

Approved: April 29, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson David Adkins at 9:00 a.m. on March 16, 1999 in Room 519-S of the Capitol.

All members were present except: Rep. Edmonds - excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Representative Tony Powell
Karen Bartz, Community Development Manager, Hallmark Cards, Inc.
Sister Jane Albert Mehrens SCL, Catholic Community Services
Carolyn Zimmerman, Development Director, Marian Clinic
Natalie Bright, Director of Taxation, Kansas Chamber of Commerce
Ned Webb, Director, Community Development Div., Kansas Dept. of Commerce & Housing
Bob Vancrum, Greater Kansas City Chamber of Commerce (written)
Senator Les Donovan
William Lynn, Old Mission United Methodist Church
Rev. Dr. Joe Hendrixson, Executive Director, Kansas Ecumenical Ministries
Thomas E. Slattery, Executive Vice President, Associated General Contractors of Kansas
Art Brown, Mid-America Lumbermens Association
Representative Cliff Franklin
Kevin Kongs, Senior Director of Taxation, Western Resources

Others attending: See attached list

The Chairman opened the public hearing on:

HB 2530 - Kansas community service program, tax credits, definitions

Proponents:

The Chairman introduced Representative Tony Powell, Co-sponsor of the bill (Attachment 1).

The Chairman introduced Karen Bartz, Proponent, Community Development Manager, Hallmark Cards, Inc. (Attachment 2).

The Chairman introduced Sister Jane Albert Mehrens, Proponent, Catholic Community Services, Leavenworth (Attachment 3).

The Chairman introduced Carolyn Zimmerman, Proponent, Development Director of the Marian Clinic (Attachment 4).

The Chairman introduced Natalie Bright, Proponent, Director of Taxation, Kansas Chamber of Commerce and Industry (Attachment 5).

Bob Vancrum, Proponent, on behalf of the Greater Kansas City Chamber of Commerce, submitted written testimony (Attachment 6).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on March 16, 1999.

Neutral:

The Chairman introduced Ned Webb, Neutral, Director of Community Development Division, Kansas Department of Commerce and Housing (Attachment 7).

Questions and discussion followed conferee testimony.

The Chairman closed the public hearing on **HB 2530**.

The Chairman opened the public hearing on:

SB 59 - Sales tax exemption for church contractors

The Chairman introduced Senator Les Donovan, Sponsor of the bill (Attachment 8).

The Chairman introduced Shirley Sicilian, Director of Policy and Research, Kansas Department of Revenue (Attachment 9) who briefed the committee on the fiscal note.

Proponents:

The Chairman introduced William Lynn, Proponent, Old Mission United Methodist Church (Attachment 10).

The Chairman introduced Rev. Dr. Joe Hendrixson, Proponent, Executive Director of Kansas Ecumenical Ministries (Attachment 11).

The Chairman introduced Tom Slattery, Proponent, Executive Vice President, The Associated General Contractors of Kansas (Attachment 12).

The Chairman introduced Art Brown, Proponent, Mid-America Lumbermens Association (Attachment 13).

Questions and discussion followed conferee testimony.

The Chairman closed the public hearing on **SB 59**.

The Chairman opened the public hearing on:

HB 2438 - Real property on which is located facilities utilizing energy resources for generating electricity and personal property and used therefor exempt from taxation

Proponents:

The Chairman introduced Representative Cliff Franklin, Co-sponsor of the bill (Attachment 14).

The Chairman introduced Kevin Kongs, Proponent, Senior Director of Taxation for Western Resources (Attachment 15).

Questions and discussion followed conferee testimony.

The Chairman closed the public hearing on **HB 2438**.

The meeting was adjourned at 10:35 a.m.

HOUSE TAXATION COMMITTEE
GUEST LIST

DATE: March 16, 1999

James C. Shaughery	Coryus Christy Laurence/Ks
Carolyn Zimmerman	Marion Clinic, Topeka
Sister Jane Albert, M.H.S., S.C.L.	Wash. Comm. Servs League, K.O.
Karen Barty	Hallmark Cards
Jeannie Clark	Hallmark Cards
LEA EVANS	WESTERN RESOURCES
Hansley Zimmerman	Western Resources
Terri Long	Western Resources
Wick F. Roffe	Western Resources
Ashley Sheppard	Overland Park Chamber
Dorothy Bright	KCCI
Christy Caldwell	Topeka Chamber of Comm.
JAKE FISHER	WHITNEY DAMRON
Tom Slattery	ABC of Ks.
Art Brown	and Int. Lumbermen Assn
J. Long	Whitcorp Limited Inc.
Bud Burke	Western Resources
Harlan Priddle	Priddle & Assoc.
Jim Furr	Inter. Bk. Clg. Assoc!

