

Approved On: 3/18/87

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on March 17, 1987 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives VanCrum

Committee staff present:

Tom Severn, Legislative Research
Chris Courtright, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

Mr. Fred Logan testified as a proponent of SB-249 - AN ACT concerning libraries in certain counties; relating to tax levies and the issuance of bonds. (Attachment 1) He discussed the mill level applicable and said that SB-249 applies to Johnson County only. This concluded the public hearing on SB-249.

Chairman Ed C. Rolfs gave a presentation explaining HB-2542 - The Tax Equity and Simplification Act (TESA) of 1987. He said these bills were designed for conformity with the federal law, with major policy objectives being tax simplification, economic development and tax fairness. He distributed a printout showing the effect on different taxpayer groups in Tax Year 1987 and 1988. (Attachment 2)

Ron Gaches, with the Boeing company, appeared as a proponent of HB-2543.

David Litwin, with KCCI, appeared as a proponent of HB-2543 and took no position on HB-2542. (Attachments 3 and 4)

HB-2280, concerning mortgage registration fees, was discussed. Representative Shore moved, second by Roe, that financial institutions be required to file affidavits. Motion carried. Representative Leach moved, second by Wagon, that the provisions of the 1985 interim study on mortgage registration tax be included in the bill. Motion failed 9-9. Representative Lowther moved, second by Pottorff, that HB-2280 be reported favorably as amended. Motion failed.

The committee discussed the public policy implications of HCR-5016 as it relates to prison construction. The committee was fairly divided on whether or not to run the resolution this year.

HB-2222, concerning bonds required for a sales tax license was discussed. Representative Lowther moved, second by Leach, that the bill be amended to allow prepayment of sales tax liability by prepayment for annual filers. Motion carried. Representative Lowther moved, second by Leach that HB-2222 as amended be passed favorably. Motion carried.

The minutes of the previous meeting were approved.

There being no further business, the meeting was adjourned.



Ed C. Rolfs, Chairman

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(913) 362-1170

FRED J. LOGAN, JR.

SCOTT K. LOGAN

MEMORANDUM

To: House Committee on Taxation
From: Fred Logan
Re: Testimony of Fred Logan in Behalf of the Johnson
County Library in Favor of SB 249
Date: March 17, 1987

This memorandum summarizes testimony which I will give at a hearing scheduled before the House Committee on Taxation on Tuesday, March 17, 1987, on SB 249. I am the attorney for the Johnson County Library and will be testifying in behalf of the Board of Directors of that institution in favor of SB 249.

Scope of Legislation. SB 249 amends K.S.A. 12-1257 which, by its terms, applies only to the Johnson County Library. The statute, and SB 249, do not apply to any other county in the State of Kansas.

Purpose of K.S.A. 12-1257. K.S.A. 12-1257 was adopted by the Legislature in 1978. It authorizes the Board of County Commissioners in any county designated as an urban area under K.S.A. 19-2654 to create, either by an annual levy or by the issuance of bonds, a "special fund to be used for the acquisition of sites, and for the constructing, equipping, repairing, remodeling and furnishing of buildings for county library purposes." The only county designated an "urban area" by K.S.A. 19-2654 is Johnson County.

The determination as to whether to make such a levy or issue bonds under the terms of the statute is left to the Board of County Commissioners. In other words, the statute does not impose any kind of mandatory or automatic levy. An election procedure is set out in K.S.A. 12-1257 which would remain unchanged by SB 249.

Purpose of SB 249. SB 249 would retain absolutely intact all of the language contained in the present version of K.S.A. 12-1257 except for the specific numerical figures pertaining to the amount of any possible levy or bond issuance. Under SB 249, the authorization for the annual levy would be increased from one-half mill to one mill and on the issuance of bonds, authorization would be increased from one-half percent of assessed

House Committee on Taxation

March 17, 1987

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tangible valuation to two percent of assessed tangible valuation. The language specifying that the levy and bond issuance is discretionary is retained, as is the language with respect to the election procedure.

