

Approved: Distributed to Members
Date of Approval - Feb 26, 1999

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:30 a.m. on February 24, 1999 in Room 123-S of the Capitol.

All members were present except: Senator Steineger

Committee staff present: Jerry Donaldson, Legislative Research Department
Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

SB 308 - Tax Credits for Contributions to public works

The Chair appointed a Subcommittee comprised of Senators Jordan, Donovan, and Steineger to consider **SB 308**. Tax information from Shirley Sicilian, Department of Revenue, was distributed to members of the Committee. (Attachment 1)

SB 54 - Access to television services

Senator Umbarger, Subcommittee Chair, informed the Committee it recommends a new bill be introduced, **Substitute for SB 54**, which: 1) provides access to the provider of television service upon request by either the tenant or premises owner, as provided under terms of a municipal or county franchise agreement; 2) expands the definition of premises owner to include "association of apartment owners, association of townhouse owners, or managing agent"; 3) defines "provider of television service"; 4) provides for a bulk or discounted rate; and 5) grandfathers in existing contracts. (Attachment 2)

Senator Umbarger moved, seconded by Senator Donovan, that the Subcommittee Report on SB 54 be adopted. The voice vote was in favor of the motion.

Senator Gooch moved, seconded by Senator Barone, that Substitute for SB 54 be recommended favorable for passage. The recorded vote was in favor of the motion.

Upon motion by Senator Brownlee, seconded by Senator Feleciano, the Minutes of February 19, February 22 and February 23 meetings were approved. The vote was unanimous in favor of the motion.

The Chair advised there will be no meeting Monday, March 1, 1999; the regular meeting time will be available for subcommittees on March 2, 3 and 4. The full Committee will meet on Friday when the Subcommittees will make its report.

SB 269 - Workers Compensation; Self-employed subcontractors

The Chair appointed Senator Umbarger to replace Senator Steffes on the subcommittee.

The Committee adjourned at 8:50 a.m.

The next meeting of the Committee is scheduled to me on March 5, 1999.



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Office of Policy & Research

To: Senator Salisbury
Chair, Senate Commerce Committee

From: Shirley K. Sicilian, Director

Re: SB 308

Date: February 23, 1998

During the February 23, 1999 Senate Commerce Committee hearings on Senate Bill 308, there were questions regarding 1) the federal tax treatment of contributions made to the Kansas infrastructure development fund under SB 308, and 2) the comparative tax benefits between SB 308 and the existing community services credit. Briefly, our analysis indicates that contributions to the Kansas infrastructure development fund under SB 308 would likely qualify as a charitable contribution for federal tax purposes and that SB 308 may represent, at least for the period it is effective, a more desirable tax incentive than the current community services credit.

The federal government allows both corporations and individuals to deduct contributions made to charitable organizations. Contributions made to federal, state and local governments are eligible if the contribution is made solely for public purposes. Although some projects under SB 308 might benefit specific individuals or organizations, such benefits appear to fit within the eligibility requirements for a charitable contributions. Only if a contribution were to be earmarked for a specific project does the contribution appear to be ineligible as a deduction under federal income taxes. The IRS recommends that taxpayers contact either the IRS or the charitable organization if there is doubt as to the deductibility of any contribution. Although our examination does not include all special cases, and is not binding upon the IRS, it does appear that most contributions under SB 308 would qualify as charitable contributions for federal tax purposes.

Under the community services credit, taxpayers may receive a credit equal to 50 percent of eligible contributions (70 percent for certain approved rural community organizations). Credits are nonrefundable and may be carried forward until completely used. Credits are nontransferable and are limited to \$5 million in any fiscal year. The department of revenue approves credits, although contributions must be made to a program approved by the director of community development of the department of commerce and housing. The department of commerce and housing authorizes individual programs to award credits based on contributions made to their organization.

Senate Commerce Committee

Date: 2-24-99

Attachment # 1-1 thru 1-2

Under SB 308, taxpayers may receive a credit equal to 50 percent of eligible contributions. Credits are refundable, and a refund is mandatory for credits carried forward for 5 years. Credits may be transferred, and only \$10 million of credits may be authorized in any one year. Credits are authorized by the secretary of revenue. Information regarding credit transfers must be provided to the Kansas infrastructure development board, which must provide the information to the secretary of revenue. Contributions eligible for the credit must be made in tax years commencing after December 31, 1999 and before January 1, 2005.

Comparing the current community services credit to SB 308 identifies several significant differences, which are summarized below. One other important difference is the application of the carry forward provisions. Regardless of the amount carried forward, taxpayers may not claim more than \$5 million in total community service credits during a fiscal year. Under SB 308, only the amount of new credits authorized each year is limited, not the amount that taxpayers may claim in a given year. If a taxpayer (or taxpayers) accumulates or acquires significant credits the potential exists that credits in any one year may exceed \$10 million. While revenues may consequently be more volatile under SB 308, the credit system it establishes does not result in taxpayers claiming credits and then being required to carry them forward because other taxpayers have already claimed the \$5 million of credits allowed for the year.