HOUSE TAXATION COMMITTEE
GUEST LIST

DATE: March 16, 1999

<i>George Otman</i>	Ks TAXPAYERS NETWORK
<i>Sissy Donovan</i>	Spouse of Senator
<i>Carl Wray</i>	Intern
ED SCHAUB	WESTERN RESOURCES
<i>Charles H. Maly</i>	Pastor Wichita Ks
<i>Larry Kleeman</i>	League of Ks Municipalities
<i>Roger Froude</i>	KGE
SCOTT SCHNEIDER	WGA
Don Schnack	KIOGA -
WILLIAM J. LYNN	Old Mission United Methodist Church
<i>Jim Darby</i>	Old Mission United Methodist Church
<i>Joe Henderson</i>	Kansas Ecumenical Ministries
NED WEBB	KDOC & H
<i>Jim Langford</i>	DOB
<i>Robert M. Bedenock</i>	KDOR - MRS
RICHARD RODEWALD	TAXPAYERS
<i>Jillie Hein</i>	<i>Hein & Co</i>
<i>Anne Spiess</i>	Peterson Public Affairs Group

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HOUSE OF REPRESENTATIVES

TONY POWELL
REPRESENTATIVE, 85TH DISTRICT
SEDGWICK COUNTY
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BUDGET COMMITTEE
MEMBER: APPROPRIATIONS
JUDICIARY
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TESTIMONY IN SUPPORT OF HB 2530
BY
REPRESENTATIVE TONY POWELL

Mr. Chairman,

It is a pleasure to appear before you today in support of HB 2530, legislation which makes some important improvements to the Kansas Community Services Program.

For those of you who are not familiar with this program, the Kansas Community Services Program permits nonprofit organizations that provide community services, health care, or crime prevention services to receive tax credits. In turn, these designated nonprofit organizations solicit donations from businesses, including insurance companies, financial institutions, farmers, and others in support of their programs. For making a donation, urban donors receive a 50 percent income tax credit while rural donors receive a 70 percent credit. Since the program began, there have been \$25 million in credits allocated to numerous nonprofit organizations throughout our state. This year, organizations receiving credits include: Sedgwick County Big Brothers and Sisters; the Fredonia Regional Hospital; the Kaw Valley Habitat for Humanity; and 27 other fine organizations that serve individuals, children, and families.

HB 2530 will improve on this excellent program by: first, changing the definition of eligible organizations to specifically address social and human service organizations working to eliminate poverty; second, allowing the tax credits to be transferable; third, permitting donors to make non-cash contributions in addition to the cash contributions currently allowed by the program, fourth, increasing the credit pool from \$5 million to \$10 million; and fifth, making the tax credits refundable.

These changes will enhance a program designed to bring private dollars to organizations that work to reduce or eliminate serious challenges in our communities. The speakers after me will be able to give you many specifics about how this excellent program has helped many, many Kansans. I hope you will give HB 2530 your full support.

Thank you for your time and attention. I will be happy to stand for questions.

House Taxation
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Attachment 1

Karen W. Bartz

Community Development Manager

Hallmark Cards, Inc.

Testimony before the House Taxation Committee

House Bill 2530

Tuesday, March 16, 1999

House Taxation
3-16-99
Attachment 2

Good morning, Representative Adkins and members of the committee. My name is Karen Bartz. I am the Community Development Manager for Hallmark Cards in Kansas City. I have worked with Hallmark's charitable giving programs for nine years. I am responsible for the company's charitable contributions, including oversight of those made here in Kansas through our four facilities in Lawrence, Leavenworth and Topeka.

It is a pleasure to be here this morning to testify in support of House bill No. 2530, the amendments to the Kansas Community Service Program (CSP). My purpose is to share with you Hallmark's experience with the Kansas program and to encourage your support of these changes, which will enhance a program that is providing vital services to needy Kansans.

Prior to 1994 when the Kansas Legislature approved the Community Service Program, Hallmark had participated in the Missouri Neighborhood Assistance Program for more than a decade. Our goal then was to encourage a similar program for Kansas. We support such programs because their intent relates closely to Hallmark's social responsibility philosophy and our objective to be a good corporate citizen by helping the communities in which we operate so that our employees and our neighbors enjoy a positive quality of life.

