

Approved: 3-5-97  
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 18, 1997 in Room 519-S of the Capitol

Committee staff present: Chris Courtwright, Legislative Research Department  
Tom Severn, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Shirley Sicilian, Department of Revenue  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Rep. Cliff Franklin  
Debbie Collins, Johnson County Developmental Disabilities  
Ellen Piekalkiewicz, Assoc. of Community Mental Health Centers  
Shelly Kristine, Kansas Council on Developmental Disabilities  
Tom Laing, InterHab  
Rep. Rocky Nichols  
Rep. Jack Wempe  
Rep. Ted Powers  
James Maag, Kansas Bankers Association  
Matthew Goddard, Heartland Community Bankers Association

Others attending: See attached list

Rep. Ted Powers requested introduction of a bill for a retirement income tax the same for everyone with threshold of \$15,000 or revenue neutral.

Moved by Rep. Donovan, seconded by Rep. Larkin, the committee introduce a bill for a retirement income tax the same for everyone with threshold of \$15,000 or revenue neutral. Motion carried.

Chair opened hearing on:

**HB 2027 - Income tax deduction for long-term care insurance premium costs.**

Proponents:

Rep. Ted Powers (Attachment 1)

Chair closed hearing on **HB 2027**

Chair opened hearing on:

**HB 2077 - Income tax credit for employment of certain disabled persons**

Proponents:

Rep. Cliff Franklin (Attachment 2)  
Debbie Collins, Johnson County Developmental Disabilities (Attachment 3)  
Ellen Piekalkiewicz, Assoc. of Community Mental Health Centers (Attachment 4)  
Shelly Kristine, Kansas Council on Developmental Disabilities (Attachment 5)  
Rep. Rocky Nichols (Attachment 6)

Written testimony only:

Tom Laing, InterHab (Attachment 7)

Chair closed hearing on **HB 2077.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m  
February 18, 1997.

Chair opened hearing on :

**HB 2295 - Exclusion of income for income tax purposes of certain bank stockholders**

Proponents:

James Maag, Kansas Bankers Association (Attachment 8)

Matthew Goddard, Heartland Community Bankers Association (Attachment 9)

Information provided by:

Shirley Sicilian, Department of Revenue (Attachment 10)

Chair closed hearing on **HB 2295.**

Chair opened hearing on :

**HB 2291 - Personal exemption amounts**

Proponents:

Rep. Jack Wempe (Attachment 11)

Chair closed hearing on **HB 2291.**

The next meeting is scheduled for February 19, 1997.

Adjournment.

Attachments - 11

# TAXATION COMMITTEE GUEST LIST

DATE:           FEBRUARY 18, 1997          

NAME	REPRESENTING
<i>Jim Miller</i>	<i>KBA</i>
<i>Mark Bumpert</i>	<del>KBA</del> <i>Voracy &amp; Associates</i>
<i>Gene Schalansky</i>	<i>Ks Dept on Aging</i>
<i>Richard Schutz</i>	<i>SRS</i>
<del><i>Robert Berens</i></del>	<i>INTERD. FSCL</i>
<i>Art Mann</i>	<i>Mis-mn Lumberman</i>
<i>Dave Hattaus</i>	<i>Western Resources</i>
<i>Matthew Goddard</i>	<i>Heartland Community Bankers Assoc.</i>
<i>Alan Holmer</i>	<i>Division of Budget</i>
<i>Kelly Kuetala</i>	<i>City of Overland Park</i>
<i>Bill Anderson</i>	<i>Water Dist No 1 of Jo Co</i>
<i>Harriet Lange</i>	<i>Ks Assn B Casters</i>
<i>E. Piekalkiewicz</i>	<i>Assoc. of CMHCs</i>
<i>Deborah Collins</i>	<i>Johnson County Developmental Supports</i>
<i>Brian Waver, DPM</i>	<i>Junction City Cross Roads of Leadership</i>
<i>Bob Story</i>	<i>Junction City Cross Roads of Leadership</i>
<i>JOE McGee</i>	<i>Junction City Cross Roads of Leadership</i>
<i>Ed. Spiess</i>	<i>Peterson Public Affairs</i>



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
EDUCATION  
GOVERNMENTAL ORGANIZATION AND  
ELECTIONS  
TRANSPORTATION  
INTERIM ON CHILDREN AND FAMILIES

TED POWERS  
REPRESENTATIVE, 81ST DISTRICT  
HAYSVILLE • MULVANE  
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MULVANE, KANSAS 67110  
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ROOM 175-W CAPITOL BLDG.  
TOPEKA, KANSAS 66612  
(913) 296-7653

February 18, 1997

TESTIMONY BEFORE HOUSE TAXATION COMMITTEE ON HB 2027

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2027 is respectfully submitted to your committee.

HB 2027 pertains to adjusted gross income of an individual for tax purposes. The bill would provide that premium costs of long-term care insurance coverage are to be subtracted from federal adjusted gross income for determining state tax liability. The amount allowed would be up to \$1,000, or 50 percent, of the premium costs of long-term care insurance coverage, whichever is less.

HB 2027 would reduce state income tax receipts. However, information related to the number of individuals that would avail themselves of the deduction is not available. Thus, the negative impact to the State General Fund is not known at present. Should the Department of Revenue provide cost estimates, this fiscal note will be revised to reflect those estimates.

A handwritten signature in cursive script that reads "Ted Powers".