Support for SB 249. SB 249 is proposed by the Board of Directors of the Johnson County Library. The bill has been endorsed by the Board of County Commissioners of Johnson County, Kansas.

LEGISLATION NO. 6313: TAX REFORM ACT OF 1986

TAX YEAR 1987
KANSAS TAX EQUITY AND SIMPLIFICATION ACT

Kansas Department Of Revenue

Individual Income Tax In Tax Year 1986
Resident Taxpayers
Impact By Bracket

KANSAS TAX EQUITY AND SIMPLIFICATION ACT

K.A.G.I. Bracket	Married					Single					Total Residents				
	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate
No K.A.G.I.	11,263	0.0%	\$0.00	\$0.00	0.0%	5,789	0.0%	\$0.00	\$0.00	0.0%	17,053	0.0%	\$0.00	\$0.00	0.0%
\$0 \$5,000	14,947	-100.0%	(\$13,775.51)	(\$0.92)	0.0%	104,105	-91.2%	(\$930,848.98)	(\$8.94)	0.0%	119,053	-91.3%	(\$944,624.49)	(\$7.93)	0.0%
\$5,000 \$15,000	73,895	-65.6%	(\$4,585,804.08)	(\$62.06)	0.3%	166,421	-22.8%	(\$6,644,388.78)	(\$39.93)	1.4%	240,316	-31.1%	(\$11,230,192.86)	(\$46.73)	1.1%
\$15,000 \$25,000	98,842	-23.0%	(\$7,880,341.84)	(\$79.73)	1.3%	85,158	2.9%	\$1,424,913.27	\$16.73	3.0%	184,000	-7.8%	(\$6,455,428.57)	(\$35.08)	2.1%
\$25,000 \$35,000	106,947	-5.7%	(\$4,229,856.12)	(\$39.55)	2.2%	34,421	11.2%	\$3,620,510.20	\$105.18	3.6%	141,368	-0.6%	(\$609,345.92)	(\$4.31)	2.5%
\$35,000 \$50,000	118,842	5.6%	\$7,543,801.02	\$63.48	2.9%	15,263	16.9%	\$3,381,959.18	\$221.58	3.7%	134,105	7.1%	\$10,925,760.20	\$81.47	3.0%
\$50,000 \$100,000	78,842	12.3%	\$18,828,520.41	\$238.81	3.4%	6,947	4.5%	\$770,902.04	\$110.96	4.0%	85,789	11.6%	\$19,599,422.45	\$228.46	3.5%
\$100,000 Over	10,947	-3.6%	(\$3,092,423.47)	(\$282.48)	3.8%	1,684	-10.8%	(\$2,300,714.29)	(\$1,366.05)	4.1%	12,632	-5.1%	(\$5,393,137.76)	(\$426.96)	3.8%
Total	514,526	1.3%	\$6,570,120.41	\$12.77	2.7%	419,789	-0.4%	(\$677,667.35)	(\$1.61)	2.8%	934,316	0.9%	\$5,892,453.06	\$6.31	2.7%
Fiscal Impact:			\$6,570,120.41					(\$677,667.35)					\$5,892,453.06		
All Taxpayers:			\$3,348,054.08			Non-Resident:		(\$2,544,398.98)							

