

Approved March 4, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION

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

11:00 a.m./pm on March 3, 1988 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:

Sister Mary Serena Sheehy, Sisters of Leavenworth
Sister Judith Lindell, Immaculate Conception, Great Bend
Larry Keenan, Atty. for Immaculate Conception
Sis. Dorothy Wolters
John Holmgren, Catholic Health Assoc. of Ks.
Bob Runnels, Kansas Catholic Conference
Keith Farrar, Board of Tax Appeals
Senator Hoferer
Rep. Hensley
Richard Morissey, Dir. of Bureau of Adult Child Care
Kharon Hunter, Board Member of Child Care Providers
Diana Shirley, Child Care Provider
Gary Smith, Shawnee County Appraiser

Chairman Kerr called the meeting to order and said the agenda was to have hearings on S.B. 514 and S.B. 687.

SENATE BILL 514

Sister Mary Serena Sheehy testified in support of S.B. 514. (Att. 1) She stated that she felt a correction was needed for the omission in the current law which recognizes that residences used by men who serve the Church in various ministerial capacities are exempt but overlooks the residences of religious women committed to the Church. She felt there is a narrow interpretation of the term "exclusively" in current law and submitted that living in a religious community is an act of religion since these women dedicate their entire lives to religious purposes.

Larry Keenan, Attorney for the Immaculate Conception introduced Sister Judith Lindell.

Sister Judith Lindell testified in favor of S.B. 514. (Att. 2) She stated that this bill is critical to continue in the work the Immaculate Conception Sisters of Great Bend are doing.

Sister Dorothy Wolters testified in support of S.B. 514. She stated that their place of residence was definitely more than a home, since many people come daily for needs other than social.

John Holmgren testified in support of S.B. 514. (Att. 3) He said that the Sisters don't earn salaries because they take vows of poverty and have serious difficulty with the property taxation. He urged passage of the bill.

Keith Farrar of the Board of Tax Appeals was not present, but sent written testimony regarding S.B. 514. (Att. 4)
Bob Runnels' testimony in support of SB 514 appears as Attachment 5.

SENATE BILL 687

Senator Jeanne Hoferer introduced S.B. 687, stating that she felt this was

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION,
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on March 3, 19 88

a very worthwhile social and economic development issue. She stated that there are many tax exemption on items already, and this would be an exemption greatly appreciated by the licensed day care homes in the state. She stated that there is currently a severe shortage of day care home facilities and the shortage would become even greater if this bill does not pass.

Rep. Hensley testified in support of S.B. 687. (Att. 6) He siad that he feared that if the law is not changed, many day care providers would not renew their licenses and the quality of day care would diminish. He also felt that because of the property taxation that day care costs could escalate.

Richard Morissey testified. (Att.7&8) He stated that the Department of Health and Environment Bureau of Adult and Child care facilities supported the bill. He said that the main purpose of the original licensing law is to protect the health, safety and welfare of children receiving care away from their parents and home. In response to a question from the committee, it was learned that many Day Care Centers would not be applicable to this bill.

Kharon Hunter testified in support of the bill. (Att. 9 & 10). She stated that she has been a licensed day care provider for over 20 years. She stated that professionalism of a provider is partly identified by the atmosphere developed by quality of facilities, and she was concerned that taxation on furnishings would discourage quality daycare.

Diana Shirley testified. (Att. 11 & 12) She stated that she was a classic example of "not for profit" day care because she had a minimum number of children, and cared very deeply for the welfare of the children she kept. She said she felt the day care providers were faced with some difficult choices if S.B. 687 did not pass.

Gary Smith testified. (Att. 13) He stated that the bill as written would not cover Day Care Centers. It also may not cover foster care, pre-schools which have personal property and day care in churches.

Chairman Kerr informed the committee that the Friday, March 4 meeting would be the last meeting to take action on Senate Bills not exempt from the deadline.

Senator Montgomery made a motion to adopt the minutes of the March 2 meeting. Sen. Thiessen seconded. Motion carried.

Meeting adjourned.

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
3/3/88	Jim McBride	Topeka	Observer
3/3/88	Bob Funnels	Lawrence, Ks	Is. Cath. Conf.
3/3/88	Sister Mary Serena Sheehy	Lawrence, Kansas	Sister of Charity of St. Ann
3/3/88	JOHN H HOLMGREN	Topeka Ks	Catholic Polish Association
3/3/88	Sister Judith Lindell	Great Bend, Ks.	Dominican Sisters
3/3/88	Don Plunkett	Concordia, Ks	Sisters of St. Joseph Parish
3/3/88	LARRY E KEENAN	Great Bend	Legisl. Council for Women
3/3/88	FAT BARNES	Topeka	Ks. Motor Car Club Central
"	Sister Dorothy Walters, O.S.B.	Atchison, Ks 66002	Mount St. Scholastica
	Bob Kelly	Topeka	Ks Independent Colleges
3/31/88	John D McNeal	Topeka	TROX
3/3/88	KATH L LANDIS	TOPEKA	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
3/3/88	John Shirley	Topeka	Observer
3/3/88	Diana Shirley	Topeka	Child Care C.C. Providers
3/3/88	Kharon Hunter	Topeka	Child Care Provider
3/3/88	James E Cople	Wid. Ta	Kansas Federation of Teachers
3/3/88	Christine Ross	Lawrence	KDHE
3/3/88	Richard Mounsey	Topeka	KDHE
3-3-88	Gay M. Smith	Topeka	Shannon Co.
3-3-88	Robert C.	Mid Cont. ...
	John Blythe	Manhattan	Ks Farm Bureau
3-3-88	Anthony Hensley	Topeka	State Rep.

