

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2006

HOUSE BILL No. 2619

By Committee on Taxation

1-17

12 AN ACT concerning ~~property~~ taxation; relating to **[property tax]** ex-
13 emptions; certain commercial and industrial machinery and equip-
14 ment; certain materials and supplies; **certain payments to counties;**
15 **[homestead property tax refund act, computation of claims;]**
16 **[school ad valorem tax levy;]** amending K.S.A. 2005 Supp. 79-201w[,
17 **79-201x] and[,] 79-213 [and 79-4508]** and repealing the existing ~~sec-~~
18 ~~tion~~ **sections.**

19
20 *Be it enacted by the Legislature of the State of Kansas:*

21 New Section 1. (a) It is the purpose of this section to promote, stim-
22 ulate, foster and encourage new investments in commercial and industrial
23 machinery and equipment in the state of Kansas, to contribute to the
24 economic recovery of the state, to enhance business opportunities in the
25 state, to encourage the location of new businesses and industries in the
26 state as well as the retention and expansion of existing businesses and
27 industries and to promote the economic stability of the state by main-
28 taining and providing employment opportunities, thereby contributing to
29 the general welfare of the citizens of the state, by exempting from prop-
30 erty taxation all newly purchased or leased commercial and industrial
31 machinery and equipment, including machinery and equipment trans-
32 ferred into this state for the purpose of expanding an existing business or
33 for the creation of a new business.

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

37 *First.* Commercial and industrial machinery and equipment acquired
38 by qualified purchase or lease made or entered into ~~on or after January~~
39 ~~1, 2007~~ **June 30, 2006**, as the result of a bona fide transaction not con-
40 summated ~~solely~~ for the purpose of avoiding taxation.

41 *Second.* Commercial and industrial machinery and equipment trans-
42 ported into this state ~~on or after January 1, 2007~~ **June 30, 2006**, for the
43 purpose of expanding an existing business or creation of a new business.

1 (c) Any purchase, lease or transportation of commercial and industrial
2 machinery and equipment consummated ~~solely~~ for the purpose of avoid-
3 ing taxation shall subject the property to the penalty provisions of K.S.A.
4 79-1422 and 79-1427a, and amendments thereto.

5 (d) As used in this section:

6 (1) “Commercial and industrial machinery and equipment” means
7 property classified for property tax purposes within subclass (5) of class
8 2 of section 1 of article 11 of the constitution of the state of Kansas;

9 (2) “qualified lease” means a lease of commercial and industrial ma-
10 chinery and equipment for not less than 30 days for fair and valuable
11 consideration where such machinery and equipment is physically trans-
12 ferred to the lessee to be used in the lessee’s business or trade; and

13 (3) “qualified purchase” means a purchase of commercial and indus-
14 trial machinery and equipment for fair and valuable consideration where
15 such machinery and equipment is physically transferred to the purchaser
16 to be used in the purchaser’s business or trade.

17 (e) **The secretary of revenue is hereby authorized to adopt**
18 **rules and regulations to administer the provisions of this section.**

19 **New Sec. 2. (a) There is hereby established in the state treas-**
20 **ury the business machinery and equipment tax reduction assist-**
21 **ance fund which shall be administered by the state treasurer. All**
22 **expenditures from the business machinery and equipment tax re-**
23 **duction assistance fund shall be for the payments to counties for**
24 **distribution to taxing subdivisions levying ad valorem taxes within**
25 **the county in accordance with this section.**

26 (b) The secretary of revenue shall adopt a policy using the most
27 current information that is available, and that is determined to be
28 practicable by the secretary for this purpose and shall calculate
29 the following:

