

M I N U T E S

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

November 21-22, 1977
(Room 522 - State House)

Monday, November 21, 1977
Morning Session

The Committee was called to order by Chairman Simpson at 9:00 a.m. Senators Chaney and Sowers were absent. Staff present: Bill Edds and Robert Taylor.

Staff reviewed a proposed amendment to the draft of the October 27-28 minutes which would: (1) delete from the last paragraph on page 1, line 5, the term "cost" and insert in lieu thereof the term "list price;" and (2) delete the sentence beginning in the last paragraph on page 1, line 5, "According to the Division of Property Valuation, depreciation is computed on a ten-year straight line basis with a minimum of ten percent of the original cost." These changes had been discussed by the Committee at the November 10, meeting but no final action had been taken at that time. It was moved by Representative Braden, seconded by Representative Fry, that the minutes be amended as suggested by the staff. Motion carried. It was moved by Representative Wilkin, seconded by Representative Braden, that the minutes of the October 27-28, 1977, meeting be approved as amended. Motion carried.

Representative Eddy commented that when the minutes reflect a member as being absent no notation is made as to whether such absence has been approved in advance by the Chairman. He noted that his absence from the July 28-29 meeting had been due to illness and that the Chairman had been notified in advance but that this was not reflected in the minutes.

The Chairman replied that the staff had never been given instructions regarding how such matters should be reflected in the minutes and that if any member wished such a notation to be made it should be requested by the individual member. The Chairman suggested that, instead of amending the July 28-29 minutes, this conversation be reflected in the minutes of this meeting.

Proposal No. 9 - State Aid to Local Units

Staff reviewed the draft of a bill which would distribute 8 percent of sales and use taxes to local units of government (not including school districts).

It was moved by Representative Braden, seconded by Representative Wilkin, that the bill draft be amended to set the base year for computing the "grandfather clause" as Fiscal Year 1977. Motion carried.

Following the review of the bill draft several Committee members expressed concern over what would happen if sales and use tax receipts decreased and the "grandfather clause" did not have a provision to apportion the decrease. After discussing several possible responses on how to handle a decline in sales and use tax receipts, the Committee moved on to a review of the Committee Report draft without reaching a decision.

Following the review of the Committee Report draft, it was moved by Representative Wilkin, seconded by Representative Slattery, that the Committee approve the report as written. Several members objected to the conclusions drawn in the Committee Report draft and expressed the opinion that emphasis should be given to the fact that many of the smaller counties have serious road maintenance problems and should receive greater relative amounts of per capita state aid. Other members noted that the subject of this proposal was general aid and not aid for road maintenance.

Senator Janssen offered a substitute motion to amend the bill draft to change the county area distribution formula under the LAVTRF from 75 percent population - 25 percent valuation back to 50 percent population - 50 percent valuation. Representative Eddy raised a point of order and inquired as to whether the motion was out of order because the question had already been voted on. Senator Janssen withdrew the motion.

Representative Fry, having voted on the prevailing side, moved (seconded by Senator Janssen) to reconsider the Committee's action on Representative Wilkin's motion of November 9 to replace the three current sources of general state aid with an amount equal to 8 percent of sales and use tax receipts which would be distributed to county areas under a formula based 75 percent on population - 25 percent on valuation. In the discussion following the motion several members expressed the opinion that general state aid should be distributed on the basis of where people are located and not on the basis of which county has the most valuation. One member noted that the formula in Representative Wilkin's motion would help poor rural counties. Other members argued that a formula based 50 percent on population and 50 percent on valuation would be most fair because the per capita cost of government is higher in rural counties given the same level of service. On the vote to reconsider, motion carried. (Voting yes - Senator Janssen and Representatives Braden, Crowell, Fry and Shelor; voting no - Senator Simpson and Representatives Eddy, Slattery, and Wilkin).

On the original motion of November 9, motion failed. (Voting yes - Senator Simpson and Representatives Eddy and Wilkin; voting no - Senator Janssen and Representatives Braden, Crowell, Fry and Shelor).