TESTIMONY IN SUPPORT OF SENATE BILL No. 514

I am grateful for the opportunity to speak to the Assessment and Taxation Committee of the Kansas State Senate in support of Senate Bill No. 514. This bill would restore to religious communities tax exemption from property and ad valorem taxes.

In a former testimony I noted that the authority for this time honored exemption is found in the Constitution of the State of Kansas, Article II, Section 1, which provides among other things as follows:

"...All property used exclusively for...literary, education, scientific, religious, benevolent and charitable purposes"...is exempted from property taxation.

Further, K.S.A. 79-211 likewise provides:

"Third. All real property and all tangible property, actually and regularly used exclusively for educational...religious, benevolent or charitable purpose"...is exempt from "all property or ad valorem taxes levied under the laws of the State of Kansas."

I believe the intent of such authorization was to promote the common weal to recognize that society is best served when those purposes which promote the religious and spiritual development of the society, as well as charitable works aimed at relieving human suffering, are fostered by the forces of the government.

The question now at hand is the correction of the omission in the current law which recognizes that residences used by men who serve the Church in various ministerial capacities are exempt but overlooks the cadre of women who have dedicated their lives to religion and to benevolent and charitable works. An understanding of this commitment of religious women to the Church is essential to an understanding of the reason that residences for religious women should be included in the tax exemption. Convents are not a new phenomenon in the Church, but have existed for centuries, and religious orders are recognized and are granted individual approval by the Holy See itself. Religious women, to carry out their service and ministry within the Church, become members of religious Orders and live in convents.

Sisters are required as a condition to membership in the Order to

profess vows of poverty, chastity and obedience. In the spirit of obedience Sisters are missioned to services or work that carry out the specific work of the Order which is dedicated to the corporal and temporal works of mercy. The Order exercises control over the Sister in terms of where she will work and where she lives. Change or termination likewise requires the permission of the superior. All are subject to a common discipline and share their goods in common. In accordance with the vow of poverty a Sister has no claim or demand, directly or indirectly, upon any wages or compensation received. Whatever is earned is for the common good and contributes to the support of the entire Community and the furtherance of their works. Sisters carry out their activities as a Community supporting one another in a spirit of mutual interdependence. To do this as a Community it is necessary to live together and to provide an environment that fosters the development of the religious values to which they are committed. Thus the conventual life is essential to fulfilling the mission of the religious Order. Further, living in Community makes it possible to care for the aged and infirm members of the Order in the same way that all members are cared for.

There tends to be a narrow interpretation of the term "exclusively." I submit that living in religious Community is itself an act of religion since religious women dedicate their entire life to support and witness to the Gospel of Christ.

The saga of more than a century portrays the contributions of religious women to the Church and therefore to the State of Kansas. In the four corners of the State religious women have engaged in educational, religious and charitable activities. Changing times have seen a shift in the focus. As society's needs change so have the works of the Sisters. For example, Sisters have moved from running orphanages to providing services for the homeless, the abused and battered of society. Today in addition to the usual works of education, health care, parish ministry and social services the Sisters of Charity of Leavenworth are attempting to provide health care for the uninsured and under-insured in two new clinics: 1) Marian Clinic in Topeka and 2) Saint Vincent Clinic in Leavenworth. Sisters provide food, clothing and shelter through many silent channels and in some obvious ways, such as the Emergency Assistance Center in Leavenworth.

I submit to you that correcting the omission in this law is necessary to preserve and protect an important dimension in the American way of life; namely, the support and encouragement of those who spread the Gospel by religious and charitable work. Needless to say, taxation of this nature would impose economic hardships on religious Communities who at this time face severe problems in relation to the cost of living in the face of reduced income and aging populations. Additionally, the imposition of taxes would impede the development of their varied ministries within the State. I urge you to consider and vote favorably on Senate Bill No. 514 that will specify the exemption of convents. Thus, you will preserve a long heritage in Kansas as a State that recognizes the importance of personal and individual freedom and the importance of religion in the affairs of society.

Submitted by



Sister Mary Serena Sheehy
Corporate Treasurer
Sisters of Charity of Leavenworth

March 2, 1988

STATEMENT

The Dominican Sisters of Great Bend, Kansas, also known as the "Dominican Order", is a congregation of women who have taken common religious vows of poverty, obedience and chastity under the authority of the Roman Catholic Church. This Order of Dominicans was established in 1902 with the opening of its Mother House in Great Bend, Kansas. The Sisters, presently consisting of 172 professed members, live and work together in community in fulfillment of the mission of the Dominican Order, which includes teaching, providing health care and performing other religious and charitable works.