STATE OF KANSAS

COMMITTEE ASSIGNMENTS

**CLIFF FRANKLIN**  
REPRESENTATIVE, TWENTY-THIRD DISTRICT  
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MEMBER: EDUCATION  
FEDERAL & STATE AFFAIRS  
TAXATION

TOPEKA

HOUSE OF  
REPRESENTATIVES

**House Bill 2077**  
**Income Tax Credits for Hiring Disabled Workers**  
**February 18, 1997**

Mr. Chairman and fellow colleagues of the taxation committee, I come in support of HB 2077 which allows a one time \$500 tax credit for hiring developmentally disabled and mentally disabled workers.

I feel this is a good policy for the State of Kansas to pursue in the wake of welfare reform. We have many disabled people throughout the state that will be hard working and dependable employees. However, we need some incentives to show many of our service industries the value of hiring these skilled individuals.

I have been on the Friends Board of Directors at Johnson County Developmental Services JCDS for one year and have had my eyes opened to the many trades disabled workers can perform. They work on assembly lines, they cook food, they run laundry machines, and they always provide pleasant company with a big smile. Without further delay, I would like to cut my speech short so the real experts from JCDS can discuss this bill further.

Thank you for consideration of this bill and I stand ready for questions.

House Taxation  
2-18-97  
Attachment 2-1

**House Taxation Committee  
Testimony on House Bill 2077**

**Representative Phill Kline, Chairperson**

**Presented by: Deborah Collins, Director of Community Relations-  
Johnson County Developmental Supports**

**February 18, 1997**

Mr. Chairman and Members of the Committee:

Thank you for allowing me the opportunity to provide some brief comments to your committee regarding House Bill 2077. My name is Deborah Collins, Director of Community Relations for JCDS, Johnson County Developmental Supports. JCDS is a community-based provider of services to people with mental retardation in Johnson County. We currently are serving over 700 people and are proud of the fact that this year marks our 25th anniversary of providing quality services to Johnson Countians with disabilities.

In the 16 years that I have been working in the field of mental retardation, I have found that nothing impacts the lives of our clients more significantly in terms of issues concerning independence than viable employment. And when given a choice, community employment is the preferred employment alternative of Kansans with mental retardation and developmental disabilities, including those with significant disabilities.

Many employers are hesitant to hire workers with disabilities, claiming they "need the biggest bang for their buck," and that workers with disabilities are not always capable of producing the volume of work they require. Even with increased job development and community education efforts on the part of rehab professionals, and the passage of the Americans with Disabilities Act, some employers insist upon tangible incentives before "taking a chance."

Case in point: Many Kansas employers have participated in current and past federal employer incentive programs such as the Work Opportunity Tax Credit and the On-The-Job Training Program. They use these programs to their maximum potential and at the end of the eligibility cycle are often left with employees whom they've discovered are stable, valuable, and contributing members of their staff. However, without these tax credit incentives, a significant number of employers would certainly have been less willing to hire one of our workers, and many of them simply would not have hired a worker with a disability.

There are many inherent problems with these federally funded programs including the fact that Kansas employers are thrown into competition for the funds (which are limited) on a national level. And competition among target groups is stiff. For example, the WOTC is available to

employers hiring individuals from one of seven populations which include veterans, ex-felons, food stamp recipients and summer youth employees, among others. The administration of these programs can get very complicated and, as with all federal programs, their future is uncertain.

Passage of a tax credit bill exclusively to the benefit of Kansas employers who hire persons with disabilities would do many things. Among them are:

1. Increase job opportunities for persons with disabilities.
2. Increase the number of tax paying citizens who are employed in the workforce.
3. Decrease the numbers of persons who are reliant upon "the system" for survival.
4. Promote the ideas and principles of inclusion for all Kansans in the workforce.

Thank you for your time and attention this morning. I would be happy to answer any questions you might have. If you would like more information, feel free to call Mark Elmore, JCDS Executive Director at (913) 492-6161 ex.279 or me at (913) 492-6161 ex. 230.



**Association of Community  
Mental Health Centers of Kansas, Inc.**

700 SW Harrison, Suite 1420, Topeka, KS 66603-3755  
Telephone (913) 234-4773 Fax (913) 234-3189

**Testimony to House Taxation Committee  
on H.B. 2077**

**February 18, 1997**

**Ellen Z. Piekalkiewicz**

**Director of Policy and Planning**

Ron Denney  
President  
Independence

David Wiebe  
President Elect  
Mission

Scott Jackson  
Vice President  
Columbus

Kermit George  
Secretary  
Hays

Keith Rickard  
Treasurer  
Leavenworth

David Boyd  
Member at Large  
Columbus

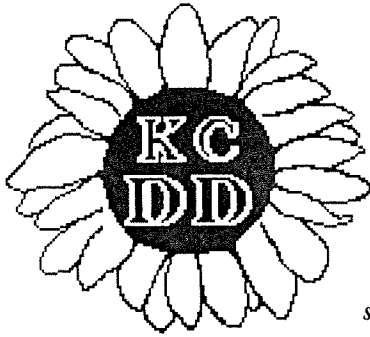
Bill Persinger  
Past President  
Topeka

Paul M. Klotz  
Executive Director  
Topeka

I represent the 30 licensed Community Mental Health Centers (CMHCs) across the state who provide services to approximately 7,000 individuals with mental illness. Since Mental Health Reform passed in 1990 it has been the formal public policy of the State of Kansas to move from a institutional system of care to a community based one. What this has meant is that there are more and more individuals, who have mental illness that are remaining in their own communities for treatment rather than go to a state hospital. In a practical way, what this means in relation to this bill, it is that more and more individuals with mental illness are wanting and needing employment.