30 (1) **On January 31, 2008, the secretary shall calculate for each**
31 **county an amount equal to the difference in total ad valorem tax**
32 **receipts for ad valorem taxes imposed and collected [taxes levied]**
33 **by the county for all taxing subdivisions within the county imposing**
34 **ad valorem taxes on commercial and industrial machinery and**
35 **equipment for tax year 2005, and the total of such ad valorem tax**
36 **receipts for ad valorem taxes imposed [taxes levied] for tax year**
37 **2007. On or before February 15, 2008, subject to the provisions of**
38 **subsection (c), the state treasurer shall pay to the county treasurer**
39 **of each county an amount equal to 100% of such difference for**
40 **distribution to the taxing subdivisions within the county imposing**
41 **ad valorem taxes on commercial and industrial machinery and**
42 **equipment for apportionment as provided in subsection (d).**

43 (2) **On January 31, 2009, the secretary shall calculate for each**

1 county an amount equal to the difference in total ad valorem ~~tax~~
2 ~~receipts for ad valorem taxes imposed and collected~~ [taxes levied]
3 by the county for all taxing subdivisions within the county imposing
4 ad valorem taxes on commercial and industrial machinery and
5 equipment for tax year 2005, and the total of such ad valorem ~~tax~~
6 ~~receipts for ad valorem taxes imposed~~ [taxes levied] for tax year
7 2008. On or before February 15, 2009, subject to the provisions of
8 subsection (c), the state treasurer shall pay to the county treasurer
9 of each county an amount equal to ~~100%~~ [80%] of such difference
10 for distribution ~~to the taxing subdivisions within the county im-~~
11 ~~posing ad valorem taxes on commercial and industrial machinery~~
12 ~~and equipment for apportionment~~ as provided in subsection (d).

13 (3) On January 31, 2010, the secretary shall calculate for each
14 county an amount equal to the difference in total ad valorem taxes
15 ~~receipts for ad valorem tax imposed and collected~~ [levied] by the
16 county for all taxing subdivisions within the county imposing ad
17 valorem taxes on commercial and industrial machinery and equip-
18 ment for tax year 2005, and the total of such ad valorem ~~tax re-~~
19 ~~ceipts~~ [taxes levied] for tax year 2009. On or before February 15,
20 2010, subject to the provisions of subsection (c), the state treasurer
21 shall pay to the county treasurer of each county an amount equal
22 to ~~80%~~ [60%] of such difference for distribution ~~to the taxing sub-~~
23 ~~divisions within the county imposing ad valorem taxes on com-~~
24 ~~mmercial and industrial machinery and equipment for apportion-~~
25 ~~ment~~ as provided in subsection (d).

26 (4) On January 31, 2011, the secretary shall calculate for each
27 county an amount equal to the difference in total ad valorem taxes
28 ~~receipts for ad valorem tax imposed and collected~~ [levied] by the
29 county for all taxing subdivisions within the county imposing ad
30 valorem taxes on commercial and industrial machinery and equip-
31 ment for tax year 2005, and the total of such ad valorem ~~tax re-~~
32 ~~ceipts~~ [taxes levied] for tax year 2010. On or before February 15,
33 2011, subject to the provisions of subsection (c), the state treasurer
34 shall pay to the county treasurer of each county an amount equal
35 to ~~60%~~ [40%] of such difference for distribution ~~to the taxing sub-~~
36 ~~divisions within the county imposing ad valorem taxes on com-~~
37 ~~mmercial and industrial machinery and equipment for apportion-~~
38 ~~ment~~ as provided in subsection (d).

39 (5) On January 31, 2012, the secretary shall calculate for each
40 county an amount equal to the difference in total ad valorem taxes
41 ~~receipts for ad valorem tax imposed and collected~~ [levied] by the
42 county for all taxing subdivisions within the county imposing ad
43 valorem taxes on commercial and industrial machinery and equip-

1 ment for tax year 2005, and the total of such ad valorem ~~tax re-~~
2 ~~ceipts~~ [taxes levied] for tax year 2011. On or before February 15,
3 2012, subject to the provisions of subsection (c), the state treasurer
4 shall pay to the county treasurer of each county an amount equal
5 to ~~40%~~ [20%] of such difference for distribution to the taxing sub-
6 ~~divisions within the county imposing ad valorem taxes on com-~~
7 ~~mmercial and industrial machinery and equipment for apportion-~~
8 ~~ment as provided in subsection (d).~~

