was installed in 1995. Both will have many years of service left on them when we turn them off at the end of 2008 and they become useless. The KWCH and KBSH transmitters were installed since 2000, we will be able use these transmitters – but we will need to spend more money to modify them to digital and build out the towers to support the digital equipment. For example, in Hays it will cost about \$1.3 million to build the tower to support the digital equipment, and an additional \$200,000 to modify the transmitter.

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1-26-06

In 2001, we built a new digital transmitter for KWCH that cost us approximately \$2.7 million dollars. We are now operating two full-power transmitters, one analog and one digital, both from Hutchinson to serve the same viewing audience. Our electric bill will be approximately \$120,000 more this year due to the operation of the second digital transmitter. If that amount is projected over the entire transition period, we will spend an additional \$520,000 for electricity to operate a second transmitter.

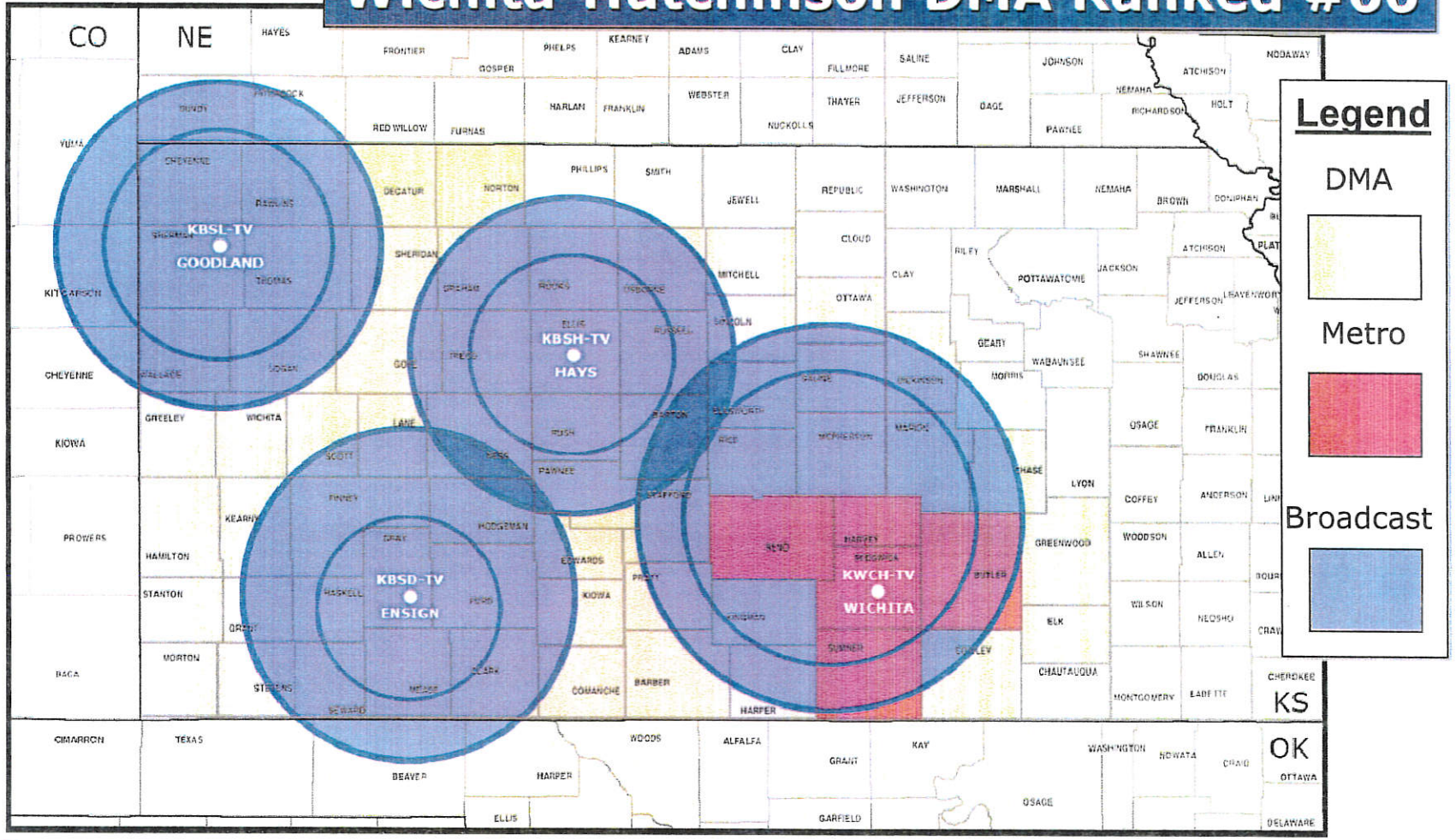
That's just a snapshot of how our operating expenses are being affected. Let me also point out how our bottom line will be affected. For example, the transmitter in Goodland was scheduled for 15 years of depreciation. Since it will be obsolete by the end of 2008, we will have to speed up the last two years and take that financial hit over the next three years.