SIMULATION NO. 6313A TAX REFORM ACT OF 1986

TAX YEAR 1987
KANSAS TAX EQUITY AND SIMPLIFICATION ACT

Kansas Department Of Revenue

Individual Income Tax In Tax Year 1986
Resident Taxpayers
Impact By Bracket

KANSAS TAX EQUITY AND SIMPLIFICATION ACT

K.A.G.I. Bracket	Married					Single					Total Residents				
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No K.A.G.I.	11,263	0.0%	\$0.00	\$0.00	0.0%	5,789	0.0%	\$0.00	\$0.00	0.0%	17,053	0.0%	\$0.00	\$0.00	0.0%
\$0 \$5,000	14,947	-100.0%	(\$13,775.51)	(\$0.92)	0.0%	104,105	-91.2%	(\$930,848.98)	(\$8.94)	0.0%	119,053	-91.3%	(\$944,624.49)	(\$7.93)	0.0%
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\$25,000 \$35,000	106,947	-5.7%	(\$4,229,856.12)	(\$39.55)	2.3%	34,421	11.2%	\$3,620,510.20	\$105.18	3.7%	141,368	-0.6%	(\$609,345.92)	(\$4.31)	2.6%
\$35,000 \$40,000	50,421	2.1%	\$1,032,984.69	\$20.49	2.8%	7,263	19.4%	\$1,589,255.10	\$218.81	3.7%	57,684	4.5%	\$2,622,239.80	\$45.46	2.9%
\$40,000 \$50,000	68,421	7.7%	\$6,510,816.33	\$95.16	3.1%	8,000	15.2%	\$1,792,704.08	\$224.09	3.9%	76,421	8.7%	\$8,303,520.41	\$108.65	3.2%
\$50,000 \$75,000	64,737	13.0%	\$14,692,142.86	\$226.95	3.4%	5,789	5.6%	\$735,595.92	\$127.06	4.2%	70,526	12.2%	\$15,427,738.78	\$218.75	3.5%
\$75,000 \$100,000	14,105	10.5%	\$4,136,377.55	\$293.25	3.7%	1,158	0.9%	\$35,306.12	\$30.49	4.0%	15,263	9.7%	\$4,171,683.67	\$273.32	3.7%
\$100,000 Over	10,947	-3.6%	(\$3,092,423.47)	(\$282.48)	3.9%	1,684	-10.8%	(\$2,300,714.29)	(\$1,366.05)	4.2%	12,632	-5.1%	(\$5,393,137.76)	(\$426.96)	4.0%
Total	514,526	1.3%	\$6,570,120.41	\$12.77	2.8%	419,789	-0.4%	(\$677,667.35)	(\$1.61)	2.9%	934,316	0.9%	\$5,892,453.06	\$6.31	2.8%
Fiscal Impact:			\$6,570,120.41					(\$677,667.35)					\$5,892,453.06		
All Taxpayers:			\$3,348,054.08			Non-Resident:		(\$2,544,398.98)							

SIMULATION NO. 6314: TAX REFORM ACT OF 1986

TAX YEAR 1988
KANSAS TAX EQUITY AND SIMPLIFICATION ACT

Kansas Department Of Revenue

Individual Income Tax In Tax Year 1986
Resident Taxpayers
Impact By Bracket

KANSAS TAX EQUITY AND SIMPLIFICATION ACT

K.A.G.I. Bracket	Married					Single					Total Residents				
	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate
No K.A.G.I.	11,263	0.0%	\$0.00	\$0.00	0.0%	5,789	0.0%	\$0.00	\$0.00	0.0%	17,053	0.0%	\$0.00	\$0.00	0.0%
\$0 \$5,000	14,947	-100.0%	(\$13,775.51)	(\$0.92)	0.0%	104,105	-99.8%	(\$1,026,248.98)	(\$9.86)	0.0%	119,053	-99.8%	(\$1,040,024.49)	(\$8.74)	0.0%
\$5,000 \$15,000	73,895	-76.6%	(\$5,378,061.22)	(\$72.78)	0.2%	166,421	-33.0%	(\$9,617,433.67)	(\$57.79)	1.2%	240,316	-41.5%	(\$14,995,494.90)	(\$62.40)	0.9%
\$15,000 \$25,000	98,842	-31.9%	(\$10,972,854.08)	(\$111.01)	1.2%	85,158	-1.8%	(\$884,260.20)	(\$10.38)	2.9%	184,000	-14.2%	(\$11,857,114.29)	(\$64.44)	2.0%
\$25,000 \$35,000	106,947	-9.8%	(\$7,291,402.04)	(\$68.18)	2.1%	34,421	8.8%	\$2,949,744.90	\$85.70	3.6%	141,368	-4.0%	(\$4,341,657.14)	(\$30.71)	2.5%
\$35,000 \$50,000	118,842	4.8%	\$6,487,172.45	\$54.59	2.9%	15,263	14.9%	\$3,227,930.61	\$211.49	4.0%	134,105	6.2%	\$9,715,103.06	\$72.44	3.0%
\$50,000 \$100,000	78,842	12.5%	\$19,502,500.00	\$247.36	3.5%	6,947	3.3%	\$622,448.98	\$89.59	4.4%	85,789	11.5%	\$20,124,948.98	\$234.59	3.5%
\$100,000 Over	10,947	-1.8%	(\$1,563,341.84)	(\$142.81)	3.9%	1,684	-11.0%	(\$2,657,448.98)	(\$1,577.86)	4.6%	12,632	-3.9%	(\$4,220,790.82)	(\$334.15)	4.0%
Total	514,526	0.2%	\$770,237.76	\$1.50	2.7%	419,789	-4.2%	(\$7,385,267.35)	(\$17.59)	2.8%	934,316	-1.0%	(\$6,615,029.59)	(\$7.08)	2.7%
Fiscal Impact:			\$770,237.76					(\$7,385,267.35)					(\$6,615,029.59)		
All Taxpayers:			(\$10,417,328.57)			Non-Resident:		(\$3,802,298.98)							

