

Approved April 9, 1987  
Date

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

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

11:00 a.m./~~p.m.~~ on April 8, 1987 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Secretary Harley Duncan, Dept. of Revenue  
Mark Burghart, Dept. of Revenue  
David Litwin, KCCI  
John Moir  
Jon Josseland, City of Wichita  
Howard Partington, City of Great Bend  
Ernie Mosher, Ks. League of Municipalities

Chairman Kerr called the meeting to order and told committee members that after visiting with individual committee members, Senate leadership, House Speaker and Tax Committee Chairman, and with Representatives from the Administration that the conclusion had been reached not to consider further in the 1987 legislative session H.B. 2543. He said that most people feel that this Tax Equity and Simplification Act contained excellent policy and that it would be intended that this bill pass in 1988.

Chairman Kerr then stated that the agenda for the day was to have hearings and possible action on 2210, 2208, 2177, and 2509.

HOUSE BILL 2210

Secretary Harley Duncan testified in support of H.B. 2210. (Att. 1)  
He stated that the bill increases fees for supplying and issuing Consent to Transfer forms from \$1 to \$5. Such forms are used whenever the administrator/executor of an estate seeks to transfer assets such as stocks or other securities which are in the possession of a third party custodian. The House Committee amended the provisions of K.S.A. 79-1580 to increase the fee for a closing letter from \$2 to \$5 and the Consent to Transfer from \$1 to \$2.

He stated that the House Committee also amended certain inheritance tax statutes relating to the clearance of title to real estate. The House Committee amendments permit the separation of the tax determination and title clearance functions performed by the Department. The Department would no longer be required to reproduce a legal description for every parcel of real estate owned by a decedent and to forward these descriptions, along with a tax determination, to every county where the decedent owned real estate.

Secretary Duncan stated there needed to be one technical amendment made on line 70. After the term "director" there should be a period.(.)  
The following word "to" should be capitalized.

Senator Karr made the motion to adopt the technical amendment. Senator Thiessen seconded. Motion carried.

Senator Allen moved that H.B. 2210 be recommended favorably for passage as amended. Senator Mulich seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,  
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~<sup>XXX</sup> on April 8, 19 87

HOUSE BILL 2208

Mark Burghart testified in favor of H.B. 2208. He stated that changes made to K.S.A. 79-1110 in 1981 have made it necessary to make corresponding changes to clarify K.S.A. 79-1107 and K.S.A. 79-1108. In 1981 K.S.A. 79-1110 was amended to change the due date of the privilege tax return from April 15 to "on or before the 15th day of the fourth month following the close of its federal taxable year..."

House Bill 2208, K.S.A. 79-1107 and K.S.A. 79-1108 are changed in an identical manner. The tax is to be measured by the net income for the next preceding taxable year as opposed to the "next preceding calendar or fiscal year."

He noted that the changes proposed in H.B. 2208 mean that K.S.A. 79-1108(a) is unnecessary and it is repealed by the bill. Mr. Burghart stated that the last change in H.B. 2208 at Sect. 3 addresses the question of whether the legislature wants to include federally exempt interest in the measure of the privilege tax. Puerto Rican Bonds interest are an example of the income which is never included in federal taxable income and which is not deducted in arriving at taxable income.

After committee discussion, Senator Mulich moved that H.B. 2208 be passed favorably. Senator Hayden seconded. Motion carried.

HOUSE BILL 2177

David Litwin testified in support of H.B. 2177. (Attachment 2) He said that KCCI has urged the enactment of H.B. 2542, a measure which in the House Taxation Committee which goes further than H.B. 2177. If it does not pass, then KCCI would urge favorable consideration of H.B. 2177. He said this would help Kansas provide a somewhat more attractive economic atmosphere for international companies. He said it would be regarded by the international business community as a positive change in policy and it would hopefully attract business.

He stated that the Executive Order 87-91 relating to inclusion of foreign dividends and grossup is identical in intent to H.B. 2177. This change was a step forward, even though it did not go all the way to establishing the "water's edge" approach that would preclude consideration of all foreign-source income.

In response to a question, Secretary Duncan stated that the fiscal note of the bill would be approximately \$5 million dollars a year, but it would be two or three years before it is fully phased in. Secretary Duncan said that if H.B. 2177 is not passed this year, then the Governor would have to make a decision regarding E.O. Order 87-91 which was issued by Governor Carlin.