At that time, we said that regardless of whether the Community Service Program became law, Hallmark would continue to contribute to community service organizations in Kansas. Although we were delighted that the program was signed into law, there are a few adjustments that could be made to make the program even more effective in addressing the needs of Kansas families and individuals.

Since the Community Service Program became law, there have been approximately \$25 million in credits available (Fiscal years 1995, 1996, 1997, 1998 and 1999). During that period, Hallmark has contributed more than \$2.5 million to Kansas not-for-profit organizations. Of those donations, only \$80,000 in cash donations were made to designated not-for-profit organizations in the Community Service Program. In return, Hallmark received \$40,000 of CSP credits. Why so few CSP credits? In part, because the current law does not permit donors tax credits for non-cash donations. This bill would allow such donations.

However, the limitation has not deterred Hallmark from making non-cash donations to community service organizations. All across the country we are seeing companies increase their giving of in-kind services to not-for-profit organizations. Not-for-profit organizations are telling us that our services are often as valuable as our dollars. Consistent with that trend, Hallmark increased its in-kind services to 36 percent in 1999 from just seven percent in 1997.

We utilize Hallmark employees who agree to work temporarily at nonprofit agency sites or public buildings providing physical revitalization services such as repairs, renovations and painting of the facilities. The employees receive their regular Hallmark salary and benefits from the company while working full-time completing these projects. In Leavenworth during 1998, 35 Hallmark employees provided in-kind labor services at two of Catholic Community Services' transition houses, the Carnegie Arts Center and the Alliance Against Family Violence. Later, Sister Jane Albert Mehrens will describe how her organization benefited from this work.

Although the Kansas economy has been strong during the last few years, many members of our society continue to struggle or experience family crises. We recognize that government resources to assist individuals and families are limited. We believe the Kansas CSP program has leveraged nearly \$50 million to assist the needy. Based on 1999 applications from nonprofits for the \$5 million of tax credits, there was approximately \$15 million of need. Of the 96 organizations that applied for credits, 30 organizations received them. We believe that the pool of tax credits should be increased to \$10 million to more fully address the needs of nonprofits in their efforts to seek out and expand charitable contributions in support of their vital community programs and services.

Finally, the bill would make the CSP credit more flexible for donors. By allowing the credit to be refundable and transferable, donors can make contributions to eligible community service organizations early in the year with the confidence that, if later in the year their business is in a loss situation, they will have options.

Considering all the assistance that this program has already provided Kansans in need, we encourage your support of House Bill No. 2530. The potential for greater success of this public-private program will be unleashed with these changes.

March 16th, 1999

I come before you today to urge you to pass House Bill #2530. This would be a tremendous benefit to non-profit agencies in our communities. Allowing these tax credits encourages corporations and businesses to partner with us in programs that support the economically disadvantaged in Kansas.

Let me share with you a personal experience that I have had with Hallmark. This will illustrate how important passage of this legislation would be in allowing many more non-profit agencies to benefit. Catholic Community Services in Leavenworth was fortunate to have Hallmark volunteers remodel our two transitional homes, building a retaining wall, a patio, replacing concrete steps and painting one entire house on the outside. They worked with concrete blocks and concrete contributed by Geiger Ready-Mix Co., Inc. These are the types of non-cash contributions we value because we operate on a very limited budget.

The improvements to the current bill will benefit programs for Kansans in need and will reward businesses for caring about their communities. I believe passage of this legislation will provide many more good corporate citizens.

Thank you,



Sister Jane Albert Mehrens SCL

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Attachment 3

3-16-99

**Marian Clinic, Topeka, Kansas
Testimony supporting HB 2530**

Ladies and gentlemen, good morning! My name is Carolyn Zimmerman. I am development director of the Marian Clinic, and a proponent of House Bill 2530.

By way of introduction, Marian Clinic is an 11-year-old community based clinic for the low-income people of Shawnee County. As an affiliate of the Sisters of Charity of Leavenworth, we provide medical and dental care to individuals who live at or below 175% of federal poverty guidelines and do not have health insurance. To make our services affordable for the working poor, we charge very modest patient fees which account for about 23% of our annual operating budget. Consequently, Marian Clinic relies on the volunteerism of doctors and nurses, and has an ongoing program of fund development to sustain its operation.

We must be relentless in pursuit of adequate funding. We have asked for and been awarded annual grants from the State of Kansas and the City of Topeka -- and we are hopeful these grants will be renewed in future years. We cultivate friends we call Good Samaritans who contribute personal gifts on a monthly basis. We appeal to churches, fellowships and service clubs for donations and we approach (on bended knee, sometimes) private foundations. But we don't let the corporate community off the hook either. Each year we ask for support from business leaders who have a stake in a healthy community. All this activity goes on just to meet operating expenses.

