

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Paul "Bud" Burke at
Chairperson

11:00 a.m./p.m. on February 11, 1983 in room 526-S of the Capitol.

All members were present except: Senator Chaney (Excused)

Committee staff present: Don Hayward, Revisor's Office
Tom Severn, Research Dept.
Wayne Morris, Research Dept.

Conferees appearing before the committee: Wayne Zimmerman, Electric Companies
Association of Kansas

The committee considered SB 118 which would allow counties to levy up to 1.5 mills for service programs for the elderly.

Senator Ehrlich moved and Senator Allen seconded a motion to report SB 118 favorable for passage. The motion passed.

The chairman told the committee he had a request to introduce a bill to address a problem which would be explained by Wayne Zimmerman. Mr. Zimmerman said the existing statute appears to be discriminatory. When investor owned utilities have to replace facilities damaged or destroyed by acts of God they are required to pay sales tax on replacements where electrical cooperatives do not. He said the Revisor's Office had prepared a bill draft to address this matter. (Attachment #1)

Senator Thiessen moved and Senator Allen seconded a motion that the bill draft be introduced as a committee bill and referred back to the committee for consideration. The motion passed.

Senator Angell reported to the committee the action taken by the reappraisal subcommittee and explained the amendments prepared by the Revisor's Office as shown in the balloon copy of HB 2155.

Senator Angell moved and Senator Kerr seconded a motion to introduce the draft copy of HB 2155 and have it referred back to the committee. The motion passed.

The chairman adjourned the meeting at 11:35 a.m. The next meeting of the committee will be at 11:00 a.m. on February 14.

SENATE BILL NO. _____

By Committee on Assessment and Taxation

AN ACT amending the Kansas retailers' sales tax act; concerning the exemption of services performed in original construction; amending K.S.A. 1982 Supp. 79-3603 and repealing the existing section.

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

Section 1. K.S.A. 1982 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax as follows:

(a) A tax at the rate of 3% upon the gross receipts received from the sale of tangible personal property at retail within this state;

(b) a tax at the rate of 3% upon the gross receipts from intrastate telephone or telegraph services, which sale is not otherwise exempt from taxation under the provisions of this act;

(c) a tax at the rate of 3% upon the gross receipts from the sale or furnishing of gas, water, electricity, and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities;

(d) a tax at the rate of 3% upon the gross receipts from the sale of meals or drinks furnished at any private club or at any restaurant, eating house, dining car, hotel, drugstore, or other place where meals or drinks are regularly sold to the public;

(e) a tax at the rate of 3% upon the gross receipts from the sale of admissions to any place providing amusement,

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entertainment, or recreation services including admissions to state, county, district, and local fairs, but ~~said~~ such tax shall not be levied and collected upon the gross receipts received from fees and charges by political subdivisions of the state of Kansas for participation in sports, games and other recreational activities;

(f) a tax at the rate of 3% upon the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) a tax at the rate of 3% upon the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501~~+~~, and amendments thereto, except such tax shall not apply where a room is rented by an individual, firm, association or corporation for a period of more than 28 consecutive days;

(h) a tax at the rate of 3% upon the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 to 12-1749, inclusive, and acts amendatory thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund out of the sales tax refund fund of all taxes paid thereon;

(i) a tax at the rate of 3% upon the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) a tax at the rate of 3% upon the gross receipts from the rendering of the services of washing and washing and waxing of vehicles;

(k) a tax at the rate of 3% upon the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) a tax at the rate of 3% upon the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real or personal property of others;

(m) a tax at the rate of 3% upon the gross receipts received from fees and charges by public and private clubs, organizations and businesses for participation in sports, games and other recreational activities;

(n) a tax at the rate of 3% upon the gross receipts received from dues charged by public and private clubs, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment;

(o) a tax at the rate of 3% upon the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including the transfer of motor vehicles or trailers by a person to a corporation solely in exchange for stock or securities in such corporation or the transfer of motor vehicles or trailers by one corporation to another when all of the assets of such corporation are transferred to such other corporation. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) a tax at the rate of 3% upon the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of

installing or applying tangible personal property in connection with the original construction of a building or facility or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, windstorm, hailstorm, rainstorm, snowstorm, lightning, explosion or earthquake, but ~~said~~ such term shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily live or are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building; and

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feed lot or any conveyance, transmission or distribution line ~~of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq. or of any municipal or quasi-municipal corporation,~~ including the land improvements immediately surrounding such facility;

(q) a tax at the rate of 3% upon the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing,

servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) a tax at the rate of 3% upon the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are, taxable under the provisions of subsection (p) or (q) of this section;

(s) a tax at the rate of 3% upon the gross receipts received from the sale of computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer, whether contained on tapes, discs, cards or other devices or materials.

Sec. 2. K.S.A. 1982 Supp. 79-3603 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.