HOUSE BILL 2509

Chris Courtwright, Legislative Research Dept. presented information showing the differences between H.B. 2509 and S.B. 407. (Att. 3) It was noted that S.B. 407 goes much further than H.B. 2509.

John Moir testified in support of H.B. 2509. He stated that H.B. 2509, as amended, would allow cities and counties imposing local sales taxes to issue revenue bonds for those public improvements for which the local units also are authorized to issue general obligation bonds. A proposed issuance would be subject to a protest petition signed by not less than 2% of the electors of the city or county who voted at the last general election. He stated that sales tax revenue bonds would enable Wichita and other cities another financing tool for public improvements. Mr. Moir said that he would like to see the protest petition either raised or eliminated.

Jon Jossierand testified in support of H.B. 2509.

Howard Partington testified in support of H.B. 2509. (Att. 4)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,  
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on April 8, 1987

He stated that this bill would provide cities and counties the option of issuing revenue bonds for capital improvements to be paid for with revenue from retailers' sales tax.

Ernie Mosher stated that he supported H.B. 2509, but he would very much like to see S.B. 407 "folded" into H.B. 2509. In that case, the bill would obviously go to conference committee. He stated that we have 4,000 different taxing units, and we are going to have to find some way to jointly finance public improvements.

After committee discussion on H.B. 2509, Senator Frey moved to amend by striking the protest provision from the bill. Senator Allen seconded. Motion carried.

Senator Hayden moved to amend by adding the language "excluding any facilities or improvements to be used for commercial or retail purposes." Senator Salisbury seconded. Motion carried.

Senator Allen moved that H.B. 2509 be recommended favorably for passage as amended. Senator Frey seconded. Motion carried.

Senator Karr made a motion to accept the minutes of the April 7, 1987 meeting. Senator Thiessen seconded. Motion carried.

Meeting adjourned.

ASSESSMENT AND TAXATION

OBSERVERS  
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
4/8/81	David Prager, III	2nd Floor DSOB	Dept. of Rev.
	Jim McBride	Topeka	observer
	MARK McAWARNEY	1209 Williams, Great Bend	City of Great Bend
	Howard D. Partington	" "	" " "
	Olettum	Great Bend	C of C
	Mara Howard	Wichita	City of Wichita
	MARY E. TUBBINGTON	Topeka	Kansas Motor Carriers Assn
	E. Maslow	??	League of Women Voters



KANSAS DEPARTMENT OF REVENUE  
*Office of the Secretary*  
State Office Building · Topeka, Kansas 66612-1588

M E M O R A N D U M

To: The Honorable Fred Kerr, Chairman  
Senate Committee on Assessment and Taxation

From: Harley T. Duncan, Secretary  
Department of Revenue

Re: House Bill 2210

Date: April 8, 1987

House Bill 2210 was originally requested by the Department of Revenue to increase the fees for supplying and issuing Consent to Transfer forms from \$1 to \$5. Such forms are utilized whenever the administrator/executor of an estate seeks to transfer assets such as stocks or other securities which are in the possession of a 3rd party custodian. The House Committee amended the provisions of K.S.A. 79-1580 to increase the fee for a closing letter from \$2 to \$5 and the Consent to Transfer from \$1 to \$2. The Department supports the House Committee amendments.

The House Committee also amended certain inheritance tax statutes relating to the clearance of title to real estate. Under present law, the inheritance tax closing document serves both as conclusive evidence that all taxes have been determined and paid and as the primary means of clearing title to real property. The two statutes which control the issuance of inheritance tax closing documents, K.S.A. 79-1565 and 79-1571, require the Certificate of Non-taxability or the Closing Letter to contain a description of all property reported in the inheritance tax return. These same statutes require the certificate or closing letter to be filed in the office of the register of deeds in each county where any such real property is located when it is not filed with the district court as part of a probate proceeding.

The House Committee amendments permit the separation of the tax determination and title clearance functions performed by the Department. The Department would no longer be statutorily required to reproduce a legal description for every parcel of real estate owned by a decedent and to forward these descriptions, along with a tax determination, to every county where the decedent owned real estate in every case where there are no probate proceedings. The amendatory language would allow the issuance of a closing document which includes only the legal description of property located in the county to which it is issued. The amendments are supported by the Department as a method of reducing the expense and administrative burden of generating information in a series of documents which for the most part is of no particular interest to counties.

ATTACHMENT 1

4-8-87



# 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 2177

April 8, 1987

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Assessment and Taxation 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 today in support of HB 2177.

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.