For legal purposes the Dominican Order, in 1902, formed a non-profit Kansas Corporation, "The Nuns of the Third Order of St. Dominic," dedicated to religious and charitable service. The corporation holds legal title to the Order's property.

The Nuns of the Third Order of St. Dominic is a tax exempt organization under the Internal Revenue Code. (the same as a 501(c)(3) organization) However, the tax exempt status comes from being listed in the National Catholic Directory.

Additionally, the Dominican Order is a canonical institute authorized to exist by the Holy See (Rome) and recognized as an institution of the official Roman Catholic Church. According to Canon Law, the Dominican Sisters' congregation is a public juridic person and all property owned by it is property of the Roman Catholic Church.

All members of the Dominican Sisters make a vow of perpetual poverty, of chastity and of obedience. These vows are made in the presence of the Bishop of the Dodge City Diocese and of the Major Superior of the Order. In addition, the vows are made in writing. Copies of the vows taken by the Sisters residing at 808 Mann Street in Larned, Kansas, are enclosed.

The vow of poverty provides that money earned by the labor of a Sister belongs to the Dominican Order. A copy of the rules and regulations pertaining to the vows of poverty, taken from the Handbook of Common Law for Non-clerical Religious Institutes which is part of the Canon Law of the Roman Catholic Church, also is enclosed.

In addition, each Sister executes a "Declaration Concerning Remuneration" in which she agrees and declares that she will never seek any wages, compensation, remuneration or reward for the time, services or work performed by her while a member of the Dominican Order. Copies of this "Declaration Concerning Remuneration" for each Sister living at 808 Mann Street in Larned, Kansas are enclosed.

This Order of Dominican Sisters has been engaged in the apostolate of health care since its inception, and at the present time sponsor and operate three hospitals, each of which is the only hospital in its community. These hospitals are Central Kansas Medical Center, Great Bend, Kansas, St. Joseph Memorial Hospital, Larned, Kansas and St. Catherine Hospital, Garden City, Kansas.

St. Joseph Memorial Hospital, Larned, Kansas was dedicated in 1951. In 1960 new space was added including accommodations for living quarters for the Sisters who served in the hospital.

The Dominican Order has contracted with St. Joseph Memorial Hospital to provide Sisters who will perform designated services at the hospital. There are no employment contracts between the hospital and individual Sisters. The contract is between the hospital and the Dominican Order. The convent's compensation for these services is commensurate with compensation received by lay personnel performing like services in the hospital. Checks are written by the hospital to the Dominican Order in payment of the compensation on a monthly basis. A living allowance budget is prepared for the Sisters in the residence and the money is made available for their use. There is no relationship between the compensation paid to the Dominican Order and the living allowance made available for the same Sisters.

In 1980 the administrator of St. Joseph Memorial Hospital wrote to the Sisters Council (Board of Directors) of the Nuns of the Third Order of St. Dominic recommending that the Sisters acquire a residence other than on the hospital premises, for Medicare reimbursement purposes. As a result, on December 20, 1980 the Order of the Dominican Sisters purchased the property at 808 Mann Street for the purpose of housing the Sisters who work at the hospital. In early 1981, the Sisters moved out of the hospital into that property. The property is located in close proximity to the hospital (1-1/2 blocks) for the convenience of the Sisters. Larned, being some 25 miles from Great Bend, is too far for Sisters working at the hospital to drive back and forth. Additionally, the role of the Sisters in the hospital demands that they be available 24 hours a day. The property is titled in the name of the Nuns of the Third Order of St. Dominic.

The house consists of 7 bedrooms, living room, 2-1/2 baths and a Chapel, including an altar for Mass, a tabernacle in which consecrated hosts are present at all times.

The Sisters presently living there are:

Sister Francesca Schinstock
Sister Amadea Hauser
Sister Hilaria Penka
Sister William Hipp
Sister Anastasia Kuntz

Sisters Francesca, Amadea, Hilaria and William all are employed at St. Joseph Memorial Hospital. Sister Anastasia is retired and serves as the homemaker.

Religious services are conducted in the Chapel at 808 Mann at least twice each day.

All of the Sister residing at 808 Mann are actually and regularly engaged in conducting the services and religious ministrations of the Dominican Sisters and of the Roman Catholic Church, at the residence Chapel, in the hospital Chapel, and at other locations. The services are attended by the Sisters and often by patients and other persons. Among the religious ministrations which they conduct are: eucharistic celebrations, prayer services, leading Rosaries, Stations of the Cross, Novenas, Bible Vigils and religious instruction. They engage in pastoral, spiritual care of hospital patients. Mass is said in the residence on occasion in which the resident Sisters participate. Two of the Sisters are distributors of the Eucharist both at the hospital and at Sacred Heart Catholic Church in Larned.