SIMULATION NO. 6314A TAX REFORM ACT OF 1986

TAX YEAR 1988
KANSAS TAX EQUITY AND SIMPLIFICATION ACT

Kansas Department Of Revenue

Individual Income Tax In Tax Year 1986
Resident Taxpayers
Impact By Bracket

KANSAS TAX EQUITY AND SIMPLIFICATION ACT

K.A.G.I. Bracket	Married					Single					Total Residents				
	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Increase	Dollar Change In Liability	Dollar Change Per Return	Effective Rate
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\$0 \$5,000	14,947	-100.0%	(\$13,775.51)	(\$0.92)	0.0%	104,105	-99.8%	(\$1,026,248.98)	(\$9.86)	0.0%	119,053	-99.8%	(\$1,040,024.49)	(\$8.74)	0.0%
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\$35,000 \$40,000	50,421	0.6%	\$306,866.33	\$6.09	2.7%	7,263	16.8%	\$1,501,961.22	\$206.79	4.0%	57,684	3.1%	\$1,808,623.47	\$31.35	2.9%
\$40,000 \$50,000	68,421	7.3%	\$6,180,306.12	\$90.33	3.1%	8,000	13.5%	\$1,725,969.39	\$215.75	4.2%	76,421	8.1%	\$7,906,275.51	\$103.46	3.2%
\$50,000 \$75,000	64,737	13.2%	\$15,101,530.61	\$233.28	3.5%	5,789	4.2%	\$602,857.14	\$104.13	4.5%	70,526	12.2%	\$15,704,387.76	\$222.67	3.6%
\$75,000 \$100,000	14,105	10.7%	\$4,400,969.39	\$312.01	3.9%	1,158	0.5%	\$19,591.84	\$16.92	4.4%	15,263	9.8%	\$4,420,561.22	\$289.62	3.9%
\$100,000 Over	10,947	-1.8%	(\$1,563,341.84)	(\$142.81)	4.0%	1,684	-11.0%	(\$2,657,448.98)	(\$1,577.86)	4.7%	12,632	-3.9%	(\$4,220,790.82)	(\$334.15)	4.1%
Total	514,526	0.2%	\$770,237.76	\$1.50	2.8%	419,789	-4.2%	(\$7,385,267.35)	(\$17.59)	2.9%	934,316	-1.0%	(\$6,615,233.67)	(\$7.08)	2.8%
Fiscal Impact:			\$770,237.76					(\$7,385,267.35)					(\$6,615,233.67)		
All Taxpayers:			(\$10,417,328.57)			Non-Resident:		(\$3,802,298.98)							

HOUSE BILL No. 2542

By Committee on Taxation

2-26

0017 AN ACT relating to income taxation; concerning the determina-
0018 tion of Kansas taxable income of a corporation; amending
0019 K.S.A. 79-32,138 and 79-32,141 and repealing the existing
0020 sections.

