

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Representative Jim Braden at
Chairperson

9:00 a.m./~~p.m.~~ on January 18, 1983 in room 519-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Wayne Morris, Research Department
Tom Severn, Research Department
Don Hayward, Revisor of Statutes' Office
Nancy Wolff, Secretary to the Committee

Conferees appearing before the committee:

E. A. Mosher - League of Kansas Municipalities
John Koepke - Kansas Association of School Boards
Rod Bieker - Kansas Attorney General's Office

The meeting was called to order by the Chairman. The first bill for hearing on the agenda was HB 2023 which came out of the Special Committee on Assessment and Taxation. Wayne Morris of staff reviewed the recommendations of this committee and related those recommendations to the bill. (Attachment I)

Rod Bieker of the Attorney General's office appeared to relate information that the bill needs an amendment relating to third class cities and townships in that the legislation last year was to provide a means to maintain the status quo of a 3% maximum taxation for intangibles and the Attorney General has given an opinion to that effect. However, the way it presently reads, some people have argued that a resident of a city of the third class could be paying 5 $\frac{1}{4}$ %. He also stated that an amendment is needed to prevent a resident of a city of the third class from signing a petition or voting in a township election to impose or eliminate the tax.

Ernie Mosher of the League of Kansas Municipalities appeared in support of this bill and offered several amendments of which his organization would be in favor. (Attachment II)

The Chairman announced that the committee would be reviewing this bill and would possibly take action on Thursday of this week.

Mr. Mosher then presented information on a bill relating to the property tax lid which he requested the committee to introduce and have referred back to the committee for review. Representative Rolfs made a motion to introduce this legislation (Attachment III) and have it referred back to the committee. Representative Schmidt seconded the motion. Motion carried.

John Koepke of the Kansas Association of School Boards, appeared to request legislation on behalf of his organization, The Kansas Farm Bureau, Kansas Livestock Association, and the Kansas National Education Association, which would re-introduce HB 2370 of the 1981 session which would provide for local option school district income tax. Representative Rolfs made the motion that this legislation be introduced and Representative Van Crum seconded the motion. The motion carried. Representative R. Frey voted "NO".

Wayne Morris then continued with the review of the bills for hearing. HB 2021 was also a product of the Special Committee on Assessment and Taxation. (Attachment III)

Tom Severn distributed a table which indicates the minimum and maximum rates of corporation income taxes for states. (Attachment IV) This information had previously been requested during the initial informational meetings of the committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION,
room 519-S, Statehouse, at 9:00 a.m. ~~p.m.~~ on January 18, 1983.

The Chairman also stated that HB 2021 will be discussed and action may possibly be taken on Thursday of this week.

The meeting was adjourned at 10:40 a.m.

Recommendations

The Committee recommends that all taxpayers having intangibles tax liability be required to file a return with the Department of Revenue beginning in 1984. The Committee recognizes that local officials are unable to discover or verify many kinds of intangibles income and that state processing of income and intangibles tax forms may encourage taxpayer compliance. County clerks would be required to notify the Department of Revenue of the imposition of the tax by any jurisdiction so that as many of such jurisdictions as possible may be listed on the return distributed by the state.

H.B. 2023

§ 2(a)

§ 1(d)

The Committee recommends the repeal of subsection (l) of section 9 of 1982 H.B. 3142 (Chapter 63, 1982 Session Laws). Subsection (l) duplicates the exemption contained in subsection (d).

§ 5

The Committee recommends requiring that referenda on imposing or eliminating the intangibles tax be held at the general election of the governing body or at state general elections. The Committee recognizes that referenda held at the corresponding primary elections would affect the same tax years anyway, and recommends this change in the hope of ensuring the maximum possible voter participation in such elections.

§ 1(e), (f)

Under current law, a governing body cannot under any circumstances reimpose an intangibles tax following its elimination by referendum. The Committee believes that a local body should have the power to reimpose the tax, realizing that such action probably would not be undertaken unless the circumstances have changed since the election.

§ 1(e),

via 121

Under the old state-imposed intangibles tax, in counties that have adopted the county unit road system, townships would receive sufficient revenues from the tax to fund their adopted budget and the balance was credited to the county general fund. The Committee recommends that townships in such counties receive sufficient revenues from the locally-imposed tax to fund their adopted budgets, and the balance be credited one-half to the county general fund and one-half to the county road and bridge fund.

§ 3

Intangibles income can easily be calculated from the intangibles tax liability. In order to prevent the intangibles income or intangibles tax liability of any individual taxpayers from becoming public information, the Committee recommends that the list of intangibles tax due remain separate and confidential. Enactment of H.B. 2023 would carry out all of the above recommendations.

