

Approved April 2, 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 1, 1987 in room 519-S of the Capitol.

All members were present except:

Senator Dan Thiessen

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:

Ted Ayres, Kansas Board of Regents
George Miller, Kansas State University
Carol Bonebrake, Department of Revenue
Paul Klotz, Assoc. of Community Mental Health Centers
Yo Bestgen, Ks. Assoc. of Rehabilitation Facilities
Rosemary Kutz, Kaw Valley Girl Scouts Council
Neale Peterson, Mayor, Fairway, Ks.
Peter Levi, Exec. Director of MARC

Chairman Kerr called the meeting to order and said that the agenda for the day was to have a hearing on S.B. 388 and a continued hearing on H.B. 2271.

SENATE BILL 388

Ted Ayres, Kansas Board of Regents testified in support of S.B. 388. He stated that sub-section (c) exempts purchases by educational institutions, including state educational institutions, if the property purchased is used primarily in the programs and activities of the educational institution. This exemption is limited by: "The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation." Senate Bill 388 seeks to delete the "repair" and "equipment" segment from this limitation. He stated that the institutions have not paid sales taxes on expenditures for "maintenance" expenses. The Department of Revenue is currently seeking to assess sales taxes for these expenditures based on its consideration of maintenance items as "repair" or "equipment" expenditures. (Attachment 1 & 2)

He stated that the Dep. of Revenue made an "informal agreement" that any expenditure below \$500 was "maintenance" and any expenditure over \$500 was "repair." The Board of Regents felt this was an unsatisfactory resolution.

He stated that they felt that good maintenance practices require regular repair and equipment of university dormitories. They believe the repair and continued "equipment" (replacement of furniture, etc.) is maintenance and should not be taxable. He stated that the problem comes in defining "maintenance."

George Miller testified in support of S.B. 388. He stated that the university buildings are state owned and are on state property, run by state personnel. He felt it would be improper to have to pass the taxation of these properties on to the students. If the taxes became too much of a burden, the students would hesitate to live in the dorms, which in time could pose a serious problem financially to the universities.

Carol Bonebrake (Attachment 3) testified in opposition to S.B. 388. She stated that S.B. 388 is in response to a Dept. of Revenue audit against a contractor who replaced and repaired dorm windows. The contractor paid an audit and sought reimbursement from the university. Since the Regent's school refused to reimburse the contractor, he sought relief from the Special Claims Committee. After counsel for the Board of Regents contacted the

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

room 519-S, Statehouse, at 11:00 a.m./~~pm~~^{XX} on April 1, 1987.

Department of Revenue to verify whether repairs of and equipment for buildings used primarily for human habitation were subject to sales tax, they found that the Department of Revenue felt they were. The Board of Regents felt this unfair and asked for the opinion of the Attorney General. The Attorney General felt that routine repairs constituted maintenance and were not subject to sales tax.

In this event, the Department of Revenue offered the \$500 consideration. Mrs. Bonebrake stated that current law was designed to treat all housing alike, and that passage of S.B. 388 would give a monetary advantage to certain public housing over private housing. She felt the fiscal note could be substantial. She asked the committee to report this bill unfavorably.

Paul Klotz testified in favor of S.B. 388 and requested an amendment. He asked to include language as follows: "all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community based mental retardation facility or mental health center organized pursuant to KSA 19-4001. (Attachment 4)

He stated that these mental health centers have until recently been exempted from state tax on the grounds that they are educational or health/hospital related. He said they are currently struggling with fiscal cutbacks in their local, state and federal funding. An additional tax burden would be very detrimental at this time.

Yo Bestgen (Att. 5) testified in support of S.B. 388. She stated that she endorsed the amendment requested by Paul Klotz. She said that this amendment would insure continued tax exemption for community-based mental retardation facilities.

Rosemary Kutz (Att. 6) testified in support of S.B. 388. She stated that Girls Scouts had been exempt until July 1, 1986. She felt that since the Girls Scout organization operated a federally chartered program of informal education to inspire girls with ideals of character, conduct, and patriotism that their lives may be enriched they would appreciate once again being exempt as an educational institution.

HOUSE BILL 2271

Neale Peterson renewed his support for H.B. 2271. (Att. 7) He stated that the 1/10 of a cent retail sales tax was the recommendation of the Mid-America Regional Council Stormwater Management Committee. Legislation is already in place on the Missouri side authorizing any county to levy a 1/10 cent retail sales tax for this purpose, subject to a vote of the people.

Pete Levi stated that this sales tax appeared to be the most equitable way to be fair to both Missouri and Kansas.

Carol Bonebrake expressed opposition to H.B. 2271. She said it was the Department's feeling that allowing the implementation of a fractional sales tax for counties in Kansas would be a radical change in policy. She noted that property taxes have nearly always been used for these purposes. She indicated that there could be some administrative problems.

Chairman Kerr stated that further action would be taken regarding H.B. 2271 at a later meeting.

Meeting adjourned.

TESTIMONY OF TED D. AYRES
KANSAS BOARD OF REGENTS
SENATE BILL 388
APRIL 1, 1987

I am here to testify in support of Senate Bill No. 388 which seeks to amend K.S.A. 79-3606(c). Subsection (c), simplistically, exempts purchases by educational institutions, including state educational institutions, if the property purchased is used primarily in the programs and activities of the educational institution. However, this exemption is specifically limited by the following language:

"The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation."

Senate Bill 388 seeks to delete the "repair" and "equipment" segment from this limitation.

This limitation previously was applicable only to buildings which were operated for profit or which were not maintained exclusively for regularly enrolled students. (Chapter 47, Session Laws 1966.) It also referred specifically to maintenance expenses. In 1970, for unknown reasons, the exemption for purchases for dormitories was totally eliminated. The Hodge Committee report, the only remaining indication of legislative history, simply states that the exemption for dormitories was not justified. (Chapter 389, Session Laws 1970.)