One important component of successful reintegration in a community based system of care, is the ability of an individual to find employment. The majority of the 30 CMHCs have vocational counselors. These counselors work with potential employers as well as with the clients themselves. These counselors find that employers are hesitant to employ individuals with mental illness because the stigma of mental illness is hard to break. A state tax credit for employers would encourage employers to take the perceived "risk" of hiring individuals with mental illness. This tax credit could help people find needed employment which is fundamental to their ability to become productive members of their communities.





## ***Kansas Council on Developmental Disabilities***

BILL GRAVES, Governor  
TOM ROSE, Chairperson  
JANE RHYS, Executive Director

Docking State Cf. Bldg., Room 141, 915 Harrison  
Topeka, KS 66612-1570  
Phone (913) 296-2608, FAX (913) 296-2861

*"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"*

### **HOUSE COMMITTEE ON TAXATION**

**2/18/97**

Testimony in Regard to H. B.2077 AN ACT RELATING TO INCOME TAXATION; AUTHORIZING CREDITS FOR THE HIRING OF DEVELOPMENTALLY DISABLED PERSONS.

*To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities.*

Mr. Chairman, Members of the Committee, I am appearing today on behalf of the Kansas Council on Developmental Disabilities in support of H.B.2077, relating to tax credits for employers hiring persons with developmental disabilities and severe and persistent mental illness.

The Kansas Council is a federally mandated, federally funded council composed of individuals who are appointed by the Governor. At least half of the membership are persons with developmental disabilities or their immediate relatives. We also have representatives of the major agencies who provide services for individuals with developmental disabilities. Our mission is to advocate for individuals with developmental disabilities to see that they have choices regarding their participation in society just as you and I have choices.

According to the 1990 Census, 41% of non-institutionalized adults with disabilities aged 16 to 64 are employed. Add severe disabilities to this group, and the percentage plummets to 5%. Compare these figures to those aged 16 to 64 without disabilities who have an employment rate of 96%, and you will find that individuals with disabilities are the most underutilized work force and the most welfare dependent minority in our nation.

However, experiencing a disability is not the only barrier to employment. Despite valiant efforts by advocates to publicize the disabled population as a valuable work force, employer attitudes and fears about hiring persons with disabilities remains. Additional incentives are needed, and the tax credit of \$500 to businesses is a great start.

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Attachment 5-1

The Kansas Council on Developmental Disabilities supports this bill as a win-win piece of legislation. The employer stands to gain a productive employee, most often accompanied with agency supports, and a \$500 state tax credit. The state and federal governments will notice a reduction in benefits paid when an individual is competitively employed, and an expansion of the tax base as the individual will be paying taxes on wages as you and I do. Finally, the individual's gains are immeasurable by dollars or words! The self-esteem and satisfaction of going to a job and being part of a community opens a whole new world of possibilities.

I would like to recommend one change to the bill, and that is to keep the language consistent throughout the text. Lines 14, 36, 40, and 43 use mental retardation and developmental disabilities interchangeably. On lines 37 and 38, the bill refers to the Mental Health and Developmental Disabilities Services as the "division of mental health and retardation services." Developmental disabilities is a broader term that includes mental retardation in its definition; whereas, mental retardation would eliminate persons with cerebral palsy, autism, spina bifida and many others.

Thank you for your time, and I would be happy to stand for questions.

Shelly Krestine, Grants Manager  
Kansas Council on Developmental Disabilities  
Docking State Office Building, Room 141  
915 SW Harrison  
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krestine@idir.net

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STATE REPRESENTATIVE  
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Internet Homepage—  
<http://www.cjnetworks.com/~rnichols>



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AND GENERAL GOVERNMENT  
SUBCOMMITTEE ON KPERS AND  
RETIREMENT ISSUES  
KANSAS FILM COMMISSION

OFFICE  
STATEHOUSE—284 W  
TOPEKA, KANSAS 66612-1504  
(913) 296-7675

## Testimony on HB 2077

Chairman Kline and Members of the House Taxation Committee:

Thank you for the opportunity to testify in favor of House Bill 2077 which would establish a \$500 credit for employers who employ people with developmental disabilities, mental retardation, or severe and persistent mental illness.

One argument in favor of HB 2077 I would like this committee to consider involves hospital closure and the increased burden we are placing on community-based resources. As the state of Kansas continues the movement toward closing both mental retardation and mental health hospitals, we must remember that those actions of closing state hospitals should justifiably cause certain reactions by this Legislature. One reaction should be for this Legislature to step-up and enact legislation that helps empower Kansans with developmental disabilities, mental retardation, and mental illnesses. The bill before you today does just that. The state of Kansas is very fortunate to have numerous good providers of services in the developmental disability and mental health fields. Passage of this bill will help those providers in their continuing search to find jobs for Kansans with developmental disabilities and/or mental illnesses. This increased numbers of Kansans who are placed in the community with developmental disabilities, mental retardation, and mental illness translates into an increased strain on the care providers and social service agencies serving these Kansans. HB 2077 is another tool which can be employed in order to help employ more Kansans with developmental disabilities and mental illnesses. The most successful welfare reform we can engage in involves jobs and valuing work. This bill sends the message that we value Kansans with developmental disabilities, mental retardation, and mental illnesses, and we are going to support efforts to try to help them find gainful employment.