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

0022 Section 1. K.S.A. 79-32,138 is hereby amended to read as
0023 follows: 79-32,138. (a) Kansas taxable income of a corporation
0024 taxable under this act shall be the corporation's federal taxable
0025 income for the taxable year with the modifications specified in
0026 this section.

0027 (b) There shall be added to federal taxable income: (i) The
0028 same modifications as are set forth in subsection (b) of K.S.A.
0029 79-32,117, and amendments thereto, with respect to resident
0030 individuals.

0031 (ii) The amount of all depreciation deductions claimed for
0032 any real or tangible personal property upon which the deduction
0033 is allowed by K.S.A. 79-32,161, and amendments thereto.

0034 (iii) The amount of all depreciation deductions claimed for
0035 any property upon which the deduction allowed by K.S.A. 79-
0036 32,168, and amendments thereto, is claimed.

0037 ~~(iv) The amount of any charitable contribution deduction~~
0038 ~~claimed for any contribution or gift to or for the use of any~~
0039 ~~racially segregated educational institution.~~

0040 (c) There shall be subtracted from federal taxable income: (i)
0041 The same modifications as are set forth in subsection (c) of K.S.A.
0042 79-32,117, and amendments thereto, with respect to resident
0043 individuals.

0044 (ii) The federal income tax liability for any taxable year
0045 commencing prior to December 31, 1971, for which a Kansas

*Proposed
Amendment*

(iv) An amount equal to 20% of the dividends not included in federal taxable income and received from any corporation incorporated in the United States or the District of Columbia and having 80% or more of the average of its property and payroll assignable to locations outside of the United States and the District of Columbia.

0046 return was filed after reduction for all credits thereon, except
 0047 credits for payments on estimates of federal income tax, credits
 0048 for gasoline and lubricating oil tax, and for foreign tax credits if,
 0049 on the Kansas income tax return for such prior year, the federal
 0050 income tax deduction was computed on the basis of the federal
 0051 income tax paid in such prior year, rather than as accrued.
 0052 Notwithstanding the foregoing, the deduction for federal income
 0053 tax liability for any year shall not exceed that portion of the total
 0054 federal income tax liability for such year which bears the same
 0055 ratio to the total federal income tax liability for such year as the
 0056 Kansas taxable income, as computed before any deductions for
 0057 federal income taxes and after application of subsections (d) and
 0058 (e) of this section as existing for such year, bears to the federal
 0059 taxable income for the same year.

0060 (iii)(ii) An amount for amortization of the amortizable costs of
 0061 a certified oil production process as computed under K.S.A.
 0062 79-32,161, and amendments thereto.

0063 (iv)(iii) An amount for the amortization deduction for a solar
 0064 energy system allowed pursuant to K.S.A. 79-32,168, and
 0065 amendments thereto.

0066 (iv) For all taxable years commencing after December 31,
 0067 1989, ~~the amount included in federal taxable income pursuant~~
 0068 ~~to the provisions of section 78 of the internal revenue code of~~
 0069 ~~1986, and amendments thereto.~~

0070 (v) For all taxable years commencing after December 31,
 0071 1989, ~~dividends received or deemed to be received from corpo-~~
 0072 ~~rations which are not subject to taxation under the internal~~
 0073 ~~revenue code of 1986, and amendments thereto.~~

0074 (d) If any corporation derives all of its income from sources
 0075 within Kansas in any taxable year commencing after December
 0076 31, 1979, its Kansas taxable income shall be the sum resulting
 0077 after application of subsections (a) through (c) hereof. Otherwise,
 0078 such corporation's Kansas taxable income in any such taxable
 0079 year, after excluding any refunds of federal income tax and
 0080 before the deduction of federal income taxes provided by sub-
 0081 section (e)(ii) shall be the sum of such income allocated as
 0082 provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and

80% of the amount of dividends received from corporations incorporated
 outside of the United States or the District of Columbia. The
 dividends subject to taxation in this Act shall be in lieu of any
 expenses attributable to such dividend income and no recognition of
 the payor's factors shall be allowed.

all

, including those under IRC Sec. 78, from corporations incorporated
 outside of the United States and the District of Columbia.

