

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by the Chairman Edmonds at 9:00 a.m. March 13 in Room 519-S of the Capitol.

All members were present except: Representative Howell, excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor
Winnie Crapson, Secretary

Conferee appearing before the committee: Sen Clark
Rep. Ostmeyer
Duane Goossen, Director, Division of Budget
Richard Cram, Department of Revenue
Paul Davis, Gove Co. Healthcare Endowment Foundation
Dalene Bradford, Greater KC Community Foundation
Rodney Bates, Retired Hospital Executive, Oakley
Janette Bump, Graham Co. Economic Development Director
Diane Piret, Industry Council for Tangible Assets
Craig Althaus, Kansas Farm Management Assn
David Smith, Extension Agricultural Economist
Robert Dunlap, Equity Standards Numismatics of Kansas
Diane Priest, Industrial Council for Tangible Assets
Ron Hein, Kansas Restaurant and Hospitality Assn

Others attending: See attached list.

Hearing was opened on:

SB 39 - Individual income tax credit for contributions to community service organizations

Senator Clark addressed the Committee in support of **SB 39** and presented as background information testimony presented to the Senate Assessment and Taxation Committee on February 1 by Ned Webb, Director of the Community Development Division of the Department of Commerce (Attachment #1).

Representative Ostmeyer presented testimony in support of the bill (Attachment #2).

Paul Davis presented testimony in support of the bill on behalf of the Gove County Healthcare Endowment Foundation, Inc. (Attachment #3).

Dalene Bradford presented testimony in support of the bill on behalf of the Greater Kansas City Community Foundation which has affiliate relationships with the Community Foundation of Johnson County, the Community Foundation of Wyandotte County, and the Pittsburg Community Foundation (Attachment #4).

Rodney Bates presented testimony in support of the bill on behalf of the Logan County Healthcare Foundation (Attachment #5).

Janette Bump, Graham County Economic Development Director, presented testimony in support of the bill (Attachment #6).

Conferees responded to questions from members of the Committee.

Written testimony in support of the bill was furnished by Melinda Moeder also representing the Logan County Healthcare Foundation (Attachment #7), and Pete Doll, President of the YMCA of Topeka (Attachment #8).

Hearing on SB 39 was closed.

CONTINUATION SHEET

Hearing was opened on:

SB 44 - Homestead property tax refund act administration

Duane A. Goossen, Director, Division of the Budget, presented testimony explaining that **SB 44** would change Homestead property tax refunds from expenditures to deductions from revenue (Attachment #9).

Richard L. Cram, Director, Office of Policy and Research, Department of Revenue, presented testimony (Attachment #10) explaining the proposed amendments to K.S.A. 79-4501 and outlining changes in method of administration.

Hearing was closed on SB 44.

Hearing was opened on:

HB 2276 - Income defined for homestead property tax refund purposes

Craig E. Althausser, presented testimony in support of **HB 2276** on behalf of the Kansas Farm Management Association, Northeast. He referred to Docket No. 1999-4288-DT of the Order in Board of Tax Appeals.

David R. Smith of Holton presented testimony in support of the bill (Attachment #11) and responded to questions from the Committee.

Hearing was closed on HB 2276.

Hearing was opened on:

HB 2030 - Sales tax exemption for bullion and coins.

Diane Piret presented testimony in support of the bill on behalf of the Industry Council for Tangible Assets (Attachment #12) and responded to questions.

Robert Dunlap II presented testimony in support of the bill on behalf of Equity Standard Numismatics of Kansas (Attachment #13). Mr. Dunlap responded to questions from Committee members.

Hearing was closed on HB 2030.

Hearing was opened on:

HB 2458 - Sales tax exemption for hotel service rentals to governmental officers and employees.

Ron Hein presented testimony in support of the bill on behalf of the Kansas Restaurant and Hospitality Association (Attachment #14) and responded to questions from members of the Committee.

Hearing was closed on HB 2458.

Representative Vickrey presented the report of the subcommittee on **HB 2092, City and County development activity excise tax act** (Attachment #15). The subcommittee recommends assignment of an interim committee to study defining the proper use of an excise tax.

The meeting adjourned at 10:20 a.m. The next scheduled meeting is March 14.