Some years ago, KCCI's board of directors adopted a policy concerning taxation of multistate and multinational corporations. It provides:

KCCI urges all states to adopt uniform methods for the taxation of corporate net income, gross receipts or capital stock. KCCI supports the right of multi-jurisdictional corporations to file tax returns based upon a separate accounting by legal entity. Where a separate accounting by legal entity is not elected, KCCI supports the application of the Uniform Distribution of Income for Taxation Purposes Act, and the three-factor formula contained in the Act, for determining the taxable income of multi-jurisdictional corporations. However, the Department of Revenue should permit modification of the three-factor formula where its application results in a distortion or misapportionment of taxable income. KCCI opposes the inclusion of foreign source income or foreign source dividends for state taxation purposes.

We feel that Kansas has a serious, and worsening, problem in this area. As you know, a few years ago a sizeable minority of the states adopted "worldwide" combination reporting for multinational corporations. Under this approach, the taxing state adds together all of the income earned by the taxpayer and its affiliates throughout the world, and then apportions part of it back to itself via a formula, typically the "three-factor formula". Thus, under this scheme, imagine a subsidiary of a Japanese company builds a facility in a worldwide state, State X. State X would include in the income hopper that is subject to apportionment all sales of the Japanese parent company and of its other American subsidiaries, wherever they occur on the face of the earth. This scheme, not surprisingly, has proven to be anathema to our trading partners, the federal government, and the companies themselves, and during the last two years the worldwide states have almost unanimously retreated to more moderate assertions of their taxing power. Today, worldwide combination remains in effect in only a handful of states, none of them very large.

Kansas never did adopt worldwide, but it has followed a relatively aggressive "domestic combination" policy which includes all income of corporations operating in Kansas and their affiliates that are organized in the United States, together with foreign dividends and "grossup". KCCI has maintained for some time that this approach is still overly aggressive and tends to discourage multinational companies from establishing facilities here.

Now, with the worldwide bloc almost disappearing while our combination policy has remained unchanged, by standing still we became more conspicuous and relatively more aggressive than ever. This is not good policy from the viewpoint of economic development, since multinational companies are the biggest job creators in the world.

Attached hereto is a chart prepared by the Committee on State Taxation in Washington, D.C. It shows that of the 24 western states ranked, we ranked dead last in encouraging economic development through income tax policy.

It was against this background that Governor Carlin issued Executive Order 87-91 last January 8. The portion of this order relating to inclusion of foreign dividends and grossup is identical in intent to HB 2177. This change was a welcome step forward, even though it did not go all the way to establishing the "water's edge" approach that would essentially preclude consideration of all foreign-source income. The latter would be accomplished if HB 2542 were to be enacted.

We have urged the enactment of HB 2542, pending in the House. If that is not to be, we would urge you to recommend HB 2177 favorably for passage. We believe that this step would move Kansas a considerable distance in the direction of increasing our attractiveness to international companies. The improvement, as projected on the attached chart, would be modest but it would certainly be a helpful first step and would be greeted by the international business community as a very positive change in policy and an indication that we are serious about wanting to attract investment.

Moreover, at this point the executive order has received wide circulation in the worldwide business communities. However, since it arguably conflicts with state income tax legislation, it may be invalid. Rumors have circulated during the session that rescission of the order was imminent. Its foundations are shaky.

If the order were withdrawn or held invalid, then in the absence of new legislation, our tax policy would have to revert to prior law. Such a step would be damaging to our economic interest since it would project globally an image of a state with unstable and unreliable tax policy. Thus, both because HB 2177 is inherently



good policy for our state, and to assure continuity in our tax policy, we urge its passage (again, if HB 2542 is not to be passed).

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

WESTERN STATES RANK IN ENCOURAGING  
ECONOMIC DEVELOPMENT THROUGH INCOME TAX LAWS

<u>State</u>	<u>Type of Income Tax</u>
1. Nevada	No Income Tax
South Dakota	"
Texas	"
Washington	"
Wyoming	"
6. Arkansas	Separate Return
Iowa	"
Louisiana	"
Missouri	"
Oklahoma	"
Wisconsin	"
12. Illinois	True Water's Edge
Arizona	"
Colorado	"
15. Idaho	85% Water's Edge
North Dakota (proposed)	"
Montana (proposed)	"
18. Utah	50% Water's Edge
19. New Mexico	80/20 Excl., Div. Incl.
20. Nebraska	80/20 Incl., Div. Excl.
21. Minnesota	80/20 Incl., 85% Div. Excl.
Oregon	"
23. California	80/20 Incl., 75% Div. Excl.
24. Kansas (pre-Executive Order)	80/20 Incl., Div. Incl.

