

Approved February 16, 1987
Date

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

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

11:00 a.m./p.m. on February 12, 1987 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Tom Severn, Research
Chris Courtwright, Research
Don Hayward, Revisor's Office
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

Mark Burghart, Kansas Department of Revenue Legal Services

Chairman Fred Kerr called the meeting to order and announced that the agenda for the day was to discuss and consider action on bills previously heard.

SENATE BILL 1

Chairman Kerr noted that S.B. 1 is the bill which provides additional severance tax exemptions for low producing wells. He said that the policy questions which arose in the hearings concerned the length of time the exemption would be increased and a possible change in the exemption of coal mine production.

Some members of the committee expressed concern regarding the temporary structure of the exemption in the bill and stated that a permanent exemption would be more advantageous economically.

Senator Frey made the motion that the enacting date of the increased exemptions be January 1, 1988 and that the increased exemptions be permanent. Specifically, he moved to conceptually amend on page 3, line 86, by striking "1987 or"; in line 87, after the comma by inserting "and any year thereafter,"; in line 103, by striking "1987 or"; in line 104, after the comma by inserting "and any year thereafter". Senator Thiessen seconded. Motion carried.

The committee then discussed the issue of severance tax on coal. Current law says that there will be no severance tax by coal mines producing less than 350,000 tons per year but that coal mines producing more than that amount have to pay severance tax on all of their production. It was noted that the largest coal mine in the state mined 488,000 tons in 1985 and the second largest mined 215,000 tons in 1985.

Senator Allen offered a motion to lower the exemption threshold to 250,000 tons per year but to provide that no tax would be paid on the first 250,000 tons even if more coal than that were mined from one mine. Specifically, the motion is to amend on page 4, in line 140, after "(5)" by inserting "for the calendar year 1988, and any year thereafter,"; also, in line 140, after "of" by inserting "the first 250,000 tons of"; also in line 140, by striking all after "mine"; by striking all in line 141; in line 142, by striking all before "as"; in line 152, by striking "Kansas register" and inserting "statute book". In the title, in line 19, before the semicolon by inserting "and coal". Senator Thiessen seconded. Motion carried.
(Attachment 1)

Senator Allen moved that S.B. 1 be recommended favorably for passage as amended. Senator Hayden seconded. Motion carried.

SENATE BILL 54

Following committee discussion on S.B. 54, (Attachment 2) Senator Mulich

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m./~~a~~^p.m. on February 12, 1987

moved that the bill be amended to take the county treasurer responsibilities out of the amended language of the bill. (See Attachment 3) Specifically the amendment would be amended on page 2, in line 68, by striking the period; by striking all in line 69; in line 70, by striking "under the provisions of this section when" and inserting", or whenever". On page 4, in line 128 by striking the period; by striking all in line 129; in line 130, by striking "under the provisions of this section when" and inserting", or whenever". On page 5, in line 165, by striking all after "abate" and inserting "any"; in line 166 before the comma by inserting "imposed under the provisions of this section and order the refund of the abated penalty"; in line 168, before the period, by inserting", or whenever the property which has been deemed to have escaped taxation is repossessed, judicially or otherwise, by a secured creditor and such creditor pays the taxes and interest due"; by striking all in lines 175 to 179, inclusive.

Senator Karr seconded. Motion carried. Senator Mulich moved that S.B. 54 be recommended favorably as amended. Senator Karr seconded the motion. Motion carried.

SENATE BILL 63

Senator Burke, who had asked the committee to introduce the bill, explained further amendments he was proposing to the committee on S.B. 63. (Attachment 4) He explained that he thought the additional amendments would simplify the process. Senator Burke moved to adopt the amendments. (See Attachment 4) Senator Mulich seconded. Motion carried. Senator Allen recommended that S.B. 63 be recommended favorably for passage. Senator Mulich seconded. Motion carried.

SENATE BILL 76

Senate Bill 76, requested for introduction by Senator Thiessen, pertains to the interest rate charged on late tax payments. The bill would lower the rate from 18% to 12%. The Department of Revenue proposed a floating rate.

Mark Burghart gave explanation concerning the Department's amendment. Since there was not enough time to discuss the proposed amendment, Chairman Kerr said that the bill would be considered at a later date.

Senator Karr made a motion to accept the minutes of the February 10th and 11th meeting. Senator Hayden seconded.

Meeting adjourned.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Assessment and Taxation

Recommends that Senate Bill No. 1

"AN ACT relating to severance tax; concerning exemptions therefrom for the severance and production of oil; amending K.S.A. 1986 Supp. 79-4217 and repealing the existing section."