§ 4

The Committee recommends that the exemption from the tax lid which had been contained in the state-imposed intangibles tax law be reenacted so as specifically to cite K.S.A. 79-5001 to 79-5016, inclusive. Such an exemption had been enacted in 1982 S.B. 891 (K.S.A. 1982 Supp. 79-5019) but that bill did not specifically cite the tax lid law. K.S.A. 79-5003 requires that all acts authorizing exemptions from the tax lid specifically cite the tax lid law. Enactment of H.B. 2021 would carry out this recommendation.

H.B. 2021

Finally, the Committee recommends that counties be authorized to share their part of a countywide sales tax revenue with townships. Under current law, cities, counties, and townships may impose an intangibles tax, but only cities and counties may impose a local sales tax. This change would allow townships to refrain from imposing an intangibles tax and to replace such revenue with revenue other than from a property tax. Enactment of H.B. 2022 will carry out this recommendation.

H.B. 2022 referred to H. Local Govt. Comm.

Respectfully submitted,

November 8, 1982

Sen. Charlie Angell,
Chairperson
Special Committee on Assessment and Taxation

Rep. James Braden,
Vice-Chairperson
Sen. Jim Allen
Sen. Paul Burke
Sen. Bert Chaney
Sen. Joe Warren

Rep. Robin Leach
Rep. Kent Ott
Rep. Richard Schmidt
Rep. John Sutter
Rep. Lawrence Wilbert

Attachment I

Election Dates. After January 1, 1983, electors may petition for a referendum at the next primary or general election held in the taxing subdivision on the question of whether the governing unit shall either eliminate or impose an intangibles tax. Dates of the next primary and general elections of counties, cities and townships, and the tax year for which a referendum held at such election would be effective are shown below:

<u>Unit of Government</u>	<u>Next Primary Election</u>	<u>Next General Election</u>	<u>Tax Year Affected</u>
Counties	August, 1984	November, 1984	1986
Townships	August, 1984	November, 1984	1986
Most Cities	March 1, 1983	April, 1983	1984

- 5 -

However, the statutes may be susceptible to more than one interpretation. For instance, would a city be required to submit the question at the state general election in November, 1984? Would a county, city or township entirely within a unified school district be required to submit the question at a school board election in April? Would a county be required to submit the question if all of the county was included within several unified school districts, each of which had a school board election?

Statement on HB 2023--Local Intangibles Tax

To House Committee on Assessment and Taxation
By E.A. Mosher, Executive Director, League of Kansas Municipalities
January 18, 1983

By city convention action, the League is in support of HB 2023, and its basic thrust of securing information on gross earnings from intangibles to be used in applying future local gross earnings taxes. While the reports we have received as to voluntary taxpayer compliance are very favorable, I suspect we are naive to think that a continuation of the voluntary method used in 1982, and which must again be used in 1983, will be adequate in the future. The psychological advantage of filing informational returns on intangibles gross earnings at the same time a state income tax return is filed is significant.

We do have a couple of suggested amendments to the bill. The first one is simple, and relates to the form of the petition cited on line 77 on page 2 and line 126 on page 4. I suspect most of you here are aware that there is buried in the statutes an article on the sufficiency of petitions, which inferentially "amends" many statutes relating to petitions for a referendum. I assure you that a great many taxpayers do not know this, and their attorneys don't, and there are even some county election officers who forgot it in the past. Article 36 of K.S.A. Chapter 25 contains some important requirements as to the form of petitions, how they are signed and how they are varified. We would suggest, at the end of lines 77 and 126, after the word "petition," the following be inserted, "conforming to the provisions of article 36 of chapter 25 of Kansas Statutes Annotated, as amended." If nothing else, this may prevent a

lot of petitioners being mad at you for writing laws they can't understand.

Secondly, we would like to suggest a substitute for the two sentences beginning on line 70 and ending on line 76, page 2. As written, it requires the county clerk to submit a certified copy of each intangibles tax resolution or ordinance to the director of taxation. We suggest the substitution of the following: "The clerk of each county shall, on or before September 15, 1983 and each year thereafter, certify to the director of taxation of the state department of revenue a list showing the amount of the tax rate levied for the following year, if any, for the county and for each city and township therein."

We think there are several advantages to this approach: First, it provides the revenue department with all the information it needs. Secondly, there does not seem to be any important reason why the county clerks should have to send several hundred ordinances and resolutions to the revenue department, pay the postage, and presumably have the revenue department file them, when a one page list from each county does the same thing. Thirdly, it seems to me that negative (no tax) information is important here. The amendment would require the county clerk to designate those units that do not have the tax, as well as those that do. A large proportion of the existing intangibles tax resolutions and ordinances levied the tax for 1983 "and thereafter." Absent a complete, annual listing as we proposed, I assume the revenue department would need to examine every ordinance every year to see whether it applies to the future year.