GUEST LIST

DATE March 13

NAME	REPRESENTING
George Petersen	KTN
NED MERTZ	KDOCH
Richard Ann	KDOH
Kyle Kessler	DOB
Dolyle G. Sturges	
Paul W. ...	
Pedro ...	Hollman
Susan Rowler	Community Fndn at WYO
Laura McKnight	Community Foundation/Johnson
Dolene Bradford	GKC Community Fdn County
Roy Hein	HS Restaurant & Hospitality Assoc
Maree Carpenter	KCOE
Hal Hudson	NFIB/KS
Cheri Arit	
Robert Overlap	Equity Standard
Paul Kemmeter	Interu
Sam ...	Senate
Chris Caldwell	

Testimony on SB 39
Presented to the Senate Assessments and Taxation Committee
By Ned Webb, Director, Community Development Division
Kansas Department of Commerce & Housing
February 1, 2001

Community Service Tax Credits are issued to businesses, banks, and insurance companies as an inducement to make contributions of a cash or non-cash items to non-profit agencies who provide children or family services, medical services, or non-government crime prevention services. In rural areas, the tax credit is 70 percent of the gift value, and in urban areas over 15,000 in population the tax credit is 50 percent. The annual credits issued are capped at \$5 million per year. The KDOC&H is responsible for allocating these credits to non-profits who through a competitive application process have received credits. Senate Bill 39 would allow individuals to make contributions as well as businesses. Businesses under the current definition include sole proprietors, partnerships, corporations, and any one who is required to file a business schedule with their income tax (i.e., schedules C, E, and F).

The inclusion of individuals we believe would be favored by the majority of the non-profits served by this program under the assumption that it would be easier to raise contributions. The reality is that the non-profits have annually increased the percentage of credits used to the point where we are approaching full utilization. We have devoted a lot of time and effort to educate and give technical assistance to the non-profits to help them market credits and raise all the funds possible with their awarded tax credits. In FY2000 we saw the highest percentage of usage (83 percent) of credits in the program's six-year history -- \$4.13 million out of \$5 million available were used. The current FY2001 recipients are projected to reach at least 90 percent or \$4.5 million utilization. There are two concerns I would like the committee to consider as you debate SB39.

First, we are concerned about our ability to process a large number of small contributions in a timely manner. We would like to see a minimum contribution established that would apply to individuals as well as businesses. Our current average contribution is over \$4,000 and the mean contribution is near \$2,200. We have estimated that if SB39 passes, as many as 200 new tax credit certificates could be issued if the contributions are close to the current business mean. We currently process about 950 credits per year. Based on our experience with business contributions, we feel that a minimum contribution of \$500 would be appropriate. Small \$25 and \$50 contributions would certainly overload the system with hundreds of additional credits for as small as \$12.50. Small contributors could easily double the number of credits issued.

The second concern is the possible fundraising abuses that could occur. If individuals are allowed to contribute in exchange for a tax credit, what would prohibit non-profits from turning to telemarketing providers to solicit contributions for credits? This admittedly is an unintended result of this proposed legislation, but one we believe is a real possibility. We deal each year with non-profits who for a variety of reasons do not use all their allocations. Rather than loose the credits or return them for reallocation, it would be

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tempting to hire a telemarketing firm to call sequential numbers offering State of Kansas tax credits each evening until the credits are gone. We believe that the business donors would not want to be associated with a program that allowed such fundraising activity.

I have one other concern about the CSTC Program that is beyond the scope of SB39. If the committee will allow me a few minutes, I can explain. It deals with a provision of the 1999 Legislation that allows a one-time transfer of credits from a business not subject to Kansas taxes to a taxable Kansas business. Under the definition of business tax exempt, foundations can make contributions and be issued credits. The following illustrates this issue that now allows, through transfer, a business to receive a one-for-one tax credit for donations made. We believe the intention of the legislation, was to allow for-profit, out-of-state business to contribute and later transfer credits.

Direct Business (individual) Contribution to Non-profit	Contribution through a foundation using transfers
Business contributes \$1,000 to non-profit	Foundation contributes \$1,000 to non-profit
Non-profit receives \$1,000	Nonprofit receives \$1,000
Business receives a \$700 (or \$500) tax credit	Foundation receives \$700 or \$500 tax credit
	Business pays the foundation \$700 or \$500 to get tax credit
The business gives \$1,000 to get \$700 or \$500 in credits	The business gives \$700 or \$500 to get \$700 or \$500

Under the 1999 Legislation, the Community Development Director must be notified of the transfers. Credits are not reissued, but rather a transfer letter of approval, along with the original credit, is submitted to the Department of Revenue with the business tax filing.