9 (6) ~~On January 31, 2013, the secretary shall calculate for each~~
10 ~~county an amount equal to the difference in total ad valorem taxes~~
11 ~~receipts for ad valorem tax imposed and collected [levied] by the~~
12 ~~county for all taxing subdivisions within the county imposing ad~~
13 ~~valorem taxes on commercial and industrial machinery and equip-~~
14 ~~ment for tax year 2005, and the total of such ad valorem tax re-~~
15 ~~ceipts [taxes levied] for tax year 2012. On or before February 15,~~
16 ~~2013, subject to the provisions of subsection (c), the state treasurer~~
17 ~~shall pay to the county treasurer of each county an amount equal~~
18 ~~to 20% of such difference for distribution to the taxing subdivisions~~
19 ~~within the county imposing ad valorem taxes on commercial and~~
20 ~~industrial machinery and equipment for apportionment as pro-~~
21 ~~vided in subsection (d).~~

22 ~~—(7) There shall be no payments made pursuant to this section~~
23 ~~after the payments made by the state treasurer on or before Feb-~~
24 ~~ruary 1, 2013 [15, 2012], and the provisions of this section shall~~
25 ~~expire at such time.~~

26 (c) If the amount calculated for the difference in subsections
27 (b)(1) through (b)(5) is negative, the amount calculated for such
28 county for such year shall be deemed to be zero and no amount
29 shall be paid to the county treasurer of such county as otherwise
30 provided in subsection (b). Nothing in this section shall be con-
31 strued to require the county to make any payments to the state in
32 such event that the amount calculated for the difference is nega-
33 tive for the county for such year.

34 (d) (1) On January 31 of each year specified in this section, the
35 secretary of revenue shall certify to the director of accounts and
36 reports the aggregate of all amounts determined for counties pur-
37 suant to subsection (b). Upon receipt of such certification, the di-
38 rector of accounts and reports shall transfer the amount certified
39 from the state general fund to the business machinery and equip-
40 ment tax reduction assistance fund.

41 (2) The state treasurer shall apportion and distribute the mon-
42 eys credited to the business machinery and equipment tax reduc-
43 tion assistance fund to the county treasurers in accordance with

1 subsection (b). Upon receipt of each such amount, each county
2 treasurer shall apportion such amount among the ad valorem tax-
3 ing subdivisions in the same proportion that the amount of the total
4 mill levy of each individual taxing subdivision for the preceding
5 tax year bears to the aggregate of such levies of all the taxing sub-
6 divisions among which the apportionment is to be made. The
7 county treasurer shall pay such amounts to the taxing subdivisions
8 at the same time or times as their regular operating tax rate mill
9 levy is paid to them.

10 (e) Before January 31 of 2007 through 2013, the secretary of
11 revenue shall make a detailed report of amounts calculated as re-
12 quired pursuant to subsection (b) for each individual county and
13 in aggregate for all the counties for the current year along with
14 any projections for future years, amounts distributed to the coun-
15 ties pursuant to this section, and all other relevant information
16 related to the provisions of this section, and shall present such
17 report before such date to the house committee on taxation of the
18 house of representatives and the senate committee on assessment
19 and taxation of the senate for consideration by the legislature in
20 making any appropriate adjustments to the provisions of this
21 section.

22 Sec. 2 3. K.S.A. 2005 Supp. 79-201w is hereby amended to read as
23 follows: 79-201w. The following described property, to the extent speci-
24 fied by this section, shall be exempt from all property or ad valorem taxes
25 levied under the laws of the state of Kansas:

26 Any item of machinery, equipment, materials and supplies which, ex-
27 cept for the operation of the provisions of this section, would be required
28 to be listed for the purpose of taxation pursuant to K.S.A. 79-306, and
29 amendments thereto, and which is used or to be used in the conduct of
30 the owner's business, or in the conduct of activities by an entity not sub-
31 ject to Kansas income taxation pursuant to K.S.A. 79-32,113, and amend-
32 ments thereto, whose original retail cost when new is ~~\$250 or less for tax~~
33 ~~year 2002, and \$400 or less for tax year 2003~~ \$400 or less for tax years
34 2005 and 2006, and \$1,000 or less for tax year 2007, and all tax years
35 thereafter.