Thank you again for allowing me to testify in favor of HB 2077. I will be happy to answer any questions.

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Attachment 6-1

# Volunteer helps out at KARF and the Legislature

The KARF office and a few members of the Kansas Legislature have been receiving much needed extra office help, thanks to Terry Henry. Terry began volunteering at the KARF office last fall, and at the legislature in January. He enjoys doing office work and says, "It helps me to improve myself on my job skills for an office job, and it helps me get more motivated."

Terry is served by the programs of TARC and Sheltered Living in Topeka, Kan., and has held a variety of community jobs, but has been longing for an office job in the community. His volunteer office jobs have been able to fulfill that need in his life, but working in the community at an office job is an important goal for him.

In addition to working in the KARF office, Terry works in the offices of Reps. Laura McClure and Rocky Nichols. He says he likes working in both the KARF office and the legislators' offices because, "Everyone's almost like a family."

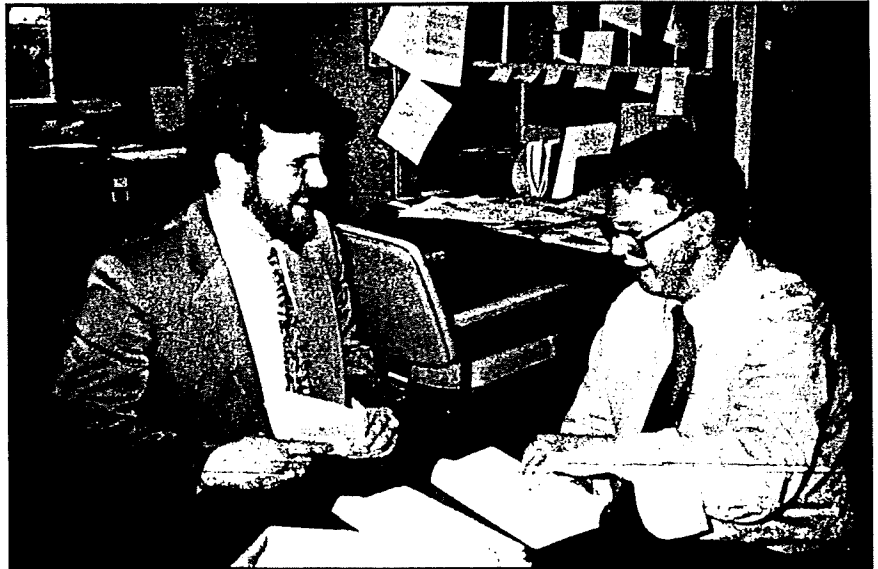
"I thought it was important that while the Legislature makes decisions affecting people with disabilities, that my fellow legislators should see firsthand the many abilities that people with disabilities have," said Rep. Nichols. "The Legislature is currently examining comprehensive MR/DD reform, however there was nobody who works for legislators who is served by MR/DD community programs.

"There are a lot of false perceptions about community programs in the legislature, hopefully Terry's presence in the Capitol can shatter those false perceptions and drive home the importance of community programs."

Terry enjoys his work at the Capitol, he said, "I always wanted to work inside the Capitol building." He thinks it's exciting to be in the Capitol, and is able to keep up on things by being there regularly. He says, "Laura McClure and Rocky Nichols are nice people."

Nichols said he enjoys working with Terry. "Terry's working out great. He's very professional, and he does a very efficient job, and because Kansas legislators don't have paid staff, he fills a real need in my office."

The KARF staff agrees, Terry is a great asset to our office. ♦



Rep. Rocky Nichols and Terry Henry work on a project together at the State Capitol.

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## Please Note:

*Anyone is welcome to reprint in part or whole articles which appear in this newsletter. The editor does ask that credit is given to KARF as the source of the article. Please send a copy of reprinted articles to the KARF office. Thank you.*

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**Kansas Association of  
Rehabilitation Facilities**

700 SW Jackson, Suite 212  
Topeka, Kansas 66603

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February 18, 1997

Testimony to the House Committee on Taxation

Regarding HB 2077: Income Tax Credit for Employment of Persons with Disabilities

Thank you Representative Kline and Members of the Committee:

My name is Tom Laing, Executive Director of InterHab: The Resource Network for Kansans with Disabilities. Our membership includes all 28 of the state's Community Developmental Disability Organizations, as well many of the largest Affiliated Service Providers in Kansas. Services are available through our membership in all Kansas counties. Among the comprehensive services and supports offered by our membership are employment related services, ranging from training programs offered in workshop settings to job placement in regular, competitive employment settings.

We support the enactment of House Bill 2077. This legislation will provide a valuable tool to the community organizations who are engaged in the efforts to find employment opportunities for persons with disabilities.

The ultimate hope in our employment services is to be able to find competitive job placements. It is one of the most important tasks we undertake in the community. Men and women with competitive jobs become increasingly less dependent on government or charitable resources. They want to work, so they can support themselves. Our members work to help them find that sense of dignity and self - worth.

