

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Fred A. Kerr at  
Chairperson

11:00 a.m. ~~XXX~~ on Wednesday, January 23, 1985 in room 526-S of the Capitol.

All members were present ~~XXXXX~~

Committee staff present:

Tom Severn, Research Department  
Melinda Hanson, Research Department  
Don Hayward, Revisor's Office  
LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee:

Fred L. Weaver, Board of Tax Appeals  
Gary M. Smith, Shawnee County Appraiser  
Robert Gardner, Wyandotte County Appraiser; Kansas Appraisers Association  
Patsy A. McDonald, Shawnee County Clerk  
Vic Miller, Property Valuation Department

Senator Burke moved that the minutes of the January 16, 1985 meeting be approved. Senator Thiessen seconded the motion, and the motion carried.

S.B. 31 - taxation of escaped tangible personal property

Chairman Kerr said that this bill, as will many others, encounters the problem of having several legal alternatives available to carry out the intended policy. He encouraged interested parties to settle legal options before making Committee presentations so that the Committee could focus on policy.

Staff explained that the purpose of the bill was to reinstate the language allowing county appraisers to put escaped personal property tax on the tax rolls. A balloon of the bill (Attachment 1) suggests amendments which clarify that the provisions for appraising property at "twice its fair market value" are a penalty. The amendment providing that the Board of Tax Appeals shall have the authority to order the refund of the abated penalty conforms to K.S.A. 79-1422.

Fred L. Weaver said his purpose was to call attention to policy questions. He said the decision needs to be made whether to go back five years, three years or whatever. Mr. Weaver mentioned that a deferentiation should be made between a penalty and a valuation, and he feels the proposed amendment would take care of that. He discussed the amount of the penalty, and pointed out that the fraud statutes are rather minor in comparison to penalties relating to income tax. Mr. Weaver explained the possibility of having a moratorium. He talked about possible problems of legality if the bill has retroactive provisions. Chairman Kerr asked if Mr. Weaver knew of any cases where personal property was intentionally left off the tax rolls because of knowledge of this "loop-hole". Mr. Weaver replied that he did not. Mr. Weaver cautioned the Committee to consider the effect of this bill on other types of property, such as farm equipment.

Gary M. Smith said he endorses S.B. 31. He also mentioned concerns about possible legal problems if the bill remains retroactive.

Robert Gardner testified that the Kansas Appraisers Association is in favor of the bill.

Patsy A. McDonald read her testimony (Attachment 2) in support of S.B. 31.

Vic Miller said he was testifying on behalf of the "honest" taxpayers who are penalized when others are allowed to pay less than their full share of taxes due. He sees the policy issues as: 1) Are we going to back up in time and assess taxes that should have been paid? 2) Are we going to penalize? Mr. Miller stated there is no doubt whether taxes may be assessed but there is

CONTINUATION SHEET

Minutes of the Tax Committee on January 23, 1985

some argument about penalties. In response to a question from Senator Allen, Mr. Miller said his opinion is that, because it is a civil matter, penalties can be assessed.

Meeting adjourned.

ASSESSMENT AND TAXATION

OBSERVERS  
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
1/23/85	Clark P. Young	TOPEKA	Intervenor - Jun. Just Ken
	Rich McKee	Topeka	K. L. A.
	TREVA POTTER	TOPEKA	NORTHERN NAT. GA
	Randy Josh	"	KS Motor Carriers
	WALTER DUNN	"	F K O L A
	John D. Miller	"	KS Crops + Soils Ind. Council
	Richard Mauch	Chap Center	Co. appraiser
	Sam Cook	Wesley, Ks	Co. Appraiser
	Pat McDonald	topeka	Co. Clerk
	Robert Gardner	Windsor Co	Appraiser
	Harry M. Smith	Hran Co.	Appraiser
	MARSHA HUTCHISON	HUTCHINSON, KS	KS GRAIN + FEED DEALERS ASSN
	Howard W. Ties	SALINA, Ks	KS Ass'n of Wheat Growers
	Bee R. Sullivan	Manhattan	Kansas Farm Bureau
	BOB BRADLEY	LAWRENCE	KS Ass'n Counties
	Chip Wheelen	Topeka	Legis. Policy Group
	VIC MILLER	"	UPVD
	FRED L. WEAVER	"	BOARD OF TAX APPEALS
	LINDA TERRILL	"	" " " "
	ROBERTA WHITE	"	" " " "
	BEN NEILL	TOPEKA	KLP6
	DANA FERRELL	"	Budget