36 Sec. 4. K.S.A. 2005 Supp. 79-213 is hereby amended to read
37 as follows: 79-213. (a) Any property owner requesting an exemp-
38 tion from the payment of ad valorem property taxes assessed, or
39 to be assessed, against their property shall be required to file an
40 initial request for exemption, on forms approved by the board of
41 tax appeals and provided by the county appraiser.

42 (b) The initial exemption request shall identify the property for
43 which the exemption is requested and state, in detail, the legal and

- 1 **factual basis for the exemption claimed.**
- 2 **(c) The request for exemption shall be filed with the county**
3 **appraiser of the county where such property is principally located.**
- 4 **(d) After a review of the exemption request, and after a prelim-**
5 **inary examination of the facts as alleged, the county appraiser shall**
6 **recommend that the exemption request either be granted or de-**
7 **denied, and, if necessary, that a hearing be held. If a denial is rec-**
8 **ommended, a statement of the controlling facts and law relied**
9 **upon shall be included on the form.**
- 10 **(e) The county appraiser, after making such written recom-**
11 **mendation, shall file the request for exemption and the recom-**
12 **mendations of the county appraiser with the board of tax appeals.**
- 13 **(f) Upon receipt of the request for exemption, the board shall**
14 **docket the same and notify the applicant and the county appraiser**
15 **of such fact.**
- 16 **(g) After examination of the request for exemption, and the**
17 **county appraiser's recommendation related thereto, the board**
18 **may fix a time and place for hearing, and shall notify the applicant**
19 **and the county appraiser of the time and place so fixed. A request**
20 **for exemption pursuant to: (1) Section 13 of article 11 of the Kansas**
21 **constitution; or (2) K.S.A. 79-201a *Second*, and amendments**
22 **thereto, for property constructed or purchased, in whole or in part,**
23 **with the proceeds of revenue bonds under the authority of K.S.A.**
24 **12-1740 to 12-1749, inclusive, and amendments thereto, prepared**
25 **in accordance with instructions and assistance which shall be pro-**
26 **vided by the department of commerce, shall be deemed approved**
27 **unless scheduled for hearing within 30 days after the date of re-**
28 **ceipt of all required information and data relating to the request**
29 **for exemption, and such hearing shall be conducted within 90 days**
30 **after such date. Such time periods shall be determined without**
31 **regard to any extension or continuance allowed to either party to**
32 **such request. In any case where a party to such request for ex-**
33 **emption requests a hearing thereon, the same shall be granted.**
34 **Hearings shall be conducted in accordance with the provisions of**
35 **the Kansas administrative procedure act. In all instances where**
36 **the board sets a request for exemption for hearing, the county shall**
37 **be represented by its county attorney or county counselor.**
- 38 **(h) Except as otherwise provided by subsection (g), in the event**
39 **of a hearing, the same shall be originally set not later than 90 days**
40 **after the filing of the request for exemption with the board.**
- 41 **(i) During the pendency of a request for exemption, no person,**
42 **firm, unincorporated association, company or corporation charged**
43 **with real estate or personal property taxes pursuant to K.S.A. 79-**

1 2004 and 79-2004a, and amendments thereto, on the tax books in
2 the hands of the county treasurer shall be required to pay the tax
3 from the date the request is filed with the county appraiser until
4 the expiration of 30 days after the board issued its order thereon
5 and the same becomes a final order. In the event that taxes have
6 been assessed against the subject property, no interest shall accrue
7 on any unpaid tax for the year or years in question nor shall the
8 unpaid tax be considered delinquent from the date the request is
9 filed with the county appraiser until the expiration of 30 days after
10 the board issued its order thereon. In the event the board deter-
11 mines an application for exemption is without merit and filed in
12 bad faith to delay the due date of the tax, the tax shall be consid-
13 ered delinquent as of the date the tax would have been due pur-
14 suant to K.S.A. 79-2004 and 79-2004a, and amendments thereto,
15 and interest shall accrue as prescribed therein.

