

Approved On: _____

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 7:30 a.m. on April 10, 1985 in room 519 South at the Capitol of the State of Kansas.

All members of the Committee were present.

Committee staff present:

Tom Severn, Legislative Research
Melinda Hanson, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

HB-2604, an act relating to taxation; concerning bank holding companies and savings and loan associations, was explained by Representative Harold Guldner. He said he considered it an evener and much can be learned from the old bank system. He then answered questions from committee members.

Mr. Harley Duncan explained the way the taxing structure would work with holding companies and multi-banks.

Mr. James Turner, president of Kansas League of Saving Institutions, testified as an opponent of HB-2604. He believes the bill discriminates against saving institutions and that a surtax on facilities rather than net income is inconsistent with taxation upon other corporate entities and raises serious constitutional and legal issues. (Attachment 1)

Mr. James Maag, Director of Research Kansas Bankers Association, also spoke as an opponent of HB-2604. He explained several problems and inconsistencies that might arise if this bill passed and asked that it be reported adversely. (Attachment 2) This concluded the public hearing on HB-2604.

Attch. 3

Dr. Severn presented a memorandum which listed possible subjects for 1985 interim study. After considerable discussion, committee members decided to concentrate on the following subjects:

HB-2281 - 2% sales tax, excluding personal property

HB-2343 - distribution of value for electric companies


Economic development

Review of tax structure - a. comprehensive
b. sales, income, or excise tax

Representative Smith moved, second by Representative Moomaw, that HB-2585, be included for interim study. The motion carried.

The minutes of April 9 were reviewed. There were no changes and they were approved as presented.

There being no further business, the chairman adjourned the meeting.



Ed C. Rolfs, Chairman

KLSI Kansas League of Savings Institutions

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

April 9, 1985

TO: HOUSE COMMITTEE ON ASSESSMENT AND TAXATION
FROM: JIM TURNER, KANSAS LEAGUE OF SAVINGS INSTITUTIONS
RE: H.B. 2604 (BANK HOLDING AND S&L BRANCH TAXATION)

The Kansas League of Savings Institutions appreciates the opportunity to appear before the House Committee on Assessment and Taxation in opposition to House Bill No. 2604 which would impose a surtax on the facilities of Kansas banks and savings and loan associations.

We regret that the sponsors of this proposal have chosen to include savings and loan associations in what is obviously retaliatory legislation resulting from the recent passage of multi-bank holding company legislation. Further, we are concerned that such a surtax would be imposed equally upon banks and savings and loan associations while at the same time continuing the disparity in the present privilege tax rates, i.e., banks $4\frac{1}{4}\%/2-1/8\%$ vs. savings and loans $4\frac{1}{2}\%/2\frac{1}{4}\%$.

The inclusion of Section 2 of H.B. 2604 would create a discriminatory situation among savings and loans as 15 associations presently have no branch offices while the remaining 46 associations have 218 branch offices. It is equally discriminatory in that savings and loan branches are included but bank detached facilities, which are branches, are not included.

More importantly the imposition of a surtax on facilities rather than net income is inconsistent with taxation upon other corporate entities and raises serious constitutional and legal issues. There would undoubtedly need to be a court test of such a statute.

Finally, we would point out to the committee that many branch offices are marginally profitable but do serve Kansas communities as convenient depositories and a source of mortgage and consumer loans. If H.B. 2604 were enacted there would need to be serious consideration given by management to the closing of such branches and the withdrawal of service to those communities.

We would request the committee's earliest consideration to reporting H.B. 2604 adversely.

James R. Turner
President

JRT:bw

Attachment 1

4/10/85

GW

MEMORANDUM

To: Members of House
Committee on Assessment
and Taxation

Date: January 23, 1985

From: Kansas Department of Revenue Re: Proof of payment of personal
property taxes

K.S.A. 8-173 provides that a county treasurer shall not accept an application for registration of a vehicle unless the person making such application shall exhibit to such county treasurer either: (1) a receipt showing that all personal property taxes levied against such person for the preceding year, including taxes upon the vehicle, have been paid (1/2 of such taxes if application is made before June 21); or (2) evidence that the vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer, or was otherwise assessed and taxed, or was exempt from taxation under the laws of this state.

The Department would request legislation to amend this statute in two respects. First, the Department would request that the statute be broadened to provide that application shall not be accepted regardless of to whom the same is made. The Department has taken the position that registration shall not issue unless the previous year's taxes are paid. Some companies have taken issue where registration is handled by the division of vehicles that K.S.A. 8-173 precludes the division from refusing registration by its specific reference to county treasurers.