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Attachment 7-1

*Laing to House Committee on Taxation  
RE HB 2077  
2/18/97*

*page two*

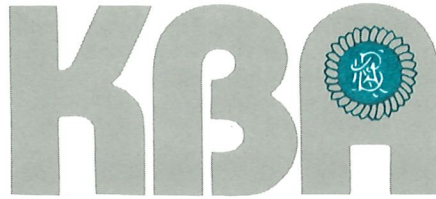
When assisting persons with disabilities to find such jobs, our members are required to go beyond the traditional job placement strategies and resources. They must also secure the willingness of many employers to overcome old biases and take a chance on someone who they may not have previously believed could do the job.

Many years of discriminatory thinking are not easily overcome, but we are finding increasing successes in the business community.

We believe these businesses should benefit from the type of targeted tax credit proposed in HB 2077. We believe it is good public policy to encourage employment of persons who had previously been denied access to the workplace -- to enable them to live more independently, less reliant on government assistance.

Thank you this opportunity to testify.

We would appreciate your support for House Bill 2077.



The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

February 18, 1997

TO: House Committee on Taxation  
RE: **HB 2295** - Taxation of S Corporation Banks

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of **HB 2295**. This bill was requested by the KBA State Affairs Committee which is responsible for developing legislative policy for our association. On behalf of the 410 member banks of the KBA we respectfully request your support of **HB 2295**.

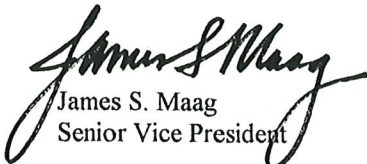
This legislation has been developed as a result of the passage of the Small Business Jobs Security Act by the U. S. Congress in 1996. That act, for the first time, allowed banks to organize as "S corporations". You will often see such entities referred to as "Subchapter S" corporations. As committee members are aware, such corporations do not pay corporate income tax, but the taxable income of an S corporation is prorated among its shareholders and becomes part of the taxable income of each of the shareholders. Only those bank corporations with fewer than 75 shareholders are eligible for S corporation status.

Kansas has a significant number of community banks whose shareholders are interested in pursuing an S corporation status, but in doing so it creates a double taxation problem at the state level under certain circumstances since banks pay a "privilege" tax in lieu of a corporate income tax. We have attached to this testimony a sheet which shows an example of how this unfair taxation could occur.

**HB 2295** would correct the problem and would not impact the amount of revenues currently collected from the banks of Kansas by the state. To create complete state tax equity with non-bank S corporations it would be necessary to eliminate the privilege tax requirements on S corporation banks, but to do so would result in a reduction of revenues currently received by the state since a bank's shareholders are currently paying personal income tax on any dividends paid by the bank while at the same time the bank is paying the state privilege tax on its entire income.

Therefore, we are requesting that the Legislature correct only the most egregious part of the problem by deducting from an S corporation shareholder's taxable income any part of the bank's income which is retained by the bank and not distributed as dividends. This would create at least a "level playing field" with stockholders of non-S corporation banks in Kansas.

We would very much appreciate your favorable consideration of **HB 2295** and we stand ready to furnish to the committee any additional information necessary for your deliberations.

  
James S. Maag  
Senior Vice President

House Taxation  
2-18-97  
Attachment 8-1

Situation: The corporation has earned \$500,000 and has decided to pay \$250,000 in dividends.

	If the corporation is a:		
	<u>C corp Bank</u>	<u>S corp Bank</u>	<u>Regular S corp</u>
Amount subject to federal corporate tax	\$500,000	\$ 0	\$ 0
Amount subject to individual federal tax	\$250,000	\$ 500,000	\$ 500,000
Amount subject to state corporate tax	\$ 0	\$ 0	\$ 0
Amount subject to state privilege tax	\$500,000	\$ 500,000	\$ 0
Amount subject to individual state tax	\$ 250,000	\$ 500,000	\$ 500,000
	_____	_____	_____
Total amount subject to <u>state</u> taxation	\$ 750,000	\$1,000,000	\$ 500,000





Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512  
Topeka, Kansas 66603  
(913) 232-8215

To: House Taxation Committee

From: Matthew Goddard  
Heartland Community Bankers Association

Date: February 18, 1997

Re: House Bill 2295

The Heartland Community Bankers Association appreciates the opportunity to appear before the House Committee on Taxation in support of HB 2295 and to ask for adoption of the attached amendment.

House Bill 2295 is in response to tax changes contained in the Small Business Job Protection Act, passed by Congress and signed into law by President Clinton last August. Congress amended the law to allow financial institutions to elect to be taxed under Subchapter S of the Internal Revenue Code. Subchapter S essentially permits a small business corporation to be taxed like a partnership so that its income and losses are passed through directly to the shareholders' tax returns with no taxation at the corporate level. To qualify for this tax treatment, an institution may have no more than 75 stock holders.

The bill before you today would remove the earnings from the Subchapter S election from an individual's personal state income taxes. Dividends paid would still be taxed.

The attached balloon amendment adds state and federal savings associations and savings banks to the bill. The federal legislation passed last year included thrifts and savings banks on the same terms as commercial banks.

We respectfully request that the House Committee on Taxation adopt the attached amendment and recommend HB 2295 for passage, as amended.

Thank you.

House Taxation  
2-18-97  
Attachment 9-1

1 the right to receive the income or gain, or to a trust or estate from which  
2 the taxpayer received the income or gain.