In Western Kansas, advertising revenues are declining. We continue to work diligently to provide news and information to the twenty percent of our audience that is served by our three stations – KBSH, KBSL, and KBSD. We asked the federal government to allow us to turn off our analog transmitters on the day we switch to our digital transmitters – this is called flashcutting. We will make that switch before the hard date in February of 2009. We will spend at least another \$5 million dollars to switch from analog to digital at our three Western Kansas stations.

These figures do not even include the manhours of my staff; legal costs to deal with the FCC and channel assignments; conversion of the analog transport infrastructure to digital; or the marketing costs to inform the public of the many issues associated with the changeover.

We operate in a government-regulated industry. That is a part of our business – we understand this. Our business operates on public airwaves – a responsibility we take very seriously. But, I would ask you to remember that we are a business. A business that has been forced by the federal government to spend millions of dollars on equipment and increased operating costs. We are incurring all of these costs – without any return on the investment. I believe that it is a fair request that taxes be waived on these purchases. I would ask you to strongly consider supporting HB 2618. Thank you for your consideration.

Wichita-Hutchinson DMA Ranked #66





TESTIMONY
concerning House Bill No. 2618
Digital Broadcasting Equipment
Property Tax Exemption
Presented by Randall Allen
House Taxation Committee
January 26, 2006

Chairman Wilk and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I appreciate the opportunity to testify on behalf of our member counties **in opposition to** House Bill No. 2618, which 1) exempts digital broadcasting equipment machinery and equipment purchased after January 1, 2006 from property taxation; and 2) provides a property tax credit on certain digital equipment purchased prior to January 1, 2006.

We do not dispute that the orders of the Federal Communications Commission for stations to convert from analog to digital technology represent a mandate to broadcasters. Our objection to HB 2618 is that the Legislature is being asked to provide a property tax exemption and credit for something that was ordered by a federal (not state) regulatory agency. As such, this Committee is being asked to consider a measure to relieve broadcasters of a financial burden imposed by another level of government.

The Kansas Association of Broadcasters has shared with us their estimate of total tax savings (\$1,080,318) for an estimated three years that would accrue to stations with property in 19 counties. The savings range from \$1,135 in Saline County to \$250,819 in Shawnee County, with an average of \$56,859 among the 19 counties. The complete list provided by the Kansas Association of Broadcasters is attached to my testimony.

Rather than pursue legislation such as HB 2618, wouldn't it be more prudent for the broadcasters in Kansas to seek relief from Congress, or the level of government which imposed the mandate? It would seem to be a slippery slope for the Legislature to enact property tax exemptions and/or credits every time a federal agency required a business in Kansas to comply with some federal regulation. For example, if businesses across Kansas came to the Legislature asking for a property tax exemption every time the Environmental Protection Agency (EPA) required them to invest in some new anti-pollution equipment, there would be a huge impact on the state and local tax base. In short, we do not dispute the facts of what the broadcasters are required to do pursuant to orders from the FCC. We simply believe that HB 2618 is an inappropriate mitigation strategy. Thank you for considering our testimony as you weigh the merits 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 members. Inquiries concerning this testimony can be directed to Randall Allen or Judy Moler at the KAC by calling (785) 272-2585.