16 (j) In the event the board grants the initial request for exemp-
17 tion, the same shall be effective beginning with the date of first
18 exempt use except that, with respect to property the construction
19 of which commenced not to exceed 24 months prior to the date of
20 first exempt use, the same shall be effective beginning with the
21 date of commencement of construction.

22 (k) In conjunction with its authority to grant exemptions, the
23 board shall have the authority to abate all unpaid taxes that have
24 accrued from and since the effective date of the exemption. In the
25 event that taxes have been paid during the period where the sub-
26 ject property has been determined to be exempt, the board shall
27 have the authority to order a refund of taxes for the year imme-
28 diately preceding the year in which the exemption application is
29 filed in accordance with subsection (a).

30 (l) The provisions of this section shall not apply to: (1) Farm
31 machinery and equipment exempted from ad valorem taxation by
32 K.S.A. 79-201j, and amendments thereto; (2) personal property ex-
33 empted from ad valorem taxation by K.S.A. 79-215, and amend-
34 ments thereto; (3) wearing apparel, household goods and personal
35 effects exempted from ad valorem taxation by K.S.A. 79-201c, and
36 amendments thereto; (4) livestock; (5) hay and silage exempted
37 from ad valorem taxation by K.S.A. 79-201d, and amendments
38 thereto; (6) merchants' and manufacturers' inventories exempted
39 from ad valorem taxation by K.S.A. 79-201m and amendments
40 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-
41 201n, and amendments thereto; (8) property exempted from ad
42 valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments
43 thereto, including all property previously acquired by the secre-

1 tary of transportation or a predecessor in interest, which is used
2 in the administration, construction, maintenance or operation of
3 the state system of highways. The secretary of transportation shall
4 at the time of acquisition of property notify the county appraiser
5 in the county in which the property is located that the acquisition
6 occurred and provide a legal description of the property acquired;
7 (9) property exempted from ad valorem taxation by K.S.A. 79-201a
8 *Ninth*, and amendments thereto, including all property previously
9 acquired by the Kansas turnpike authority which is used in the
10 administration, construction, maintenance or operation of the
11 Kansas turnpike. The Kansas turnpike authority shall at the time
12 of acquisition of property notify the county appraiser in the county
13 in which the property is located that the acquisition occurred and
14 provide a legal description of the property acquired; (10) aqua-
15 culture machinery and equipment exempted from ad valorem tax-
16 ation by K.S.A. 79-201j, and amendments thereto. As used in this
17 section, “aquaculture” has the same meaning ascribed thereto by
18 K.S.A. 47-1901, and amendments thereto; (11) Christmas tree ma-
19 chinery and equipment exempted from ad valorem taxation by
20 K.S.A. 79-201j, and amendments thereto; (12) property used ex-
21 clusively by the state or any municipality or political subdivision
22 of the state for right-of-way purposes. The state agency or the gov-
23 erning body of the municipality or political subdivision shall at the
24 time of acquisition of property for right-of-way purposes notify the
25 county appraiser in the county in which the property is located
26 that the acquisition occurred and provide a legal description of the
27 property acquired; (13) machinery, equipment, materials and sup-
28 plies exempted from ad valorem taxation by K.S.A. 79-201w, and
29 amendments thereto; (14) vehicles owned by the state or by any
30 political or taxing subdivision thereof and used exclusively for gov-
31 ernmental purposes; (15) property used for residential purposes
32 which is exempted pursuant to K.S.A. 79-201x from the property
33 tax levied pursuant to K.S.A. 72-6431, and amendments thereto;
34 (16) from and after July 1, 1998, vehicles which are owned by an
35 organization having as one of its purposes the assistance by the
36 provision of transit services to the elderly and to disabled persons
37 and which are exempted pursuant to K.S.A. 79-201 *Ninth*; ~~and~~ (17)
38 from and after July 1, 1998, motor vehicles exempted from taxation
39 by subsection (e) of K.S.A. 79-5107, and amendments thereto; *and*
40 (18) *commercial and industrial machinery and equipment exempted from*
41 *property or ad valorem taxation by section 1, and amendments thereto.*
42 (m) The provisions of this section shall apply to property ex-
43 empt pursuant to the provisions of section 13 of article 11 of the