3 (v) The amount of any refund or credit for overpayment of taxes on  
4 or measured by income or fees or payments in lieu of income taxes im-  
5 posed by this state, or any taxing jurisdiction, to the extent included in  
6 gross income for federal income tax purposes.

7 (vi) Accumulation distributions received by a taxpayer as a beneficiary  
8 of a trust to the extent that the same are included in federal adjusted  
9 gross income.

10 (vii) Amounts received as annuities under the federal civil service  
11 retirement system from the civil service retirement and disability fund  
12 and other amounts received as retirement benefits in whatever form  
13 which were earned for being employed by the federal government or for  
14 service in the armed forces of the United States.

15 (viii) Amounts received by retired railroad employees as a supple-  
16 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
17 *et seq.*

18 (ix) Amounts received by retired employees of a city and by retired  
19 employees of any board of such city as retirement allowances pursuant to  
20 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
21 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
22 amendments thereto.

23 (x) For taxable years beginning after December 31, 1976, the amount  
24 of the federal tentative jobs tax credit disallowance under the provisions  
25 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,  
26 the amount of the targeted jobs tax credit and work incentive credit dis-  
27 allowances under 26 U.S.C. 280 C.

28 (xi) For taxable years beginning after December 31, 1986, dividend  
29 income on stock issued by Kansas Venture Capital, Inc.

30 (xii) For taxable years beginning after December 31, 1989, amounts  
31 received by retired employees of a board of public utilities as pension and  
32 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249  
33 and amendments thereto.

34 (xiii) For taxable years beginning after December 31, 1993, the  
35 amount of income earned on contributions deposited to an individual  
36 development account under K.S.A. 1996 Supp. 79-32,117h, and amend-  
37 ments thereto.

38 (xiv) *For all taxable years commencing after December 31, 1996, that*  
39 *portion of any income of a bank organized under the laws of this state or*  
40 *any other state, ~~or~~ a national banking association organized under the*  
41 *laws of the United States, for which an election as an S corporation under*  
42 *subchapter S of the federal internal revenue code is in effect, which ac-*  
43 *crues to the taxpayer who is a stockholder of such corporation and which*

an association organized under the savings and  
loan code of this state or any other state, or a  
federal savings association organized under the  
laws of the United States,

9-2

**79-1108****TAXATION**

OR the KANSAS taxable income  
 OF shareholders as defined  
 in K.S.A. 79-32, 139 and  
 amendments thereto

of national banking associations and state banks. The state of Kansas hereby adopts the method numbered (4) authorized by the act of March 25, 1926, amending section 5219 of the revised statutes of the United States (12 U.S.C.A. 548), relating to the manner and place of taxing national banking associations located within its limits.

**History:** L. 1963, ch. 463, § 2; L. 1968, ch. 142, § 1; L. 1970, ch. 382, § 1; L. 1972, ch. 359, § 1; L. 1979, ch. 314, § 1; L. 1987, ch. 374, § 1; July 1.

**Source or prior law:**  
 79-1101, 79-1101c.

**Cross References to Related Sections:**  
 Tax credit for investment in stock of Kansas Venture Capital, Inc., see 74-8205.

**Research and Practice Aids:**  
 Taxation ⇐ 980, 1061.  
 C.J.S. Taxation §§ 1096, 1101.

**Attorney General's Opinions:**  
 Tangible personal property of bank is not exempt from taxation. 87-32.

**79-1108. Trust companies and savings and loan associations; tax imposed; rate.** Every trust company and savings and loan association located or doing business within the state shall pay to the state for the privilege of doing business within the state a tax according to or measured by its net income for the next preceding taxable year to be computed as provided in this act. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(a) The normal tax on every trust company and savings and loan association shall be an amount equal to 4½% of such net income; and

(b) the surtax on every trust company and savings and loan association shall be an amount equal to 2¼% of such net income in excess of \$25,000.

The tax levied shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivision thereof upon shares of capital stock or other intangible assets of trust companies and savings and loan associations.

**History:** L. 1963, ch. 463, § 3; L. 1968, ch. 142, § 2; L. 1970, ch. 382, § 2; L. 1972, ch. 359, § 2; L. 1987, ch. 374, § 2; July 1.

**Source or prior law:**  
 79-325a, 79-1101, 79-1101c.

**Cross References to Related Sections:**  
 Tax credit for investment in stock of Kansas Venture Capital, Inc., see 74-8205.

**Research and Practice Aids:**  
 Taxation ⇐ 980, 1061.  
 C.J.S. Taxation §§ 1096, 1101.

**79-1108a.**

**History:** L. 1968, ch. 142, § 3; L. 1972, ch. 342, § 89; Repealed, L. 1987, ch. 374, § 4; July 1.

**79-1109. "Net income" defined; deductions.** As used in this act "net income" shall mean the Kansas taxable income of corporations as defined in K.S.A. 79-32, 138, and amendments thereto, plus income received from obligations or securities of the United States or any authority, commission or instrumentality of the United States and its possessions to the extent not included in Kansas taxable income of a corporation and income received from obligations of this state or a political subdivision thereof which is exempt from income tax under the laws of this state; less dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest paid on time deposits or borrowed money and dividends paid on withdrawable shares of savings and loan associations to the extent not deducted in arriving at Kansas taxable income of a corporation.