By 1971 problems had developed in interpreting the statute and it was again amended to clarify that the lack of exemption applied only to the erection, repair, enlargement and equipment of dormitories (Chapter 321, Session Laws 1971).

While one could debate the wisdom of the whole limitation, we, at this time, seek to deal only with expenditures which are related to "maintenance." Historically, our institutions have not paid sales taxes on expenditures for "maintenance" expense. However, the Department of Revenue is currently seeking to assess sales taxes for such expenditures apparently based on its consideration of maintenance items as "repair" or "equipment" expenditures. As a result of recent audits by the Department of Revenue, institutions have been assessed sales tax on purchases of the dormitory systems, ranging from \$30,000 at the University of Kansas, also \$26,000 at Kansas State University, and lesser amounts at the other schools. We have appealed most of this assessment and are currently working with the Department of Revenue to sort out the various issues involved.

We submit that it is clear that the Legislature did not intend to tax maintenance expenses. The problem then becomes one of defining the term "maintenance." This conclusion is supported by an Attorney General Opinion by Attorney General Stephan written in 1985. In Opinion No. 85-179, the Attorney General stated:

"The practical problem is in determining whether, in a given situation, the action to be undertaken constitutes 'repair' rather than 'maintenance'."

The Attorney General further concluded that repairs should be interpreted to mean only items of "extraordinary repair requiring large expenditures and not ordinary repairs essential for the routine maintenance of housing operations."

Subsequent to this opinion, a practical resolution was attempted with the Department of Revenue. This resolution was based on an

"informal agreement" that any expenditure below \$500 was maintenance and any expenditure of \$501 or more was repair. We submit this is an unsatisfactory resolution and not consistent with the legislative intent. Further, the attempted resolution has not worked and is not practical in operation. Thus, we seek the amendment.

We would submit that good maintenance practices require regular repair and equipment of university dormitories, which are, incidentally, directly related to our institutions' educational functions. We believe the repair and continued "equipment" (replacement of furniture, etc.) is indeed maintenance and should not be taxable.

For these reasons we seek an amendment. We, of course, believe that the entire limitation on the exemption for state educational institution dormitories should be removed. The dormitory systems of the Regents institutions are integral parts of the programs operated by the State of Kansas. But, at least, any tax should be restricted to initial construction and enlargement of dormitories, so that we can resolve the dispute as to what constitutes repair and maintenance.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
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ATTORNEY GENERAL OPINION NO. 85- 179

William R. Kauffman
General Counsel
Kansas Board of Regents
400 SW 8th, Suite 609
Topeka, Kansas 66603

Re: Taxation -- Kansas Retailers Sales Tax -- Exempt
Sales to Educational Institutions

Synopsis: Regents' institutions are governed by subsections (c) and (d), but not subsection (b), of K.S.A. 79-3606. The sales tax exemption provided in K.S.A. 79-3606(c) does not apply to materials used in extraordinary "repair" of housing facilities at educational institutions, but does include minor items involved in the routine maintenance of such facilities. Cited herein: K.S.A. 79-3606, as amended by L. 1985, Ch. 331, Sec. 1; L. 1967, Ch. 500, Sec. 1; L. 1970, Ch. 389, Sec. 4; L. 1971, Ch. 321, Sec. 3.

* * *

Dear Mr. Kauffman:

As General Counsel to the Kansas Board of Regents, you request our opinion concerning certain provisions of K.S.A. 79-3606, as amended by L. 1985, Ch. 331, Sec. 1. Specifically, you inquire which subsection of that statute applies to institutions governed by the regents, and whether under the applicable subsection(s) a sales tax exemption is provided for materials used in maintaining or making minor repairs to housing facilities operated by such institutions.

— Sen. A & T
— 4/1/87

Att. 2

K.S.A. 79-3606, as amended, provides in relevant part that the following shall be exempt from the tax imposed by the Kansas Retailers' Sales Tax Act:

"(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or nonprofit blood bank and used exclusively for state, political subdivision, hospital or nonprofit blood bank purposes,

"(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

"(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital, school or

education institution;" (Emphasis added.)

Although the regents' institutions are recognized as independent state agencies, we have no hesitancy in concluding that subsection (b) is inapplicable due to the express language excluding "educational institutions." While this term is not defined in the Kansas Retailers' Sales Tax Act, that term clearly includes regents' institutions. Accordingly, it is the expressed legislative intent that subsection (b) does not apply to sales of tangible personal property or service purchased directly by an educational institution. However, such sales are specifically addressed in subsection (c).

Therefore, regents' institutions are governed by subsection (c) if the materials are purchased directly by the educational institution, or by subsection (d) if the materials are purchased by a contractor for use at an educational institution. The former subsection allows a tax exemption for all sales of tangible personal property or services purchased directly by an educational institution and used primarily by such institution in the repair of buildings used for nonsectarian programs and activities provided or sponsored by such institution. However, subsection (c) is made expressly inapplicable to the "repair" of buildings used primarily for human habitation.

Subsection (d) allows a similar exemption for all sales of tangible personal property or services purchased by a contractor for the purpose of "maintaining" or "repairing" facilities for any educational institution, which would be exempt from taxation if purchased directly by that educational institution. However, a difficulty arises because the subsection which sets forth those sales which are exempt from taxation if purchased directly by an educational institution [subsection (c)] makes no reference to "maintenance," but instead denies an exemption for "repairs" to housing facilities.

In our opinion, the issue is whether the legislature intended that the term "repairs" in subsection (c) would encompass or be synonymous with routine maintenance. If so, sales for the purpose of maintaining a housing facility at an educational institution would be taxable under the Kansas Retailers' Sales Tax Act. The legislative history is of some assistance in resolving this question.