Fourth and finally, the amendment facilitates dealing with repealer ordinances and resolutions. To levy the tax,

action must be taken by September 1 of the preceding year (line 65). However, there is no statutory provision as to when it may be repealed! We think a governing body can wait as long as November 1 to repeal the tax, of the year in which it is levied.

If you approve of the concept of a certified listing, instead of the filing of hundreds of certified ordinances and resolutions, the question then arises as to when such listing should be filed with the state. Line 75 and 76 provide that those passed in 1982 shall be certified by July 15, 1983. And you also have line 169 on page 5 which requires the director of taxation to publish the current listings which have been received by July 15.

On the other hand, we have the provisions of line 65 which says that the local government may authorize the tax for the following year by September 1, a date intended to be consistent with budget making and tax levying time.

I frankly find it difficult to believe that the revenue department and the state printing plant have to have this information by July 15, especially if they have a neat list from each county clerk. I would suggest the committee determine when in fact the revenue department needs this information to meet printing deadlines. It would then appear reasonable to back up this date by 10 or 15 days to set the deadline as to when the ordinances and resolutions must be certified to the county clerk and when the county clerk must certify the list to the revenue department. Hopefully, this will permit a deadline of late August or early September.

79-5112. Adjustment for increased valuation of personal property for preparing budgets and determining aggregate limitation upon levy of taxes. For the purpose of preparing budgets and determining the limitation upon the levy of taxes by taxing subdivisions for purposes subject to limitations prescribed by article 50 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, the county clerk and the budget officials of the several taxing subdivisions, in computing an adjustment for increased valuation of personal property, shall ~~in the year 1980 multiply the valuation of motor vehicles subject to taxation under the provisions of this act in each of the taxing subdivisions in such year by thirty percent (30%), and then add the product thereof to the 1980 equalized assessed tangible valuation of personal property subject to ad valorem taxation in each such taxing subdivision. The result shall constitute the adjusted equalized assessed tangible valuation of personal property of each such taxing subdivision in the year 1980. In computing an adjustment for increased valuation of personal property in the year 1981 and in each year thereafter, the county clerk and the budget officials of the several taxing subdivisions shall divide the 1980 equalized assessed tangible valuation of personal property subject to ad valorem taxation of each of the various taxing subdivisions by the 1980 adjusted equalized assessed tangible valuation of personal property of each such taxing subdivision to determine a "percentage factor" for each taxing subdivision in the year 1980. In the year 1981 and in each year thereafter the county clerk and the budget officials of the several taxing subdivisions shall divide the actual equalized assessed tangible valuation of personal property of each taxing subdivision in the current year by the 1980 "percentage factor" for each taxing subdivision. The result shall constitute the adjusted equalized assessed tangible valuation of each taxing subdivision in the current year. The adjusted equalized assessed tangible valuation of personal property shall be utilized from year to year to compute the aggregate amount of ad valorem taxes which each taxing subdivision is authorized to levy for all purposes subject to the limitations prescribed by article 50 of chapter 79 of the Kansas Statutes Annotated. The county clerk and the budget officials of the several taxing subdivisions shall then subtract the estimated amount of moneys which will be apportioned to those funds within the aggregate limitation in the succeeding year in accordance with K.S.A. 1979 Supp. 79-5111 from such aggregate amount for each taxing subdivision computed for the current year or from such aggregate amount for the year 1979, whichever is greater. The result shall be the adjusted aggregate amount which each such taxing subdivision shall be authorized or permitted to levy for all purposes subject to the limitations prescribed by article 50 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, in such year.~~

History: L. 1979, ch. 309, § 12; Jan. 1, 1980.

This bill would amend K.S.A. Supp. 79-5112 to discontinue the future use of the "1980 percentage factor" in determining the maximum authorized growth of county and cities taxes under the tax lid, now used to compensate for the removal of most motor vehicles from local assessment rolls. In lieu of the increasingly obsolete "percentage factor", tax lid calculations would be based on actual, current motor vehicle "valuations", in the same manner as debt limits are now calculated. The provision for deducting actual motor vehicle special taxes from the tax lid limit is not removed.