Savings and loan associations shall be allowed as a deduction from net income, as hereinbefore defined, a reserve established for the sole purpose of meeting or absorbing losses, in the amount of 5% of such net income determined without benefit of such deduction, but no further deduction shall be allowed for losses when actually sustained and charged against such reserve, unless such reserve shall have been fully absorbed thereby; or, in the alternative, a reasonable addition to a reserve for losses based on past experience, under such rules and regulations as the secretary of revenue may prescribe.

**History:** L. 1963, ch. 463, § 4; L. 1967, ch. 488, § 1; L. 1972, ch. 359, § 3; L. 1979, ch. 314, § 2; L. 1986, ch. 332, § 7; L. 1987, ch. 374, § 3; July 1.

**Cross References to Related Sections:**  
 Investment in Kansas Venture Capital, Inc., see 74-8203.

**Research and Practice Aids:**  
 Taxation ⇐ 980, 1031, 1047.  
 C.J.S. Taxation §§ 1096, 1098, 1099.

**79-1109a. Application of 79-1107 and 79-1109.** The provisions of K.S.A. 79-1107 and 79-1109 shall be applicable to all taxable years commencing after December 31, 1979.

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the share of each beneficiary (including, solely for the purpose of this allocation, resident beneficiaries) in the net amount, determined under subsections (a)(i) and (a)(ii) of this section, shall be in proportion to his or her share of the estate or trust income for such year, under local law or the governing instrument, which is required to be distributed currently and any other amounts of such income distributed in such year. Any balance of such net amount shall be allocated to the estate or trust.

(ii) The director may, by regulation, establish such other method or methods of determining the respective shares of the beneficiaries and of the estate or trust in its income derived from sources within Kansas and in the modifications related thereto as may be appropriate and equitable. Such method may be used by the fiduciary in his or her discretion whenever the allocation of such respective shares under subsections (a) or (b)(i) of this section would result in an inequity which is substantial both in amount and in relation to the total amount of the amount of the modifications referred to in subsection (a)(ii) of this section.

(c) The fiduciary of a resident estate or trust shall withhold and deduct from amounts distributed or distributable to each nonresident beneficiary an amount equal to two and one-half percent (2½%) of that portion of the Kansas nonresident adjusted gross income of such nonresident beneficiary which is derived from such estate or trust. Such fiduciary shall pay to the director the amounts so withheld and deducted concurrently with the filing of the Kansas income tax return of the estate or trust and shall furnish or mail to the last known address of each such nonresident beneficiary two copies of a statement on a form prescribed by the director showing the amount so withheld and deducted from the amounts distributed or distributable to such nonresident beneficiary and such other information as may be prescribed by the director. The amount withheld and deducted shall be allowed as a credit against the income tax otherwise imposed on such nonresident beneficiary under this act, and if the amount withheld and deducted exceeds the income tax liability of such nonresident beneficiary, any excess shall be applied to any other tax owed the state of Kansas by such nonresident beneficiary (including fines, penalties and interest, if any) and the balance of such excess, if any, refunded to such

nonresident beneficiary as provided in K.S.A. 79-32,105(c).

**History:** L. 1967, ch. 497, § 30; L. 1978, ch. 407, § 14; July 1.

**Source or prior law:**  
79-3214.

**Law Review and Bar Journal References:**

Discussion of nonresident's share computation and fiduciary duty to withhold compared to prior law, "The Kansas Conformity Income Tax Act: Part II," Donald L. Cordes, 17 K.L.R. 289, 304, 305 (1969).

**79-32,138. Kansas taxable income of corporations.** (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

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

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

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

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

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

(ii) The federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for such year which bears the same ratio to the total federal income tax liability for such year as the Kansas taxable in-

come, as computed before any deductions for federal income taxes and after application of subsections (d) and (e) of this section as existing for such year, bears to the federal taxable income for the same year.

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

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

(v) For all taxable years commencing after December 31, 1987, the amount included in federal taxable income pursuant to the provisions of section 78 of the internal revenue code.

(vi) For all taxable years commencing after December 31, 1987, 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal taxable income.

(d) If any corporation derives all of its income from sources within Kansas in any taxable year commencing after December 31, 1979, its Kansas taxable income shall be the sum resulting after application of subsections (a) through (c) hereof. Otherwise, such corporation's Kansas taxable income in any such taxable year, after excluding any refunds of federal income tax and before the deduction of federal income taxes provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund of federal income tax as determined under paragraph (iv) of subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduction for federal income taxes as provided by subsection (c)(ii) shall be such corporation's Kansas taxable income.

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

**History:** L. 1967, ch. 497, § 31; L. 1972, ch. 374, § 1; L. 1973, ch. 399, § 1; L. 1976, ch. 433, § 5; L. 1976, ch. 434, § 6; L. 1978, ch. 408, § 2; L. 1980, ch. 316, § 13; L. 1981, ch. 386, § 1; L. 1982, ch. 411, § 1; L. 1982,

ch. 410, § 2; L. 1984, ch. 351, § 19; L. 1987, ch. 386, § 1; L. 1988, ch. 381, § 18; July 1.

**Source or prior law:**  
79-3205, 79-3206.

**Law Review and Bar Journal References:**

Paragraph (b)(ii) cited in survey of business association law, William E. Treadway, 17 K.L.R. 181, 182 (1968).

**79-32,139. Taxation of subchapter S corporate income.** A corporation having an election in effect under subchapter S of the internal revenue code shall not be subject to the Kansas income tax on corporations, and the shareholders of such corporation shall include in their taxable incomes their proportionate part of such corporation's federal taxable income, subject to the modifications as set forth in K.S.A. 79-32,117, and amendments thereto, in the same manner and to the same extent as provided by the internal revenue code.

