

Approved April 10, 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 9, 1987 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Senator Ben Vidricksen
Fred Weaver, Board of Tax Appeals
Phil Elwood, Atty., Ks. Hospital Assoc.
Mary Ellen Conlee, St. Francis Hospital, Wichita
Craig Woodbury, "Answer Topeka"
Rebecca Crenshaw, Hearing Aid Association
Michael Hinds, Midwest Assoc. of Medical Equipment
Charles Gillum, Hearing Aid Salesman
Ken Schaefermeyer, Kansas Pharmacist Assoc.
Ed Flentje, Secretary of Administration
Mark Tallman, Associated Students of Kansas

Chairman Kerr called the meeting to order and said that the agenda for the day was to have hearings on H.B. 2002 and 2555 and possible action on H.B. 2177.

HOUSE BILL 2002

Senator Ben Vidricksen testified in opposition to H.B. 2002. (Attachments 1 & 2) He stated that small business owners are complaining that an ever increasing number of tax-exempt organizations are providing commercial services, abusing their tax-exempt status, and competing against small business at an unfair advantage.

He said that several states are beginning to recognize the magnitude of this problem and are taking measures to prevent abuse of the tax exempt status by commercial nonprofit organizations. He said that he felt that nonprofit organizations should not be permitted to wear two hats--a nonprofit and a for-profit.

Fred Weaver, (Attachment 3) testified in opposition to H.B. 2002. He stated that the Board of Tax Appeals had used the article (Attachment 3) for research. The article stated that "If a hospital does not have a controlling financial interest in the entity that is generating revenue, the hospital is not required to report the income of this entity on its tax return for purposes of Medicare reimbursement."

Phil Elwood testified in favor of H.B. 2002. (Attachment 4) He stated that the property tax exemption does not allow not-for-profit hospitals sufficient flexibility to provide important health care services other than acute care. Any non-exempt use may cost the property tax exemption of the entire property.

He stated that this bill would extend to not-for-profit hospitals the right to use exempt property for a non-exempt purpose. It would also allow for reimbursement for actual expenses of using property for hospital purposes or charitable purposes. The passage of this bill would also permit use by more than one agency or organization for hospital or charitable purposes.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m./p.m. on April 9, 1987

Mary Ellen Conlee testified in favor of H.B. 2002. She said that St. Francis Medical Health Center in Wichita is concerned about the best possible health care at the lowest possible cost for its patients.

She said that the health care scene is drastically changing. Many times the not-for-profit health care agencies are surrounded with for-profit buildings that house physician's offices, pharmacies, etc. She said that the hospital she represents has the facilities, personnel, and programs available to give the best possible care for patients.

She stated that passage of this bill would not solve all problems, but would certainly be a step in the right direction to the furtherance of the exemption process that is needed. She stated that she would like the language on line 47 changed by striking the word "necessary". It would then read, "to the furtherance of the exempt property"....

Craig Woodbury of "Answer Topeka" stated that he was opposed to H.B. 2002. (Attachment 5) He has an answering service in Topeka and stated that there is absolutely no way that he can compete with an organization that is exempted. He stated that he felt it was extremely unfair competition, and his business would greatly suffer.

Rebecca Crenshaw testified in opposition to H.B. 2002.

Michael Hinds (Attachment 6) testified in opposition to H.B. 2002. He stated that his concern focuses on competing with hospitals under the same set of rules. If property is to be used for a non-exempt purpose, it should fall under non-exempt rules. He felt that allowing an exempt status in a non-exempt purpose would not produce fair competition.

Charles Gillum testified in opposition to H.B. 2002. He said that he has sold hearing aids for many years, and the passage of this bill would greatly hinder his competitiveness.

Ken Schaefermeyer testified in opposition to H.B. 2002. He said that he felt the language in the bill was vague and he was concerned about it. He would like for the language to be more specific.

Dick Pratt, owner of a Topeka Pharmacy asked to be recorded as being opposed to H.B. 2002.

Keith Hornberger, Exec. Vice President of St. Francis Hospital and Medical Center submitted a letter for the committee which he said would provide some rebuttal to some of the charges made by conferees opposing H.B. 2002. (Attachment 7)

Phil Woodbury also asked to be recorded as opposed to H.B. 2002.

HOUSE BILL 2555

Secretary Ed Flentje said he was present on behalf of the Governor to support H.B. 2555. The passage of this bill would give Merit Scholars and semi-final Merit Scholars a financial opportunity to return to Kansas to work and live. They would be allowed to attend any accredited college in the United States, but return to Kansas with an up to \$2,000 a year in payback of school loans.