We are concerned that abuses of the transfer provision could lead to transactions that give businesses a one-to-one tax credit and some transactions could have the appearance of impropriety. The following are two examples of transfer requests we have seen:

A foundation gave a non-profit a \$50,000 cash donation and receives a 50 percent, \$25,000 Kansas income tax credit. The foundation sold the credit to a sole proprietor for \$5,000. The result of this transaction is that the business paid \$5,000 not \$50,000 to get a \$25,000 tax credit to use against Kansas income tax or to be refunded in the tax year in which the original contribution was made.

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The second example is a little different. A corporation had a foundation under the same name as the for-profit company, i.e., the XYZ Corporation and the XYZ Foundation. The foundation made a \$10,000 cash contribution to a non-profit and received a \$5,000 Kansas income tax credit. The XYZ Foundation gave the tax credit to XYZ Corporation for no cost. The result of this transfer is that the business paid no money to receive the \$5,000 tax credit against their Kansas taxes or to get a \$5,000 cash refund from the State.

We would be happy to explore with the committee solutions if you agree that these transactions are not part of the intent of the legislation when this provision was added in 1999. One suggestion would be to amend the language contained in Section 8 that authorizes transfers. That section begins with "Any business firm or business entity not subject to Kansas income, privilege or premium tax . . ." Inserting the word "for-profit" before the word business should allow contributions by out-of-state business to be transferred, but would eliminate foundations.

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RAL OSTMEYER
 REPRESENTATIVE, 118TH DISTRICT
 GOVE, LOGAN, TREGO, WALLACE
 AND PARTS OF GRAHAM, ROOKS AND
 WICHITA COUNTIES
 P O BOX 97
 GRINNELL, KS 67738-0097



TOPEKA

HOUSE OF
 REPRESENTATIVES

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MEMBER AGRICULTURE
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**TESTIMONY BEFORE THE
 HOUSE TAXATION COMMITTEE**

**SENATE BILL NO. 39
 MARCH 13, 2001**

Chairman Edmonds and members of the committee:

The Community Service Tax Credit program is an excellent way to encourage individuals and businesses to financially contribute to worthy health care and crime prevention projects in our Kansas communities. Each year the Kansas Department of Commerce and Housing receives proposals from communities around the state and awards a total of \$5 million in tax credit incentives to encourage the development of these projects. The local groups then contact businesses, banks and individuals to contribute towards these projects and the contributor receives a credit towards their Kansas Income or Privilege Tax.

This bill expands the list of eligible contributors to include individuals that are employees with IRS W-2 income. Historically, we have always thought of the leading business people in our communities as also the owner of the business that they manage, but increasingly, within many of our communities the ownership is held by someone in another city and often in another state. Yes, the local manager can call the main office and ask for a contribution but we need the local manager to become more a part of the community and one excellent way is to allow personal contributions towards community projects.

In Northwest Kansas the local banker, farm equipment dealer, hospital administrator, school superintendent, grain elevator manager and medical doctor all are W-2 income employees. With this change many of the top professionals in our community can contribute towards our health care and crime prevention projects and become closer connected to the community that they live in.

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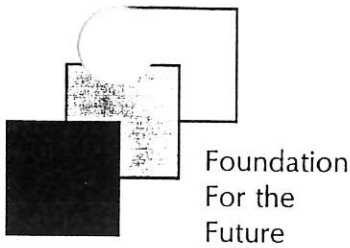
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In the Senate committee there was considerable discussion about the appropriate level of a minimum contribution towards these projects and the Senate committee recommended \$250. I think this is an adequate amount that balances the paperwork requirements of the local community foundation and the Kansas Department of Revenue.

Additionally, the committee heard from the Department of Commerce and Housing about a change we made in 1999. Prior to 1999 out-of-state businesses could transfer their tax credit one time to a business or individual within our state. In 1999 we allowed foundations to contribute towards these local projects and transfer the tax credit to others. We are aware that IRS requires foundations to give away at least 5% of the value of their foundation annually. The Department of Commerce gave the Senate Assessment and Taxation committee examples where a foundation donated to a qualifying project and either gave the tax credit away or exchanged it for a very minimal amount. Based on this testimony, the Senate committee added section 2 to this bill to allow only *for-profit* businesses to transfer this tax credits.