**SENATE BILL No. 31**

By Committee on Assessment and Taxation

1-16

0018 AN ACT relating to property taxation; concerning the appraisal  
 0019 of tangible personal property discovered to have escaped  
 0020 taxation.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. (a) If, after one year from the date prescribed by  
 0023 K.S.A. 79-306, and amendments thereto, for the listing of tangi-  
 0024 ble personal property, the county appraiser discovers that any  
 0025 tangible personal property which was subject to taxation in any  
 0026 year or years within five years next preceding has not been listed  
 0027 or has been undervalued for whatever reason, such property  
 0028 shall be deemed to have escaped taxation. In the case of property  
 0029 which has not been listed, it shall be the duty of the county  
 0030 appraiser to list and appraise such property at twice its fair  
 0031 market value for each such year during which such property was  
 0032 not listed, and it shall be designated on the appraisal roll as  
 0033 "escaped appraisal" for each such preceding year or years. In the  
 0034 case of property which has been listed but undervalued, it shall  
 0035 be the duty of the county appraiser to list and appraise the  
 0036 undervalued portion of such property at twice its fair market  
 0037 value for each such year during which such property was under-  
 0038 valued, and it shall be designated on the appraisal roll as  
 0039 "escaped appraisal" for each such preceding year or years. If the  
 0040 owner of such property is deceased, taxes charged as herein  
 0041 provided shall be levied against the estate of such deceased  
 0042 person for only three years preceding death and shall be paid by  
 0043 the legal representative or representatives of such estate. In the  
 0044 event that such escaped appraisal is due to any willful or clerical  
 0045 error of the county appraiser, such property shall be appraised at  
 0046 its fair market value.

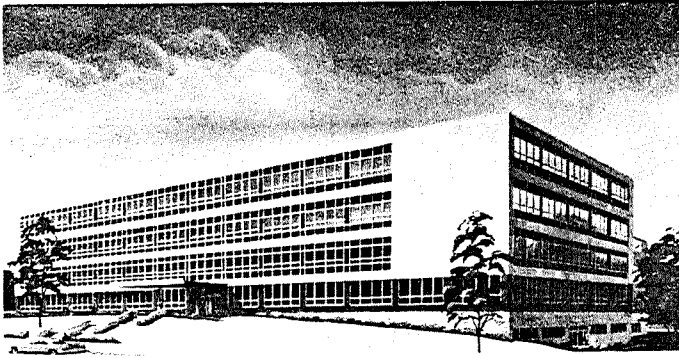
and add 100% thereto as a penalty for  
 escaping taxation

and no penalty shall be added

0047 (b) The board of tax appeals shall have the authority to order  
0048 the refund of taxes paid under protest pursuant to subsection (a), abate any penalty imposed  
0049 whenever excusable neglect on the part of the person required to and order the refund of the abated penalty  
0050 make and file the statement listing property for assessment and  
0051 taxation purposes is shown.

0052 (c) The provisions of this section shall apply to any tangible  
0053 personal property discovered during the calendar years 1982,  
0054 1983, 1984 and any year thereafter to have escaped appraisal and  
0055 taxation during any such year or any year within five years next  
0056 preceding any such year.

0057 Sec. 2. This act shall take effect and be in force from and  
0058 after its publication in the Kansas register.



SHAWNEE COUNTY  
OFFICE OF COUNTY CLERK  
*Patsy A. "Pat" McDonald*

COUNTY CLERK

(913) 295-4155 CLERK  
(913) 295-4159 ACCOUNTING

COURTHOUSE - ROOM 107  
TOPEKA, KANSAS 66603

STATEMENT REGARDING H.B. 31

I, Patsy A. McDonald, as Shawnee County Clerk, support legislation to reinstate the added tax law for personal property, which was repealed in 1982. This legislation is desperately needed. However, I feel there may be some changes that need to be addressed as this bill goes through the legislative process.

As Property Valuation explained the Attorney General's Opinion No. 81-187, if a house or personal property is missed on the current tax roll, we cannot assess and tax until the current tax roll of the following year.

Patsy A. McDonald, County Clerk