As individual Sisters each is authorized to and does perform spiritual counseling. Among the sacraments recognized by the Roman Catholic Church, they are authorized to perform baptisms and conduct eucharistic celebrations with distribution of the Eucharist. They may participate in the administration of other sacraments including Confirmation and the Anointing of the Sick (Last Rites).

Testimony by the Catholic Health Association

John H. Holmgren, Executive Director

Before the Senate Assessment and Taxation Committee

Senator Fred Kerr, Chairperson

11:00 A.M., Thursday, March 3, 1988

SB 514

My name is John Holmgren and I am the Executive Director of the Catholic Health Association of Kansas. This Association consists of 18 hospitals with over 4,000 beds widely distributed throughout Kansas from Kansas City to Garden City, and also, as members, 7 nursing homes in Kansas with over 1,000 beds.

We urge this Committee to support SB 514 permitting the continuation of tax exemption for residences occupied by our religious communities and organizations throughout Kansas.

We ask for your support and give the following rationale:

1. The Sisters take vows of charity, chastity, and obedience; they do not earn salaries. These are allocated to their organization to cover the charitable expenses of their group. Sisters are

entitled to a nominal monthly stipend.

2. They live a ministerial life, helping others in need, in hospitals, in free clinics, in nursing homes, and other areas of community life. They have a religious, charitable, non-profit focus in their entire life.
3. They already have IRS tax exemptions as a religious, non-profit organization under 501C(3) of the Internal Revenue Code. This requirement for which organizations would be considered under SB 514 should assure this Committee that the exemption would be carefully applied.
4. The fact is that the Sisters take care of those in need of schooling, or hospitalization, or clinical care, very often as a charity responsibility, and as a major commitment in their mission. The Sisters, therefore, support a manifest corporate mission to serve the public beyond the mere agreement to forego distribution of profits. This mission relieves, to some extent, the burdens of government in a way which is at least as commensurate with the amount of taxes which they would have paid, if not exempted.
5. Finally, we note the historical, religious,

contributory role of the Sister religious everywhere
in the United States as a non-profit organization
devoted to helping people, and who, as a community of
persons:

"regularly engage in religious, benevolent,
charitable, and educational ministrations."

Thank you for your courtesy.

John H. Holmgren

Copies to: Senator Fred Kerr, Chairperson
Senator Dan Thiessen, Vice Chairperson
Senator Jim Allen
Senator Robert G. Frey
Senator Leroy A. "Bud" Hayden
Senator Gerald "Jerry" Karr
Senator Don Montgomery
Senator William "Bill" Mulich
Senator Nancy Parrish
Senator Alicia Salisbury

THE STATE  OF KANSAS

BOARD OF TAX APPEALS

Docking State Office Building, 10th Floor
Topeka, Kansas 66612-1582
AC-913 296-2388

Keith Farrar, Chairman

Robert C. Henry, Member
Fred L. Weaver, Member
Victor M. Elliott, Member
Conrad Miller, Jr., Member

M E M O R A N D U M

DATE: March 3, 1988

TO: Fred Kerr, Chairman
Assessment & Taxation Committee

FROM: Keith Farrar, Chairman
Board of Tax Appeals

BOARD OF TAX APPEALS COMMENTSS B 514

S. B. 514 exempts certain homes occupied by persons bound to religious vows from taxation. Most of these homes are commonly referred to as convents.

The bill, as written, would exempt some, but not all, convents. Specifically, convents occupied by nuns who teach school, are assigned to pastoral counseling, church administration or charitable functions would be exempt. The Board heard a number of cases where the nuns were assigned to a hospitals' staff (nurse, administrator, clerk, etc.) "Hospital" use or functions are distinguishable from educational, charitable or religious use. Compare K.S.A. 79-201 Second to K.S.A. 79-201b First. Thus, a convent occupied by a nun assigned to a hospital is not exempt in the bill's present form. If the committee intends to exempt "hospital" nun's homes, it should amend S. B. 514. The Board can provide language, if desired.

S. B. 514 is the latest in a series of proposed bills designed to exempt Catholic nun's homes. However, the language is sufficiently broad that it also exempts homes occupied by members of non-Catholic denominations. Testimony presented in other cases established that

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Sen. Fred Kerr

other "religions" require the acceptance of "religious vows" and a life-long dedication to a "religious life". The language in S. B. 514 would grant homes occupied by members of the Unification Church and some "evangelical", and non-traditional denominations that are not currently exempt. After considerable research and hypothesizing, the Board cannot recommend language which would legally distinguish between these properties. If the bill becomes law, legislators should do so with the understanding that S. B. 514 is not limited to Catholic convents.

TESTIMONY

SENATE ASSESSMENT & TAXATION COMMITTEE

Thursday, March 3, 1988

RE: Senate Bill 514

KANSAS CATHOLIC CONFERENCE

BY: Robert Runnels, Jr., Executive Director

Mr. Chairman, members of the Senate Assessment and Taxation Committee, my name is Bob Runnels, I am Executive Director of the Kansas Catholic Conference.

