

M I N U T E S

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

October 27-28, 1977  
Room 510 - State House

Thursday, October 27, 1977  
Morning Session

The Committee was called to order by Chairman Simpson shortly after 9:30 a.m. Senator Sowers, and Representatives Eddy and Shelor were absent. Staff present: Bill Edds, Roy Johnson, and Robert Taylor.

The staff presented a revision of the minutes of the August 25-26, 1977, meeting, page 1, fifth paragraph, to strike all after "decedent's" in the third line and insert in lieu thereof, "share at fair market value at date of death." Following a brief discussion, it was moved by Representative Fry, seconded by Representative Braden that the minutes of the August 25-26 meeting be changed to incorporate the revised language and that the minutes as amended be approved. Motion carried.

Several members of the Committee observed that the minutes of the September 28-29 meeting reflected action by the Committee on 1977 H.B. 2143 that was contrary to the action the members thought the Committee was taking. Staff reported that the notes taken by two different staff members reflect that the Committee voted to favorably recommend this bill. The Chairman suggested that perhaps there was some confusion on the motion and that a motion to reconsider would be in order at the proper time. After additional discussion, it was moved by Representative Wilkin, seconded by Representative Fry, that the minutes of the September 28-29 meeting be approved as written. Motion carried.

Proposal No. 81 - Solar Energy Tax Incentives

Staff presented and reviewed a draft of the Committee Report and two bill drafts. Several members of the Committee expressed the position that the Committee should not extend the insulation income tax deduction to new homes. It was moved by Representative Wilkin, seconded by Representative Slattery, that the insulation income tax deduction not be allowed for newly constructed dwellings. Motion carried.

Staff was directed to make the necessary changes in the Committee Report and bill draft and to present the amended versions to the Committee for final approval at the next meeting.

Proposal No. 5 - Taxation of Personal Property

Staff presented and reviewed a draft of the Committee Report and one bill draft concerning the listing of motor vehicles for taxation.

In the discussion following the staff presentation, a member of the Committee noted that while the use of "trade in" values might represent an improvement in the valuation of motor vehicles, the use of "as is" values could increase the appraised values of older types of farm machinery. It was noted that the current method for valuing farm machinery is on an original list price less depreciation basis. Consequently, after several years a piece of machinery has a value, under current practices, below what its "as is" value would be. As a result, adopting the "as is" value as the basis for appraising farm machinery would, in the opinion of several members of the Committee, increase the personal property tax assessment of many farmers who use older types of farm machinery, in comparison to farmers who use newer types of machinery.

Given this additional information staff noted that the original estimate of revenue loss or tax shift might be too high, if an "as is" value actually resulted in higher assessed valuations for used farm machinery. (However, the original estimate of the revenue loss or tax shift was based only on the effect of a 25 percent reduction in motor vehicle valuations.)

The staff was instructed to insert a paragraph in the Committee Report reflecting the forgoing discussion.

In reviewing the bill draft concerning the listing of motor vehicles for taxation purposes, several members of the Committee expressed the opinion that county officials should provide a listing of motor vehicles to the county appraiser based upon motor vehicle registration data, and that it should not be the responsibility of the individual taxpayer as reflected in the language of the bill draft. Staff reported that the bill draft was basically the old 1965 law which had been repealed when the 1970 staggered vehicle registration was adopted.

One Committee member expressed the position that when a taxpayer moves from one county to another, county officials should automatically check with their counterparts in a taxpayer's former county of residence to see that the vehicle had been properly listed for taxation to insure that the taxpayer is not taxed twice in the same year on the same vehicle. It was noted that this double listing problem already exists under the current law and that the bill before the Committee does not add to nor attempt to solve this problem.

Representative Braden moved, seconded by Representative Crowell, that the bill draft be amended to require the county treasurer to provide a listing of motor vehicles from vehicle registration data to the county appraiser for personal property tax assessment purposes and that all requirements to have the individual taxpayer list the vehicle for property taxation be removed. Motion carried.

