

SPECIAL SESSION - DECEMBER 09, 1989

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at  
Chairperson

11:28 a.m. ~~pm~~ on Saturday, December 9, 1989 in room 514-s of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Revisor's Office  
Tom Severn, Research Department  
Chris Courtwright, Research Department  
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Mark Hixon, Barton County Appraiser  
John Torbert, Association of Counties  
John Luttjohann, Director, Division of Property Valuation, Dept. of Revenue  
Tim Hagemann, representing Haskell, Stevens and Morton Counties  
Keith Farrar, Chairman, Board of Tax Appeals

Chairman Dan Thiessen called the meeting to order at 11:28 a.m. and he called upon Don Hayward to review SB2 as amended by the Committee on Assessment and Taxation.

Don Hayward said SB2 simply extends by one year the reappraisal maintenance program. On the 1st page of (ATTACHMENT 1) the date is changed from 1990 to 1991.

Senator Martin said he had talked with Don, regarding coming at it in a little different way, but the same theory. He said, he tried to get away from sending notices out to everybody next year, because there is a portion of those notices that are not going to change drastically and he didn't think this is what we should have those people doing, considering what we passed in the appeals process. If there is a significant change from last year to this year, I would like to see them be able to do this, he felt this would be a small fraction, compared to what has been sent out, and it will probably vary from county to county, depending on what they have already done.

Chairman Thiessen asked Don Hayward, the way this is drafted it would stop the sending out of notices and stop the viewing of a parcel, and would it also stop equalization as far as the appraiser is concerned?

Don Hayward said no. They could still make adjustments if this passes, and he said it seems the largest problem is in regard to sending out the change of value notices after January 1st. He said, his understanding is if one comparable piece of property changes in value, all the rest of those comparables change and therefore would necessitate the change of value notice. My suggestion to the bill was to put in some kind of limit on the change of value notice, so they would not send them out if the change of value was less than \$1000 or 5% of the value.

Chairman Thiessen recognized Mark Hixon, Barton County Appraiser.

Mark Hixon said he would look for the neighborhoods where he knows has some problems. In neighborhoods where ratio studies show sales ratio values are coming in very uniform and very close to 100% of the sale price, you don't have to go into the neighborhood and change values. He may send out change of value notices in one segment or one neighborhood, but not every one.

After committee discussion, Senator Montgomery said, after the taxpayer gets his tax statement and the taxes are up \$1000 and then the next year it doubles, he said, he just could not see that unless the committee wants to put a freeze in the bill.

Chairman Thiessen recognized Mark Hixon.

Mark Hixon said, a scenario of what may happen, if a taxpayer were to appeal his 1989 value and the county appraiser and the taxpayer got together and agreed on the value, the way it is now we have to reappraise that property for 1990, and maybe the value

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won't change more than \$400 to \$500 and maybe in February of 1990 he gets a change of value notice and maybe his protest hasn't been heard, then what happens when we are required to update values, we run a program where you put all the sales in and it compares the sale price with the features in the home and tries to determine what features of the house should have the values put on it. So each year we take the oldest year of sales off and add the new one. So we would like to make sure we don't wait another 20 years to do this all over again. A lot of people think with the 1990 changes, they will never get back to pace again. He said, his point of view was, this never takes us off of pace, it keeps us on the track.

Senator Oleen said in one of her counties, the appraiser would like a 90 day delay to take care of the problems, and be able to appeal at the local levels for those who could not get into the local appraisers office.

Senator Karr said he wanted to make sure the bill we have before us would encompass what the Department of Revenue wants, and asked if we could have someone from the Department to speak. Chairman Thiessen told Senator Karr he had sent someone to find a representative from the Department of Revenue. Senator Karr said he would like to continue with some other questions until they get here, he asked, Mark Hixon if we don't pass this bill and we continue with the process and you have all these appeals coming to you as a result of opening it up, what are you going to focus on, the 1989 problems?

Mark Hixon said, he does not see where they could avoid working on the 1989 problems and the 1990 problems simultaneously. With the payment under protest and the appeals process we would have to do that anyway. He said just opening up with the 25%, we will have a few more protests than normally, and he said in answer to your question we would focus on both years, and put priority on 1989 over 1990.

Chairman Thiessen recognized John Torbert, Association of Counties.

John Torbert said the Association of Counties wants to keep the process in place and does not support a delay. He said, as he reads the bill, one thing missing is the physical inspection provision.

Chairman Thiessen observed that John Luttjohann, Director of Property Valuation, had arrived. He recognized Senator Karr.

