

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATIONThe meeting was called to order by CHAIRMAN PAUL "BUD" BURKE at
Chairperson4:50 ~~xxx~~ p.m. on MARCH 31, 1983 in room 526-S of the Capitol.

All members were present except: Senator Kerr (excused)

Committee staff present: Wayne Morris, Research Department
Tom Severn, Research Department
Don Hayward, Revisor's OfficeConferees appearing before the committee: Dan Morgan, Associated General Contractors
Andy Fordenwalt, Panhandle Eastern

The committee considered HB 2154 which pertains to the tax situs for sales of services. Dan Morgan, Associated General Contractors, and the Department of Revenue people had discussed a proposed amendment to this bill. (Attachment #1) It was suggested that we will probably be looking at a court case either way but this is an attempt to try and satisfy both sides of the issue and provide a \$10,000 threshold. The chairman questioned Bill Edds, Dept. of Revenue, as to whether the terms of the draft presented any problems with the language and he responded that they could live with it if the committee decides to adopt the policy.

Senator Mulich moved and Senator Hayden seconded a motion to adopt the proposed amendment to HB 2154. The motion carried.

Senator Mulich moved and Senator Hayden seconded a motion to report HB 2154 as amended favorable for passage. The motion passed 3-2.

The committee considered HB 2469 which concerns the certificates of value required of public utilities. A. L. Fordenwalt, Panhandle Eastern, spoke in opposition to a proposed amendment to the bill. (Attachment #2). He said the amendment which proposes to include within the definition of "public utility" those entities in control of, managing or operating a business of storing gas in an underground formation situated wholly within one county. He said the storage of gas in an underground formation located in one county is no more of a public utility function than is the storage of grain in an elevator. He said this proposed amendment could result, in some instances, in the triple taxation of certain gas placed in underground storage. In prior years the legislature had sought to insulate consumers from rising gas prices as much as possible whereas this amendment would now have the legislature subject consumers to as much as a triple tax on natural gas.

Senator Angell asked if the amendment were withdrawn from the bill and the assessor turns this over to the appraiser, what then? Mr. Fordenwalt said all gas would be double taxed. The chairman asked if the amendment prevails, what amount of money are we talking about to be passed on to the consumer. Mr. Fordenwalt said approximately an additional 10¢ or 12¢ per customer, but if amendment not passed, no impact.

The chairman stated that no action would be taken on this bill until Senator Kerr is present.

The committee considered SCR 1619 which submits to the voters in 1984 a proposed constitutional amendment to classify property and set percentages at which the various classes would be assessed. Senator Montgomery distributed copies of a proposed amendment to members of the committee. (Attachment #3)

Senator Montgomery moved and Senator Thiessen seconded a motion to adopt the proposed amendment. The motion failed 4-6.

The chairman adjourned the meeting at 5:30 p.m. The next meeting of the committee will be at 11:00 a.m. on Monday, April 4.

4:50

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
MARCH 31	CRYSTAL HATCHER	Rt 1 Box 2 GOODLAND	GANNON
	Bill Edds	TOPEKA	REVENUE
	AARON ANDERSON	"	DEPT. OF REV.
	J. Blum	3444 Broadway, Kansas City MO	Panhandle Eastern
	Andy Jordanwaldt		Tchankli Eastern
	Sh Wilboughy	Topeka	INT
	Ron Waches	TOPEKA	KACI
	Tim Underwood	Topeka	KAR
	Tom Whitaker	TOPEKA	Ks Motor Carriers Assn
	JANET STUBBS	"	HBAK
	DAVID FARRAS	Wichita, Ks	Chamber
	John Blythe	Manhattan	Ks Farm Bureau
	Mark Summers	Lawrence	
	Cathy Burke	Leawood	
	Shelly Jones	Topeka	KIA
	John [unclear]	Topeka	KHA
	Mike Bean	Topeka	KCA
	M.C. Geffmann	Topeka	Ks Railroad Assn.
	M. Berhears	Topeka	Revenue
	Chris McKenzie	Topeka	League of Ks Muncip

HOUSE BILL No. 2154

By Committee on Assessment and Taxation

1-28

0006 AN ACT relating to city and countywide retailers' sales taxes;
0017 providing authority for cities and counties relating thereto;
0018 establishing the tax situs for the sales of services; amending
0019 K.S.A. 12-189 and repealing the existing section.

and K.S.A. 12-191

sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. For the purpose of levying taxes pursuant to K.S.A.
0022 12-187 *et seq.* and amendments thereto, there is hereby specifi-
0023 cally conferred upon cities and counties of this state the power
0024 and authority to impose taxes upon services rendered without the
0025 boundaries of the taxing jurisdiction by retailers having a place of
0026 business located within such taxing jurisdiction.