And I can assure you that Marian Clinic is not alone in such efforts! As any citizen can tell you, there are many good causes across the state -- many needs to address -- much to be accomplished.

For Marian Clinic -- and many other charitable organizations -- to move beyond mere survival and to take the steps that will ensure the future of our work, often demands quite a stretch in fundraising. When we are faced with the daunting task of finding money over and above the routine expenses, dollars that can easily be two, three or four times the annual budget, we need an extraordinary tool.

For Marian Clinic and others, the tax credit incentive has been such a tool. This year we are participating in the Kansas Department of Commerce and Housing's Community Service Program. We have seen corporate gifts increase dramatically and enable the start of a much needed renovation of our medical facility and the expansion of our dental center.

I do not claim that a tax advantage alone motivates a corporate gift. Even business donors must be touched by the cause, must believe in the mission, but a tax incentive can prompt timely action and can increase the size of the gift. In our case, when we explained the community service program, two gifts for renovation grew from \$500 to \$7,500. Another from \$1,000 to \$5,000. And one \$200 annual donor upgraded his contribution to \$2,500. I only wish the generous friends donating materials and supplies could also benefit from this program.

An enormous amount of good is accomplished by not-for-profits all across Kansas. You can help these organizations-- and the corporate citizens of conscience who support them. Please do so by your action on House Bill 2530.

MARIAN CLINIC

LEGISLATIVE TESTIMONY



The Unified Voice of Business

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HB 2530 March 16, 1999

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Taxation

by

Natalie Bright

Director of Taxation and Small Business Development

Chairman Adkins and honorable committee members:

My name is Natalie Bright and I am the Director of Taxation and Small Business for the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to appear before you today in support of HB 2530.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

If passed, this bill would expand the tax credit available to businesses under the existing Community Service Program. This bill would greatly enhance the existing program by allowing tax credits to be given to businesses that contribute assets such as property, transportation, labor services and professional services. Kansas businesses are currently limited to cash contributions

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Also, the tax credits under the existing program are neither transferable nor refundable often serves as a disincentive for some business to participate in the program. If passed, HB 2530 would authorize the tax credits issued under the program to be assignable, transferable and refundable. Changes such as these would give the business a great amount of flexibility in utilizing the credit and strengthen the goodwill of the donor towards the program.

By expanding the scope of the qualified donations and allowing businesses greater flexibility in utilizing the program, the business community's ability to contribute to the social welfare of the community as a whole is greatly enhanced. Not only will the expansions provide business an opportunity to help better Kansas communities, but will also encourage increased participation by a wider range of business.

The members of KCCI strongly encourage you to continue fostering the partnership between businesses and their communities by favorably passing HB 2530.



THE CHAMBER

Greater Kansas City Chamber of Commerce

Written Testimony

Submitted by Bob Vancrum, Chair, Kansas State Affairs Committee

Before the House Taxation Committee

March 16, 1999

I am submitting written testimony on behalf of the Greater Kansas City Chamber of Commerce in support of HB 2530, relating to the Kansas community services program.

The Chamber understands that the demand for tax credits available under the community services program exceeds the current \$5 million cap on the total amount of credits allowed under the program. In 1999, 96 agencies applied for approval to utilize the tax credits and 30 agencies were granted approval to utilize \$5 million worth of tax credits. By increasing the pool of available tax credits to \$10 million, more agencies will be able to use the tax credit program to solicit needed private-sector financial support for their important missions. Based on the number of agencies that applied in 1999, there is clearly a number of agencies that would eagerly line up to apply for an additional \$5 million in tax credits.

More businesses will be able to use the community service program tax credits if they are transferable and refundable. HB 2530 makes this important change. Those businesses who would not receive any benefit from an income or privilege tax credit, or whose income tax liability is less than the amount of the credit, would still benefit from the tax credit program if this change were made. It is a good idea to broaden the number of businesses who can benefit from the program.

Expanding the definition of "contribution" to include non-cash as well as cash assets opens the door for innovative private and non-profit sector partnerships. A business may not have cash to give, but may be able to provide computers or technical support services that are vital to an agency's mission. HB 2530 would extend the tax program to reward companies who make non-cash donations that can be every bit as valuable as cash to an agency.