In response to committee questions, Secretary Flentje said that the fiscal note for the bill would be approximately \$100,000 for the first year but that would get significantly larger in future years.

Mark Tallman testified in support of H.B. 2555 though he did raise several serious concerns. (Attachment 8) He stated that while his association supports the concept of H.B. 2555, he did think that the bill could actually encourage Kansas National Merit semi-finalists to attend college in other states. This could happen by effectively reducing the cost of attending higher education out of state since it is more expensive in other states. He said that ASK

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
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would like to see incentive to "attend" college in Kansas as well as come back and work in Kansas. He noted that the bill could be amended to require that the student graduate from a Kansas college or university to qualify for the tax benefit.

He said ASK would also like to see top scholars from other states attend school in Kansas. If National Merit Scholars from other states wish to come here to study and remain to live and work, the state would also benefit. It would be beneficial to extend this incentive to them also.

COMMITTEE DISCUSSION ON H.B. 2177

Chairman Kerr said that this is the bill that would clarify the Executive Order of former Governor Carlin. He distributed a copy of possible amendments that could be added to the bill. (Attachment 9) The amendments would delay the enactment of this law until 12-31-87 and they would address the 80% foreign dividend issue.

Secretary Duncan stated that the amendments were drafted by the Department of Revenue on the request of Chairman Kerr and that they would bring the 80/20 provision into conformity.

Senator Hayden moved to adopt amendments distributed by Chairman Kerr. Senator Parrish seconded. Motion carried.

Senator Frey moved that H.B. 2177 be recommended favorably for passage as amended. Senator Montgomery seconded. Motion carried.

There was committee discussion concerning possible action on the bills that were heard by the committee. Some committee members requested another meeting in order that bills could be considered. Chairman Kerr announced that there would be a meeting on Friday, April 10.

Senator Montgomery made a motion to accept the minutes of the April 8, 1987 meeting. Senator Burke seconded. Motion carried.

Meeting adjourned.

Visitors

Assessors & Jurators

H/9/81	Name	City	Organization
	DANA Ferrell	Topeka	Budget
-	MARK A. BURGHAART	TOPEKA	REVENUE
"	Chip Wheelen	Topeka	McGull & Assoc.
"	Mary Ellen Coolee	Wichita	St Francis Med Center
"	Tom Bell	Topeka	Ks. Hosp. Assn.
"	H. Philip Elwood	Topeka	atg. of Board of H. et. Ks. Hosp. Assn. et.
"	Michael Hinds	Topeka	Midwest Assn. Ks. Medical Equip. Dist.
	DOV GRANT	"	KCCI
	Rebecca Canshaw	Topeka	Ks Hearing Aid Club
	Mark E. Salter	Topeka	ASK
	MARY E. TURKINGTON	Topeka	Kansas Motor Carriers Assn.
"	Charles Nicolay	Topeka	Ks Oil Marketers Association
"	Ken Peterson	Topeka	Ks PETROLEUM Council
"	Kevin B. Wickliffe	Lawrence	Sen. Miller

TO: Kansas Legislators

FROM: Senator Ben Vidricksen
Small Business Administration Regional 7 Advisory Council
Chairman, Small Business Development Centers Advisory Board

RE: Abuse of tax exempt status: The growth of commercial non-profit activities

The question is: can commercial for profit entrepreneurs in Kansas survive because of potential unfair or direct business competition from nonprofit entities?

Small business owners are complaining that an ever increasing number of tax-exempt organizations are providing commercial services, abusing their tax-exempt status, and competing against small business at an unfair advantage. This was the number 3 concern for small business at the White House Conference on Small Business last summer.

Internal Revenue Service indicates that there were 850,000 organizations qualifying as tax-exempt entities as of the end of 1985. This number has grown steadily. These organizations generate annual revenue exceeding over \$300 billion.

Several states are beginning to recognize the magnitude of the problem, and are taking measures to prevent abuse of the tax exempt status by commercial nonprofit organizations. Several states interested in this issue have established a commission or have conducted hearings to determine the scope of the problem.

This may be the road that we should take rather than opening the door further. Rather than doing what is proposed in HB 2002 we should be asking ourselves: What types of income producing activities - whether considered "active" or "passive" are carried on by tax exempt organizations, and how much revenue is produced by such activities? What are the different types of investment, commercial, or entrepreneurial

activities.

The most common rationale offered for exempting nonprofits from taxation is that they provide an intangible service to the community. The public goods rationale suggests that nonprofits should be granted tax exemption for providing these charitable services that might otherwise have to be provided by state or federal government.