I will speak today in support of Senate Bill 514 that exempts church convents from Property Tax in Kansas.

I speak in behalf of those convents owned by their communities or the church in which they serve. Such buildings are held in trust for the people of the community.

Religious living in convents serve the community by the nature of their vows. They have dedicated their lives to helping others. They serve as ministers in churches, hospitals, nursing homes and other church related activities. Usually their pay is a minimal stipend set at a poverty level.

More than anytime in memory religious are being challenged to carry on an ever larger role in administering to those in need ... those in the cities being cut off of federal and state programs ... those in our rural areas who are now facing financial disaster.

Today the best known nun is Mother Theresa of India ... you should know the community service of our nuns in Kansas is just as dedicated and as meaningful even though not as well known.

Senate Assessment & Taxation Committee

March 3, 1988 - S.B. 514

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In the past convents have not been taxed ... taxing is a recent undertaking by some County Assessors ... our request then for tax exemption is to continue a long standing tradition.

This tax exemption bill will leave in place a wholesome relationship between church and state.

Our Conference asks you to favorably report Senate Bill 514 for passage to the Senate.

Patrice Pomeroy
1424 SW 31st
Topeka, KS 66611
February 23, 1988

Representative Anthony Hensley
Room 278 West
State Capitol
Topeka, Kansas 66612

Dear Rep. Hensley:

I am writing in regard to the recent effort by the county to collect personal property taxes from home day-care providers and the effort the legislature is making to address changes in the law.

I am a professional state employee, with two children, ages 2 and 6, who currently receive day care in a home setting environment. I chose my day care carefully to provide a safe, loving and learning situation for my two daughters. I also took into consideration the proximity to my home and the location of the school where my eldest daughter attends kindergarten. I currently spend about 1/3 of my take home income on day care. Even with my husband and myself working, our budget cannot absorb much more expense than we currently pay out. As an example, our property taxes went up this year, gas and electric bills continue to rise and the state health insurance premium increased on Jan.1.

My concern is with taxing a day care, with that cost eventually past on to the consumer --ME. I can't expect my day care to absorb the cost and know that additional expenses to her will result in a rise in costs to me.

The legislature is currently addressing a measure which will allow state employees to exclude from their wages payments for child day care, resulting in lower taxes because taxable gross salary would be smaller. This is the first positive approach the state has taken to giving working parents some sort of break when paying for day care. Now the county is going to tax the home day cares and the costs will rise for the consumer and no one saves in the end.

I don't believe home day cares should be classified as a business. They provide a service to me. A service that allows me to work, be a productive member of this community, pay taxes and support the tax base for the city of Topeka. How much money can actually be collected from these individuals that won't be offset by administrative costs, paperwork, manpower and enforcement?

Safe, reasonable and convenient day care is a concern to every working parent. It is also a national, state and local concern that has not been addressed in the past and to date, been virtually ignored. With the number of mothers with small children now in the workforce, it is an issue that can no longer be denied. I take my stand now so that when my daughters are grown and have their own children, maybe they won't face the problems I have finding good, quality day care.

I urge the legislature to address this issue of home day cares and keep them off the tax rolls.

Sincerely,

Patrice Pomeroy

Patrice Pomeroy

cc: Commission Chairman Eric Rucker
Senator Alicia Salisbury
Senator Jeanne Hoferer

A & T 3/3/88
Att. 6

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BUREAU OF ADULT AND CHILD CARE FACILITIES

LICENSING AND REGISTRATION
OF CHILD CARE IN KANSAS

I. INTRODUCTION

The original licensing law which was passed in 1919 placed the licensing authority with the Kansas Department of Health and Environment. The Department administers the licensing law as a preventive program to assure that out-of-home care for children and maternity patients will not be exploitive, unsafe or unhealthy. Basically, the main purpose of the law is to protect the health, safety and welfare of children receiving care away from their parents and home. It is also a consumer protection law assuring parents that the care they are paying for meets minimum standards of good care.

Licensure or registration (depending on the number of children in care) is required regardless of the motivation for providing care, and whether or not there is advertisement of or payment for services. The essential fact is that a child or children are receiving care away from their own home.

Registration or licensing is not required when care is provided in the child's home, if children are cared for in the home of a relative, or if not more than two children per week are in care not more than twenty hours per week. (The latter exception does not apply if the facility has been closed as a result of enforcement action.) Total time is determined by adding the time each child is cared for weekly.

Registration or licensing is not required for irregular care arranged between friends and neighbors on an exchange basis.