Prior to 1970, K.S.A. 79-3606 expressly denied a tax exemption for materials purchased by an educational institution and used in the "construction, reconstruction, repair, maintenance or remodeling "of buildings used primarily for human habitation." L. 1967, Ch. 500, §1(b)(4). (Emphasis added.) The legislative intent to distinguish between the terms "repair" and "maintenance" was clear, as was the intent that the materials used in either action be denied a tax exemption.

In 1970, the legislature amended the statute to state simply that the exemption provided in subsection (c) for erection, repair or enlargement of buildings "shall not apply to buildings used primarily for human habitation." L. 1970, Ch. 389, §4. Under the 1970 statute, the legislative intent was clear that no sales tax exemption be granted to an educational institution for materials used in maintenance or repair or any other action to a structure used primarily for human habitation.

The statute was amended the following year to include the language contained in the current version of the statute. That language, added in 1971, states "That the exemption [provided in subsection (c)] shall not apply to erection, construction, repair, enlargement, or equipment of buildings used primarily for human habitation." L. 1971, Ch. 321, Sec. 3(c). This narrow language demonstrates the legislative intent that the denial of a tax exemption should apply only to sales for certain actions to a structure used primarily for human habitation. It may therefore be inferred that the legislature intended that sales for other actions to housing facilities could be tax exempt.

In our judgment, sales for maintenance to a housing facility of an educational institution are such other actions. The legislative history demonstrates that, had the legislature wished to deny a tax exemption for sales for maintenance, it clearly knew how to do so. We believe the last sentence of K.S.A. 79-3606(c) denies a sales tax exemption to materials used in "repairs" to housing facilities of an educational institution, but allows such an exemption for materials used in "maintenance" of such facilities. The practical problem is in determining whether, in a given situation, the action to be undertaken constitutes "repairs" rather than "maintenance."

Reference to dictionary definitions of "repair" or "maintain" is not particularly helpful. The American Heritage Dictionary (New College Edition, 1976) provides the following:

repair: "to restore to sound condition after damage or injury; fix." p. 1102.

maintain: "to keep in a condition of good repair or efficiency." p. 787.

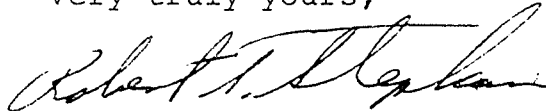
Relevant definitions by the Kansas appellate courts demonstrate the similarity rather than the distinction between the two terms. See e.g., School District v. Robb, 150 Kan. 402, 404-405 (1939) (Recognizing a distinction between the "erection" of public improvements and the "maintenance or repair" of them); State, ex rel. v. City of Pittsburg, 188 Kan. 612, 621 (1961) ("Maintenance" held to be synonymous with "taking proper care of," "repairing," or the like); In Re Tax Appeal of R. & R. Janitor Service, 9 Kan.App.2d 500, 505 (1984) ("Maintaining" is keeping in repair or replacing, and is not synonymous with "cleaning").

Few cases in other jurisdictions have sought to distinguish between "maintenance" and "repair." In In Re Bowden's Will, 143 N.Y.S. 2d 125 (1956), a will authorized trustees to pay for "repairs" to a homestead but did not authorize payment for "maintenance" to the homestead. The court held, without any discussion of its rationale, that the "necessary and reasonable painting and decorating of the premises within and without constitute repairs," while the "putting up and taking down of storm windows and screens, and keeping the grounds in order are not repairs, but rather acts of maintenance" 153 N.Y.S. 2d at 126. In People v. Chicago, B. & Q. R. Co., 107 N.E. 222 (Ill. 1914), a statute required that when a tax was levied for several purposes, the amount for each purpose be separately stated. In holding that a tax levy for "repairs upon, and care, support, and maintenance of the courthouse" met the separate itemization requirement, the court stated "the word 'maintenance' might include ordinary repairs for the building, as it might also include the care of the building." The court thus distinguished between ordinary repairs such as are required every year in a building, and extraordinary repairs on buildings which would require more than the usual annual expense for repairs for ordinary wear in holding that only extraordinary repairs need be separately itemized.

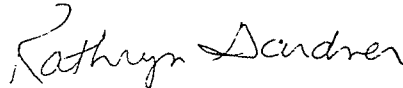
In our judgment, the word "repairs" in the context of the last sentence of K.S.A. 79-3606(c) should be interpreted to mean extraordinary repairs requiring large expenditures and not ordinary repairs essential for the routine maintenance of housing operations. Accordingly, materials used to preserve

the original nature of the housing facility by fixing minor damage resulting from normal wear and tear are tax exempt under K.S.A. 79-3606(c). However, materials used to restore a housing facility to its original form and structure after major or extensive damage to it from a source other than normal wear and tear are not tax exempt.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Kathryn Gardner
Assistant Attorney General

RTS:JSS:KG:crw



KANSAS DEPARTMENT OF REVENUE
Division of Taxation
State Office Building · Topeka, Kansas 66625-0001

April 1, 1987

MEMORANDUM

TO: Senate Assessment and Taxation Committee

FROM: Carol B. Bonebrake
Director of Taxation *CB*

RE: Senate Bill 388

Senate Bill 388 proposes to amend K.S.A. 79-3606(c) to exempt from sales tax repairs of and equipment for buildings used primarily for human habitation for public or private elementary or secondary schools or public or private nonprofit educational institutions.

Senate Bill 388 is in response to a Department of Revenue audit against a contractor who replaced and repaired dorm windows. The facts which prompted this bill were as follows:

- 1) A contractor ultimately paid an audit and sought reimbursement from the university.
- 2) The Regent's school refused to reimburse the contractor, who sought relief from the Special Claims Committee.
- 3) Counsel for the Board of Regents contacted the Department of Revenue to verify whether repairs of and equipment for buildings used primarily for human habitation were subject to the sales tax.
- 4) The Department advised the Board of Regents that repairs of and equipment for human habitation buildings are subject to sales tax.
- 5) The Board of Regents took exception to the Department's definition of repair and requested an attorney general's opinion.