Increased educational and social services for Kansas children and families is vital to community development. Communities' economic and social well being go hand in hand. The Chamber stands behind the tax incentives in community services program and strongly urges the House Taxation Committee to expand the program by recommending HB 2530 favorably for passage by the full House.

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Bob Vancrum testimony
HB 2530

Thank you in advance for your consideration of The Chamber's position on HB 2530. If you have any questions, please call Jenny Unruh at The Chamber, 816/374-5412, or you may call me at my Overland Park law office, 913/344-8039.

Testimony on HB 2530
Presented to the House Taxation Committee
By Ned Webb, Director, Community Development Division
Kansas Department of Commerce and Housing
March 16, 1999

My name is Ned Webb. I am Director of the Community Development Division at the Kansas Department of Commerce & Housing (KDOC&H). I replaced Mary Faye LaFaver, who handled the implementation of the Community Service Tax Credit Program from its inception. I have had the opportunity to review the current Community Service Tax Credit Program and to understand its administrative aspects. However, I have not had the opportunity to discuss the provisions of this bill with its sponsors. Therefore, my comments today are only to raise issues that the Committee may want to consider.

I do have concerns about our capacity to administer an expanded program such as that envisioned by HB 2530. I want to briefly review our current program first. When the initial Community Service Tax Credit Program was enacted, the administration of the applications and credits was absorbed by our division with no increase in staff. My predecessor, Mary Fay LaFaver, did a considerable amount of work structuring the program when it was first sent to us. Today, Terry Marlin, of my staff, administers and tracks each of the cash contributions made by a qualified 501(c)3 nonprofit. Our current program allocates \$5 million in tax credits that typically go to about 30 recipients each year. Each cash contribution made to a nonprofit must be certified, and a tax credit certificate must be issued to the nonprofit who in turn issues it on to the contributors. We are currently reviewing about 96 applications per year. We make around 30 awards and we are now tracking between 750 and 850 individual business contributions annually. We have the equivalent of one full time employee committed to this program. Applications are now being mailed for the FY2000 competition, and we are expecting a dramatic increase in applications.

One provision of this bill expands the definition of eligible contributions from a cash-only contribution to include "...personal property, materials, supplies, equipment, transportation, securities, technical assistance, labor and professional services." This provision would expand the number of items for which we account from over 800 to as many as 3000. The sheer volume and variety of items to be accounted for and the complexities of placing a value on services and properties concern us. As an example, if a corporation were to donate computer equipment, we would be required to somehow establish that the value is a correct one for that piece of equipment. We have neither the ability nor the capacity to establish these values, and would probably have to seek outside expertise. Placing the appropriate value on services would pose much the same challenge. We also anticipate a substantial increase in technical assistance to recipients who would not know how to properly document property or non-cash gifts. The current program requires less documentation because it is all cash.

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Another provision allows for credits to be sold by the business first receiving them. This raises concerns on how these credits would be tracked for the 10-year period provided for in the bill. The provision that raises the total number of credits from \$5 million to \$10 million would, by itself, potentially double the amount of time we are now spending on the program.

Our fiscal note for this particular bill indicated that it would require up to three new full-time employees to handle the documentation necessary to administer the program. We are aware that the State of Missouri has a similar program in place that allows for property and in-kind contributions and we are told that they dedicate five employees to its administration.

Finally, I would note a concern that has been voiced to us about the possible impact this bill would have on the intended beneficiaries. I understand the original intent of this program was to provide a source of cash for cash-starved nonprofit community organizations by providing incentives to businesses for such contributions. The inclusion of goods and services may shift some of that giving from cash, which is the true need of the nonprofit, to goods and services, which may not be as beneficial.

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
MEMBER: ASSESSMENT & TAXATION
COMMERCE
JUDICIARY
JOINT COMMITTEE ON CORRECTIONS &
JUVENILE JUSTICE OVERSIGHT

**TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE
MARCH 16, 1999**

Chairman Adkins and Committee Members,

Thank you for hearing my testimony on this important issue.

Last summer, I was contacted by several individuals, concerning the religious organization sales tax exemption that the legislature passed in 1998.

The intention of the legislation was to exempt churches and other religious organizations from sales tax paid on items bought for their own use. The bill was written to allow only direct purchases, meaning that the church may not utilize a contractor to purchase goods for them, the church must directly pay for all the goods. This is very cumbersome, time consuming and problematic.

I contacted Shirley Sicilian in the Revenue department and asked her to research the fiscal note to be sure that we had assumed that the exemption would apply to both direct and indirect purchases. She informed me that indeed the fiscal note was inclusive of both types of purchases. She was extremely helpful, as is her standard, and further informed me that the revenue department has received many, many calls from the church people asking for help and guidance. She testified that the department will benefit from the language change in SB 59, by not having to spend many hours assisting the callers with their problem.