The Department of Commerce testified in the Senate committee that they annually receive requests for 3 times the amount of tax credits available. Their current limit is \$5 million dollars and with the passage of this legislation, this limit will not change. The fiscal note attached to this bill anticipates that local communities will market their entire allotment of tax credits instead of 80 to 90% as is currently done.

Mister Chairman, I will gladly stand for questions at the appropriate time.



Gove County Healthcare Endowment Foundation, Inc.

February 1, 2001

RE: Senate Bill No. 39

My name is Paul Davis and I am representing the Gove County Healthcare Endowment Foundation. I appreciate the opportunity to talk to the committee about Senate Bill No. 39.

On behalf of the Foundation, I want to thank the Legislature for implementing the Kansas Community Services Program. The program has been very beneficial to this Foundation and other organizations for funding local projects.

The Endowment Foundation Board of Trustees has asked me to share with you that the exclusion of W-2 wage earner income from consideration as qualified income for tax credit purposes does not allow all taxpayers the opportunity to take advantage of this program and needs to be changed.

We live in a predominately agricultural region with small local businesses. The income of the farmer and local businesses are subject to the fluctuations of cattle and grain prices. If these individuals do not have a state tax liability, then there will more than likely not be a contribution to a local community service project. W-2 wage earners would not be limited by commodity prices and their effect on income and could be in a position to make a contribution.

The following example is one issue that needs to be considered if all taxpayers are included. Contributions from individuals with less than a \$100 state tax liability would create additional paper work and slow the system down. To avoid this happening, we would recommend considering a minimum tax liability of \$250 or \$500 before a tax credit contribution could be made.

The fact that for all of the years the community services program has been in existence, the \$5,000,000 tax credit allocation has never been completely sold out is a compelling reason to consider the inclusion of W-2 income as part of this program. By continuing to limit program eligibility to businesses, I would ask you to question if the community services program exists to serve businesses or the projects supported by local charities or organizations.

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Testimony on SB39 Presented to the House Taxation Committee
By Dalene Bradford, Vice President, Greater Kansas City Community Foundation
Tuesday, March 13, 2001

As a representative of the Greater Kansas City Community Foundation, an organization that works in several counties in Kansas to increase charitable giving, I am pleased to share our support of an amendment to SB39, which Representative Tony Powell will offer. His amendment will continue to permit foundations to receive Community Service Program tax credits, and permit the sale of tax credits for an amount not less than 75% of the credit's face value and no more than 100% of its face value.

Community Service Tax credits offer important incentives and support to charitable giving. We are pleased that the legislature will continue to offer these transferable and refundable credits. Nonprofit organizations find them to be an effective way to interest businesses in their important community work and it creates a win-win situation for the donor and the nonprofit.

However, we believe that to omit foundations from use of these credits would actually be harmful to charitable giving in Kansas. The Greater Kansas City Community Foundation has affiliate relationships with the Community Foundation of Johnson County, Kansas, the Community Foundation of Wyandotte County and the Pittsburg Community Foundation. While these are relatively new entities which have not yet benefited from the use of tax credits, we would hope that tax credits would be available to support their work in the future.

Tax credits draw the attention of businesses, banks and insurance companies to giving. Encouraging these entities to make charitable investments in communities around the state is an honorable objective. The amendment to Senate Bill 39 that would allow state-approved non-profit organizations to give tax credits to individual donors who make contributions to them might also provide an important incentive for giving.

To remove the existing ability of foundations to receive tax credits, however, is not advisable for several reasons. Under current law, each time a foundation sells (transfers) its tax credits, those dollars are put to reuse and are contributed to other charitable causes. In addition, our community foundation actively makes donors aware of the ability of tax credits. This brings important visibility to community projects and attracts new investors for nonprofits. We anticipate doing this in Wyandotte, Pittsburg and Johnson County. Other communities around the state which have foundations can also do the same. These tax credits actually have the ability, since our Foundation serves a two-state region, of attracting Missouri donors to support Kansas projects. This is actually occurring now, as we work with a donor in support of the YWCA's capital campaign affecting facilities in both states.

We feel that the benefit to charitable giving greatly outweighs any possible abuse of tax credits by foundations. The amendment proposed by Representative Powell is adequate to curb any real or perceived abuse. The restrictions are commensurate with those in Missouri tax credit law and federal applications. Therefore, we heartily recommend that Rep. Powell's amendment be approved.

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Senate Hearing on Bill # 39

Thank you for the opportunity to speak to you today.

My name is Rodney Bates, I'm from Oakley, Kansas and represent the Logan County Healthcare Foundation.