The staff was requested to check with several county treasurers on their reaction to this motion and to report back to the Committee at the next meeting.

After several Committee members noted that the Committee Report draft did not reflect the close vote on the motion to favorably recommend 1977 S.C.R. 1619, it was moved by Senator Janssen, seconded by Senator Chaney, that the vote totals be reflected in the Committee Report. Motion carried.

The Chairman instructed the staff to make all requested changes in the Committee Report and bill draft and to have final drafts of each ready for the Committee's final action at the next meeting.

#### Proposal No. 6 - Inheritance Tax

Staff presented and reviewed a draft of the Committee Report. The Committee requested the staff to make several corrections and additions to the narrative to better reflect the Committee's consensus and for clarification purposes.

#### Afternoon Session

All members were present except Senator Sowers and Representative Shelor.

#### Proposal No. 6 - Inheritance Tax (Cont'd)

Staff presented and reviewed the inheritance tax bill draft with the revisions requested by the Committee at the September 28-29 meeting.

When reviewing Section 2, several Committee members expressed reservations about requiring all decedent estates to file a tax return even if no tax was due. It was noted that the only reason a no tax estate would file a return would be to clear the title of

any real estate for purposes of transferring the title. Other members felt that the state should not require heirs to all no tax estates to hire an attorney to file a tax return.

The Department of Revenue explained the current system for no tax estates to file a request for determination of tax liability in cases where it may be necessary to clear the title of real property. It was noted that K.S.A. 79-1512 outlined this procedure. However, in Section 7 of the bill most of this language concerning the determination of tax in a no tax estate has been removed.

Following additional discussion on Section 2, it was moved by Representative Braden, seconded by Representative Wilkin, that the term "interested party" in Section 2 be defined as "heir at law, personal representative, grantee, joint tenant." Motion carried. Staff was directed to review this terminology with the Revenue Department to determine if it would be adequate or if additional definition would be needed.

It was moved by Representative Crowell, seconded by Representative Braden, that the bill draft be amended so as to exempt those estates where no tax is due from filing a tax return and to reinsert the existing procedure in Section 7 (K.S.A. 79-1512) providing for a certificate of determination of no tax due in such cases. Motion carried.

The Committee discussed the question of reinserting the fees in Section 33 that are currently required in conjunction with the issuance of a certificate of determination of no tax due. It was the Committee's consensus that if there were no tax due the heirs should not be required to pay a filing fee just to certify that fact in order to clear a title.

Several questions were raised concerning language in the bill draft (page 4, paragraph 2 and page 6, paragraph 1) concerning the responsibility and liability of the executor for paying taxes of individual heirs. Since the period for adding gifts into the estate in contemplation of death has been expanded under this bill, several members of the Committee felt this language was too harsh.

It was moved by Representative Braden, seconded by Representative Crowell, that this language be amended to make the grantee personally liable for any lifetime gifts and the executor responsible only for tax accruing on assets passing at death. Motion carried. Staff was instructed to add the terms "personal representative" and "trustee" following the terms "executor or administrator" in new Section 3.

Following the Committee's instructions, staff reported that new Section 8 had been rewritten and now paraphrases similar language in the income tax law relating to the examination of tax returns, the assessment of additional tax due, the abatement of overpayments and procedures for the taxpayer to request a hearing. The Chairman requested that the specific citation setting out procedures for appealing the Director of Taxation's decisions (K.S.A. 74-2437) be referenced in the bill.

Staff noted that at the request of the Revenue Department four new subsections were added to new Section 11 relating to procedures for requesting and granting refund requests. It was also noted that K.S.A. 79-1536 is repealed by this draft as per the Committee's request.

Staff was directed to make the requested changes in the Committee Report and bill draft and to have final copies of each ready for the Committee's final action at the next meeting.

#### Proposal No. 8 - Income Tax

Staff presented and reviewed the Committee Report and bill draft. Staff requested clarification on whether the Committee desired to recommend prospective conformity for itemized deductions or conformity as of a particular date. After some discussion it was the Committee's consensus that its recommendation on itemized deductions was for prospective conformity.