When addressing the issue of unfair business competition from nonprofits, the sensitivity to the charitable service provided must be demonstrated. This sensitivity must be in terms of need of the charitable service offered as opposed to the nonprofit service in broad general terms. Therefore, a clear understanding of the nonprofit service becomes essential with regard to revenue programs generated by a nonprofit to fund the purpose for which it was created.

If there is a genuine community charitable need for a nonprofit service, then funding for the nonprofit service becomes very important. I think that both commercial for-profit entrepreneurs and nonprofit entities agree with this concept. However, it becomes readily evident that the differences and controversies are with regard to the sources and methods of revenue generating programs within the organizational structure of the nonprofit entity to fund its nonprofit status.

Moreover, nonprofits venture into revenue generating programs that are being performed by commercial for-profit enterprises who pay a host of federal, state, and local taxes for the opportunity to perform the identical business venture. There is most assuredly a nebulous area of when does direct or unfair business competition begin, if, in fact, the nonprofit service must be funded by a revenue generating program to carry out the purpose for which the nonprofit was created. This

area must be cautiously defined in order not to jeopardize the revenue generating programs of a genuine charitable nonprofit and at the same time not to further jeopardize the commercial for-profit businesses who could go-bankrupt or out-of-business because of direct or unfair business competition from the nonprofit sector. If this issue is not properly addressed, we may find Kansas's tax base rapidly eroding over the next several years because many commercial for-profit businesses may be "bought-out" by certain nonprofits and others will simply "go-out-of business" if this uncontrollable phenomenon is permitted to continue without proper legislation, *OR By liberalizing the current Statute*

Nonprofits should not be permitted to wear two hats--a nonprofit and a for-profit. Accountability within the organizational structure of any nonprofit and all subsidiary affiliations must be addressed if Kansas is to legislate control over the revenue generating programs of nonprofits. A nonprofit operating within the scope of its purpose needs adequate funding to perform that service to the community. However, when a nonprofit ventures into profit making businesses, of their own volition, with nonprofit surpluses this becomes somewhat questionable. Surplus monies of a nonprofit that ventures into these for-profit businesses is venture capital thereby creating unfair competition to the for-profit business community. This is the most blatant abuse within any organizational structure of nonprofits that opt to create revenue generating programs.

Small Business is the backbone of our state. Ninety percent or more jobs in Kansas are associated with small business. In 1985 Kansas was second in the nation in small business failures, mostly in the retail sector. We are slowly eroding not only our tax base but the very base of our economic structure. To even deviate from or open the door

to further abuses of the non-profit status of hospitals or any other non profit entities is counter productive to the economic growth of our state and should not be allowed.

NUMBER 3 CONCERN OF THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS
AUGUST 1986

Because government at all levels has failed to protect small businesses from damaging levels of unfair competition, federal, state and local laws, regulations and policies should:

- A. prevent unfair competition in which non-profit tax exempt organizations use their tax exempt status and other advantages in selling products and services also offered by small business.
- B. prohibit direct, government created competition in which government organizations perform commercial services.

These goals should be achieved by, but not limited to, the following ways: non-profit; tax-exempt entities should not be permitted to use their tax status or postal rates to compete with commercial providers of products and services. Non-profit organizations receiving government grants and contracts, including Federally Funded Research and Development Centers, should be prohibited from using federal dollars to compete with products and services provided by the private sector. Non-profits engaging in commercial activities should be prohibited from doing so while enjoying exemption from government regulations such as anti-trust laws, workers compensation, and health and safety rules.

Governments new laws at all levels particularly at the federal level, should require strict government reliance on the private sector for performance of commercial type functions. When cost comparisons are necessary to accomplish conversion to private sector performance, laws must include provision for fair and equal cost comparisons. Funds controlled by a government entity must not be used to establish or conduct a commercial activity on U.S. property. Government regulated utilities should be prohibited from using their government favored position to compete in markets already served by small businesses.

A federal private Enterprise Review Committee shall be established as a permanent advisory group to the Chief Counsel for Advocacy of the Small Business Administration and the Director of the Office of Management and Budget for the purpose of reviewing federal government and non-profit actions that compete with s

Advocacy - all info on grant - J. Squiers

Corporate Restructuring of Tax-Exempt Hospitals: The Bastardization of the Tax-Exempt Concept

by Mary P. Squiers, J.D., LL.M.