After some discussion over whether general state aid should be left as it is or if some compromise would be possible, it was moved by Representative Braden, seconded by Representative Slattery, that the county area distribution formula under the LAVTRF and the Liquor Enforcement Tax be changed from 50 percent population - 50 percent valuation to 60 percent population - 40 percent valuation.

Representative Eddy made a substitute motion, seconded by Representative Wilkin, that the county area distribution formula in the bill draft be changed to 60 percent population - 40 percent valuation and that the bill be recommended favorably for introduction in the 1978 Session, as amended. Motion carried. (Voting yes - Senator Simpson and Representatives Crowell, Eddy, Slattery and Wilkin; voting no - Senator Janssen and Representatives Braden, Fry and Shelor).

After providing instructions to the staff to incorporate the preceding discussion into the Committee Report, it was moved by Representative Braden, seconded by Senator Janssen, that the Committee Report for Proposal No. 9 be approved and forwarded to the Legislative Coordinating Council, subject to a review by Committee members after staff makes the appropriate amendments. Motion carried. (Staff forwarded copies of the amended report to the Committee on December 1, 1977).

Proposal No. 7 - Sales Tax

Staff reviewed a draft of the Committee Report. After a brief discussion of the relative merits of a point of purchase sales tax exemption for food compared to an income tax credit, it was moved by Senator Janssen, seconded by Representative Braden, that the Committee Report be approved as drafted and forwarded to the LCC. Motion carried.

Afternoon Session

Proposal No. 8 - Income Tax

The Department of Revenue presented memos to the Committee dealing with: (1) problems inherent in developing optional tax tables based on AGI; and (2) the estimated fiscal impact of alternatives for a flat rate standard deduction. (Copies of these memos are in the Committee notebooks).

The Department emphasized that optional tax tables were feasible only if their adoption were left to the discretion of the Secretary of Revenue and if the Department could ignore those federal tax credits not uniformly applicable to all taxpayers in computing such tables.

Following additional Committee discussion, Representative Braden moved, seconded by Representative Crowell, that the Secretary of Revenue be given permissive authority to develop optional tax tables which would exclude any federal tax credits not uniformly applicable to all taxpayers. Motion carried.

The Committee discussed the need to make any further changes or motions concerning the Kansas standard deduction. The consensus was that, given the level and magnitude of the various tax shifts which would accrue by adopting a flat rate standard deduction, the Committee action at the last meeting should stand (maintain present percentage standard deduction with minimum and maximum amounts).

The tax treatment of retirement income was discussed by the Committee, and the Department of Revenue reported that adopting a taxable income deduction for persons over 65 of \$3,000 on joint returns (\$1,500 for single returns) to be phased out after total taxable income exceeds \$6,000 (\$3,000 on single returns) would result in a decrease in income tax receipts of approximately \$2.8 million per year. The Department also reported that time was not available to prepare an estimate of the fiscal impact of limiting such a deduction to "retirement income."

After discussing the problems inherent in trying to make such a decision without adequate data on the fiscal consequences, it was moved by Senator Janssen, seconded by Representative Wilkin, that the Committee make no recommendation regarding the taxation of retirement income.

Representative Braden offered a substitute motion, seconded by Representative Shelor, that the staff and the Department of Revenue be requested to continue working on this matter and to present to the standing committees additional data on the fiscal impact of adopting a uniform exemption from taxable income for retirement income only (and not other types of income of retired persons), and that, while the Committee was not rejecting the concept of adopting a uniform state tax policy on the tax treatment of retirement income, no action should be taken until this additional data is available. Motion carried.

Several members expressed second thoughts concerning the Committee's recommendation to conform prospectively to federal AGI. The Chairman suggested that since there was no support to reconsider the Committee's earlier action and given the late date, it would be more appropriate to discuss this matter in the standing committees.

Several members requested that the staff be instructed to complete those portions of the Committee Report that remained incomplete and to present the revised Committee Report and bill drafts to the Committee for review the following day. The Chairman instructed the staff to have this material ready for the Committee's review by 1:00 p.m. tomorrow.