The Committee discussed the matter of itemizing on Kansas tax returns when taking the standard deduction on the federal tax return. It was moved by Representative Wilkin, seconded by Representative Braden, that the Committee reconsider its earlier actions on 1977 H.B. 2143. Motion carried. (Senator Chaney voted no). After some discussion on the original motion to favorably recommend 1977 H.B. 2143, the original motion failed on a tie vote (voting yes - Senators Chaney and Janssen and Representatives Eddy and Fry. Voting no - Senator Simpson and Representatives Braden, Slattery and Wilkin. Not voting - Senator Sowers and Representative Crowell. Absent - Representative Shelor).

Staff reported that it would not be possible for the Department of Revenue to provide any information on the fiscal impact of adopting a flat rate standard deduction or of adopting a uniform policy on the tax treatment of retirement income until the meeting scheduled for November 21-22. The Chairman requested the Department to provide the needed information by the November 9-10 meeting if possible. If it is not possible to have the requested information the Chairman requested a report from the Department on progress in developing its income tax statistical data base. The Department reported that it was having difficulty in securing adequate computer time from the Department of Administration needed to develop and implement this statistical data base.

A staff memorandum dated October 27, 1977, containing additional background data on the taxation of income of retired persons was presented to the Committee (a copy is in the Committee notebooks). In presenting this information staff referred to another staff memorandum dated September 23, 1977 (a copy of this memorandum is in the Committee notebooks). The October 27 memorandum illustrated how a uniform income tax deduction of \$1,500 (\$3,000 for joint returns) with a threshold phase out between \$1,500 and \$3,000 of taxable income (twice these amounts for joint returns) would effect six hypothetical households. This memorandum concluded that the typical retired couple (both over 65) using the deduction illustrated in the memorandum could have as much as \$13,000 in household income before any tax would be due (\$8,000 for single persons).

In the discussion following this presentation the Committee questioned the staff on various aspects of the illustration. Some members thought that government employees (especially KPERS-regular and KPERS-teachers) should retain their special tax exemption when their average benefits are compared to benefits in privately funded pension programs. Other members expressed the view that public and private pension plans should be treated the same for income tax purposes and that all those persons with very high pension incomes above some threshold level should be taxed.

It was moved by Representative Wilkin that the Committee take no action and make no changes to the current system of retirement income tax exemptions. The motion died for lack of a second.

It was moved by Representative Slattery, seconded by Representative Eddy, that the staff work with the Revenue Department to calculate the fiscal impact of the taxable income deduction for retirement income illustrated in the October 27 staff memorandum. Motion carried.

Friday, October 28, 1977

Morning Session

The Chairman called the Committee to order at 9:00 a.m. All members were present, except Representative Shelor. Staff present: Bill Edds, Roy Johnson, Robert Taylor.

Staff Reports on Proposal No. 9 - State Aid to  
Local Units

Staff reviewed all background memorandums previously presented to the Committee. A revision of the August 24 memorandum concerning current levels of state aid to cities and counties, and a county summary of federal revenue sharing county area allocations for October, 1977 to September, 1978 were also reviewed. (Copies of these materials are in Committee notebooks.)

Several members had questions concerning the use limitations and reporting requirements associated with the federal revenue sharing program which were answered by Mr. Fred Allen, Kansas Association of Counties and Mr. Ernie Mosher, Kansas League of Municipalities. It was reported that these federal funds can now be used to match other federal funds and to pay salaries and that the only reporting requirement is a one page form indicating intended use of the funds.