II. CATEGORIES OF CHILD CARE

A. DAY CARE (less than 24 hours per day)

1. Licensed Day Care Home (K.A.R. 28-4-113 et seq.)

A license is required for any person giving regular care for less than 24 hours a day to a maximum of 6 children under kindergarten age including the family's own children in this age group and four additional children kindergarten age and over, with a maximum of 10 children including the provider's children. Persons caring for six or fewer children have the option of being either licensed or registered. (See "Regulations for Licensing Day Care Homes and Group Day Care Homes")

2. Group Day Care Home (K.A.R. 28-4-113 et seq.)

A group day care home may be licensed to care for a maximum of 12 children under 14 years of age. (See "Regulations for Licensed Day Care Homes and Group Day Care Homes")

3. Registered Family Day Care Home (K.S.A. 65-517 et seq.)

Registration is required for any person giving regular care for less than 24 hours a day to 6 or fewer children away from the child's home. The total must include the family's own children under 16 years of age, and may not include more than 3 children under 18 months including the family's own children in this age group. (Legislation effective 7-1-80.)

4. Child Care Centers/Preschools (K.A.R. 28-4-420 et seq.)

a. "Child care center" means a facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care, or which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations.

b. "Preschool" means a facility:

1. which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 1982 Supp. 72-1107(c) and any amendments thereto, and who are 30 months of age or older;
2. which conducts sessions not exceeding three hours per session;
3. which does not enroll any child more than one session per day; and
4. which does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives. A preschool may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.

- c. In lieu of being licensed, preschools operated in the same building as private school providing kindergarten through grade six shall be governed by Kansas statutes applicable to private schools.
- d. A license is not required when irregular care (2 to 6 consecutive hours on an unscheduled or intermittent basis) is given to a child whose parents are on the premises and/or readily accessible to the child.
- e. Mother's Day Out or other programs operating 5 consecutive hours or less per week shall be exempt from licensing (See K.A.R. 28-4-212.(1)(4).)

B. RESIDENTIAL CARE

1. Family Foster Home (K.A.R. 28-4-311 et seq.) -- Twenty-four hour care for one to four children. (See "Regulations for Licensing Family Foster Homes for Children")
2. Group Boarding Home (K.A.R. 28-4-268 et seq.) -- Twenty-four hour care for five to ten children. (See "Regulations for Licensing Group Boarding Homes for Children and Youth.")
3. Residential Center (K.A.R. 28-4-268 et seq.) -- Twenty-four hour care for over ten children. (See "Regulations for Licensing Residential Centers for Children and Youth")

The State Department of Health and Environment does not place children in residential care. Children are placed by parents, by a public agency such as Social and Rehabilitation Services, or by a private child placing agency licensed to perform a placement service.

C. SPECIAL CATEGORIES OF SERVICE REQUIRING A LICENSE:

1. Child Placing Agency (K.A.R. 28-4-170 et seq.) -- A social service agency which receives children for services including placement in institutions or in foster family homes for adoption.
2. Maternity Care (K.A.R. 28-4-268 et seq.) -- Residential or Group Boarding Home care which includes services to females during pregnancy.
3. Maternity Center or Hospital (K.A.R. 28-4-370 et seq.) -- A facility not licensed as a regular medical hospital, which provides delivery services for normal, uncomplicated pregnancies. (See "Regulations for Licensing Maternity Centers.")
4. Detention Center (K.A.R. 28-4-350 et seq.) -- A secure restrictive facility designed specifically for children and youth who require secure custody, and which provides temporary living accommodations for alleged delinquent, miscreant, wayward, truant or deprived children and youth pending court disposition or placement in an appropriate program. (See "Regulations for Licensing Detention Centers")
5. Day Care Referral Agency (K.A.R. 28-4-185 et seq.) -- An association, organization, individual or corporation receiving, caring for, and finding homes for children needing day care who are under 16 years of age.

D. FURTHER INFORMATION:

1. Health certificates are required for all adults in contact with children, and all family members over sixteen years of age living in the home.
2. Medical records on all children and youth in care must be on file at the child care facility.
3. Following approval by licensing personnel a license will be issued.

If the home or center is not approved, the license will be denied. Reasons for the denial will be provided to the applicant, who may appeal the decision by requesting an Administrative Hearing with the Department of Health and Environment.

Information about licensing procedures may be obtained from the county health departments (address under county government) or by writing Child Care Licensing Section, Bureau of Adult and Child Care Facilities, Kansas Department of Health and Environment, 10th Floor, Landon State Office Building, 900 SW Jackson, Suite 1001, Topeka, Kansas 66620-0001.

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

*Forbes Field
Topeka, Kansas 66620-0001
Phone (913) 296-1500*

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*
Gary K. Hulett, Ph.D., *Under Secretary*

Testimony Presented to

Senate Committee on Assessments and Taxation

by

The Kansas Department of Health and Environment

Senate Bill No. 687

Background

Taxation of registered and licensed day care homes would inhibit the growth of new day care homes at a time when the availability of child care is most essential for working parents. Some day care home providers may opt to not be registered or licensed. Operating unregulated child care would provide less visibility as a means of avoiding taxation. A proliferation of unregulated day care homes would not ensure basic health and safety standards for children in out-of-home care.

Taxation of day care homes could affect 3,296 registered family day care homes and 2,264 licensed day care homes statewide. In Shawnee County, there are 77 registered day care homes and 395 licensed day care homes.