Quick passage of SB 59 will insure that the true intent of the legislation will be realized and everyone involved will be better served.

Again, thank you for the opportunity to testify, and I will answer any questions that I can.

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Attachment 8

Office of Policy & Research
Shirley K. Sicilian, Director
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Topeka, KS 66625



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Internet Address: www.ink.org/public/kdor

Office of Policy & Research

TESTIMONY

To: Chairman David Adkins
House Taxation Committee

From: Shirley Sicilian
Kansas Department of Revenue, Director of Policy & Research

Re: **Senate Bill 59 - religious organizations indirect exemption**

Date: March 16, 1999

Chairman Adkins and members of the House Taxation Committee, thank you for the opportunity to testify today regarding SB 59. My name is Shirley Sicilian and I serve as Director of Policy and Research with the Kansas Department of Revenue.

Last session, the legislature provided a sales tax exemption for religious organizations' purchases which are exclusively for religious purposes. Like most of the current exemptions, it is for purchases made *directly* by the organization. Senate Bill 59 would extend the '98 law to allow religious organizations an *indirect* exemption as well. An indirect exemption allows the organization to "pass-through" its exemption to a contractor, so that the contractor can purchase materials tax exempt, on behalf of the organization.

Our fiscal note for this bill is "minimal." This is based on our experience over the interim. The department received at least 100 calls from church offices asking whether construction materials are exempt. The answer is that the materials *can* be exempt if they are purchased directly by the religious organization (and they are for building something that will serve a religious purpose). We informed the religious organizations that under K.A.R. 92-19-52 (b), a purchase will be considered a direct purchase if any bill, invoice, contract or other evidence of the transaction is made out in the name of the exempt entity, and the payment is made on that entity's check, warrant or voucher. We informed them verbally, in private letter rulings, and in administrative notices posted on our web site and placed in the Kansas register. It is our understanding that despite the severe administrative difficulties, these organizations arranged for purchases of construction materials to be made directly.

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March 15, 1999

Re: Sales tax exemption for religious organizations

Effective as of July 1, 1998, K.S.A. 79-3606(aaa) provides exemption from sales and compensating use tax to religious organizations which are exempt from federal income tax under section 501(c) 3 of the federal tax code. In order to realize the exemption, the exempt organization must directly purchase goods or services and provide the vendor a completed exemption certificate for that specific purchase. This means a contractor may not purchase or furnish materials exempt from tax with a "project" exemption certificate. An exempt organization wishing to replace an air conditioner, for instance, would have to purchase the equipment directly and contract separately for labor services to install the equipment in order to claim the allowed exemption. This system places several unnecessary and unfair burdens on the exempt organization.

Consider the situation at Old Mission United Methodist Church, Fairway, KS as an example of the difficulties the current law presents. Old Mission UMC is now well into a major renovation and expansion project. The project budget is approximately \$ 3.4 mil and involves not only new construction, but replacement of the heating and air conditioning plant and installation of new electrical services to the facility. It has been projected that exemption of sales taxes will result in savings of approximately \$ 75,000. Typically, an owner would enter into a contract with a general contractor to provide all materials and labor for a complete project and require payment and performance bonds for the work.

In order to meet the requirements of direct purchase of goods and services, Old Mission UMC has, to date, written seven direct contracts each of which will require payment and performance bonds, and twelve direct material purchase orders. It is estimated that the cost of administering these contracts and orders alone will cost Old Mission approximately \$ 3000. In other words, Old Mission UMC will spend some 4% of the expected savings in order to comply with the law.

But that is just the tip of the iceberg! With separate equipment purchases and separate labor contracts, Old Mission UMC can not look to a single source responsible for resolution of any conflicts. In the event of a failure to perform, Old Mission UMC could be forced to deal with seven bonding companies rather than one. Although the likelihood of these events is perhaps remote, they are real and of disastrous proportions. They exist only because of the requirement for direct purchases by the exempt organization.

Old Mission UMC is fortunate in that the congregation includes members with experience in dealing with the construction and legal issues raised. The vast majority of churches in Kansas are not equipped to deal with the problem. For many, it may mean they simply cannot claim the exemption.