Hearing on Proposal No. 9 - State Aid to Local Units

Mr. Fred Allen, representing the Kansas Association of Counties (KAC), informed the Committee of the KAC position supporting an expanded state-local revenue sharing program. He also suggested that the Committee consider: (1) increasing the sales tax shared through the LAVTRF; (2) increasing the gasoline tax or applying the sales tax to sales of motor fuel; (3) sharing a portion of the state's share of federal revenue sharing funds with counties and cities; and (4) that the Committee not seriously consider an earnings tax because of the problems inherent in allocating revenues between a taxpayer's residence and employment site. He also noted that his Association represented all counties both large and small and that there would probably never be any unanimity on how additional state aid should be distributed. As an illustration he cited differences in opinions concerning the changes in the distribution of motor fuel taxes which were enacted in 1970.

When asked if additional state aid should be tied to reductions in the property tax Mr. Allen replied that that would have to be the legislature's decision. However, he stated that in his opinion such options should be left to local officials and not mandated by the state.

A Committee member commented that: (1) if additional funds are needed locally the local officials should tax themselves through increased property tax levies, assuming the Attorney General's opinions are allowed to stand, or through the use of alternative tax sources already available; (2) the state should not increase state taxes to pay for local government services; and (3) by raising local taxes to meet local needs the responsibility for the increased taxes falls upon these local officials with the responsibility for managing local affairs and not upon the state.

Another Committee member commented that if local electors will not approve a local sales tax increase to finance local government activities why should the state enact a statewide sales tax increase for the same purpose?

When asked why counties were not chartering out from under the tax lid in large numbers since the issuance of Ag. Op. 77-272, Mr. Allen noted that some local officials may like to use the tax lid as an excuse for not taking action in particular areas. He also stated that he had no comment as to how counties might respond to a complete re-appraisal of property in the state. (Also, in counties with countywide sales taxes, chartering out from under the tax lid could reduce the county's share of the sales tax receipts.)

Mr. Allen stated that, if the three sources of general state aid were combined into one fund and allocated according to the current federal revenue sharing allocation factors, he felt most counties would agree that would be an equitable way to allocate the funds.

Mr. Glenn Shanahan, Wichita City Commission, and Vice-President of the Kansas League of Municipalities, presented a statement to the Committee outlining the League's policy in this area, its view of the role of the state and of the cities in financing local governments, and its objectives and goals (a copy of this statement is in Committee notebooks). Mr. Shanahan noted that: (1) 79 percent of all Kansans live in cities ranging from small villages to large metropolitan areas; (2) cities are faced with a rapid inflation in expenses as contrasted to relatively little growth in property tax revenues; (3) the state should provide a minimum level or foundation of support for all cities; (4) the state should give city officials authority to utilize alternative revenue sources without handicapping these efforts by requiring mandatory elections; and (5) since cities have contributed to the significant growth in state sales and income taxes in recent years a portion of that growth should be returned to cities.

In responding to a question from the Committee, Mr. Shanahan stated that cities are creatures of the state relative to their ability to finance local services and that the Legislature should recognize this responsibility by giving all cities a minimum level of state aid and allowing local officials to make local decisions free from arbitrary state imposed limitations. When asked if his constituents felt the same way, Mr. Shanahan stated that Wichita has not felt the financial crunch that some cities are currently subject to and that without the federal revenue sharing funds the city receives there would need to be sharp cuts in public safety and city maintenance and recreation activities. When that happens, he stated that the citizens of Wichita would wonder why the state legislature did not give city officials authority to utilize a tax source that was more responsive to inflation.

When asked what would be a proper mix of tax sources for cities, Mr. Shanahan commented that he could only speak for himself on this point and not the League or the City of Wichita, and that a good mix would be to generate 1/3 of city revenues from the sales tax, 1/3 from an income or earnings tax, and 1/3 from the property tax. He replied to a question from the Committee that Wichita and many other cities have not exhausted many of the financial remedies available in terms of optional tax sources and exempting certain activities from the tax lid. A Committee member stated that until such remedies were exhausted there seemed to be no real pressing need for any legislative action.