0083 amendments thereto, plus any refund of federal income tax as
 0084 determined under paragraph (iv) of subsection (b) of K.S.A.
 0085 79-32,117, and minus the deduction for federal income taxes as
 0086 provided by subsection (e)(ii) shall be such corporation's Kansas
 0087 taxable income amendments thereto.

0088 (e) A corporation may make an election with respect to its
 0089 first taxable year commencing after December 31, 1982, whereby
 0090 no addition modifications as provided for in K.S.A. 79-
 0091 32,138(b)(ii) and subtraction modifications as provided for in
 0092 K.S.A. 79-32,138(c)(iii), as those subsections existed prior to their
 0093 amendment by this act, shall be required to be made for such
 0094 taxable year.

0095 New Sec. 2. For all taxable years commencing after De-
 0096 cember 31, 1989, ~~the Kansas taxable income of a corporation~~
 0097 ~~which is required pursuant to 79-32,141, and amendments~~
 0098 ~~thereto, to file a combined report shall not include:~~

0099 ~~(a) Income earned by a corporation with 80% or more of the~~
 0100 ~~average of its payroll and property assignable to a location~~
 0101 ~~outside the 50 states and the District of Columbia to the extent~~
 0102 ~~such income is earned outside the 50 states and the district of~~
 0103 ~~Columbia;~~

0104 ~~(b) income earned by a corporation from its activities con-~~
 0105 ~~ducted in a tax-haven country. As used in this subsection, tax-~~
 0106 ~~haven country is any foreign country, including territories and~~
 0107 ~~possessions of the United States; and~~

0108 ~~(c) income earned by a corporation which is not subject to~~
 0109 ~~taxation under the federal internal revenue code of 1986, and~~
 0110 ~~amendments thereto.~~

0111 Sec. 3. K.S.A. 79-32,141 is hereby amended to read as fol-
 0112 lows: 79-32,141. The director may allocate gross income, deduc-
 0113 tions, credits, or allowances between two or more organizations,
 0114 trades or businesses (whether or not incorporated, or organized
 0115 in the United States or affiliated) owned or controlled directly or
 0116 indirectly by the same interests, if the director determines such
 0117 allocation is necessary to prevent evasion of taxes or to clearly
 0118 reflect income of the organizations, trades or businesses.

0119 New Sec. 4. The provisions of section 3 of this act shall be

a unitary group of corporations combined under K.S.A. 79-32,141 shall not include any corporation which has 80% or more of the average of its property and payroll assignable to locations outside of the United States and the District of Columbia.

0120 applicable to all taxable years commencing after December 31,
0121 1989.

0122 Sec. 5. K.S.A. 79-32,138 and 79-32,141 are hereby repealed.

0123 Sec. 6. This act shall take effect and be in force from and
0124 after its publication in the statute book.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2542

March 17, 1987

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Tax Committee

by

David Litwin

Mr. Chairman, members of the committee. I am David Litwin, representing the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to testify in support of HB 2542.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Mr. Fred E. Ferguson will provide the committee, on behalf of KCCI, with in-depth background information on the tax competition aspects of the problem addressed by this

bill. Mr. Ferguson, Director of State Legislative Affairs for the Committee on State Taxation of the Council of State Chambers of Commerce, is an acknowledged expert on unitary income combination and formula apportionment, especially on interstate tax competition aspects of these issues.

I would like to bring a specific problem to the committee's attention. Executive Order 87-91, entered and effective January 8, 1987, specifically excludes from state corporate tax, for all taxable years beginning after Dec. 31, 1986, "all foreign dividends and gross-ups as defined in Section 78 of the Internal Revenue Code of 1954, as amended." This provision is the same in substance as those contained in lines 0066 to 0073 of HB 2542.

Although there has been some suggestion that the executive order is not valid, it has not been rescinded as far as I am aware. To the contrary, I am advised that some taxpayers have already been given some prospective relief under its terms, and certainly word of this executive order has spread widely through the multinational and multistate business community.