The proposed legislation would allow a "project" exemption certificate to be issued. This would allow the normal single contract construction pattern to be employed. It would remove the cost burden of administering separate contracts and purchase orders from the exempt organization. It would remove the specter of disputed claims on separate bonds from the mix. Without a doubt, the proposed legislation will benefit all qualified religious organizations in Kansas that undertake construction projects in the future. In addition, the change should have no effect on tax revenues because the exemption already exists.

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Attachment 10

Testimony on Senate Bill 59

Before the Taxation Committee, Kansas House

Mr. Chairman, I am Rev. Dr. Joe Hendrixson, Executive Director of Kansas Ecumenical Ministries. Thank you for allowing me to speak in favor of this Committee's passage of Senate Bill 59. Kansas Ecumenical Ministries, known colloquially as the state council of churches, is made up of nine member denominations with congregations in our state, including the American Baptist Churches, the Christian Church (Disciples of Christ), the Church of the Brethren, the Episcopal Church, the Evangelical Lutheran Church in America, the General Conference Mennonites, the Presbyterian Church USA, the United Church of Christ and the United Methodist Church. I speak to you today as a representative of these church communions, which make up over 1,700 local congregations and 400,000 individual members in Kansas.

The positive impact of 1998 legislation

The religious communities of our state welcomed last year's passage of legislation (K.S.A. 1998 Supp. 79-3606) exempting congregations and other nonprofit organizations from sales tax on purchases that further our exempt purpose. We are grateful to this committee and the members of the Legislature who supported that law, which went into effect on July 1, 1998. That exemption has allowed untold dollars to be redirected to programs providing direct assistance and support to the citizens of our state. We understood from the beginning that further clarification would be necessary, and we support the bill you have before you as one step in that clarification process.

The need for clarification

We recognized early on that one weakness in last year's legislation is the expectation that payments for exempt purchases be made directly by the congregation. In and of itself that expectation seems a reasonable protection for the integrity of the purpose of the exemption. However, we have learned through the year that it places an unreasonable burden on congregations that are building new facilities. Because it is more cost effective for the building contractor to make the purchases of materials and supplies, the new building is not exempt from the sales tax. A 300-member congregation constructing a modest building comprised of \$150,000 in building materials must pay approximately \$9,000 in sales taxes.

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Why should religious organizations be exempt?

As you know, sales tax exemptions for nonprofit organizations are based on the philosophy that such institutions return to the communities and citizens of our state services which exceed in value the lost tax revenue. Religious organizations in Kansas support food and clothing banks, homeless shelters, safe places for the victims of domestic abuse, nursing homes, youth programs, and counseling, not to mention support and education for values that make our state a good place to live and raise our children.

Why Senate Bill 59 makes sense

Constructing a building may not seem at first glance to be of value to anyone but those who worship in it. However, the truth of the matter is that these programs cannot be effectively initiated or adequately maintained without a place to serve as a center of operations for them. The building serves a congregation as a rallying place, an inspirational point, an educational facility, and a center of mission from which to serve the people of our communities. I believe that Senate Bill 59 continues and expands the good purposes of sales tax exemptions for nonprofit organizations like ours, allowing more dollars to go to direct services and care for the citizens of Kansas.

We urge your support

On behalf of the member churches of Kansas Ecumenical Ministries, I convey our support for Senate Bill 59, and urge you to press for its passage in this 1999 session of the Kansas Legislature.

Presented by

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HOUSE TAXATION COMMITTEE

**TESTIMONY OF THOMAS E. SLATTERY, EXECUTIVE VICE PRESIDENT,
THE ASSOCIATED GENERAL CONTRACTORS OF KANSAS
SENATE BILL 59**

March 16, 1999

Mr. Chairman and members of the committee, the Associated General Contractors of Kansas and the Builders Association / AGC of Kansas City support Senate Bill 59. Explanations by the Department of Revenue and the bill sponsor do not need to be repeated.

The beneficiary of this proposal will be the religious organizations it was intended to help. However, for this to occur the contractor has to be given the status and mechanics to bring about this savings, i.e. the exemption certificate. Since the passage last year of Senate Bill 493 we have had numerous inquiries on how to make the exemption of sales tax on construction materials and services work for religious organizations. I can tell you that there are contracts waiting to be signed or altered between builders and churches until Senate Bill 59 is passed.

AGC also supports the Senate amendment which provides that the bill become effective upon passage.

Lastly, if the committee recommends the bill to the House favorably, I would hope that there be bipartisan support and it be given favorable consideration and not held down for fear of being used as a vehicle for other tax reductions.

Thank you for your consideration.