The largest single group of hospitals in the country is composed of private nonprofit hospitals, which are exempt from taxation under the Internal Revenue Code. The second largest group of hospitals consists of for-profit hospital corporations. The third and fourth largest groups are, respectively, municipal hospitals and state and federal specialty hospitals, such as mental health facilities and public health hospitals.¹

Although the idea of hospitals engaging in business activities used to arouse scorn, the concept has now gained acceptance. This change began in the late 1960s, when the enactment of the Medicare and Medicaid programs forced hospitals to become more sophisticated in handling reimbursement issues, certification-of-need, unrelated business income, and productivity.²

By 1981, the percentage of hospital charges reimbursed by the Medicare system had declined to 68.7 percent, from its 1974 level of 75.4 percent. In 1982, with the signing of the Tax Equity and Fiscal Responsibility Act (TEFRA), hospitals were essentially told that they must find their own solution to the problem of inadequate funding.³ The new reimbursement structure created by the Social Security Act Amendments of 1983 requires prospective payment on the basis of diagnostically related groups.⁴ Even with this new payment structure, hospitals predict a continued Medicare shortfall, particularly as the number of Americans over age sixty-five is expected to increase at a rate of 21 percent from 1980 to 1990, as compared to an overall population rise of 8.5 percent. That would mean 5,364,000 additional Medicare beneficiaries by 1990.⁵

The Medicare system never reimbursed hospitals on the basis of the actual cost of the services provided. As the regulations were originally structured, for example, the government offset some types of income against a hospital's reimbursement even though that income had not been generated by the activity for

which reimbursement was sought.⁶ Some nonoperating revenue, derived from activities other than those involving direct patient care, was often viewed as investment income that reduced reimbursement, or else as arising from non-reimbursable hospital cost centers.⁷

The new reimbursement system established by the Social Security Amendments of 1983 pays a fixed amount per case regardless of the health care resources consumed.⁸ Although this system may appear more equitable, the act requires that new payments

If a hospital does not have a controlling financial interest in the entity that is generating revenue, the hospital is not required to report the income of this entity on its tax return for purposes of Medicare reimbursement.

be no greater than they were under the earlier system.⁹ In addition, the reimbursement principles used in the original cost-based system, as set forth in the regulations, remain unchanged.¹⁰

The Medicare reimbursement calculations are based in large part on the hospital's tax return. Therefore, it is advisable from the hospital's perspective to avoid listing on its return income that could offset its reimbursement. If a hospital does not have a controlling financial interest in the entity that generates such revenue, the hospital is not required to report and consolidate the income of this entity on its tax returns for purposes of Medicare reimbursement.¹¹

Hospitals have tried several techniques to cover their unreimbursed costs. They have tried to shift these costs onto patients who have private, commercial insurance or who pay their own hospital bills.¹² Recently, they have begun to restructure into forms that closely resemble multi-institutional arrangements¹³ in an effort to benefit from economies of scale, management specialization, and other cost-saving programs. This restructuring also allows hospitals to shield their assets and income from the Medicare system by separating such resources from the assets and income

Mary Squiers is a Massachusetts attorney practicing in the Boston area.

THE PROPOSED AMENDMENTS TO

K.S.A. 79-201

SET OUT IN HOUSE BILL 2002, AS AMENDED

Presented By:

H. PHILIP ELWOOD
215 East Eighth Avenue
Topeka, KS 66603
233-0593

- I. The Problem. The Property Tax Exemption does not allow not-for-profit hospitals sufficient flexibility to provide important health care services other than acute care.
- A. The Types
1. Governmental Hospital (City, County, District)
 2. Not-For-Profit Hospital
- B. The property of governmental hospitals is exempt under K.S.A. 79-201a Second.
1. Property used exclusively by a municipality or subdivision.
 2. Property owned or operated by a municipality which is used for any governmental or proprietary function for which bonds may be issued or taxes levied is deemed "exclusively used."
- C. Property of not-for-profit hospitals is exempt under K.S.A. 79-201b.
1. Property must be used exclusively for hospital purposes.
 2. Hospital operated by a not-for-profit corporation, either domestic or foreign.
- D. Lease of Space - As used in the statute, "exclusive" may be read "exclusive." Any non-exempt use may cost the property tax exemption of the entire property.
1. Property tax exemptions are, under Kansas law, to be strictly construed and narrowly interpreted to promote the payment of tax. Lutheran Home Inc. vs.

2. Any use of property other than for the exempt purposes will cause the loss of exemption.
 - a. Example - leasing of property to an exempt organization. In re Board of Johnson County Commissioners, 225 Kan. 517 (1979).
 - b. Leasing of property owned by an exempt organization to another entity whether for-profit or non-profit. Stahl vs. Educational Association, 54 Kan. 542 (1895).

E. The Problem Applied

Governmental Hospital
can "lease" space to:

- Physicians
- Hospice
- Meals on Wheels
- Volunteer Center
- Etc.