Proposal No. 6 - Inheritance Tax

The Chairman conveyed to the Committee the results of a meeting between Kansas Legislative Research Department staff, Revisor of Statute's staff, representatives of the Bar Association and himself held on November 16. The purpose of this meeting had been to discuss certain technical aspects of the proposed inheritance tax bill draft with representatives of the Bar Association. The Chairman reported that a large portion of the discussion dealt with problems over who should be liable for filing the inheritance tax return and paying the tax liability. The conclusion reached was that the language of the federal law in this area should be paraphrased, imposing on the executor-administrator the absolute responsibility for payment of the tax, but also giving the executor a procedure to recover taxes attributable to property over which he has no authority.

Staff reviewed the bill draft revisions incorporating the Committee's decisions from the last meeting and recommendations from the Bar Association.

Section 2 contains the new language specifying who is to be responsible for filing a return and paying the tax, and gives the executor the responsibility to collect any taxes that might be due on assets not under the executor's control. It was moved by Representative Braden, seconded by Representative Crowell, to remove certain language on page six of the draft relating to the liability of donees of gifts. Motion carried.

New Section 3 contained new language relating to the payment of tax in installments and reflected the recommendation of the Bar Association as being a simpler procedure. After a discussion of the administrative aspects of this procedure, it was moved

by Representative Crowell, seconded by Representative Braden, that the draft be amended to reinsert the original and more detailed language of this section. Motion carried.

Section 7 provides that an inheritance tax lien may apply to the proceeds in the event of the disposition of an asset.

Following the review of changes to the bill draft the Committee discussed whether or not Kansas should adopt a gift splitting procedure when adding back into the gross estate all gifts made by the decedent within three years of death. Staff noted that under federal law the gift splitting procedure (where a gift made by one spouse can technically be treated as a gift from both spouses and thereby a total of \$6,000 per year can be transferred as a gift without creating a gift tax liability) applies only to the gift tax and does not relate to "grossing up" the decedent's estate to include gifts (in excess of \$3,000) made within three years.

After further discussion it was moved by Representative Braden, seconded by Representative Fry, to instruct the staff to review the federal law again and to draft the bill in such a manner to conform to the federal treatment of split gifts for inheritance tax purposes. Motion carried. (Voting no were Representatives Crowell and Eddy). (The Revisor's office has re-reviewed the federal law and reports that the gift splitting provisions apply only to the application of the gift tax and they do not apply when computing the gross estate for estate tax purposes).

Representative Crowell moved, seconded by Representative Fry, that the bill draft as amended be recommended to the LCC for introduction in the 1978 Session, subject to a review by Committee members after staff makes the recommended changes. Motion carried.

It was moved by Representative Wilkin, seconded by Representative Crowell, that the Committee Report for Proposal No. 6 be approved, subject to a review by the Committee members after staff incorporates the changes approved by the Committee. Motion carried. (Copies of the revised Committee Report were forwarded to Committee members on November 29, 1977).

Tuesday, November 22, 1977
Afternoon Session

The Chairman called the Committee to order at 1:00 p.m. Senator Sowers and Representative Slattery were absent. Staff present: Bill Edds and Robert Taylor.

It was moved by Senator Janssen, seconded by Representative Fry, that the minutes of the November 9-10, 1977, meeting be approved as drafted. Motion carried.

Staff reviewed the amended Committee report and bill draft for Proposal No. 8. Following this review it was moved by Representative Crowell, seconded by Representative Braden, that the bill draft as amended be recommended to the LCC for introduction in the 1978 Session. Motion carried.

After several recommendations by Committee members and staff relating to editorial changes, it was moved by Representative Fry, seconded by Representative Shelor that the Committee Report for Proposal No. 8 be approved and forwarded to the LCC, subject to a review by the Committee of the final draft incorporating the latest changes. Motion carried. (The final draft of this Committee Report was forwarded to the Committee on November 29, 1977).

Prepared by Robert Taylor

Approved by Committee on:

12/16/77
(Date)

RLT/jsf