6) The Attorney General held that routine repairs constituted maintenance and were not subject to sales tax.

7) The Department ultimately offered to consider all repair costs less than \$500 as non-taxable maintenance; the Board of Regents was not satisfied as they wished to consider the purchase of replacement televisions as maintenance.

Senate Bill 388 would expand the exemption enjoyed by educational institutions to include not only routine maintenance of buildings primarily used for human habitation but also for all repairs (whether below or over \$500.00) to such buildings and all equipment used therein.

The present wording of K.S.A. 79-3606(c) which provides for the taxability of various services and equipment for educational institution's buildings used primarily for human habitation was enacted by the Legislature at the recommendation of the 1970 Hodge Commission. It was the express purpose of that committee to treat all housing in a similar fashion. Senate Bill 388 would destroy this balance by granting an economic advantage to housing owned by educational institutions.

The Department of Revenue opposes this legislation and asks that it be reported unfavorably.

CBB:ns

JLB



Association of Community

Mental Health Centers of Kansas

835 S.W. Topeka Ave., Suite B/Topeka, Kansas 66612/913 234-4773

Paul M. Klotz, Executive Director

April 1987

TESTIMONY ON: SENATE BILL 388

Paul M. Klotz, Executive Director

The Association of Community Mental Health Centers of Kansas, Inc., seeks to amend SB 388 by including language, appropriately placed, as follows: "all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to KSA 19-4001 et. seq., and amendments thereto, and licensed in accordance with the provisions of KSA 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes." Another way to exempt mental health centers would be to simply exempt all 501 C-(3) agencies which receive direct state and county funding.

Community Mental Health Centers and Mental Retardation Facilities are the only two entities provided for in K.S.A. 19-4001. This enabling statute allows these centers and facilities to be established exactly in the same way in the various communities and to the state. Without these agencies the care and treatment of mentally ill and mentally retarded citizens in Kansas would be drastically diminished. These agencies are primarily funded by county mill levies, state aid programs and special grants.

These agencies have, until only very recently, been exempted from state tax on the grounds that they are educational or health/hospital related. Most of these agencies, even now, are not being asked to pay sales tax. Therefore, we believe that this bill and our requested amendment would have no significant fiscal note. Furthermore, who pays and who does not pay sales tax among the centers and facilities is unclear. SB 388, if amended as above, would develop uniformity and continue past and current policy and practice.

Finally, since both centers and facilities are struggling with fiscal cutbacks in their local, state and federal funding, it does not seem logical for government to give with the right hand and take back with the left hand. This is especially true when these agencies have not paid this tax in the past.

We would appreciate your support for our requested amendment.

Thank you!

— Sen. A & T
4/1/87

Att. 4

Dwight Young
President

Kermit George
President Elect

John Randolph
Vice President

Larry W. Nikkel
Past President

Paul Thomas
Treasurer

Steven J. Solomon
Secretary

Gene Jacks
Bd. Memb. at Large

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NORMAN W. JETER
EDWARD LARSON
JOSEPH W. JETER
WILLIAM W. JETER
JERRY MORAN

March 2, 1987

The Honorable Edward C. Rolfs,
Chairman
Committee on Taxation
Kansas House of Representatives
State Capitol
Topeka, Kansas 66612

RE: Sales Tax Exemption, HB 2263

Dear Chairman Rolfs and Members of the Committee on Taxation:

I am Jerry Moran of Hays, Kansas. I appear today before your Committee on behalf of High Plains Mental Health Center, a governmental entity headquartered in Hays, Kansas. I appear in support of an amendment to HB 2263. I specifically request that HB 2263, Paragraph (gg) be amended to read as follows:

"All sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or a community-based mental health facility organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto."

This amendment and the ultimate passage of HB 2263 will assist High Plains Mental Health Center in resolving a very serious issue which it faces.

High Plains Mental Health Center was established in 1964 pursuant to K.S.A. 19-4001 et seq. The Mental Health Center serves twenty counties in northwest Kansas whose county commissioners have imposed a tax levy to finance the operations of the Mental Health Center. The Mental Health Center is governed by a board whose members are appointed by the respective boards of county commissioners from each of the twenty counties.

Since its inception, the Mental Health Center has been exempted from the payment of sales tax on its purchases. In September, 1986,

(over)

the Department of Revenue unilaterally determined that the Mental Health Center no longer qualified for such exemption. High Plains Mental Health Center is currently appealing this decision. In order to avoid a lengthy and costly appeal, it was decided that a legislative enactment could make clear to the Department of Revenue that the legislature does not intend political subdivisions like High Plains Mental Health Center to be burdened with the payment of sales tax.

In its present form, HB 2263 resolves this problem for community-based mental retardation facilities. The amendment of HB 2263 to include community-based mental health facilities is a logical step. Community-based mental retardation facilities and community-based mental health facilities are the only two entities created by K.S.A. 19-4001 et seq. Both entities belong in this bill.

I urge you to assist High Plains Mental Health Center and other community-based mental health centers across the state by including community-based mental health centers in the exemption granted by HB 2263. The proposed amendment does not decrease state revenues; mental health centers have been exempted from payment of sales tax. Without the amendment, to a great extent, mental health facilities will be paying sales tax with funds generated from property taxes. In the instance of High Plains Mental Health Center the imposition of the sales tax will mean the elimination of a professional staff position -- a blow to the economy of northwest Kansas and a reduction in mental health services.

Thank you for your consideration of this matter.

Respectfully,



Jerry Moran

JM/ram



**COMMUNITY BASED
MENTAL HEALTH SERVICES**

1987

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

**835 S.W. Topeka Avenue/Suite B
Topeka, Kansas 66612**

(913) 234-4773

WHAT IS COMMUNITY MENTAL HEALTH?