Not-For-Profit Hospital
cannot lease space to others.
In addition to thos named,
needs include:

- Space for Ambulance Service
- Women's Center
- Schools for ancillary
functions, i.e., medical
technicians, nursing,
biomedical engineering,
etc.

II. What will the Bill do?

- A. Borrowed concept. This idea came from the 1986 amendment to K.S.A. 79-201 Second. Exempt property will remain where:
 1. The organization can be reimbursed for the provision of charitable services.
 2. There is reimbursement for the actual expense of using such property.
 3. Property can be used for a non-exempt purpose which is minimal in scope and insubstantial in nature--if incidental to charitable purposes.
 4. Charges reasonable fee for admission to cultural event or uses by a related agency or organization.
- B. This Bill would extend to not-for-profit hospitals the right to:
 1. Use exempt property for a non-exempt purpose which is:

--Minimal in scope and insubstantial in nature if
--Incidental [and necessary] to the hospital purposes.

2. Be reimbursed for actual expenses of using property for hospital purposes or charitable purposes.
3. Permit use by more than one agency or organization for hospital or charitable purposes.

III. Why is this change important?

- A. Allows a broader use of hospital buildings for health care and related activities, which will better serve the community.
- B. Puts not-for-profit hospitals in a position similar to that of governmental hospitals in providing a range of health care services.

Cappabianca wants to close 2 loopholes

By BILL MCKINNEY

Morning News staff reporter

State Rep. Italo Cappabianca is proposing to close what he considers two mammoth loopholes in Pennsylvania tax laws relating to nonprofit corporations.

The Erie Democrat is also recommending creation of a watchdog division within the Pennsylvania Department of Revenue to monitor nonprofits.

"The Pennsylvania delegation to the White House Conference on Small Business listed unfair competition as the third most pressing problem for small businesses in Pennsylvania," Cappabianca said.

"Then the entire White House conference addressed this issue as one of

the 10 most important problems nationwide. It's clear to me that something has to be done."

Cappabianca is chairman of the House Select Committee to Study Nonprofits. The committee has been gathering data and compiling testimony for months.

In an overview of the problem presented to other House members in October, Cappabianca said nonprofit corporations are spinning off revenue generating programs and competing with for-profit enterprises that pay a host of federal, state and local taxes for the opportunity to do business.

"If this issue is not properly addressed, we may find Pennsylvania's tax base rapidly eroding over the next 10 years because many commer-

cial for-profit businesses may be 'bought out' by certain nonprofits..." he wrote.

Others, he wrote, "will simply go out of business."

Cappabianca said nonprofits, while entitled to generate revenue to sustain their true charitable purpose, should not be permitted to wear two hats — one for profit making and one to take advantage of nonprofit tax benefits.

Noting reports of hospitals generating surplus revenues, Cappabianca said it is especially important for lawmakers to stop nonprofits from loaning such surpluses as "seed money" or venture capital for affiliated profit-making enterprises.

"When a nonprofit ventures into

profit-making businesses ... with nonprofit surpluses, this becomes somewhat questionable," he said. Such tactics give the nonprofits an unfair business advantage.

He also objects to "reorganizations" of nonprofit businesses to include for-profit enterprises, and, during an interview, used the reorganization of a large Erie hospital as an example.

In his written overview, Cappabianca said, "If all commercial for-profit businesses had the luxury of instant venture capital, seed money, testing the waters with feasibility studies..., we would have a flourishing economy within the commercial small-business sector."

He said owners of small businesses

competing for service contracts in the nonprofit sector are especially unhappy when they are forced to bid against for-profit enterprises set up within that same company's "family."

"These contracts," Cappabianca wrote, "become 'sweetheart contracts' or could be construed as 'commercial nepotism' because each and every contract is an unfair business practice to the commercial for-profit entrepreneur who is struggling to do business in Pennsylvania."

Cappabianca is recommending, first, amending the state assessment law to prohibit non-profit, benevolent organizations from using of any part of their property in for-profit ventures that compete with commercial

enterprises.

Second, Cappabianca is recommending changing the nonprofit corporation law to order that all surpluses generated by the nonprofit remain with the nonprofit and not be used as venture capital "loans" to or "investments" in related for-profits.

And Third, Cappabianca is asking that a Nonprofit Rulings Enforcement and Accountability Division be established within the revenue department. This division would monitor all nonprofits and their affiliations with other nonprofit and for-profit enterprises.

The division would also be empowered to audit income-producing activities of nonprofits.