1 **Kansas constitution.**

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

5 [Sec. 5. K.S.A. 2005 Supp. 79-4508 is hereby amended to read
 6 as follows: 79-4508. (a) (1) **Commencing in the tax year beginning**
 7 **after December 31, 2005, the amount of any claim pursuant to this**
 8 **act by a claimant other than a claimant as described in subsection (a)(2)**
 9 **shall be computed by deducting the amount computed under col-**
 10 **umn (2) from the amount of claimant's property tax accrued and/**
 11 **or rent constituting property tax accrued.**

	(1)		(2)
	[Claimants		Deduction from property tax accrued
	[household income		and/or rent constituting property tax ac-
			crued
	[At least	But not more than	
	[\$0	\$3,000	\$0
	[3,001	4,000	12%
	[4,001	26,300 27,000	12% plus 4% of every \$1,000, or fraction
			thereof, of income in excess of \$4,001

21 [(2) *Commencing in the tax year beginning after December 31, 2005,*
 22 *the amount of any claim pursuant to this act by a claimant who is a person*
 23 *who is 65 years of age or older shall be computed buy deducting the*
 24 *amount computed under column (2) from the amount of the claimant's*
 25 *property tax accrued or rent constituting property tax accrued, or both.*

	(1)		(2)
	[Claimants		Deduction from property tax accrued or rent
	[household income		constituting property tax accrued, or both
	[At least	But not more than	
	[\$0	\$3,000	\$0
	[3,001	4,000	6%
	[4,001	50,000	6% plus 2% of every \$1,000, or fraction
			thereof, of income in excess of \$4,001]

34 [(b) **The director of taxation shall prepare a table under which**
 35 **claims under this act shall be determined. The amount of claim for**
 36 **each bracket shall be computed only to the nearest \$1.**

37 [(c) **The claimant may elect not to record the amount claimed**
 38 **on the claim. The claim allowable to persons making this election**
 39 **shall be computed by the department which shall notify the claim-**
 40 **ant by mail of the amount of the allowable claim.**

41 [(d) **In the case of all tax years commencing after December**
 42 **31, 2004, the upper limit threshold amount prescribed in this sec-**
 43 **tion subsections (a)(1) and (a)(2), shall be increased by an amount**

1 equal to such threshold amount multiplied by the cost-of-living
2 adjustment determined under section 1(f)(3) of the federal inter-
3 nal revenue code for the calendar year in which the taxable year
4 commences.]

5 [Sec. 6. K.S.A. 2005 Supp. 79-201x is hereby amended to read
6 as follows: 79-201x. For taxable years ~~2005 and 2006~~ 2007 and 2008,
7 the following described property, to the extent herein specified,
8 shall be and is hereby exempt from the property tax levied pur-
9 suant to the provisions of K.S.A. 72-6431, and amendments
10 thereto: Property used for residential purposes to the extent of
11 ~~\$20,000~~ \$30,000 of its appraised valuation.]

12 Sec. ~~3-5~~ [7]. K.S.A. 2005 Supp. 79-201w[, 79-201x] ~~is and~~ [,] 79-
13 213 [and 79-4508] are hereby repealed.

14 Sec. ~~4-6~~ [8]. This act shall take effect and be in force from and after
15 its publication in the statute book.