0027 Sec. 2. For the purpose of determining the situs of installa-
0028 tion, maintenance, servicing and repair services taxable under the
0029 provisions of K.S.A. 12-187 *et seq.* and amendments thereto, the
0030 place of business of the retailer of such services shall be the office
0031 or other location from which such retailer does business. Such
0032 location may be established by determining the location where
0033 sales or service personnel report or at which mail is received,
0034 orders are taken, telephone service is listed or the consideration of
0035 any other relevant factors established by rules and regulations of
0036 the secretary of revenue. If the place of business of a retailer of
0037 services is located within the boundaries of a city or county
0038 imposing a local retailers' sales tax, services performed by such
0039 retailer are subject to the tax regardless of whether the service is
0040 performed within or without the boundaries of the taxing juris-
0041 diction. If there is no fixed or determinable place of business for
0042 any retailer, other than a retailer having its only place or places of
0043 business in another state, the place of business of such retailer
0044 shall be deemed to be the place where the services are performed.

2 ~~Sec. 4. K.S.A. 12-189 is hereby repealed.~~
 0083 ~~Sec. 5. This act shall take effect and be in force from and after~~
 0084 its publication in the Kansas register.

Sec. 4. K.S.A. 12-191 is hereby amended to read as follows:
 12-191. All retail transactions consummated within a county
 or city having a retail sales tax, which transactions are
 subject to the Kansas retailers' sales tax, shall also be
 subject to such county or city retail sales tax, except as
 otherwise expressly provided in K.S.A. 12-190. *Except as*
hereinafter provided, all retail sales, for the purpose of
 this act, shall be considered to have been consummated at the
 place of business of the retailer. In the event the place
 of business of a retailer is doubtful the place or places
 at which the retail sales are consummated for the purposes of
 this act shall be determined under rules and regulations
 adopted by the secretary of revenue which rules and regula-
 tions shall be considered with state and federal law insofar
 as applicable. Retail sales involving the use, consumption,
 or furnishing of gas, water, electricity and heat, for the
 purposes of this act, shall be considered to have been con-
 summated at the situs of the user or recipient thereof, and
 retail sales involving the use or furnishing of telephone
 service, shall be considered to have been consummated at the
 situs of the subscriber billed therefor. *Retail sales in-*
volving the furnishing of services taxable under K.S.A. 79-
3603 (p) (q) or (r) pursuant to a contract under which the
sale of such services and the furnishing of tangible personal
property exceeds \$10,000 per contract per contractor shall be
considered to have been consummated at the situs where such
services are performed. The director of taxation is hereby
 authorized to request and receive from any retailer or from
 any city or county levying the tax such information as may be
 reasonably necessary to determine the liability of retailers
 for any county or city sales tax. In all cases the collection
 of any county sales tax or sales tax levied by a class B city
 shall commence on the first day of the month, except in no case
 shall collection thereof begin prior to the first day of the
 month next following the sixtieth day after the date of the
 election authorizing the levy of such tax.

Whenever any sales tax, imposed by any class B city or county
 under the provisions of this act, shall become effective, at any
 time prior to the time that revenue derived therefrom may be bud-
 geted for expenditure in such year, such revenue shall be carrie
 forward to the credit of such funds for the ensuing budget year
 in the manner provided for carrying forward balances remaining
 in such funds at the end of a budget year.

Sec. 5. K.S.A. 12-189 and K.S.A. 12-191 are hereby repealed.

Sec. 6.

COMMENTS OF A. L. FORDEMWALT IN OPPOSITION
TO PROPOSED AMENDMENT TO HOUSE BILL NO. 2469
(Before the Assessment and Taxation Committee
of the Kansas Senate)

I appear before you today to speak in opposition to the most recently proposed amendment to House Bill No. 2469. The amendment proposes to include within the definition of "public utility" under K.S.A. 79-5a01 those entities in control of, managing or operating a business of storing gas in an underground formation situated wholly within one county.

I would encourage the Committee to observe the inconsistency the proposed amendment would create. You will note from reading the present language of 79-5a01 that the legislature has carefully included within the public utility definition only those entities performing functions for the convenience and necessity of the public. The existing statute also generally includes only those entities whose integrated operations by necessity extend over several counties. On the other hand, storage of gas in an underground formation located in one county is no more of a public utility function than is the storage of grain in an elevator. Furthermore, on its face, the amendment deals with property which by definition is confined to only one county.

As we all know, the property of entities within the present definition of "public utility" is appraised and valued

differently than the property of other taxpayers. Specifically, the property of public utilities is centrally appraised on a unit value basis, while the property of all other taxpayers is appraised by the county appraiser of the particular county in which the property is located. One can understand the reason for this distinction. The appraisal of the property of a true public utility, having a single integrated function but stretching over several counties, would be distorted if performed on a piecemeal basis by county appraisers appraising only that portion of the overall property unit located in their respective counties.