**answer
topeka**

913/234-4444
813 WEST SIXTH
TOPEKA, KANSAS 66603

Patched to _____
 Pg. Cu _____
 Pg. Gm _____
 Pg. Dig _____
 St. Vail _____
 St. Frans _____
 Call Ofc N/A
 Call Memorial _____

Client DID # 233-5000

December calls 2,371

Revenue \$948.40

Saint Francis

Same client

Charge \$75.00
Unlimited calls

SECRETARY	P.C.	W.C.B.	W.C. RES.	PTY. HUNG UP	CODE NO.	LADY	GENT.	WRONG NO.	RANG THRU	SECRETARY
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MR. <u>Craig Woodbury</u> CALLED										
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TRANSMITTED 1

RECEIVED APR-8 2:08 PM



**answer
topeka**

913/234-4444
813 WEST SIXTH
TOPEKA, KANSAS 66603

Which one is tax exempt????



813 W. 6TH STREET 234-4444
TOPEKA, KS 66603

TBT TOPEKA BANK
and TRUST COMPANY
P.O. BOX 56, TOPEKA, KANSAS 66601

1503

12-17 86
19

44-55/1011

PAY Five hundred eighty-three and 75/100----- DOLLARS \$ 583.75

TO
THE
ORDER
OF

Shawnee County Treasurer

NOT NEGOTIABLE

⑆101100553⑆ ⑈5004 5857⑈



813 W. 6TH STREET 234-4444
TOPEKA, KS 66603

TBT TOPEKA BANK
and TRUST COMPANY
P.O. BOX 56, TOPEKA, KANSAS 66601

1527

December 20, 86

44-55/1011

PAY Four Thousand Seven Hundred Eighty One 727100 DOLLARS \$ 4781.71

TO
THE
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OF

Shanee County

Shawnee County

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\$6.75 Adults
\$3.75 Kids 10 & Under
\$5.50 Senior Citizens

THE LOFT RESTAURANT
37th & Kansas Ave. 267-1706
Reservations taken for parties of
6 or more only
Memberships available
Reciprocal with over 300 Clubs



We have a healthy Easter Buffet that will surprise you!

The St. Francis Easter Brunch Buffet

Come for an incredibly good Easter Brunch — at an
incredibly good price:

Your choice of: Prime Rib, Breakfast Entrees, Salads,
Desserts and Fresh Pastries.

Served from 10:30 a.m. to 2:00 p.m.

Adults — \$5.95, Children 6 and under — FREE, Seniors
over 60 — \$4.50.

Then pick up this week's free health and education program
"Helping You Stay Healthy" — it's all part of Living Well at St.
Francis' free weekly health and education program that
covers topics of interest to you like weight management,
pre-natal care, first aid, CPR, cardiovascular fitness, poison
prevention and chemical dependency.



ST. FRANCIS HOSPITAL AND MEDICAL CENTER
1700 West 7th Street • Topeka, Kansas 66606 • 295-8100

Is Saint Francis a new
Fast Food Corporation or
a tax exempt Hospital?

KANSAS MEMBERS OF MIDWEST ASSOCIATION OF MEDICAL
EQUIPMENT SUPPLIERS

TESTIMONY ON HB 2002

My name is Michael Hinds. I am the Vice-President of Knoll Patient Supply (an oxygen and convelescent aids supplier in Topeka) and member of MAMES, (an association of Medical Equipment Dealers in Kansas, Missouri, Nebraska and Iowa).

We and a number of other small independent businesses oppose lines 0042-0055 of HB 2002. Our concerns focus on competing with hospitals under the same set of rules. If property is to be used for a nonexempt purpose, it should fall under nonexempt rules. Taxes should be paid just as others pay their taxes.

Defining "minimal in scope and insubstantial in nature" (0046), will differ upon ones perspective. A purpose or operation of minimal scope for the hospital may be the entire business scope of businesses with which it has to compete.

We feel that allowing an exempt status in a nonexempt purpose would not produce fair competition. We are happy to compete with the hospitals, but we should have the same set of rules.

Thank you for your time.

Respectfully Yours,

J. Michael Hinds



ST. FRANCIS HOSPITAL AND MEDICAL CENTER

February 10, 1987

Representative Eugene L. Shore
State Capitol Building
Topeka, KS 66612

Dear Representative Shore:

We are aware that the House Taxation Committee is currently considering House Bill 2002, legislation that would amend the statute governing hospital property tax exemptions. The proposed law permits changes designed to bring the property tax into conformance with present-day requirements of hospitals to expand their missions to include health-related services that benefit the entire community.

You've received information from Mr. Craig Woodbury of Answer Topeka in which he outlined his concerns and criticized St. Francis Hospital and Medical Center for our hospital/physician answering service.