79-5113. Determination of equalized tangible valuation of taxing subdivision for computation of limitation on bonded indebtedness and other purposes. Motor vehicles subject to taxation under the provisions of this act shall be valued in the year 1980 as provided in subsection (b) of K.S.A. 1979 Supp. 79-5102, but such vehicles shall not be placed on the tax roll for taxation purposes. The assessed tangible valuation of such vehicles in the year 1980 shall be added to the equalized assessed tangible valuation on the tax rolls of each taxing subdivision on November 1, 1980, and the resulting total shall constitute the 1980 equalized tangible valuation of the taxing subdivision for the computation of limitations upon bonded indebtedness and for all other purposes except the levying of taxes and the computation of limitations thereon.

insert

In the year 1981 and each year thereafter ~~the~~ county clerk shall add the taxable value of each motor vehicle as shown on the application for registration, or as otherwise established in the manner prescribed by K.S.A. 1979 Supp. 79-5105 for the purpose of computing the tax upon such motor vehicle, to the equalized assessed tangible valuation on the tax roll of each taxing subdivision in which such motor vehicle has acquired a tax situs, and the resulting total shall constitute the equalized assessed tangible valuation of the taxing subdivision for the computation of limitations upon bonded indebtedness and for all other purposes except the levying of taxes and the computation of limitations thereon.

History: L. 1979, ch. 309, § 13; Jan. 1, 1980.

CHARACTERISTICS OF STATE CORPORATION INCOME TAXES: MINIMUM AND MAXIMUM RATES
AND OTHER ASPECTS OF CURRENT (TAX YEAR 1982) STATE TAX STRUCTURE
FOR STATES IMPOSING A CORPORATION INCOME TAX

State	Rate Structure for 1982 Income		Federal Income Used as Tax Base	Federal Income Tax Deductible	ACRS Allowed	UDITPA Utilized	State	Rate Structure for 1982 Income		Federal Income Used as Tax Base	Federal Income Tax Deductible	ACRS Allowed	UDITPA Utilized
	Minimum	Maximum						Minimum	Maximum				
Alabama	5.00%	5.00%		X	X	X	Montana	6.75	6.75	X		X	X
Alaska	1.00	9.40	X		X	X	Nebraska	4.25	5.95	X		X	X
Arizona	2.50	10.50	X	X	X		New Hampshire	9.08 ^c	9.08 ^c	X		X	
Arkansas	1.00	6.00				X	New Jersey	9.00	9.00	X			
California	9.60	9.60				X	New Mexico	4.00	6.00	X		X	X
Colorado	4.00	5.00	X		X ^d	X ^e	New York	10.00	10.00	X			
Connecticut	10.00	10.00	X		X ^d		North Carolina	6.00	6.00	X		X	X
Delaware	8.70	8.70	X		X		North Dakota	2.00	7.00	X	X		X
Florida	5.00	5.00	X ^d		X		Ohio	4.71 ^c	8.92 ^c	X		X ^d	
Georgia	6.00	6.00	X ^d				Oklahoma	4.00	4.00	X		X	X ^f
Hawaii	5.85	11.00	X		X	X	Oregon	7.50	7.50				X
Idaho	6.50	6.50	X		X	X	Pennsylvania	10.50	10.50	X		X	X
Illinois	6.50 ^a	6.50 ^a	X		X	X	Rhode Island	8.00	8.00	X		X	
Indiana	4.00 ^b	4.00 ^b	X		X	X	South Carolina	6.00	6.00				X
Iowa	6.00	12.00	X	X	X		Tennessee	6.00	6.00	X		X	X
KANSAS	4.50	6.75	X		X	X	Utah	4.00	4.00			X	X
Kentucky	3.00	6.00	X		X	X	Vermont	5.00	7.50	X		X ^d	
Louisiana	4.00	8.00		X	X		Virginia	6.00	6.00	X		X ^d	X
Maine	4.95	6.93	X			X	West Virginia	6.00	6.00	X		X ^d	X ^g
Maryland	7.00	7.00	X		X		Wisconsin	8.69 ^c	8.69 ^c			X	
Massachusetts	8.33	8.33	X		X								
Michigan	2.35	2.35	X			X							
Minnesota	9.00	12.00		X	X ^d								
Mississippi	3.00	4.00			X								
Missouri	5.00	5.00	X	X	X	X ^e							

SOURCE: Commerce Clearing House Inc., State Tax Guide, 2d Ed. (updated through January 3, 1983).

NOTE: The following states currently do not impose a corporation income tax: Nevada, South Dakota, Texas, Washington, and Wyoming.

FOOTNOTES:

- a) Includes 2.50 percent personal property replacement tax.
- b) A tax of 3.00 percent of AGI is also imposed.
- c) Includes temporary surtax.
- d) ACRS modified or partially deferred.
- e) Taxpayers have option to utilize UDITPA.
- f) Applicable to unitary operations.
- g) For allocation of nonbusiness income.