Be amended:

On page 3, in line 86, by striking "1987 or"; in line 87, after the comma by inserting "and any year thereafter,"; in line 103, by striking "1987 or"; in line 104, after the comma by inserting "and any year thereafter,";

On page 4, in line 140, after "(5)" by inserting "for the calendar year 1988, and any year thereafter,"; also, in line 140, after "of" by inserting "the first 250,000 tons of"; also, in line 140, by striking all after "mine"; by striking all in line 141; in line 142, by striking all before "as"; in line 152, by striking "Kansas register" and inserting "statute book";

In the title, in line 19, before the semicolon by inserting "and coal";

And the bill be passed as amended.

Chairperson

SENATE BILL No. 54

By Committee on Financial Institutions and Insurance

1-21

0017 AN ACT relating to penalties for failure to list property for
0018 taxation; providing for abatements thereof upon repossession
0019 by secured creditors; amending K.S.A. 79-332a and K.S.A.
0020 1986 Supp. 79-1422 and 79-1427a and repealing the existing
0021 sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1: K.S.A. 79-332a is hereby amended to read as fol-
0024 lows: 79-332a. (a) Any person, corporation or association owning
0025 oil and gas leases or engaged in operating for oil or gas who fails
0026 to make and file a statement of assessment on or before April 1
0027 shall be subject to a penalty as follows:

0028 (1) If the statement of assessment is filed within 15 days
0029 following April 1, the appraiser shall, after having ascertained
0030 the assessed value of the property of such taxpayer, add 10%
0031 thereto as a penalty for late filing.

0032 (2) If the statement of assessment is filed more than 15 days
0033 but not more than 30 days following April 1, the appraiser shall,
0034 after having ascertained the assessed value of the property of
0035 such taxpayer, add 20% thereto as a penalty for late filing.

0036 (3) If the statement of assessment is filed more than 30 days
0037 but not more than 45 days following April 1, the appraiser shall,
0038 after having ascertained the assessed value of the property of
0039 such taxpayer, add 30% thereto as a penalty for late filing.

0040 (4) If the statement of assessment is filed more than 45 days
0041 but not more than 60 days following April 1, the appraiser shall,
0042 after having ascertained the assessed value of the property of
0043 such taxpayer, add 40% thereto as a penalty for late filing.

0044 (5) If the statement of assessment is filed more than 60 days
0045 following April 1, the appraiser shall, after having ascertained

0046 the assessed value of the property of such taxpayer, add 50%
0047 thereto as a penalty for late filing.

0048 (b) For good cause shown the county appraiser may extend
0049 the time in which to make and file such statement. Such request
0050 for extension of time shall be in writing and shall be received by
0051 the county appraiser prior to the due date of the statement of
0052 assessment.

0053 (c) Whenever any person, corporation or association owning
0054 oil and gas leases or engaged in operating for oil or gas shall fail
0055 to make and deliver to the county appraiser of every county
0056 wherein the property to be assessed is located, a full and com-
0057 plete statement of assessment relative to such property as re-
0058 quired by blank forms prepared or approved for the purpose by
0059 the director of property valuation to elicit the information nec-
0060 essary to fix the valuation of the property, the appraiser shall
0061 ascertain the assessed value of the property of such taxpayer, and
0062 shall add 50% thereto as a penalty for failing to file such state-
0063 ment.

0064 (d) The board of tax appeals shall have the authority to abate
0065 any penalty imposed under the provisions of this section and
0066 order the refund of the abated penalty, whenever **excusable**
0067 **neglect on the part of the person, corporation or association**
0068 required to make and file the statement of assessment is shown.]

0069 [(e) *The county treasurer shall abate any penalty imposed*
0070 *under the provisions of this section when]the property for which*
0071 *a statement of assessment was not filed as required by law is*
0072 *repossessed, judicially or otherwise, by a secured creditor and*
0073 *such secured creditor pays the taxes and interest due.*

0074 Sec. 2. K.S.A. 1986 Supp. 79-1422 is hereby amended to read
0075 as follows: 79-1422. (a) Any person required to file a statement
0076 listing property for assessment and taxation purposes under the
0077 provisions of this act who fails to make and file such statement on
0078 or before the date prescribed by K.S.A. 79-306, and amendments
0079 thereto, shall be subject to a penalty as follows:

0080 (1) If the statement is filed within 15 days following the date
0081 prescribed by K.S.A. 79-306, and amendments thereto, the ap-
0082 praiser shall, after having ascertained the assessed value of the

[, or whenever]

0083 property of such taxpayer, add 10% thereto as a penalty for late
0084 filing.

0085 (2) If the statement is filed more than 15 but not more than 30
0086 days following the date prescribed by K.S.A. 79-306, and
0087 amendments thereto, the appraiser shall, after having ascer-
0088 tained the assessed value of the property of such taxpayer, add
0089 20% thereto as a penalty for late filing.