Mr. Ernie Mosher, Executive Director of the Kansas League of Municipalities, presented a statement to the Committee offering five specific proposals that would result in either additional state aid or additional taxing authority for cities. (Copies are in Committee notebooks.) Mr. Mosher recommended: (1) continuing and improving the local sales tax option; (2) authorizing a local income tax option; (3) broadening the city vehicle tax option (recommends favorable action on 1977 S.B. 104); (4) providing additional highway finance support; and (5) developing a basic state revenue sharing plan with at least an additional \$10 to \$15 million being shared with cities and eventually increased to ten percent of sales, use and income tax receipts.

Mr. Mosher restated the League's position that the state should provide a minimum foundation of support for all cities with, perhaps, some preferential treatment to smaller cities.

When asked to comment on existing state general aid formulae, Mr. Mosher stated that he felt there was much inequity in the existing formulae which place too much emphasis on wealth and not enough emphasis on taxes levied. He also noted that there were very serious distortions in the federal revenue sharing allocation formulas particularly in the income tax estimates used for smaller communities.

A Committee member noted that since a perfect formula could never be found that would satisfy all 625 cities and 105 counties, the argument for requiring local units to finance their needs via local tax sources seemed to make more sense.

Mr. Conard Gilham, Mayor of Pratt, related problems his city has had with the mandatory election requirement to enact a local sales tax. He stated that because of the small voter turnout a small well organized opposition has kept Pratt from adopting a local sales tax. With a 30 percent voter turnout the last proposal failed by six votes. He urged the Committee to either repeal the mandatory vote requirement on the local sales tax or to return a portion of the local sales to the cities. When asked if his city is considering resubmitting the city sales tax questions to the voters or adopting a city sales tax under home rule procedures, Mr. Gilham stated that no decision had been made yet but the city was going to keep trying.

In responding to a question, Mr. Gilham stated that he would favor a tax lid approach if it were properly drawn to omit all loopholes and if it allowed cities other non-property tax options free of any restrictions.

Mr. Lee W. Doyen, city councilman from Concordia, asked the Committee to untie the hands of local officials in regard to local finance. He noted that under the current laws regarding protest petitions the number needed is so small that a small minority can control the majority. He stated that local officials are closer to the citizens and that if they do not perform according to the wishes of the majority they can and are voted out of office at the next election. He observed that many small towns in Kansas are becoming senior citizen centers and because of this fact it is becoming increasingly difficult to pass referendums to increase taxes of any kind to provide needed services.

He concluded that the only alternative that will keep many small towns from extinction is either additional state aid or additional local flexibility to generate local revenues.

Mr. John Blythe, Kansas Farm Bureau, presented a statement to the Committee concerning the Farm Bureau's position on state aid to local units (a copy is in the Committee notebooks). Mr. Blythe suggested that the Committee: (1) consider allowing school districts to again share in the proceeds from the LAVTRF; (2) increase state aid to local units for highways; and (3) utilize the income tax to support school districts and reserving the property tax for the use of cities, counties, and other local units.

Several members expressed the opinion that school districts were adequately provided for and that the Committee should concentrate on additional general aid for city and county governments. Other members stated that another Committee was considering the matter of financing construction and maintenance of highways, streets, and roads and that the emphasis of this Committee's work should be on state general aid for cities and counties.

Proposal No. 9 - Committee Discussion

One member felt that because of the home rule options now available to cities and counties concerning the local sales tax (cities only) and the tax lid (cities and counties) under the Attorney General's recent opinions there was little justification for the Committee to recommend major action in this area.

Several Committee members discussed the possibility of writing the essence of these Attorney General opinions into a bill for recommendation to the 1978 Legislature, since it could not be assumed that the current opinions would stand forever. It was also suggested that consideration be given to increasing the state sales tax rate, eliminating all local option taxes and sharing a percentage of the state tax with local units. Other members expressed a desire to draft a "responsible" tax lid bill for recommendation to the 1978 Legislature. Another suggestion was to recommend a mandatory local income tax (piggyback system) for the exclusive use of school districts to relieve the property tax pressure for cities and counties.

The Chairman suggested that the Committee might concentrate on the current state general aid formulae with the goal of adopting a more equitable system of distribution.