Senator Karr asked Mr. Luttjohann if he would just lay out what the Department of Revenue wants. John Luttjohann said the goal of the Administration is twofold. No. 1 we would like to see the 3rd problem resolved, prior to opening up the process again. The way it stands now, he said as he understands it, the counties are contemplating some change of value notices on all parcels with a \$1.3M value notices going out and at the same time opening up the appeals process. No. 2 Is it fair to have this ongoing maintenance program during this period of time when they are looking at a good bit of activity with the appeals process? No. 3 is funding. If you were to put a moratorium on the ongoing maintenance program, would it free up some funding to refund property tax refunds?

Chairman Thiessen recognized Tim Hagemann, representing Haskell, Stevens and Barton Counties.

Tim Hagemann said the way reappraisals are calculated, they are based on an average cost that was bid up front, mapping and appraisals. In some instances that didn't cover 25% of the cost, but the true cost was the mapping cost in the appraisers office. There is no consideration for those outlying extensions in other offices. He said, if we are going to do what you want, then give us some time and don't fix it, if it isn't broken. He explained to the committee how the computers are set up, and with the information going into them it also takes a lot of hand work.

After committee discussion Chairman Thiessen recessed the meeting at 1:05 p.m.

Chairman Thiessen reconvened the meeting at 1:45 p.m. and turned attention to SCR1605.

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room 514-S, Statehouse, at 11:28 a.m./~~p.m.~~ on Saturday, December 9, 1990.

SCR1605:A RESOLUTION encouraging use of the income approach in determining fair market value and directing the Division of Property Valuation of the Department of Revenue to assist local officials in determining valuation based on income production.

Senator Montgomery moved to recommend SCR1605 favorably for passage, seconded by Senator Langworthy. The motion carried.

Chairman Thiessen said we are back to SB2 and he asked Senator Martin to outline to the committee what the bill does.

Senator Martin said the change is on the first page, half way down, such change in appraised valuation increases the value of such property by 5% or more. He said, this is for both real and personal property which you will find on the first 3 lines. "The county appraiser shall notify each taxpayer in the county annually on or before April 1 for real property and May 1 for personal property, by mail directed to the taxpayer's last know address". He said if the committee wants to take out personal property, we can just strike that from the 3rd line, and put in "if such change in valuation increases the value of any real property". This amendment is silent on the money issue, but he said he believes it is very workable.

After committee discussion Chairman Thiessen called upon John Luttjohann to explain some of the questions the committee discussed.

John Luttjohann said looking at K.S.A. 79-1476 about the middle of page 1, the council suggested language be added that says: "provided however, it shall not be necessary for the county appriaser to update the valuation of real property until tax year 1990". It is rather permissive language. He said he was not aware of any statute that says they have to look at it every year, just every four years and he said, by changing the 1990 to 1991, it would just delay the beginning of that four year period.

Senator Martin said he would move a conceptual amendment, if we could get the revisor to do it, he would combine his proposed amendment with additional language, which the director has also proposed, and make SB2 like we want it to take care of some of the problems.

Chairman Thiessen recognized Keith Farrar.

Keith Farrar said the main thing is for us to be able to bring up, is what you are talking about, the 5%. He suggested allowing the 5% up or down, and he wanted to make sure it is in there. Senator Martin said to scratch personal property, and have his proposed amendment to read, real property.

Tom Severn asked Senator Martin for clarification: "do you want to say for appraised or assessed value"? Senator Martin said he would have no problem with that.

Senator Martin said his motion to amend would read as follows: the county appraiser shall notify each taxpayer in the county annually, on or before April 1st for real property, by mail addressed to the taxpayers last known address, of any change in the classification or appraised valuation of the taxpayers property, if such change in appraised or set valuation increases or decreases the value of any real property by 5% or more.

John Luttjohann reviewed his language for the bill to read as follows: provided however it shall not be necessary for the county appraiser to update the valuation of real property for the tax year 1990.

Senator Martin moved to amend his above amendment into SB2, 2nd by Senator Francisco. The motion to amend SB2 carried.

Senator Martin made a motion to favorably pass SB2 as amended, seconded by Senator Lee. The motion carried.

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Senator Fred Kerr said the bill that came over from the House has a lot of cuts from the Ways and Means Committee and in order to get a cleaner proposal before the Senate, the suggestion is that this committee work up a circuit breaker bill, addressing the major issue and introduce it. Maybe we can get to a starting point where we can have something for the Senate to start with on the circuit breaker problems. You have before you a Circuit Breaker Proposal with four suggested proposals to go into a bill to be introduced. These are just suggestions and if any member wants to change any of them, that is fine. He said, he was told by the Rvisor that the bill could be drafted pretty quick. He said, he had some assistance from John Luttjohann, and Secretary Rolfs in drawing up the policy questions. (ATTACHMENT 2)

After committee discussion Senator Fred Kerr said what we are trying to do is get a skeleton on the basic issues, realizing we cannot work this until we come back on January 8, 1990.