0090 (3) If the statement is filed more than 30 but not more than 45
0091 days following the date prescribed by K.S.A. 79-306, and
0092 amendments thereto, the appraiser shall, after having ascer-
0093 tained the assessed value of the property of such taxpayer, add
0094 30% thereto as a penalty for late filing.

0095 (4) If the statement is filed more than 45 days but not more
0096 than 60 days following the date prescribed by K.S.A. 79-306, and
0097 amendments thereto, the appraiser shall, after having ascer-
0098 tained the assessed value of the property of such taxpayer, add
0099 40% thereto as a penalty for late filing.

0100 (5) If the statement is filed more than 60 days but less than
0101 one year following the date prescribed by K.S.A. 79-306, and
0102 amendments thereto, the appraiser shall, after having ascer-
0103 tained the assessed value of the property of such taxpayer, add
0104 50% thereto as a penalty for late filing.

0105 For good cause shown the appraiser may extend the time in
0106 which to make and file such statement. Such request for exten-
0107 sion of time must be in writing and shall state just and adequate
0108 reasons on which the request may be granted. The request must
0109 be received by the appraiser prior to the due date of the state-
0110 ment.

0111 (b) If, within one year following the date prescribed by
0112 K.S.A. 79-306, and amendments thereto, any person shall fail to
0113 make and file the statement listing property for assessment and
0114 taxation purposes or shall fail to make and file a full and com-
0115 plete statement listing property for such purposes, the appraiser
0116 shall proceed to ascertain the assessed value of the property of
0117 such taxpayer, and for this purpose the appraiser may examine
0118 under oath any person or persons whom the appraiser deems to
0119 have knowledge thereof. The appraiser shall, after having ascer-

0120 tained the assessed value of such property, add 50% thereto as a
0121 penalty for failure to file such statement or for failure to file a full
0122 and complete statement.

0123 (c) The board of tax appeals shall have the authority to abate
0124 any penalty imposed under the provisions of this section and
0125 order the refund of the abated penalty, whenever excusable
0126 neglect on the part of the person required to make and file the
0127 statement listing property for assessment and taxation purposes
0128 is shown[.]

0129 (d) *The county treasurer shall abate any penalty imposed*
0130 *under the provisions of this section when the property for which*
0131 *a statement of assessment was not filed as required by law is*
0132 *repossessed, judicially or otherwise, by a secured creditor and*
0133 *such secured creditor pays the taxes and interest due.*

, or whenever

0134 Sec. 3. K.S.A. 1986 Supp. 79-1427a is hereby amended to
0135 read as follows: 79-1427a. (a) If, after one year from the date
0136 prescribed by K.S.A. 79-306, and amendments thereto, for the
0137 listing of tangible personal property, the county appraiser dis-
0138 covers that any tangible personal property which was subject to
0139 taxation in any year or years within four years next preceding has
0140 not been listed or has been underreported for whatever reason,
0141 such property shall be deemed to have escaped taxation. In the
0142 case of property which has not been listed, it shall be the duty of
0143 the county appraiser to list and appraise such property and add
0144 100% thereto as a penalty for escaping taxation for each such year
0145 during which such property was not listed, and it shall be
0146 designated on the appraisal roll as "escaped appraisal" for each
0147 such preceding year or years. In the case of property which has
0148 been listed but underreported, it shall be the duty of the county
0149 appraiser to list and appraise the underreported portion of such
0150 property and add 100% thereto as a penalty for escaping taxation
0151 for each such year during which such property was underre-
0152 ported, and it shall be designated on the appraisal roll as
0153 "escaped appraisal" for each such preceding year or years. If the
0154 owner of such property is deceased, taxes charged as herein
0155 provided shall be levied against the estate of such deceased
0156 person for only three years preceding death and shall be paid by

0157 the legal representative or representatives of such estate. In the
 0158 event that such escaped appraisal is due to any willful or clerical
 0159 error of the county appraiser, such property shall be appraised at
 0160 its fair market value and no penalty shall be added.

0161 (b) A taxpayer with a grievance as to any penalty applied
 0162 pursuant to the provisions of this section, may appeal to the state
 0163 board of tax appeals on forms prepared by the state board of tax
 0164 appeals and provided by the county appraiser. The state board of
 0165 tax appeals shall have the authority to abate and/or refund the
 0166 penalty, whenever excusable neglect on the part of the person
 0167 required to make and file the statement listing property for
 0168 assessment and taxation purposes is shown. No interest shall be
 0169 assessed during the pendency of this appeal.