Afternoon Session

Senator Sowers and Representative Shelor were absent.

Proposal No. 9 - Committee Discussion (Cont'd)

After further discussion the staff was requested to provide additional statistical data that would: (1) compare the per capita county distribution of \$12.0 million using eight different allocation factors; and (2) compare the current general state aid to city and county governments by county to four alternate distribution formulae. The Committee also requested a copy of the printout illustrating the distribution of \$12.0 million under 1977 S.B. 262.

When discussing possible alternatives that would aid small communities it was suggested that one way to accomplish this would be to require a minimum level of per capita aid. The Committee also discussed the features of 1977 H.B. 104, relating to local motor vehicle taxes. However, no decision was made in either of these areas.

It was moved by Senator Janssen, seconded by Senator Chaney, that the Committee recommend the House Ways and Means Committee take favorable action on 1977 S.B. 262. After some discussion Representative Braden offered a motion to amend Senator Janssen's motion, seconded by Representative Crowell, by changing the distribution formula in 1977 S.B. 262 from 75 percent population/25 percent valuation to 50 percent population/50 percent valuation. The motion to amend failed. (Representatives Braden, Crowell, and Eddy voting yes - Senators Chaney, Janssen and Simpson, and Representatives Fry and Wilkin voting no - Representative Slattery not voting. On the original motion by Senator Janssen, motion failed on a tie vote. (Senators Chaney and Janssen, and Representatives Fry and Wilkin voting yes - Senator Simpson, and Representatives Braden, Crowell and Eddy voting no - Representative Slattery not voting.)

Proposal No. 8 - Income Tax (Cont'd)

The Chairman stated that, in his instructions to the staff to provide additional information and illustrations on a taxable income deduction for retired persons, it was his intention that the deduction apply only to retirement income and not to other types

of income of retired persons. After additional discussion staff was instructed to prepare cost estimates (requested earlier) on both the basis of exempting only a portion of retirement income and on the basis of exempting a portion of all income.

Staff presented and reviewed a bill draft incorporating the decisions previously made by the Committee.

Section 1 reinstates the procedure for computing the income tax basis of inherited assets that existed prior to January 1, 1977.

Section 2 creates a flat amount standard deduction (the amounts to be inserted have not been computed by the Revenue Department).

Section 3 adopts prospective conformity for itemized deductions.

Section 4 adopts a variable rate child care credit.

New Section 5 adopts an additional tax on preference income items and lump sum distributions from pension or profit sharing plans where the federal ten year option is computed.

A Committee member questioned the use of the terms "loss or gain of energy" in Section 1, page 4, line 3. Staff was requested to check with the Revenue Department to see if this language is adequate, and if not, to recommend appropriate changes that could be recommended under Proposal No. 81.

Representative Crowell moved, seconded by Representative Wilkin, that the Committee reconsider its action on 1977 H.B. 2562 concerning an income tax deduction for maintaining a savings account (earlier the Committee had decided to take no action on this bill). Motion carried. (Voting no were Senators Chaney and Janssen, and Representative Eddy.) In the discussion on the original motion Representative Crowell offered a substitute motion, seconded by Representative Fry, that the Committee recommend 1977 H.B. 2562 be not passed. Motion carried. (Representative Eddy voted no.)

After the staff reported that the sponsor of 1977 H.B. 2433 (concerning solar energy income tax credits and deductions) had indicated his intention to draft another bill for the 1978 Session, Senator Janssen moved, seconded by Senator Chaney, that the Committee take no action on 1977 H.B. 2433. Motion carried.

#### Agenda for November 9-10 Meeting

Review and give final approval to Committee Reports and bill drafts on Proposals No. 5, 6, and 81, staff reports, Committee discussion, and action on Proposals No. 8 and 9. Committee hearing, discussion and action on Proposal No. 7.

Prepared by Robert Taylor

Approved by Committee on:

11/21/77  
(Date)

RLT/jsf