**History:** L. 1967, ch. 497, § 32; L. 1978, ch. 407, § 15; L. 1984, ch. 351, § 20; July 1.

**79-32,140. Credit for taxes paid in section 337 liquidation.** (a) For corporate liquidations occurring in taxable years commencing prior to January 1, 1984, to the extent that a corporation incurs a Kansas income tax liability by reason of gains realized in a sale or sales which qualify as being exempt from federal income taxation under section 337 of the internal revenue code, such Kansas income tax liability so attributable to such gains shall be allowed as a credit against the Kansas income tax liability of each common stockholder of such corporation in an amount which bears the same ratio to such Kansas income tax liability as the liquidation distribution received or receivable by such common stockholder bears to the liquidation distribution received or receivable by all common stockholders.

(b) (1) Except as otherwise provided in paragraph (2) of this subsection, such credit shall be allowable only in the taxable year or years of each stockholder in which such liquidation distribution is received and taxable years in which payments are received on an installment obligation received by the stockholder as part of the liquidation distribution and shall be limited to the amount of Kansas income tax liability, if any, of such stockholder for such year or years as computed before application of the credit provided by this section and before any credits for withholding or estimated tax payments.

(2) For corporate liquidations occurring after December 31, 1979, such credit shall be

STATE OF KANSAS

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REPRESENTATIVE, ONE HUNDRED THIRTEENTH DISTRICT  
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COMMITTEE ASSIGNMENTS  
MEMBER ECONOMIC DEVELOPMENT  
TAXATION  
SELECT COMMITTEE ON HIGHER EDUCATION  
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

TOPEKA

HOUSE OF  
REPRESENTATIVES

TESTIMONY - H.B. 2291 - 2-18-97 - Jack Wempe

This bill, in its simplest terms, provides that in the event of an unexpected financial windfall, one half of the windfall will be returned to taxpayers in the form of a supplementary personal exemption. It is a policy question as to how such unexpected monies are to be treated. Below are points of interest in regard to the bill:

- \* The proposal is family friendly in the sense that the personal exemption is utilized.
- \* The return of excess receipts is accomplished as quickly as possible through the utilization of the exemption.
- \* The bill contributes to a sense of shared reward in the event our state economy performs beyond expectation.
- \* Personal exemptions are too low as compared to the federal system which has been noted in other introduced bills.
- \* The bill continues to permit the Governor and the Legislature to determine the use of one-half any windfall.
- \* The proposal is doable and simple to administer.

A technical amendment may be necessary to add to the utilized windfall any increased amount received in the previous fiscal year beyond that projected in April.

I urge your support and stand for questions.

House Taxation  
2-18-97  
Attachment 11-1

# HOUSE BILL No. 2291

By Representative Wempe

2-11

11-2

9 AN ACT relating to income taxation; providing for additional personal  
10 exemption amounts; amending K.S.A. 79-32,121 and repealing the ex-  
11 isting section.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 79-32,121 is hereby amended to read as follows:  
15 79-32,121. (a) An individual shall be allowed a Kansas exemption of  
16 ~~\$1,950~~ for tax year 1988; and \$2,000 for each tax year thereafter, for each  
17 exemption for which such individual is entitled to a deduction for the  
18 taxable year for federal income tax purposes. In addition to the exemp-  
19 tions authorized in the foregoing provision, an individual filing a federal  
20 income tax return under the status of head of household, as the same is  
21 defined by 26 U.S.C. 2(b), shall be allowed an additional Kansas exemp-  
22 tion of ~~\$1,950~~ for tax year 1988; and \$2,000 for each tax year thereafter.

23 (b) For tax year 1987, there shall be allowed as a credit against the  
24 tax liability of a resident individual imposed under the Kansas income tax  
25 act who except for the operation of the provisions of K.S.A. 70-32,121  
26 resulting from amendments to the federal internal revenue code would  
27 have been allowed an additional exemption for blindness or age or both  
28 pursuant to such section in tax year 1987, an amount equal to \$60 for  
29 each such exemption. The total amount of such credits shall not exceed  
30 the amount of tax imposed by K.S.A. 70-32,110; and amendments thereto;  
31 reduced by the sum of any other credits allowable pursuant to law. For  
32 any taxable year concurrent with a calendar year in which the joint es-  
33 timate of revenue to the state general fund prepared pursuant to K.S.A.  
34 1996 Supp. 75-6701, and amendments thereto, on or before December 4  
35 of such calendar year exceeds by more than ~~[\$10,000,000]~~ such estimate  
36 prepared on or before April 4 of such calendar year as adjusted by the  
37 estimate prepared pursuant to subsection (b) of K.S.A. 1996 Supp. 75-  
38 6701, and amendments thereto, there shall be allowed to an individual an  
39 additional exemption amount for each exemption for which such individ-  
40 ual is entitled for federal income tax purposes equal to ~~the quotient de-~~  
41 ~~termined by dividing 50% of the total amount of such excess by the ag-~~  
42 ~~gregate number of personal exemptions claimed on all returns in the next~~  
43 ~~preceding taxable year]. Such amount shall be computed and published by~~

\$11,000,000

\$25 per \$5,500,000 of the total amount of such excess