0170 (c) The provisions of this section shall apply to any tangible
 0171 personal property discovered during the calendar years 1982,
 0172 1983, 1984 and any year thereafter to have escaped appraisal and
 0173 taxation during any such year or any year within four years next
 0174 preceding any such year.

0175 ~~(d) The county treasurer shall abate any penalty imposed~~
 0176 ~~under the provisions of this section when the property which~~
 0177 ~~has been deemed to have escaped taxation is repossessed, judi-~~
 0178 ~~cially or otherwise, by a secured creditor and such secured~~
 0179 ~~creditor pays the taxes and interest due.~~

0180 Sec. 4. K.S.A. 79-332a and K.S.A. 1986 Supp. 79-1422 and
 0181 79-1427a are hereby repealed.

0182 Sec. 5. This act shall take effect and be in force from and
 0183 after its publication in the statute book.

any

imposed under the provisions of this section and order the refund of the abated penalty

, or whenever the property which has been deemed to have escaped taxation is repossessed, judicially or otherwise, by a secured creditor and such secured creditor pays the taxes and interest due

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Assessment and Taxation

Recommends that Senate Bill No. 54

"AN ACT relating to penalties for failure to list property for taxation; providing for abatements thereof upon repossession by secured creditors; amending K.S.A. 79-332a and K.S.A. 1986 Supp. 79-1422 and 79-1427a and repealing the existing sections."

Be amended:

On page 2, in line 68, by striking the period; by striking all in line 69; in line 70, by striking "under the provisions of this section when" and inserting ", or whenever";

On page 4, in line 128, by striking the period; by striking all in line 129; in line 130, by striking "under the provisions of this section when" and inserting ", or whenever";

On page 5, in line 165, by striking all after "abate" and inserting "any"; in line 166, before the comma by inserting "imposed under the provisions of this section and order the refund of the abated penalty"; in line 168, before the period, by inserting ", or whenever the property which has been deemed to have escaped taxation is repossessed, judicially or otherwise, by a secured creditor and such creditor pays the taxes and interest due"; by striking all in lines 175 to 179, inclusive;

And the bill be passed as amended.

Chairperson

SENATE BILL No. 63

By Committee on Assessment and Taxation

1-22

0018 AN ACT relating to property taxation; concerning exemptions
0019 therefrom for personal property held for display or sale at
0020 certain functions; amending K.S.A. 1986 Supp. 79-215 and
0021 repealing the existing section.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 1986 Supp. 79-215 is hereby amended to
0024 read as follows: 79-215. (a) The following personal property is
0025 exempt from all property or ad valorem taxes levied under the
0026 laws of this state:

0027 [(1)] Personal property held solely for sale or display at, and in
0028 connection with, a fair, exposition, trade show/or convention
0029 sponsored or operated by, or held in facilities or on property
0030 wholly or partially owned or operated by, a governmental entity,
0031 a convention or tourism committee created pursuant to K.S.A.
0032 12-1695 or 12-16,101, and amendments thereto, or any other
0033 bureau or office of a governmental entity which promotes con-
0034 vention or tourism activities; or

0035 (2) personal property held solely for sale or display at, and in
0036 connection with, a fair, exposition, trade show, convention, auc-
0037 tion, bazaar or flea market sponsored or operated by a nonprofit
0038 association which (A) promotes convention or tourism activities,
0039 (B) is formed in whole or in part for the promotion of convention
0040 or tourism activities or (C) uses the revenues of such fair, expo-
0041 sition, trade show, convention, auction, bazaar or flea market for
0042 charitable, eleemosynary or educational purposes; *or for the*
0043 *purposes for which the nonprofit association was organized;*

0044 (3) *personal property held solely for sale or display at, and in*
0045 *connection with, a fair, exposition, trade show, convention,*
0046 *auction, bazaar or flea market held on property designated by a*

, auction, bazaar, flea market

.

0047 ~~board of county commissioners for any such purpose.~~

0048 (b) ~~The exemption provided by subsection (a) shall apply~~
0049 ~~regardless of whether the person holding the property is spon-~~
0050 ~~soring or operating the activity giving rise to the exemption or is~~
0051 ~~participating in the activity as a seller or exhibitor.~~

0052 (c) The provisions of this section shall apply to all taxable
0053 years commencing after December 31, 1985 1986.

0054 Sec. 2. K.S.A. 1986 Supp. 79-215 is hereby repealed.

0055 Sec. 3. This act shall take effect and be in force from and
0056 after its publication in the statute book *Kansas register*.

(b) The provisions of K.S.A. 79-213, and amendments thereto, shall not be applicable to property exempted under this section.

(c) Any dispute or grievance arising under this section shall be heard and determined by the board of county commissioners of the county wherein the property subject to the dispute or grievance is located.

(d)