Recommendations

We recommend passage of Senate Bill No. 687.

Presented by: Richard J. Morrissey, Director
Bureau of Adult and Child Care
Kansas Department of Health and Environment
March 3, 1988



Legislators:

March 1, 1988

Regarding in-home day care tax issue:

I'm Kharon Hunter and have been a licensed family day care provider for over 20 years. I'm Editor & Board Member of Child Care Providers Coalition of Kansas, Board & Day Care Committee Member and Trainer of KCCTO, Kansas Child Care Training Opportunities.

Currently Shawnee County has about 500 in-home child care providers; Kansas has a total of approximately 5,500 licensed & registered providers. According to the 1987 National Family Day Care Licensing Study by the Children's Foundation, there are 198,344 regulated providers in the U.S., which is a 22½% increase from 1983. I did not find any state that requires in-home child care providers to pay personal property tax.

I help give the orientation for new home providers in Shawnee County. It's been easy to promote family day care because of the many advantages from working a small business out of our home, including the allowed income tax deductions for direct business expenses and a percent deduction for the shared household items. When I buy that couch or tricycle, I justify the cost by knowing:

1. its at least partly an income tax deduction
2. that the family members can use it
3. and the merchandise will help me, give better service to my day care clients

Kansas home day care regulations do not require me to start business with a long list of special furnishings, toys or supplies. But I learned very quickly that having sufficient and sturdy equipment does make a difference when working with children...and now the more I buy the more I'll be taxed. Shawnee County Health Department requires providers to provide program/activities and now those supplies will be taxed. Professionalism of a provider, is partly identified by the atmosphere we develop in our home facility by having sufficient household furnishings, toys and supplies. I do not want or think I should be asked to pay personal property tax on household furnishings and equipment that is for a two-fold purpose - family & day care!!

I can not believe that the processing and bookkeeping cost of an appraisal, would be offset by the increase of personal property tax revenues. Please exempt home day care providers!!!!

A & T

3/3/88

Att. 9

March 1, 1988

RE: KSA 79-301

To all Kansans concerned with quality child care:

As a day care home provider with a BS in Early Childhood Education, I am very concerned about the current interpretation in Shawnee County of KSA 79-301, regarding tax assessment of what is being referred to as "commercial personal property" of day care home providers. The ramifications of this interpretation are far reaching.

Many day care home providers will decide that the additional paperwork and increased taxes assessed to their business are too much and will quit providing child care altogether. There is already a shortage of child care in Topeka and this can only make matters worse.

Day care providers who serve smaller numbers of children (such as those who primarily care for infants and toddlers) will be most penalized by this type of taxation. They already make significantly less income, due to the few children they are able to serve. Their personal property, however, would amount to approximately the same value as that of those serving larger populations. Infant and toddler care is already in extremely short supply. Again, this taxation can only make matters worse.

This taxation encourages one to offer mere custodial care in place of quality care of children. After all, the more equipment and supplies used with the children, the greater one would be taxed year after year.

The additional taxation will encourage the operation of unlicensed homes, thus avoiding commercial personal property tax and income tax. Not only would that decrease the state's revenue, but would put our children at risk to receive less than adequate care.

Many day care operators who choose to remain in business will be forced to raise their rates. This will be particularly difficult for single parent families to pay. It is likely that some will choose to leave children at home unattended.

A & T 3/3/88

Att. 10

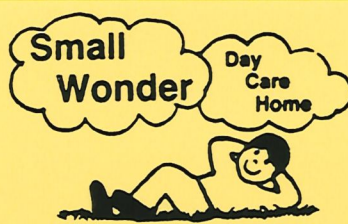
The letter sent by the county appraiser's office states that I, as a daycare provider, am to be taxed at the full value of all items shared by my business and my home (i.e., my refrigerator, stove, my own child's high chair, etc.) This makes little sense as I am allowed to count only a small percentage of the cost of these items as business expenses.

As is often the case, our children will suffer most from the effects of this government action. When will we learn that our children are our most important investment in the future? Considering the move in recent years to improve the quality of child care, this taxation would result in a giant step backwards.

I trust that you will take immediate action to rectify this situation .

Thank you for your help.
Sincerely,

Janet Degenhardt
4130 SW 33rd Terrace
Topeka, Kansas 66614



2819 Engler Ct.
Topeka, KS 66614
(913) 273-2968

Diana Shirley
BSE/Early Childhood
MS/Special Education

In the 1980's child care is an issue at the forefront of the American consciousness. Legislation has been recently introduced at state and national levels to financially support the improvement of child care. In an era in which there are fewer families with an at home parent, there must be sensitivity to the reality that others are helping to shape those children's lives. According to the U.S. Dept. of Labor, 50% of mothers with infants under 1 year old are working outside the home. They project that by the year 1990, 2/3 of all preschool children will have mothers in the workforce. However, it is also a time of increased fiscal awareness and many fine programs are sacrificed to the national deficit. If found to be unrealistic to support child care issues financially, let us at least not discourage quality child care by burdening providers who use their family budgets to create enriched environments for children.