The second request concerns the language underscored in the first paragraph of this memorandum. In the case of State of Kansas and City of Oberlin v. Russell Raulston, the Kansas Court of Appeals was faced with facts where the defendant refused to pay his previous year's taxes on his personal property and received several tickets for operating an unregistered vehicle. In attempting to defend himself, the defendant challenged the constitutionality of K.S.A. 8-173. The court sustained the constitutionality of the statute, but Judge Rees in dissent examined the statute in more detail than the majority. It was his conclusion that the wording "or was otherwise assessed and taxed" contemplates the tax and tag law's method of assessment and taxation and that the defendant should probably have been relieved of the burden of presenting evidence of payment of property taxes on his other property.

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It is my opinion that the legislature did not intend this result arrived at in the dissent. The Department has consistently advised that K.S.A. 8-173 is applicable to the registration of tax and tag vehicles. The procedure is a good enforcement tool for the counties in collecting delinquent property taxes. Certainly, the quoted wording existed in the law prior to the time of enactment of the tax and tag law. I must admit that I have no idea what was contemplated by the Legislature when it originally included this language in the statute, but I do not conceive of any serious problem should it be eliminated. Therefore, it is recommended that the wording "or was otherwise assessed and taxed" be deleted from the statute.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

April 10, 1985

TO: House Committee on Assessment and Taxation

FROM: James S. Maag, Director of Research
Kansas Bankers Association

RE: HB 2604

Mr. Chairman and members of the committee:

Thank you for the opportunity to appear before the committee on HB 2604. We believe Section 1 of the bill is a sharp departure from present corporate tax policy in the state of Kansas and we would strongly oppose its implementation.

Under current law, bank holding companies in Kansas pay a state corporate income tax in the same manner as all other corporations and do not pay a privilege tax as do individual banks. Any bank controlled by a holding company would have already paid a privilege tax on the net income of the bank and therefore, the only tax relating to the bank which the holding company would pay would be on any dividends derived from stock of the bank in the possession of the holding company. In addition, the holding company could possibly have income which would be subject to the state corporate income tax as a result of the activities of other subsidiaries of the holding company as are allowed by the national bank holding company act and Regulation Y.

HB 2604 creates the possibility for double taxation of holding companies since the bill does not indicate the new privilege tax to be imposed upon holding companies would be in lieu of the existing corporate income tax which holding companies pay. There is also some question as to what is meant by "bank holding company" since there is no reference to other Kansas statutes defining a holding company and the present wording of the bill could be interpreted to mean that one-bank holding companies would be subject to this additional taxation. As stated earlier, over 400 Kansas banks are part of one-bank holding companies.

Subsection (b) of Section 1 refers to the "number of banks owned by the bank holding company" and to "ownership" but does not define what the term "owned" or "ownership" means. Subsection (b) also creates a different corporate tax concept in that a privilege tax is going to be imposed upon bank holding companies, not on the basis of the income of the holding company,

but upon the actual number of banks "owned" by the holding company. We believe this is a definite departure from current state tax policy. Under the concept set forth in these subsections, it might be possible for a holding company to own two profitable banks and not be subject to the 1% surtax while another holding company might own three unprofitable banks and be subject to a 1% surtax. It might be also noted that if a holding company owned exactly 10 banks under the provisions of this section, it evidently would not be subject to the "ownership" surtax.

Subsection (c) of Section 1 also imposes an additional surtax of 3% if the assets of the holding company exceed \$10 billion. Again we would note this creates a unique corporate tax concept. SB 102 already limits the amount of deposits which banks in a multi-bank holding company can control within the state of Kansas (no more than 9% of the total deposits of all banks and savings and loans in the state). The practical effect of that restriction is to keep a multi-bank holding company from acquiring over \$3 billion in bank assets. Therefore, the \$10 billion provision which would trigger the 3% surtax would probably have little impact in this century.

We believe any policy changes relating to taxation should receive an in-depth review by the legislature and to single out one type of corporation in Kansas at this point in the session for separate tax and surtax treatment is not justified. We would strongly urge the committee to recommend HB 2604 adversely. We appreciate very much the opportunity to appear on this important matter.

Memorandum

TO: Representative Ed Rolfs, Chairman, House Committee on Assessment and Taxation

RE: Possible Topics for 1985 Interim Study

Listed below are possible subjects of 1985 interim study. They are listed in no particular order.

- ① H.B. 2281 - 2% sales tax, excluding personal property
2. H.B. 2596 - cable TV excise tax
3. H.B. 2460 (part) - property tax exemption for farm trailers
- ④ H.B. 2343 - distribution of value for electric companies
5. H.B. 2375 - state-imposed intangibles tax
6. S.B. 333 - collection of motor vehicle property tax
- ⑦ economic development
8. value-added tax
- ⑨ review of tax structure
 - a. comprehensive
 - b. sales, income, or excise tax (one or more to be studied in depth)
10. monitor/review of proposed federal tax law changes
11. monitor progress of reappraisal

Atch. 3 H. RPT
4/10/85