Kansas after Executive Order would rank #21.

Kansas if equal treatment water's edge would rank #12.

MEMORANDUM

April 7, 1987

TO: Senate Committee on Assessment and Taxation

FROM: Chris Courtwright, Kansas Legislative Research Department

RE: Comparison of H.B. 2509 and S.B. 407

H.B. 2509, as amended by the House Committee on Taxation, would allow cities and counties imposing local sales taxes to issue revenue bonds for those public improvements for which the local units also are authorized to issue general obligation bonds. A proposed issuance, authorized by resolution of the governing body of a city or county, would be subject to a protest petition signed by not less than 2 percent of the electors of the city or county who voted at the last general election. Any election held as a result of such a protest petition could be held in accordance with the Mail Ballot Election Act.

S.B. 407, as amended by the Senate Committee on Economic Development, would allow cities or counties to issue sales tax revenue bonds for those public improvements or facilities for which the local units are authorized to issue general obligation bonds, excluding any facilities or improvements to be used for commercial or retail purposes. Any such issuance, authorized by ordinance of the governing body of a city or by resolution of a governing body of a county, would not be subject to a protest petition.

S.B. 407 would also expand the powers of municipalities regarding their bond issuance authority in a number of other areas, allowing:

municipalities to issue refunding and advance refunding bonds to re-finance interest on outstanding bonds and permits municipalities to invest bond proceeds in other municipal refunding bonds;

municipalities to invest bond issue proceeds in any investment the governing body authorizes by ordinance or resolution;

the creation of separate legal entities by governmental entities entering into interlocal cooperative agreements and grants the power to issue bonds to these separate legal entities;

municipalities to issue general obligation bonds to pay liability insurance premiums;

the change of the maximum interest rate index for municipal bonds from the 20 bond index of tax exempt municipal bonds plus 2 percent to the index of treasury bonds plus 2 percent; and

a change in the definition of revenue bonds to delete the requirement these bonds be paid exclusively from revenue derived from revenue producing facilities.

THE CITY OF GREAT BEND



P. O. BOX 1168 CITY BUILDING  
GREAT BEND, KANSAS 67530

April 8, 1987

TO: Senate Assessment and Taxation Committee

FROM: Howard D. Partington

RE: HB 2509

Chairman Kerr, Assessment and Taxation Committee members and friends, I am Howard D. Partington, City Administrator of Great Bend. I am here to urge your support for HB 2509.

As I understand, HB 2509 provides cities and counties the option of issuing revenue bonds for capital improvements to be paid for with revenue derived from countywide or city retailers' sales tax. This option is attractive to Great Bend for a number of reasons. I will expound on one of the major reasons at this time.

The City of Great Bend has long sought a flood control project. After the devastating flood of 1981, the citizens of Great Bend overwhelmingly voted in favor of proceeding with flood control protection for our community. A countywide sales tax was approved by the voters in Barton County and Great Bend city officials pledged to utilize a substantial portion of sales tax receipts for payment of the flood control project. The project is estimated to have a local cost of \$15,000,000.00. Our residents want the project and have voted to support it. The availability of a financing tool as provided by HB 2509 would be a tremendous aid to our community. It would allow us the opportunity to issue debt to be paid by sales tax revenues and reserve our property tax for operations.

Consideration of HB 2509 is timely since we have been hit with the loss of federal revenue sharing, a decrease in assessed valuation due to lessened oil activity, and increased demands for infrastructure improvements for economic development. Other positive reasons for passage of this bill include issuance of ad valorem debt, funding capital improvements in a unique manner so the property tax would be available for operations, and assisting in the future planning process.

HB 2509 would help Great Bend as it would provide a valuable alternative for the City Council to consider while funding our flood control project. It would help us in other ways in the future. Also, other communities in the state would benefit from the authority to utilize this type of capital improvements debt financing. The City of Great Bend urges your support for HB 2509.

Thank you for your time and consideration.

CITY CLERK  
1209 Williams  
Box 1168  
(316)-793-7881

ADMINISTRATION  
1209 Williams  
Box 1168  
(316) 792-2121

ENGINEERING  
1209 Williams  
Box 1168  
(316) 792-2106

INSPECTION  
1209 Williams  
Box 1168  
(316) 792-2106

STREET  
6th and Morton  
Box 1168  
(316) 793-3991

W

ATTACHMENT 4

4/8/87