- Under K.S.A. 19-4001 et. seq., 30 licensed community mental health centers (CMHCs) currently operate in the state. These centers have a combined staff of over 1,300 providing mental health services in every county of the state. Together they form an integral part of the total mental health system in Kansas. Federal support was drastically reduced a few years ago at a time when the number of patients seeking treatment increased dramatically. These two factors continue to pose a very real threat to the continued delivery of some of the services provided by these centers. Additionally, CMHCs are concerned regarding recent cuts in the Medicaid Program.

WHO NEEDS IT AND WHO USES IT?

- Between 367,500 (15 percent) to 490,000 (20 percent) of the Kansas population are suffering from varying degrees of mental disabilities that require treatment. The combined private and public sectors of mental health treatment are not reaching all of those needing service.
- Demand for community based mental health care has grown by 41 percent during the past ten years. During times of economic distress, the need for mental health services typically rise dramatically.
- The primary goal of CMHC's is to provide quality care, treatment and rehabilitation to the mentally disabled in the least restrictive environment. We try to provide services to all those needing it, regardless of economic level, age, or type of illness. Many arguments can be advanced for treatment at the community level, chief of which is to keep individuals functioning in their own homes and communities, at a considerably reduced cost to them, third party payors and/or the taxpayer. The following table represents what service modality and diagnostic group for which clients were seen at CMHC's during FY 85:

**FY 85 Community Mental Health Center Book Population
By Diagnostic Group and Service Modality***

Services	Inpatient Modality %	Outpatient Modality %	Partial Hospital %	Percent Totals	Total Numbers
<hr/>					
Children Services					
Behavior Problems	.6	51.6	0	52.2	3,594
Emotional Problems	.2	10.6	0	10.8	742
Disoriented & Confused	.1	.5	0	.6	40
**Multiple Problems	.3	36.0	.1	36.4	2,506
Totals	1.2	98.7	.1	100	6,882
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Adult Services					
Dangerous to Self	.7	5.0	.1	5.8	2,114
Dangerous to Others	.7	35.2	.1	36.0	2,027
Disoriented & Confused	.8	5.0	.3	6.1	12,541
**Multiple Problems	1.7	50.3	.1	52.1	18,170
Totals	3.9	95.5	.6	100	34,852
<hr/>					
Substance Abuse Services					
Alcoholics	.3	9.2	0	9.5	3,293
Drug Users	.1	2.5	0	2.6	913
**Multiple Problems	3.6	83.7	.6	87.9	30,646
Totals	4.0	95.4***	.6	100	34,852

*These data include those cases opened during FY 85 and meet selected diagnostic criteria

**Multiple Problems—Alcohol, Sexual Deviance, Other Psychotic

Addendum to Report to the Legislature on Mental Health and Retardation September, 1985.

***The average cost per year for 1985 for outpatient treatment at CMHC's was \$200.00. If the early intervention (outpatient services) were not offered by CMHCs a sizeable number would find their condition deteriorating and eventually need hospitalization at a much higher expense.

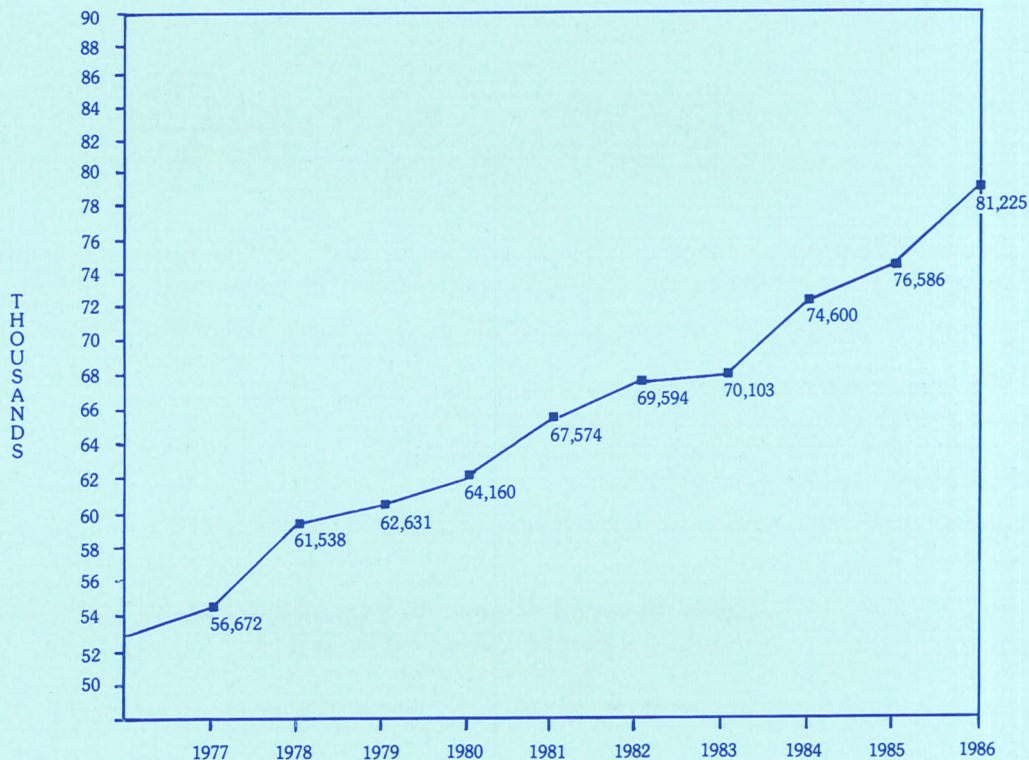
- CMHCs were primarily, if not exclusively, established to provide preventative short-term treatment and care. In the past five years, centers have dramatically shifted toward more costly, public long-term treatment and care. As a result of this rather dramatic shift in funding, some of the prevention and early intervention programs have been cut back. In order for CMHCs to continue providing quality services to citizens at all levels of need, new and/or separate public funding must be forthcoming for the long-term client.
- In 1986, Kansas CMHCs provided care to over 80,000 Kansas citizens. In addition to these direct services, CMHCs provided over 6,500 man days of professional time in consultation and educational services. Patient loads have generally doubled over the past eight to ten years largely as a result of deinstitutionalization. During the period from 1969-79, the state hospital average daily census declined by more than half. Many of these former hospital patients now rely on CMHCs for mental health services to maintain their ability to live in their own community. There is a desperate need to support CMHCs in developing separate ongoing programs for the chronically mentally ill. Cost of service for this population is generally much higher than other groups. Private funding for the long-term patient generally does not exist.