There was committee discussion regarding the constitutional amendment.

Senator Martin said he felt the circuit breaker should be tied to changes in the constitutional amendment.

**It was determined no bills could be passed in the special session, unless pre-filed.**

Senator Fred Kerr said if properly structured we could have a fiscal note when we come to session on January 8, 1990.

Chairman Thiessen said he thought the committee should consider what Senator Kerr said about the length of time involved if we get into the constitutional amendments.

Senator Martin said he did not believe we have to put out a specific amendment, he said he thought, we would have to make a statement that says the people would have an opportunity to have a vote on a new constitutional change in 1990.

Senator Francisco asked if the Ways and Means Committee have considered these recommendations?

Senator Fred Kerr said no, these are the tax values and they are looking mostly at the funding.

Senator Karr said the tax committee is in an awkward situation with the tax issue, we are discussing now and he said, he thought if we are going to try to develop something here and then it goes to the Ways and Means Committee, and if we do a circuit breaker, looking at the list, these are major tax issues, then we should make an outline for the bill. He said, he thought we should be thinking about how we are going to start the session on January 8, 1990 as we phase out this experience and he asked the Chairman for some guidance.

Senator Petty said she had concern about the special session coming to an end and not at least having some skeleton on the table to indicate we were concerned, prepared and interested in addressing this problem. She wanted the message to be clear that we have at least a starting point and both bodies are in agreement.

Senator Martin said he was in favor of making an outline, but he thought the committee should be truthful, as he does not feel this is going to correct the problem, because he felt, it is not long term and won't address the problem which is the reason we are here. He supported the circuit breaker proposal, but thought it was shallow and if anyone thinks the problem is not in the constitutional amendment, then get the income tax and the sales taxes out there, forward on the table so it can be reduced enough to take care of the problems out there.

Senator Petty said this has given us the opportunity to look at the whole tax structure and the revenue mix, of the state, and she thinks when we come back we should be looking at the classification. Coming to an agreement on an outline on the circuit breaker is a major problem that has to be dealt with.

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Chairman Thiessen said we don't know how much impact there will be in the legislation that we have passed on the problem, we have opened the appeals process and we don't know how much impact that will have, but it won't take too long to get some direction it will make, and he said jumping into a constitutional change at this point is premature. We really don't know the ramifications.

Senator Francisco said there are a lot of constituents in Wichita that would like to see a lot of the issues we have discussed put back on the ballot.

Chris Courtwright said we need a 2/3 vote in both Chambers for this.

Chairman Thiessen told the members not to forget why we had the constitution amended in the first place, it was because there was going to be tremendous shifts in tax loads and he asked the committees' pleasure on the circuit breaker and if the committee wants to introduce it?

Senator Martin moved to adjourn the meeting, motion died for lack of a second.

Senator Langworthy moved a motion to pre-file for the bills in front of us for the regular session starting in January.

There was committee discussion on the bills we have in this committee meeting, and Chairman Thiessen called for a second on the above motion by Senator Langworthy.

The motion by Senator Langworthy was seconded by Senator Lee. The motion carried.

Senator Martin moved a motion to introduce a broad constitutional change next year.

Chairman Thiessen said with a motion of that magnitude he feels the members should have more knowledge of what they are voting on.

Senator Martin said he could make his motion with no more changes than 10% per class than was in the 1988 classes. The motion by Senator Martin, closed with no second.

Chairman Thiessen said it was not on the agenda but he did allow discussion on it, and he adjourned the meeting at 3:28 p.m.

Proposed Amendment to SB 2

"Sec. 1. K.S.A. 79-1460 is hereby amended to read as follows: 79-1460. (a) The county appraiser shall notify each taxpayer in the county annually on or before April 1 for real property and May 1 for personal property, by mail directed to the taxpayer's last known address, of any change in the classification or appraised valuation of the taxpayer's property, ~~except that, in the year in which valuations for real property established pursuant to the program of statewide reappraisal are first applied as a basis for the levy of taxes, such notice in the case of real property shall be mailed on or before March 1 if~~ such change in valuation increases the value of any such property by 5% or more. For the purposes of this section and in the case of real property, the term "taxpayer" shall be deemed to be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk. ~~Except for the year in which valuations for real property established pursuant to the program of statewide reappraisal are first applied as a basis for the levy of taxes,~~ Such notice shall specify separately both the previous and current appraised and assessed values for the land and buildings situated on such lands. In the year following the year in which valuations for tangible property established under the program of statewide reappraisal are applied as a basis for the levy of taxes, and in each year thereafter, such notice shall include the most recent county sales ratio for the particular subclass of property to which the notice relates, except that no such ratio shall be disclosed on any such notices sent in any year when the total assessed valuation of the county is increased or decreased due to reappraisal of all of the property within the county. Such notice shall also contain a statement of the taxpayer's right to appeal and the procedure to be followed in making such appeal.