It is inappropriate for child care providers' taxes to be based on equipment and materials. Materials, equipment and facilities add quality to our programs and aid the development of children we care for. They do NOT necessarily aid earning potential. It is illogical to compare home daycare with other homebased businesses. The parameters of a daycare provider's income are limited by government regulations. The income potential for other businesses is limited only by the owner's initiative, facilities and market for his service. It is unconscionable that providers offering only custodial care with maximum enrollments would be taxed less than those with quality environments.

Providers face bitter choices, including closing day cares, providing unlicensed (thereby untaxed care), raising fees and ceasing to offer superior programs. Providers offering infant\toddler care already find it difficult to make it financially successful, due to the lower child-caregiver ratio. This law additionally discourages providers from offering infant\toddler care. Any of these choices made by providers will further limit the already strained recourses for parents desperate for excellent childcare. Many will simply be priced out of the childcare market and be forced to quit their jobs or allow young children to stay alone or minimally supervised.

In an age when the care of our children is a major issue, at a time when the need for quality care is a necessity all too often unattainable; this form of taxation by Shawnee county and the State is a deterrent to quality child care. According to this interpretation, everything used in caring for children, would be taxable, so even gifts that become part of the program would be taxable. Further, the motivation to buy or make materials to enhance children's growth will be reduced when providers not only have to pay initially to acquire them but pay yearly to keep them.

The earning capacity of a caregiver who creates an enriched environment for children is no greater than that of one offering mere custodial care. However, the learning capacities of the children they care for will differ. Children learn every moment of every day, positively and negatively. When I started in daycare and would tell someone that I taught infants in my home, they would look at me strangely and say, "Oh?... and WHAT do you TEACH them?" Well.. You teach them to learn and to love by showing them that you love them and are interested in them. You teach them that they are important by doing many activities with them, thereby developing their self-concept. When self-concept is no longer the child's major focus, incidental learning in other areas is more likely to occur. Love is priceless but materials for the activities do have a monetary value. Conversely, you teach a child he is NOT important by seldom enhancing his play experiences, or by ignoring him. He learns apathy and how to get attention inappropriately. Children learn what they live. If they are deprived of an emotionally and intellectually stimulation environment, they will find ways to occupy themselves. Quite often, they find socially inappropriate ways. I saw the effects of this kind of environment many times when I taught children with behavior problems. Therefore, while you may not improve your income by providing a superior environment, you will improve the lives of children.

If it remains with us, the ramifications of this law will reach far beyond the simple collection of a tax from a business. It will affect the entire economy of the working class. We all say we want the best care for our children, but too many settle for too little. Let us hope that by the year 2000, quality childcare will not be an issue to fight for, but a given.

Diana Shulley

I am concerned of the most recent tax of the Day Care Provider. This is one more item to frustrate the provider in her main duties, caring for children. The Home Day Care Provider is governed by State, County, and City. This does not give her the rights of a business. The Provider cannot even exhibit a sign in her yard. She is considered a business for the convenience of tax, but not in the freedom of a profit making business. She is to open her home as a business place, but not receive the same advantages as any business would.

Insurance is almost impossible to obtain and if obtainable, the cost is great. When caring for State funded children, the home provider receives less than that of the Day Care Center. I want to be a business, but I want the right to make a profit and advertise. The Home Provider is split in their motives. Some providers are interested in a small operation with the intent to supply care for children. Others want a profitable business. This point has to be considered in taxing the home provider. If we are taxed, it is inevitable the fee to the parent will be raised, causing a hardship on the single as well as joint parents.

I fear if the Home Provider is to be taxed every home in our community will have to be taxed.

We are using our homes. We experinece a greater amount of replacement because of the hard use of our home furnishings. The operation of the Day Care Home is expensive and the provider hours are long.

The provider has paid taxes with the purchase of each item used in her home. She has also paid for a license and opened her home to be regulated.

I hope people will not use property taxes as an excuse to refuse regulation of child care. We are licensed to protect children. I fear more unlicensed child care may be the outcome if Kansas Statutes 3074 is not ammended. I want to be regulated, but not rules.

Prepared by:

Phyllis Mosher
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Shawnee County
Office of County Appraiser

GARY M. SMITH ASA, CKA
APPRAISER

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COURTHOUSE
TOPEKA, KANSAS 66603-3960

March 3, 1988

Senator Fred Kerr
Senate Assessment & Taxation Committee

Senator Kerr - Honorable Members:

I would like to thank the committee for taking the time to address problems which are addressed in Senate Bill #687.

Line 0036

1. The bill as written will not cover Day Care Associations. (That may be alright if the Humanitarian Bill passes.)
2. May not cover other Day Care operations.
 - a. Foster Care.
 - b. Pre-schools which have Personal Property.
 - c. Day Care in churches.

Sincerely,

Gary M. Smith ASA, CKA
Shawnee County Appraiser

GMS/jw

A & T

3/3/88

Att. 13