No such distortion of market value occurs when the property of a storage field operator located wholly within one county is appraised locally. The local appraiser has the entire property unit within his jurisdiction making it as susceptible to accurate valuation at the local level as any other item of property which is locally appraised.

The proposed amendment could also result, in some instances, in the triple taxation of certain gas placed in underground storage. Assuming that the proposed severance tax now being deliberated by the legislature is passed, gas produced in Kansas and temporarily stored within the state would be subjected to the severance tax, the ad valorem tax, and to property tax by virtue of K.S.A. 79-201f(d).

Compounding this inequitable result is the fact that it is the consumer of natural gas who will ultimately bear the cost of this triple tax.

Causing the consumer to indirectly bear such an onerous tax burden is entirely inconsistent with the legislature's past actions. In prior years the legislature has sought to insulate consumers from rising gas prices, to the extent possible, by specifically exempting sales of natural gas for noncommercial and agricultural use from the retailer's sales tax (K.S.A. 79-3606(x)). Furthermore, numerous bills have been introduced in both the Kansas Senate and the House of Representatives during this session in an attempt to legislatively reduce natural gas prices. The proponents of the amendment to H.B. 2469 would now have the legislature turn 180° and subject consumers to as much as a triple tax on natural gas.

2357L

Senate Concurrent Resolution No. 1619

By Committee on Assessment and Taxation

2-9

Attachment #3

0017 A PROPOSITION to amend section 1 of article 11 of the consti-
0018 tution of the state of Kansas, relating to the taxation of prop-
0019 erty.

0020 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
0021 *of the members elected to the Senate and two-thirds of the*
0022 *members elected to the House of Representatives concurring*
0023 *therein:*

0024 Section 1. The following proposition to amend the constitu-
0025 tion of the state of Kansas shall be submitted to the qualified
0026 electors of the state for their approval or rejection: Section 1 of
0027 article 11 of the constitution of the state of Kansas is amended to
0028 read as follows:

0029 "§ 1. (a) System of taxation; classification; exemption. *The*
0030 *provisions of this subsection (a) shall govern the assessment*
0031 *and taxation of property until the provisions of subsection (b)*
0032 *of this section are implemented and become effective, where-*
0033 *upon subsection (a) shall expire. The legislature shall provide*
0034 *for a uniform and equal rate of assessment and taxation, except*
0035 *that the legislature may provide for the classification and the*
0036 *taxation uniformly as to class of motor vehicles, mineral prod-*
0037 *ucts, money, mortgages, notes and other evidence of debt or*
0038 *may exempt any of such classes of property from property*
0039 *taxation and impose taxes upon another basis in lieu thereof.*
0040 *All property used exclusively for state, county, municipal,*
0041 *literary, educational, scientific, religious, benevolent and*
0042 *charitable purposes, and all household goods and personal*
0043 *effects not used for the production of income, shall be ex-*
0044 *empted from property taxation.*

0045 "(b) System of taxation; classification; exemption. (1) *The*

all farm machinery and equipment regularly used in farming and
ranching and for other agricultural purposes,

Attch. 3

8-31-83

0046 provisions of this subsection (b) shall govern the assessment
 0047 and taxation of property on and after January 1, 1989, and each
 0048 year thereafter, or on and after January 1 of any year prior
 0049 thereto next following the certification by the governor that
 0050 valuations of property in all counties of the state, determined
 0051 under a program of statewide reappraisal, have been com-
 0052 pleted and are available for use as a basis for the levy of taxes,
 0053 and each year thereafter. Except as otherwise hereinafter spe-
 0054 cifically provided, the legislature shall provide for a uniform
 0055 and equal basis of valuation and rate of taxation of all property
 0056 subject to taxation. The provisions of this subsection (b) shall
 0057 not be applicable to the taxation of motor vehicles, except as
 0058 otherwise hereinafter specifically provided, mineral products,
 0059 money, mortgages, notes and other evidence of debt and grain.
 0060 Property shall be classified into the following classes for the
 0061 purpose of assessment and assessed at the percentage of value
 0062 prescribed therefor:

0063 "Class 1 shall consist of real property. Real property shall
 0064 be further classified into five subclasses. Such property shall
 0065 be defined by law for the purpose of subclassification and
 0066 assessed uniformly as to subclass at the following percentages
 0067 of value:

- 0069 (A) Public utility real property 30%
- 0071 (B) Industrial, commercial, rail transportation, air transpor-
 0072 tation and motor carrier transportation real property ex-
 0073 cept property used for residential purposes. [15%] ————— 20%
- 0075 (C) Land devoted to agricultural use which is valued upon
 0076 the basis of its agricultural income or agricultural pro-
 0077 ductivity pursuant to section 12 of article 11 of the con-
 0078 stitution. [20%] ————— 30%
- 0080 (D) Land devoted to agricultural use except property used
 0081 for residential purposes. [6%] ————— 10%
- 0083 (E) All other urban and rural real property not otherwise
 0084 specifically subclassified. [8%] ————— 10%
- 0086