Failure to receive such notice shall in no way invalidate the classification or appraised valuation as changed.

(b) -- Prior -- to -- January -- 17 -- 1989, the county appraiser shall notify each owner of improved real estate upon forms devised and provided by the director of property valuation of the criteria upon which the valuation of such property was obtained, except that the director may waive the provisions of this sentence in any case where a county appraiser has substantially complied therewith or in any other case deemed necessary."

## Circuit Breaker Proposal

1. Definition of Commercial Property as those classified as commercial by the appraiser
2. Applicants would be required to meet two tests to qualify:
  - A. Small Business Test - KSA 75-6003
  - B. Income Test of \$50,000 average federal taxable income for the previous 3 years.
3. Refund is on a taxpayer basis - not per parcel.
4. Qualification would entitle taxpayer to 50% of the increase above a 100% increase or \$2,500, whichever is less.

ATTACHMENT 2  
Senate Assessment & Taxation  
SPECIAL SESSION  
Friday, December 9, 1989



Charles Warren  
December 4, 1989

Commercial  
Relief

### Circuit Break Property Tax Relief Proposals

The Senate and House Committees on Taxation have recommended both residential and commercial circuit breaker tax relief proposals to assist taxpayers in meeting the dramatic increases in their property tax bills. These proposals have huge price tags -- possibly as high as \$100 million or more. They envision granting relief to those who have experienced tax increases of 100 percent or more.

Tax relief proposals based on a percentage increase in the tax liability pose a number of problems:

1. The costs are inordinately expensive because so many taxpayers would qualify.

2. They are inequitable, in that they fail to discriminate between taxpayers who had underpaid for years and those whose tax increases are directly a result of changes in classification, or to account for tax increases as a result of voter approved increases in mill levies.

3. They bear no relationship, necessarily, to ability to pay. There is no test as to whether the property or taxpayer can bear the tax liability.

Tax relief should be provided to those taxpayers whose 1989 property tax liability, minus any offsetting reductions in personal property taxes, exceeds the average property tax bill for that class of property.

This above average test for tax relief can be applied by using the "effective tax rate" measure of tax liability. Effective Tax rate is calculated as:

[mill rate] X [actual assessment ratio]. Converted to percentage of true market value. (For practical purposes, the appraised value would be assumed to be the true market value.)

The effective tax rate can be calculated on a statewide basis or a countywide basis, using either the average county mill levy rate or the average state mill levy rate (for the latter it is 108.27 in 1989).

Tables on the next page provide examples for commercial and residential properties using the statewide average.

COMMERCIAL

Appraised Value: \$100,000  
Assessed Value  
@ 30%: 30,000  
Average Mill Levy: 108.27

Average Tax, 30 X 108.27 = \$3,248.10  
Effective Tax rate = 3.25 percent

RESIDENTIAL

Appraised Value: \$100,000  
Assessed Value  
@ 12%: 12,000  
Average Mill Levy: 108.27

Average Tax, 12 X 108.27 = \$1,299.24  
Effective Tax Rate = 1.29 percent

*Concurrent*  
SENATE RESOLUTION NO. 1605

By Senators D. Kerr, Bond and Harder

*Concurrent*  
A RESOLUTION encouraging use of the income approach in determining fair market value and directing the division of property valuation of the department of revenue to assist local officials in determining valuation based on income production.

WHEREAS, As the County Appraisers, Boards of Equalization and Board of Tax Appeals consider commercial and industrial taxpayer appeals, they will consider valuations on the basis of income production as well as replacement cost and comparable sales; and

WHEREAS, Particular consideration should be given to a property's income production based on actual income or income of comparable property: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That it is the sense of the Senate that the income approach has been under utilized when determining fair market values; and

Be it further resolved: That the Division of Property Valuation of the Department of Revenue shall provide to county appraisers and hearing officials detailed instruction of the methods of determining valuation based on income production including written materials to aid local officials on income approach appraisal and where needed provide staff of the Division of Property Valuation to train such local officials; and

Be it further resolved: That the Division of Property Valuation shall prepare simplified forms and instructions for commercial and industrial taxpayers to assist such taxpayers in making appeals based upon the income method of valuation; and

Be it further resolved: That the Secretary of the ~~Senate~~ *State* be directed to send an enrolled copy of this resolution to the Secretary of Revenue, to the Director of Property Valuation and to each member of the State Board of Tax Appeals.