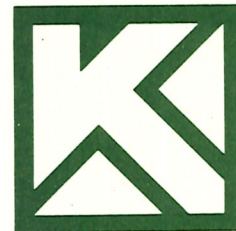
The bill, however, provides that the exclusion of foreign dividends and gross-up applies only to tax years beginning after December 31, 1989. Thus it may well be interpreted as superseding and invalidating the executive order to the extent the latter applies to tax years beginning with 1987.

The result would be a perception of instability and unreliability in Kansas tax policy, which could be very damaging to our economic development efforts. Therefore, I urge the committee to advance the effective dates of at least the exclusion of foreign dividends and gross-up under the bill to tax years beginning after Dec. 31, 1986, in effect ratifying the executive order.

Thank you. If there are any questions, I will try to answer them.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
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HB 2543

March 17, 1987

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Tax Committee

by

David Litwin
Director of Taxation

Mr. Chairman, members of the committee. I am David Litwin, representing the Kansas Chamber of Commerce and Industry. We appreciate the opportunity to testify concerning HB 2543.

Let me say at the outset that we do not have a firm policy position on this complex bill. It is a very major reworking of the individual income tax, however, and represents a number of significant policy choices which will have major ramifications in the areas of tax equity, compliance, and interstate tax competition for economic development. I would like to review some of these choices and outline our concerns.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

First, it appears some increase in conformity is required for both the convenience of taxpayers and the compliance capability of the Department of Revenue. The federal Tax Reform Act of 1986 increased the areas of nonconformity on itemized deductions from nine, already probably too high, to fourteen. Most of these divergences involve relatively little revenue, and conformity seems very sensible.

On the other hand, section 7 of the bill not only updates the date of conformity, but would automatically conform to any future changes in federal itemized deductions. Current conformity is to a specific date, Dec. 31, 1977. I suggest you consider conforming to the federal code as of a date in 1986, and not leave it open-ended. That way, we would not automatically conform to future major shifts in federal itemized deductions, and the legislature would have an opportunity to look at each proposed change.

The proposed reduction in maximum marginal tax rates is helpful, particularly from the viewpoint of interstate tax competition. Our 9% rate is high in the region and is very conspicuous. Reducing it to 7.5% would reduce this very prominent tax disadvantage. However, our neighbors also are considering major tax reform. I am advised that Colorado will likely enact legislation this year that would reduce its top rate to below 6%, and Missouri may also make a dramatic reduction. The fact that we have a moving target suggests proceeding with caution.

Although preliminary figures indicated the bill would be almost revenue neutral, that shouldn't obscure the fact that there will be a great deal of shifting around of existing tax burdens. The elimination of thousands of low-income taxpayers from the rolls, increases in standard deduction and personal exemption, and bracket adjustments will all tend to shift tax burdens onto middle and upper income taxpayers. Even without this bill, the current conformity between federal and state adjusted gross income will result in a considerable tax burden shift. For example, in terms of dollars, 75% of the state revenue windfall will be borne by the relatively small group of taxpayers with adjusted gross incomes of over \$35,000. It appears HB 2543 would shunt even more of this burden upward.

From the viewpoint of tax equity, perhaps this is as it should be. That is a difficult issue in itself. But our state's tax competitiveness is of greater concern today than ever, and we do not operate in a vacuum. Thus we may have an issue similar to that presented by the "booster tax" - whether it is wise to add an extra tax burden to those very people who make decisions about where to invest corporate resources, when our competing states are not doing so. This is of course for you to determine, but we should be clear that we may pay a price for this important shift.

In the end, while our Board has not had an opportunity to decide the issue, I believe if it did it would recommend an interim study on the policy choices presented by this bill. By this autumn, we will have a better view of the tax competition situation since we will know what other states in the region have done. We would have a clearer picture of Kansas' actual fiscal situation, and we would have more time and resources to study the effects of total conformity on itemized deductions. In the end, we might wind up with a bill similar to HB 2543, but if so, it would rest on more solid underpinnings than the bill does at this time.

Thank you. If there are any questions, I will try to answer them.