St. Francis Hospital and Medical Center has implemented a computerized hospital communication system which has four basic functions:

- A Directory System
- A Message System
- An Alarm System
- A Telephone System for Forwarding Physician Calls

A charge is made to participating physicians to offset a portion of the cost of the equipment and operation although it's not anticipated that any overall profit will be derived.

The purpose and function of the integrated communication system at St. Francis Hospital and Medical Center is to facilitate communication between the hospital, the physician, and the patient thereby significantly improving the quality of health care delivery within the Topeka community. There is nothing more critical to this delivery than the ability of hospital staff and outside patients to reach physicians. The communication system is a vital and integral part of the manner in which health care is delivered today and a proper hospital function of health care delivery. Similar integrated hospital communication systems are in operation in a number of hospitals throughout the country.

St. Francis only offers this service to physicians on our medical staff. It has never been our intention to jeopardize those for-profit enterprises who offer this service to the community at large. We are thoroughly convinced that this is a very important, necessary, and proper function of a not-for-profit hospital. In fact, it was at the urging of the members of our medical staff who recognized the critical need for this system and expressed their dissatisfaction with the current non-medically operated services available which prompted our decision to provide this service.

On January 2, 1986 the Board of Tax appeals granted us a tax exemption relative to this equipment which included the answering system. There was an extensive hearing held at which the board heard testimony from many sources. At that hearing the board determined that the use of this equipment was a proper hospital function within the hospital's charitable and exempt purpose used exclusively for hospital purposes, and was therefor exempt. If we really wanted to compete with Mr. Craig Woodbury and Answer Topeka we certainly wouldn't limit this service to physicians, but would compete and be in the answering business in a hospital for-profit affiliate.

Mr. Woodbury, in the information given, also questioned whether or not St. Francis Hospital is a new fast food corporation. He enclosed a copy of an advertisement in the Topeka Capital Journal from Easter of 1985 when we offered the Topeka Community a healthy Easter buffet to promote our health education programs. This was done one time and St. Francis had this program to promote health education programs and we are not in the fast food business.

House Bill 2002 is designed to provide a measure of flexibility to the existing property tax legislation so that hospitals will not be faced with the loss of their entire exemption and would be allowed to use hospital space for other health related activities that may not technically be considered hospital purposes.

Thank you for the opportunity to present you with the full facts regarding one concern that has been expressed concerning this legislation. We do not believe that the not-for-profit hospitals of Kansas wish to compete with the private sector for business, but do need the flexibility contained in this

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legislation so that hospitals are not faced with the loss of their entire exemption.

Please consider House Bill 2002 favorably for the benefit of Kansas' not-for-profit hospitals and the citizens that we serve.

Sincerely,

Keith D. Hornberger
Executive Vice President

KDH/pjf

cc: Mr. Thomas Bell
Kansas Hospital Association



ASSOCIATED STUDENTS OF KANSAS

The Student Governments of the State Universities

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Statement on HB 2555

TO: Senate Committee on Assessment and Taxation
FROM: Mark Tallman, Legislative Director
DATE: April 9, 1987

Position

ASK is supportive of the concept of HB 2555. We believe it would address a serious state problem. However, we would like to express several concerns and offer recommendations relative to specific provisions of the bill.

Background

ASK has long been concerned about the Kansas "brain drain," or flight of top students from the state. In past sessions, we supported changes in statute to increase awards and funding for the State Scholarship Program, which provides need-based grants to high achieving students who attend college in Kansas. We have also proposed, with then-Speaker Hayden's endorsement, a loan-forgiveness program for top students who enter teaching.

We continue to feel that incentives for students of National Merit caliber are inadequate. This bill would be a positive step for these reasons: it contains more significant financial inducements, and it benefits the students only if he or she lives and works in Kansas for a period of time after graduation.

Concerns

ASK is concerned not only about permanent loss of top students from Kansas, but also with the significant numbers of National Merit Scholars who attend college out of state. ASK's policy council overwhelmingly believes that such students should be encouraged to remain in Kansas to attend school, as well as after completing their education.

However, this bill makes no distinction regarding where the student receives his or her education. In fact, our concern is that this bill may actually be an incentive for National Merit Scholars to attend school out of state.

We know that one factor influencing Merit Scholars who do remain in Kansas is the price advantage: it is considerably less expensive for residents to attend college in Kansas than at most out of state schools.

(more)

Under this bill, the daunting costs of expensive, out of state schools are made less intimidating. Moreover, the favorable provisions of the bill only benefit students to the extent they actually borrow to pay for college costs. Students staying home for college, would tend to borrow less, or not at all.