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Attachment 12



MID-AMERICA LUMBERMENS ASSOCIATION

TESTIMONY

HOUSE TAXATION COMMITTEE

SENATE BILL # 59 MARCH 16, 1999

Mister Chairman, and members of the House Taxation Committee. My name is Art Brown, and I appear before you today representing the retail lumber and building material dealers of Kansas as a proponet of Senate Bill # 59.

This bill became an issue for us while I was traveling through the State visiting with members. One such member is an operation owned by a couple in a rural community. She was on the board of their church, and he was the retailer selling material to the church, and doing some of the labor in his spare time. As I am known to have an impeccable sense of timing, I happened to visit this business on the very day they were trying to determine how the taxes on this project should be handled. Although the discussion started out with me trying to counsel on the taxing issue, my role digressed to almost becoming a marriage counselor. At some time, I was

fortunate enough to extract myself from this situation with the words that have served me well over the years: "Let me get back to you on this." I had to think if a couple in a small town in our State was having this problem, an urban area must be having some real grief. I called my friends at the A.G.C. and found this to be the case. Many similar incidents were occurring in Johnson County and other urban areas . When I made mention of this fact to our members in our news bulletin, it generated some phone calls. It would appear the words "direct sale" caused some honest confusion in the administration of this statute. With our contractor friends being a key base of support to clarify this matter, we stand as a solid "me too" in supporting their efforts.

You will notice that the sponsors of the bill are urban/rural in nature as well as being from both sides of the aisle. The demeanor in the Senate Taxation Committee addressing this issue could not have been any more supportive. The bill went straight to the Consent Calendar and was passed 39-0.

With the endorsement of K.D.O.R. and no real detractors to this issue, we are hopeful you can keep this momentum going . We would certainly not deplore this Committee duplicating the Senate Taxation Committees efforts and would hope we are not out of line in asking for the passage of this bill out of Committee and placing it on to the Consent Calendar.

I thank you for this opportunity to address you on this matter and stand for any questions or comments regarding my testimony.

CLIFF FRANKLIN

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: FEDERAL & STATE AFFAIRS
VICE-CHAIRMAN
UTILITIES

**Property Tax Exemption
For
Renewable Energy Expansion
3-16-99**

Mr. Chairman and House Tax Committee members, thank you for this opportunity to testify in favor of HB 2438. This proposed legislation would allow utilities, Independent Power Producers, and co-generation companies to build renewable generators with a property tax exemption. Renewable technology such as wind, solar, hydro, biomass, and photovoltaic are expensive forms of capacity expansion when compared to gas, coal, and oil. Even though a property tax exemption comes no where close to bringing renewable power plants competitive to fossil fueled plants, it does help these technologies become more economically attractive. Even if renewable energy is more expensive than fossil fired technology, power producers may still option to make a portion of their generation mix more "green", (i.e. environmentally friendly), when customers call for cleaner power.

Those of us that support more use of renewable energy, but shy away from mandated use thereof, should find a safe harbor in this legislation. Incentives are the right way to encourage Kansas power producers into building renewable plants. Thank you again for your consideration of this measure.

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House Taxation Committee
House Bill 2438

Mr. Chairman and Members of the Committee:

My name is Kevin Kongs. I am the Senior Director of Taxation for Western Resources. Thank you for the opportunity to speak before you today.

Western Resources supports HB 2438, the property tax exemption of renewable energy production facilities. The bill would exempt land and equipment utilizing renewable energy resources and technologies for generation of electricity from property tax. The purpose of the bill is to foster investment in facilities and equipment utilizing renewable energy resources and technologies to generate electricity. Western Resources believes that the intent of this bill is to strengthen and diversify the energy supply infrastructure of the state of Kansas, and to obtain environmental protection and benefits for the state.

In an effort to continue our environmental stewardship, Western Resources is currently constructing a pilot wind generation facility located at Jeffrey Energy Center near St. Mary's, Kansas. The investment in the facility will be approximately \$2 million for two wind turbines and associated equipment with a generating capacity of 1.5 MW.

HB 2438 will have a minimal effect on current property tax revenues because there is little renewable resource generation in existence. However, Western Resources supports this tax incentive to encourage investment in additional renewable energy projects.

Western Resources recently filed a renewable tariff with the Kansas Corporation Commission. The tariff will permit customers to voluntarily elect a portion of their energy from renewable resources such as wind. This exemption will permit utility companies to expand renewable resources for Kansas customers and hold down the cost of research and development of renewable electricity.

It has long been the policy of this state to support energy conservation and environmental protection. We ask that you continue that policy by enacting HB 2438.

Thank you.

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Attachment 15