Client Growth In Mental Health Programs

Fiscal Year 1977 thru Fiscal Year 1986

■ Kansas Citizens Receiving Mental Health Care

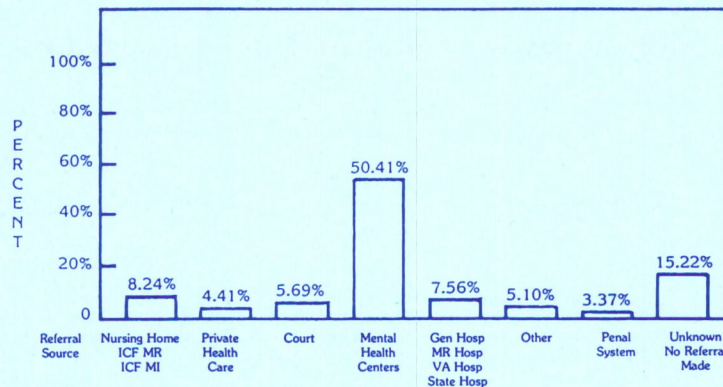
Source: Mental Health Center Caseload Reports. S.R.S. Research and Statistics



- Of the total patients in the public sector having diagnoses of psychotic conditions (severely disabled), over 57 percent are being served by CMHCs.
- In Kansas, more than 95 percent of all citizens seeking public mental health care are seen at community health centers. However, over 30 percent of the patients seen in CMHCs pay their own way.
- The major national and state trend in mental health care over the last 15 to 20 years has been the shift from institutional care to community based care.

- An estimated 3,630 of the CMHC clientele are chronic patients who require ongoing care and treatment. Only recently, have centers been asked to serve this client. Growth in this type of service has been quite rapid over the past five years to the point that centers are now seeing most of the chronically mentally ill seeking service. Without CMHCs, many chronically mentally ill would have no services available to them, or they would be confined to a hospital.
- Based on the population at the State Hospitals, there were 861 long term mentally disturbed patients discharged during fiscal year 1985. This population was defined as: (1) having had one previous admission to a state hospital and (2) having a diagnoses in one of the following categories: Schizophrenia, Affective Disorder, Paranoid Disorder, Personality Disorder. The question is often asked who is treating this population upon discharge from the state hospitals? The following graph represents where these patients are referred upon discharge from state hospitals:

Discharge Referral Source From State Hospitals
 Long Term Mentally Disturbed Population
 Fiscal Year 1985

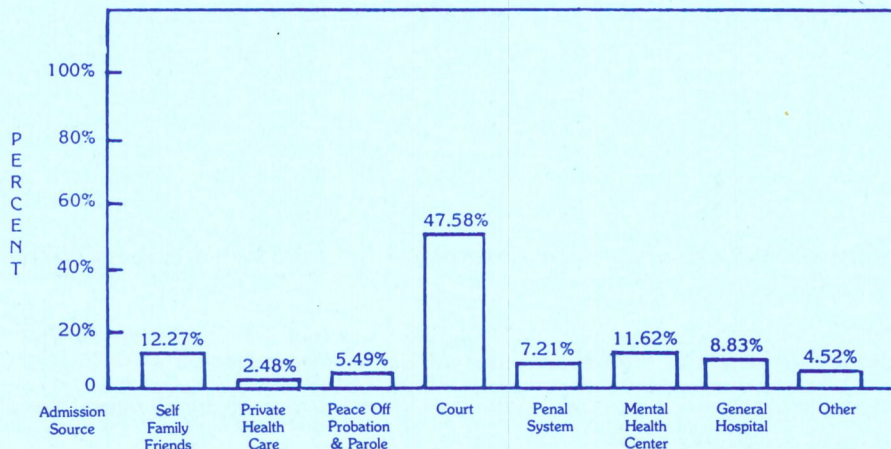


Of the above population, 86.08% are unemployed. If it were not for the State and County Aid received by Centers, this population would not be served at the current level and would probably be readmitted to hospitals.

- Another question often asked; why are state hospitals still above capacity? We believe it is a combination of the following:
 - Drastic reduction of state hospital beds over the past ten years.
 - Lack of consistent funding for community based alternatives.
 - Lack of coordination at the admission point to state hospitals.
 - Use of Psychiatric Beds for other purposes.