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

House Taxation
1-26-06
Attachment 5

Kansas Association of Broadcasters, Inc.
Tax Savings Assessment

5-2

County	01/01/2009		01/01/2008		01/01/2007		Total per Category		Total Tax Savings
	Post 1/1/06	Pre 12/31/05	Post 1/1/06	Pre 12/31/05	Post 1/1/06	Pre 12/31/05	Post 1/1/06	Pre 12/31/05	
Barton	\$ 40,112	\$ 577	\$ 48,146	\$ 1,425	\$ -	\$ 2,699	\$ 88,259	\$ 4,701	\$ 92,960
Cherokee	25,823	1,510	22,494	3,560	1,509	5,704	49,827	10,774	60,600
Decatur	19,239	1,639	-	4,246	-	7,139	19,239	13,025	32,264
Ellis	38,845	123	-	303	-	575	38,845	1,001	39,845
Finney	20,427	365	22,809	901	-	1,707	43,236	2,973	46,209
Ford	1,699	-	-	-	-	-	1,699	-	1,699
Gray	59,673	-	-	-	-	-	59,673	-	59,673
Harvey	-	2,403	-	4,172	-	7,150	-	13,725	13,725
Haskell	-	1,008	-	2,493	-	4,708	-	8,209	8,209
Johnson	15,549	4,945	17,028	11,421	-	18,281	32,576	34,647	67,223
Ottawa	-	1,067	-	1,891	-	3,202	-	6,160	6,160
Reno	-	7,276	-	16,956	-	26,922	-	51,154	51,154
Russell	-	185	-	456	-	865	-	1,506	1,506
Saline	-	139	-	344	-	652	-	1,135	1,135
Sedgwick	18,361	21,122	19,672	47,360	17,145	75,677	55,178	144,158	199,336
Shawnee	71,872	6,850	69,834	15,451	61,629	25,183	203,335	47,484	250,819
Sherman	46,674	-	-	-	-	-	46,674	-	46,674
Thomas	-	1,155	-	2,885	-	5,313	-	9,353	9,353
Wabaunsee	26,180	2,219	31,979	5,310	16,621	9,464	74,780	16,994	91,774
Total Tax Savings	\$ 384,455	\$ 52,583	\$ 231,961	\$ 119,175	\$ 96,903	\$ 195,241	\$ 713,320	\$ 366,998	\$ 1,080,318

Substitute for HOUSE BILL NO. _____

By Committee on Taxation

AN ACT concerning property taxation; relating to exemptions; certain telecommunications and railroad machinery and equipment; certain materials and supplies; amending K.S.A. 2005 Supp. 79-201w and repealing the existing section.

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

New Section 1. (a) It is the purpose of this section to promote, stimulate, foster and encourage new investments in telecommunications machinery and equipment and railroad machinery and equipment in the state of Kansas, to recognize the dramatic changes within the telecommunications industry, to contribute to the economic recovery of the state, to enhance business opportunities in the state, to encourage the location of new businesses and industries in the state as well as the retention and expansion of existing businesses and industries and to promote the economic stability of the state by maintaining and providing employment opportunities, thereby contributing to the general welfare of the citizens of the state, by exempting from property taxation certain newly purchased or leased telecommunications machinery and equipment and railroad machinery and equipment, including all such machinery and equipment transferred into this state for the purpose of expanding an existing business or for the creation of a new business.

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

First. Telecommunications machinery and equipment and railroad machinery and equipment acquired by qualified purchase or lease made or entered into on or after January 1, 2007, as the result of a bona fide transaction not consummated solely for the purpose of avoiding taxation.

Second. Telecommunications machinery and equipment and railroad machinery and equipment transported into this state on or after January 1, 2007, for the purpose of expanding an existing business or creation of a new business.

(c) Any purchase, lease or transportation of telecommunications machinery and equipment or railroad machinery and equipment consummated solely for the purpose of avoiding taxation shall subject the property to the penalty provisions of K.S.A. 79-1422 and 79-1427a, and amendments thereto.

(d) As used in this section:

(1) "Qualified lease" means a lease of telecommunications machinery and equipment or railroad machinery and equipment for not less than 30 days for fair and valuable consideration where such machinery and equipment is physically transferred to the lessee to be used in the lessee's business or trade;

(2) "qualified purchase" means a purchase of telecommunications machinery and equipment or railroad machinery and equipment for fair and valuable consideration where such machinery and equipment is physically transferred to the purchaser to be used in the purchaser's business or trade;

(3) "railroad machinery and equipment" means railroad machinery and equipment classified for property tax purposes within subclass (3) of class 2 of section 1 of article 11 of the constitution of the state of Kansas; and

(4) "telecommunications machinery and equipment" means network administrative assets, central office equipment, information, station and customer equipment and outside plant equipment of a telecommunication company.

Sec. 2. K.S.A. 2005 Supp. 79-201w is hereby amended to read as follows: 79-201w. 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:

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. 79-306, and amendments thereto, and which is used or to be used in the conduct of the owner's business, 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 retail cost when new is ~~\$250--or--less--for--tax-year-2002, and \$400--or--less--for--tax-year-2003~~ \$400 or less for tax years 2005 and 2006, and \$1,000 or less for tax year 2007, and all tax years thereafter.

Sec. 3. K.S.A. 2005 Supp. 79-201w is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.