	Community Service Credit	SB 308
Credits authorized per year	\$5 million	\$10 million
Maximum credits applied per year	\$5 million	No limit
Credit is refundable	No	Yes, must be after 5 years
Carry-forward period	Until fully used	5 years, unless transferred
Credit may be transferred or sold	No	Yes
Credits authorized by	Revenue, Commerce and Housing	Revenue
Time period during which eligible contributions may be made	Any tax year beginning after 1/1/94	Tax years beginning between 12/31/99 and 1/1/05
Special provisions for rural areas	Yes	No
Share of contributions eligible for credit	50 percent; unless rural provisions apply, then 70 percent	50 percent
Eligible federal deduction as a charitable contribution	depends on the organization contribution is made to	likely is deductible under most circumstances
Add back to Kansas AGI	Yes	No

If you need additional information or have any questions, please contact me at 6-8042.

N. as of 2-23-99

SENATE BILL No. 54

By Committee on Federal and State Affairs

An ACT concerning access to television services; providing restrictions on certain premises owners relating thereto.

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

Section 1.(a) No premises owner shall deny access to, or demand payment of any fee, charge or other form of compensation to the premises owner from any provider of television service in exchange for giving the residents access to such service when such service is requested by either the tenant or premises owner, and provided under the terms of a municipal or county franchise agreement. No premises owner shall demand or accept any such payment from any resident in exchange therefor unless the premises owner is itself the provider of the television service. Nothing contained in this section shall prohibit a premises owner from requiring that the provider of such service or the resident bear the entire cost of the installation, operation or removal of the facilities incident thereto, or prohibit a premises owner from demanding or accepting indemnity or security for any damages caused by such installation, operation or removal.

(b) As used in this section, "premises owner" means any landlord, association of apartment owners, association of townhouse owners or the managing agent therefor.

(c) As used in the section, "provider of television service" means a person, entity or division thereof who owns the equipment for the purposes of providing reception and distribution of television programming services, or whose primary business is the reception and, or distribution of television programming services by way of cable television, satellite master antenna television, direct broadcast satellite television, subscription television or any other form of television programming system to subscribers thereto for a fee or subscription price.

(d) A contract for the provision of television services that contains provisions for a bulk or discounted rate to the residents of the premises controlled by the premises owner shall not be deemed to be a fee, charge or other form of compensation within the meaning of the Section 1(a) above.

(e) Nothing contained in this act shall void existing contracts or the renewal thereof.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Senate Commerce Committee

Date 2-24-99

Attachment # 2-1 thru 2-2

SENATE BILL No. 54

By Committee on Federal and State Affairs

1-14

9 AN ACT concerning access to television services; providing restrictions
10 on certain premises owners relating thereto.

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

12 Section 1. (a) ~~No premises owner shall demand or accept payment~~
13 ~~of any fee, charge or other thing of value from any provider of cable~~
14 ~~television service, satellite master antenna television service, direct broad-~~
15 ~~cast satellite television service, subscription television service or service~~
16 ~~of any other television programming system in exchange for giving the~~
17 ~~residents access to such service. No premises owner shall demand or~~
18 ~~accept any such payment from any resident in exchange therefor unless~~
19 ~~the premises owner is itself the provider of the television service. No~~
20 ~~premises owner shall discriminate in rental charges between tenants who~~
21 ~~receive any such service and those who do not. Nothing contained in this~~
22 ~~section shall prohibit a premises owner from requiring that the provider~~
23 ~~of such service and the resident bear the entire cost of the installation,~~
24 ~~operation or removal of the facilities incident thereto, or prohibit a prem-~~
25 ~~ises owner from demanding or accepting indemnity or security for any~~
26 ~~damages caused by such installation, operation or removal.~~

27 (b) As used in this section, "premises owner" means any landlord,
28 owner of a condominium, multiple dwelling unit, townhouse, or housing
29 cooperative association or corporation.
30

31 Sec. 2. This act shall take effect and be in force from and after its
32 publication in the statute book.

No premises owner shall deny access to, or demand payment of any fee, charge or other form of compensation to the premises owner from any provider of television service in exchange for giving the residents access to such service when such service is requested by either the tenant or premises owner, and provided under the terms of a municipal or county franchise agreement.

or

association of apartment owners, association of townhouse owners or the managing agent therefor.

(c) As used in the section, "provider of television service" means a person, entity or division thereof who owns the equipment for the purposes of providing reception and, or distribution of television programming services, or whose primary business is the reception and distribution of television programming services by way of cable television, satellite master antenna television, direct broadcast satellite television, subscription television or any other form of television programming system to subscribers thereto for a fee or subscription price.

(d) A contract for the provision of television services that contains provisions for a bulk or discounted rate to the residents of the premises controlled by the premises owner shall not be deemed to be a fee, charge or other form of compensation within the meaning of the Section 1(a) above.

(e) Nothing contained in this act shall void existing contracts or the renewal thereof.