## Commercial Circuit Breaker Questions

1. What is meant by Commercial Property? Does it include personal property, apartments, vacant lots, trailer parks, masonic lodges, etc. There is no commercial classification in the amendment - everything falls under "All Other".
2. Are we talking about a per parcel approach or total taxes paid by an owner? Do we have any audit capacity?
3. When comparing 1988 to 1989, do we include personalty (ie inventories) when doing the comparison.
4. How are changes in property to be considered? New building on a vacant lot, remodeling of an existing building, additions to an existing building.
5. What happens if title is held in different name? Corporate subsidiaries, partnerships, sole proprietorships, husband/wife, etc.
6. Equity - With a solid threshold, the owner of property who has seen a 99% increase in their taxes will wind up paying more than someone with 101% increase in their taxes.
7. How do we handle mixed use properties?
8. Should the circuit breaker be limited to small business? If so, how do we define small business?
9. Should commercial circuit breaker relief be means tested as it is in the residential homestead program? If so, what should the income threshold be?
10. Should we provide for a "renters" commercial circuit breaker where property taxes are passed through to the small businessman?
11. *Charles Warren's effective tax rate test.*

(c) The secretary of aging shall prepare annually a report evaluating the effectiveness of the older Kansans employment programs and recommending measures to increase the number of older Kansans gainfully employed. The report shall be prepared and made available annually to the governor, members of the legislature, the secretary of human resources and the members of the advisory council on aging no later than December 15 in any year.

(d) As used in this section, "older Kansan" means a resident of the state of Kansas who is 55 years of age or older.

History: L. 1982, ch. 333, § 1; July 1.

#### Article 60.—KANSAS SMALL BUSINESS PROCUREMENT ACT

##### Cross References to Related Sections:

Division of purchases, department of administration, see 75-3737a et seq.

**75-6001.** Short title. This act may be cited as Kansas small business procurement act.

History: L. 1978, ch. 354, § 1; July 1.

**75-6002.** Policy; fair proportion of state purchases and contracts placed with small businesses. Because the existence of a strong and healthy free enterprise system is directly related to the well-being and competitive strength of small businesses and to the opportunity for these small businesses, including those owned and operated by minority persons, to have free entry into business, to grow and to prosper, it is declared to be the policy of this state to ensure that a fair proportion, at least but not limited to ten percent (10%), of the total dollar amount of purchases of and contracts for property and services for the state (including but not limited to supplies, materials, equipment, maintenance, contracted services, repair services and construction) be placed with small businesses. Each state agency shall participate to the extent possible in carrying out this policy.

History: L. 1978, ch. 354, § 2; July 1.

\* **75-6003.** Definitions. As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Small business" means a business which is independently owned and

operated, not dominant in its field of operation and is not an affiliate or division of a larger business.

(b) "Business" means: (1) An entity organized for profit, including but not limited to, an individual, partnership, corporation, joint venture, association or cooperative; or (2) a bona fide nonprofit organization operating primarily for the habilitation, rehabilitation or employment of handicapped persons which employs at least five handicapped persons for every nonhandicapped person who is directly engaged in the manufacture and processing of products by the nonprofit organization.

(c) "Dominant in its field of operation" means exercising a controlling or major influence in a kind of business activity in which a number of businesses are engaged. In determining if a business is dominant, the following criteria, among others, shall be considered: Number of employees; volume of business; financial resources; competitive status or position; ownership or control of materials, processes, patents, license agreements and facilities; sales territory; and nature of business activity. Furthermore, notwithstanding the above criteria, the following businesses shall be deemed dominant in their field of operation: (1) Manufacturing businesses which employ more than 50 persons and have in the preceding three fiscal years exceeded \$3,000,000 gross income annually; (2) general construction businesses which in the preceding three fiscal years exceeded \$4,000,000 gross income annually; (3) all other nonmanufacturing businesses which employ more than 25 persons and have in the preceding three fiscal years exceeded \$1,500,000 gross income annually.

(d) "Affiliate or division of a larger business" means a business which is a subsidiary of or owned in part by a larger business which is dominant in its field of operation, or which is owned in excess of 20% by the partners, officers, directors, majority shareholders or their equivalent, of a larger business which is dominant in its field of operation.

(e) "Small business set-aside" means a purchase request which will be offered to and response accepted only from small businesses.

(f) "Minority person" means a citizen of the United States who is Negro, Hispanic,