This situation is compounded by the fact that the bill provides tax credits only for repayments on "loans incurred...for educational purposes." Most federally-insured student loans require students to show financial need to qualify. Need is determined by both parental income and the cost of college. Students remaining in Kansas would tend to have lower college costs, and be less likely to qualify for these loans. One solution would be to allow Kansas colleges to make loans to such students without demonstrating need.

ASK believes the bill should be amended to require that the student graduate from a Kansas college or university to qualify for the tax benefit. This would be a greater incentive to keep the best Kansas scholars at Kansas institutions.

There is another amendment we would ask the committee to consider. Some students will always want to leave their home state from college. But shouldn't we be encouraging top scholars from other states to explore the benefits of life in our state? Perhaps the clause requiring beneficiaries to be graduates of a Kansas high school should be waived. If National Merit Scholars from other states wish to come here to study and remain to live and work, the state also benefits. While the number may be relatively small, the benefits could be significant.

Thank you for your consideration.

HOUSE BILL No. 2177

By Committee on Taxation

2-3

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

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 79-32,138 is hereby amended to read as
0022 follows: 79-32,138. (a) Kansas taxable income of a corporation
0023 taxable under this act shall be the corporation's federal taxable
0024 income for the taxable year with the modifications specified in
0025 this section.

0026 (b) There shall be added to federal taxable income: (i) The
0027 same modifications as are set forth in subsection (b) of K.S.A.
0028 79-32,117, and amendments thereto, with respect to resident
0029 individuals.

0030 (ii) The amount of all depreciation deductions claimed for
0031 any real or tangible personal property upon which the deduction
0032 is allowed by K.S.A. 79-32,161, and amendments thereto.

0033 (iii) The amount of all depreciation deductions claimed for
0034 any property upon which the deduction allowed by K.S.A. 79-
0035 32,168, and amendments thereto, is claimed.

0036 (iv) The amount of any charitable contribution deduction
0037 claimed for any contribution or gift to or for the use of any
0038 racially segregated educational institution.

0039 (c) There shall be subtracted from federal taxable income: (i)
0040 The same modifications as are set forth in subsection (c) of K.S.A.
0041 79-32,117, and amendments thereto, with respect to resident
0042 individuals.

0043 (ii) The federal income tax liability for any taxable year
0044 commencing prior to December 31, 1971, for which a Kansas
0045 return was filed after reduction for all credits thereon, except

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

0059 (iii) An amount for amortization of the amortizable costs of a
 0060 certified oil production process as computed under K.S.A. 79-
 0061 32,161, and amendments thereto.

0062 (iv) An amount for the amortization deduction for a solar
 0063 energy system allowed pursuant to K.S.A. 79-32,168, and
 0064 amendments thereto.

0065 (v) ~~The amount included in federal taxable income pursuant~~
 0066 ~~to the provisions of section 78 of the internal revenue code.~~

0067 (vi) ~~Dividends received or deemed to be received from cor-~~
 0068 ~~porations which are not subject to the internal revenue code.~~

0069 (d) If any corporation derives all of its income from sources
 0070 within Kansas in any taxable year commencing after December
 0071 31, 1979, its Kansas taxable income shall be the sum resulting
 0072 after application of subsections (a) through (c) hereof. Otherwise,
 0073 such corporation's Kansas taxable income in any such taxable
 0074 year, after excluding any refunds of federal income tax and
 0075 before the deduction of federal income taxes provided by sub-
 0076 section (c)(ii) shall be allocated as provided in K.S.A. 79-3271 to
 0077 K.S.A. 79-3293, inclusive, and amendments thereto, plus any
 0078 refund of federal income tax as determined under paragraph (iv)
 0079 of subsection (b) of K.S.A. 79-32,117, and minus the deduction
 0080 for federal income taxes as provided by subsection (c)(ii) shall be
 0081 such corporation's Kansas taxable income.

0082 (e) A corporation may make an election with respect to its

For all taxable years commencing after December 31, 1987, the

For all taxable years commencing after December 31, 1987, 80%
 of the amount of dividends

incorporated outside of the United States or the District of
 Columbia.

0083 first taxable year commencing after December 31, 1982, whereby
0084 no addition modifications as provided for in K.S.A. 79-
0085 32,138(b)(ii) and subtraction modifications as provided for in
0086 K.S.A. 79-32,138(c)(iii), as those subsections existed prior to their
0087 amendment by this act, shall be required to be made for such
0088 taxable year.

0089 ~~New Sec. 2. The provisions of this act shall be applicable to~~
0090 ~~all taxable years commencing after December 31, 1986.~~

0091 Sec. 3. K.S.A. 79-32,138 is hereby repealed.

0092 Sec. 4. This act shall take effect and be in force from and
0093 after its publication in the statute book.