0087 "Class 2 shall consist of all tangible personal property ~~except~~
 0088 tangible personal property included in class 3. Such tangible
 0089 personal property shall be further classified into four sub-
 0090 classes, shall be defined by law for the purpose of subclassifi-
 0091 cation and assessed uniformly as to subclass at the following
 0092 percentages of value:

- 0093 (A) Rail transportation, air transportation and motor carrier
 0094 transportation personal property, including motor vehi-
 0095 cles [15%] ————— 30%

0008
0099 (B) Inventories of merchants and manufacturers and live-
stock to the extent of value taxable as hereinafter pro-
vided. 30%

0101 In the first year in which property is classified for the
0102 purpose of taxation under the provisions of this
0103 subsection (b), 20% of the value of all such property
0104 shall be exempt from property taxation; in the sec-
0105 ond year in which property is classified for the
0106 purpose of taxation under the provisions of this
0107 subsection (b), 40% of the value of all such property
0108 shall be exempt from property taxation; in the third
0109 year in which property is classified for the purpose
0110 of taxation under the provisions of this subsection
0111 (b), 60% of the value of all such property shall be
0112 exempt from property taxation; in the fourth year in
0113 which property is classified for the purpose of taxa-
0114 tion under the provisions of this subsection (b), 80%
0115 of the value of all such property shall be exempt
0116 from property taxation. Inventories of merchants
0117 and manufacturers and livestock shall be exempt
0118 from property taxation in the fifth year in which
0119 property is classified for the purpose of taxation
0120 under the provisions of this subsection (b) and each
0121 year thereafter.

0122 (C) Public utility personal property, including motor vehi-
0123 cles, industrial and commercial personal property not
0124 otherwise specifically classified, including motor vehi-
0125 cles, mineral leasehold interests and all other tangible
0126 personal property not otherwise specifically subclassi-
0127 fied. 30%

0129 (D) Mobile homes used for residential purposes. 8%

0131
0132 "Class B shall consist of all commercial and industrial ma-
0133 chinery and equipment and farm machinery and equipment.
0134 The legislature shall define commercial and industrial ma-
0135 chinery and equipment and farm machinery and equipment by
0136 law for the purpose of classification. Commercial and indus-
0137 trial machinery and equipment and farm machinery and
0138 equipment shall be valued at its retail cost when new less
0139 ten-year straight-line depreciation and assessed at 15% of the
0140 value so obtained.

0141 "(2) All property used exclusively for state, county, munic-
0142 ipal, literary, educational, scientific, religious, benevolent and
0143 charitable purposes, and all household goods and personal
0144 effects not used for the production of income, shall be ex-
0145 empted from property taxation.

0147 "(3) The completion of the valuation of property in each
0148 county, determined under a program of statewide reappraisal,
shall be reported to the governor. Upon the receipt of a report

all farm machinery and equipment regularly used in farming and
ranching and for other agricultural purposes,

0151 *that the reappraisal of property in the last or final county has*
0152 *been completed, the governor shall certify to the appropriate*
0153 *officials that the program of statewide reappraisal has been*
0154 *completed."*

0155 Sec. 2. The following statement shall be printed on the ballot
0156 with the amendment as a whole:

0157 "Explanatory statement. Following certification by the gov-
0158 ernor that statewide reappraisal of property has been com-
0159 pleted, real and personal property will then automatically be
0160 divided into classes and subclasses and assessed at different
0161 percentages of value fixed in the constitution. Also, the total
0162 exemption of merchants and manufacturers inventories and
0163 livestock from property taxation would be phased in over five
0164 years.

0165 "A vote for the proposition would provide for the assessment
0166 of different classes of property at different percentages of
0167 value and for the phasing in of an exemption of merchants and
0168 manufacturers inventories and livestock over five years.

0169 "A vote against the proposition would continue the present
0170 requirement that, except for motor vehicles, mineral products
0171 and intangible property, all property must be taxed and as-
0172 sessed at a uniform and equal rate."

0173 Sec. 3. This resolution, if concurred in by two-thirds of the
0174 members elected to the senate and two-thirds of the members
0175 elected to the house of representatives, shall be entered on the
0176 journals, together with the yeas and nays. The secretary of state
0177 shall cause this resolution to be published as provided by law and
0178 shall cause the proposed amendment to be submitted to the
0179 electors of the state at the general election in the year 1982 unless
0180 a special election is called at a sooner date by concurrent resolu-
0181 tion of the legislature, in which case it shall be submitted to the
0182 electors of the state at such special election.