The following graph represents how long-term patients are admitted to state hospitals:

Admission Referral Source To State Hospitals
 Long Term Mentally Disturbed Population
 Fiscal Year 1985

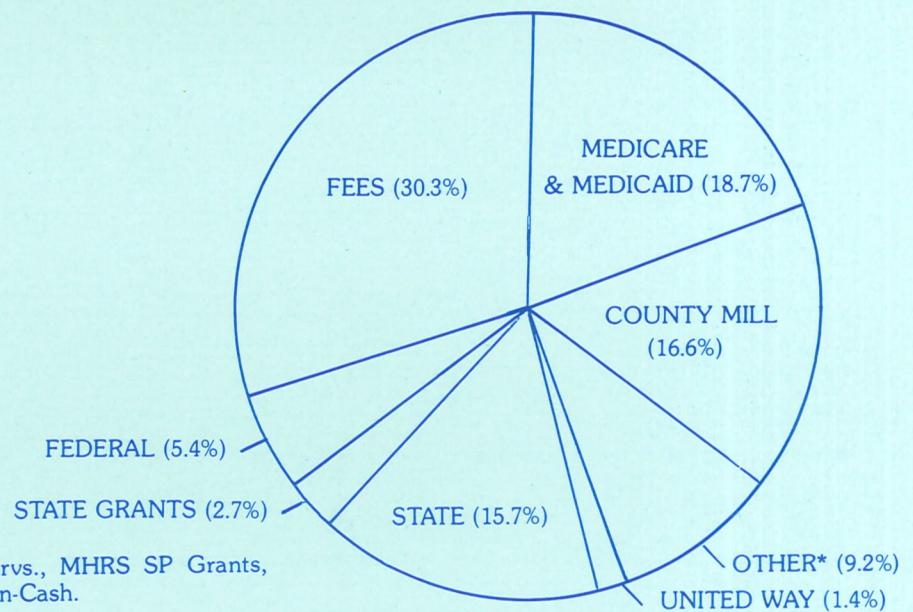


WHO PAYS FOR IT?

- No person, by law, can be denied community mental health care because of the inability to pay; consequently, public support is required. Over 50.43 percent of families served for fiscal year 1986 by CMHCs had gross family incomes of less than \$15,000. Poverty level for a family of four is \$11,000.
- In 1986, county mill levies provided CMHCs with \$8.2 million. County funding is the single largest direct source of public support. Counties currently provide not only mill levy support, but other substantive funding as well. Mill levy support alone averages \$3.18 per capita on a statewide basis. County funding may be jeopardized by the loss of Federal General Revenue Sharing.
- In 1986, direct state support for CMHCs was \$7.8 million. Nationwide, the average state contribution to CMHCs as a percentage of total budget, is over 30 percent. In Kansas, about 15 cents of every CMHC dollar is directly provided by the State. **A current national research study shows, on a per capita basis, Kansas ranked 51st in terms of state support for community programming, among the 50 states and three territories.**
- The majority of CMHC costs were paid from community sources, with the single largest share coming from the patient.

CMHC REVENUE

**TOTAL 1986 BUDGET
ESTIMATE \$50,048,229**

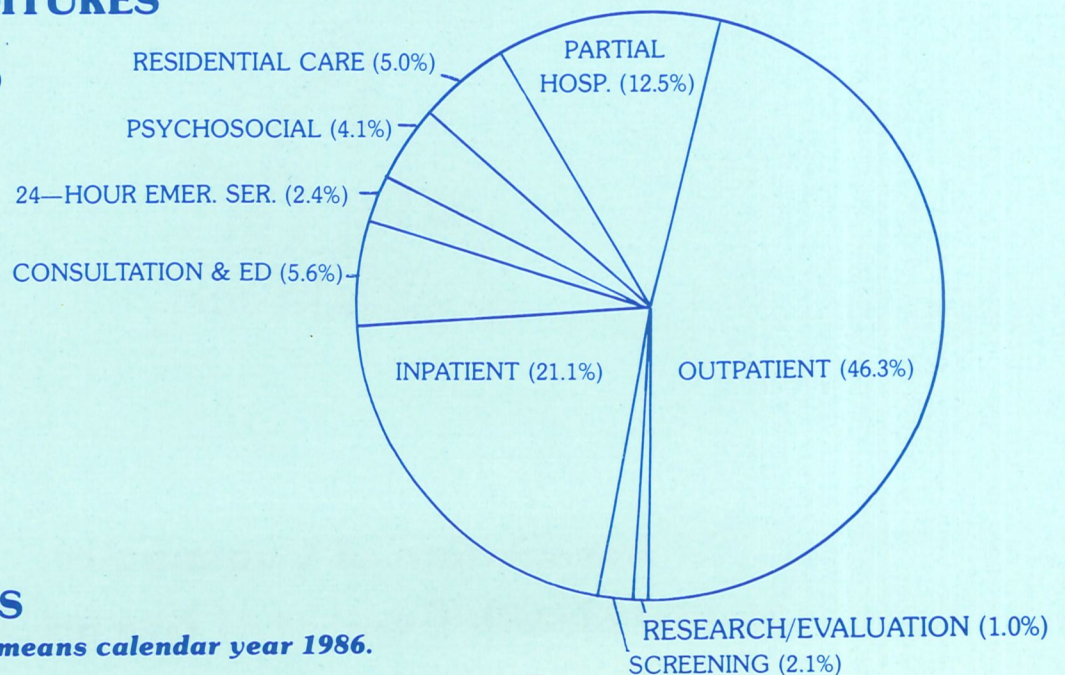


*Other

Title XX, Voc. Rehab., Fees—Prof. Servs., MHRS SP Grants, Sheltered Workshop, Rec Bad Debts, Non-Cash.

CMHC EXPENDITURES

**TOTAL 1986 BUDGET
ESTIMATE \$48,745,550**



BUDGET NOTES

- "1986 Budget Year" means calendar year 1986.



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



Kansas Association of Rehabilitation Facilities

Jayhawk Tower • 700 Jackson • Suite 802
Topeka, Kansas 66601 • 913-235-5103

TO: Senate Assessment and Taxation Committee

FROM: Kansas Association of Rehabilitation Facilities (KARF)

RE: SB388; Concerning exemptions of schools and educational institutions.

DATE: April 1, 1987

1.0 Position Statement

- 1.1 KARF supports SB388; concerning exemptions of schools and educational institutions with the addition of the following amendment.
- 1.2 KARF would seek to amend SB388 by including language as follows: "all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. The exemption shall not apply to tangible personal property customarily used for human habitation purposes."

2.0 Justification

- 2.1 All Community-based MR facilities prior to mid-1986 had been sales tax exempt. Upon review by the Department of Revenue MR facilities were again provided tax exemption with the exception of human habitation.
- 2.2 Community-based MR facilities are supported through county mill levy, state and federal funds. In essence, without the exempt status, the state is taxing tax dollars.
- 2.3 This amendment would insure continued tax exemption for community-based MR facilities.



April 1, 1987

Rosemary Kutz, Executive Director, Kaw Valley Girl Scout Council, Inc.

Kaw Valley
Girl Scout Council
P.O. Box 4314
Topeka KS 66604
(913) 273-3100

I am here to speak to the portion of SB 388, Sec. 1(c) which would change the exemption in payment of sales tax made by a non-profit, educational institution to allow such exemption for repair or equipment of buildings used primarily for human habitation.

Until July 1, 1986, the Girl Scouts had been exempt from paying sales tax as an educational institution. We operate a federally chartered program of informal education to inspire girls with the highest ideals of character, conduct, patriotism and service that their lives may be enriched and that they may become happy and resourceful citizens. As of July 1 of last year, the Kansas Department of Revenue has determined that we do not qualify as an educational institution. Our program did not change, and the law did not change; the opinion of the Department of Taxation changed.

What does this mean in dollars? Kaw Valley Council covers 13 counties here in Northeast Kansas and is one of 14 Girl Scout Councils which provide the program throughout the state. This year our Council's budget is \$528,000. 60% of this goes to salaries and related expenses. Approximately \$93,000 will be spent for program and office supplies, telephone, printing, and other items on which we will pay sales tax. The \$4,650 tax on these purchases is an expense we have not had to include in our budgets before. This money must come from United Ways or private contributions, program fees or investment income, or from the profits of the cookies the girls sell. You'll have to eat a lot of cookies for us to pay that bill. While this \$4,650 may not seem like a large amount of money to some, it is a significant expense to an organization like ours.

Incidentally, speaking of cookies, we have always collected and remitted sales tax to the state on our cookies. This year gross sales in our Council amounted to \$680,000, and we will remit to the state over \$26,000. And this is just from cookies in 13 counties. We also collect and remit sales tax on camp fees as recreation.

I ask you to amend this measure to ensure youth serving agencies such as Girl Scouts are once again exempt from the payment of sales tax. We suggest the following language which the House Taxation Committee saw fit to include in SB 309: (Sales tax shall not be charged on:) "All sales of tangible personal property purchased directly by a non-profit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes."

I want to make clear that this action would not reduce the dollars the state has been receiving from the Girl Scouts. As school districts struggle with budget cuts, the supplemental educational programs we provide in such areas as outdoor and environmental education, entrepreneurship, career exploration, intercultural relations, and good citizenship become even more important. Please don't make it any harder for us to do the job.



Serving Brown, Clay, Douglas, Geary, Jackson, Jefferson, Marshall, Nemaha, Pottawatomie, Riley, Shawnee, Wabaunsee and Washington Counties

Sen. A & T
4/1/87

Att. 6

MARC

MID-AMERICA REGIONAL COUNCIL

March 31, 1987

Honorable Fred Kerr
State Senator
143 N Capitol Building
Topeka, Kansas 66612

Dear Senator Kerr:

The Mid-America Regional Council Stormwater Management Committee, of which I am co-chairman, has been meeting periodically for two years to investigate the problem of stormwater management and flood control in the bistate Kansas City area. The Stormwater Committee included elected officials from the entire eight-county metropolitan area, including the affected Kansas jurisdictions. This past fall, the Committee considered a number of options to a regional approach, including institutional structure, financing and necessary state legislation. Senate Bill 2271 represents the product of our deliberations.

After lengthy discussion regarding various funding mechanisms for this regional approach, the Committee recommended a retail sales tax. This approach was unanimously concurred in by the MARC Board. The primary reasons for this recommendation include consistency and simplicity. While the Committee considered a property tax, the differing appraisal and assessment practices among local governments make it difficult if not impossible to establish a uniform rate across county and state lines that would assure that citizens of various counties would be paying comparable rates. In addition, Wyandotte County presently has one of the highest property tax levies in the country.

This legislation is limited in application to counties entering into interlocal agreements for stormwater management and flood control improvements. Legislation is already in place on the Missouri side authorizing any county to levy a 1/10 cent retail sales tax for this purpose, subject to a vote of the people. I understand your concern about the dedication of fractional taxes for this purpose. Perhaps these concerns could be mitigated by making the legislation applicable only to bistate flood and stormwater control projects, such as this one contemplated for the Kansas City Region. The sales tax was proposed for Wyandotte, Johnson, and Leavenworth counties as an option in the event other funding sources were not available. It is possible that any one of these counties might use existing revenue sources to come up with their share of the improvement funds.

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Councilwoman
Overland Park, KS

1st Vice Chairwoman
Joanne Collins
Councilwoman
Kansas City, MO

2nd Vice Chairman
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Commissioner
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Ralph Wittmeyer

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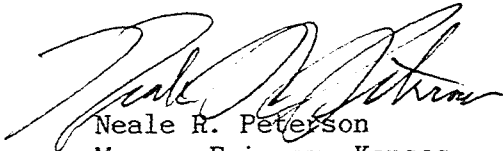
Sen. A & T
4/1/87

Att. 7

Senator Fred Kerr
March 31, 1987
Page 2

Stormwater management and flood control are the most serious environmental challenges facing the bistate Kansas City area. A consistent funding mechanism is vital to the success of this effort. I respectfully request your support in passage of Senate Bill 2271. I have enclosed a copy of the report and recommendations adopted by the MARC Board.

Sincerely,



Neale R. Peterson
Mayor, Fairway, Kansas
Chairman
Stormwater Management Committee

Enclosures