I'm here today to request your consideration of Senate bill #39. The intent of this bill would be to allow W-2 wage earners the opportunity to assist the non-profit organizations which have been approved for tax credits to raise funds for the many worthwhile projects these organizations sponsor.

In our experience in Logan County the tax credit program has been a major force in the provision of health services. We have been successful in raising over one million dollars over the past three years to build an addition to the medical clinic and provide equipment for that clinic and the hospital. Without these funds these projects would have had to be funded by local taxes, or more likely, not have been completed. So it is not because of a lack of participation by businesses that we are asking your support for this bill, but rather because of our strong opinion that this opportunity to do good works for our community should be shared equally with those who have as their only income that which is reported on W-2's.

I would like you to know the person most responsible for raising these funds is with us today. Her name is Melinda Moeder. She will also be speaking to you with regard to this bill.

It has been our experience to have to turn down offers for contributions for these projects because the contributors would have had only income from wages, and they wished to have the tax credits for their contributions. It would be so helpful to be able to include all of our community in these fund raising projects. We believe their inclusion would help to bring more support in all our efforts to provide healthcare to our community. We are always seeking support from all persons in the community in all the projects which we sponsor, and because of this limitation we cannot include wage earners in these efforts. We would support some threshold amount of contribution to ensure the paperwork required to administer the program would not be increased inordinately.

At this time I would like to thank you and those who served before you for the establishment of this program and to thank those with the staff of the Department of Commerce and the Department of Revenue who have worked so closely with us over the past three years to make our dreams come true. I believe the program provides an outstanding opportunity for communities who are seeking ways to make their communities a better place to live. I know the program has provided a major answer in our community as to how we can afford to provide better healthcare services.

This concludes my remarks for the committee, and I would be happy to attempt to answer any questions.

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Senators:

My name is Janette Bump, Graham County Economic Development Director. I would like to speak in support of SB 39 regarding the allowance of individuals subject to state income tax and tax credits. Presently only those businesses, corporations, farmers and others that file certain schedules are allowed to utilize tax credits under the Kansas community services program act. While this is definitely a good program the fact that individuals with only wage-earner, retirement, interest only, or such other income are not eligible is discriminatory. We have just recently been the recipient of tax credits. We have received excellent response from the eligible individuals and businesses but have had several requests from the wage-earners about also using this program.

I checked with the Kansas Department of Revenue and approximately 15% of all Kansas taxpayers file the business or other schedule tax form. The primary filers are those that file wage-earner type forms.

I would like to see a provision in the bill that either limits the smallest amount allowable to be used for a donation for tax credits to \$100 or have a provision for the entity to do so. I did notice in some of the ads for tax credits that some entities did specify an amount but not all do so.

Another concern could be the aspect of tele-marketing of the tax credits. Is there a plan to address this issue or do you feel it is a concern?

Janette Bump
Graham County Economic Development
PO Box 237
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ghcoeco@ruraltel.net

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Senate Hearing on Bill #39

Thank you for the opportunity to speak to you today. My name is Melinda Moeder and I represent The Logan County Healthcare Foundation, Inc. in Oakley, Kansas.

We are here today in support of Senate Bill #39 which would change the tax credit program to allow W-2 wage earners to make contributions and take the tax credit.

In my experience over the past three years in working with the tax credit program I have been required to turn down contributions for the tax credit program because the type of income of the contributor did not qualify as business income. My goal in administering this program is to get community support for healthcare issues in our county. For this reason I feel strongly that all individuals regardless of the type of income they earn if it is earned in the State of Kansas should qualify for the tax credits under this program. I feel it is discrimination to allow only individuals with business income to be able to participate in this program. It is vital for our rural communities to come together and unite to keep our rural healthcare strong. In order to do that we must be able to include all people in our county, not just business income earners.

I feel a consideration in this decision is the volume of paperwork it will take to include these additional people in the program and I am not opposed to possibly setting a minimum contribution to help alleviate some of the paperwork. But regardless, I feel all individuals or businesses with Kansas income have a right to participate in the tax credit program.

In the last three years we have participate in this program our community has raised a little over \$1,049,000.00 for healthcare in Logan County. We expanded our health clinic in Oakley and purchased vital medical equipment for the clinic and the hospital. This has greatly increased the quality of our medical services to the community which otherwise might not have been possible, or done only through an increase in taxes.

This is a terrific program and I wish to compliment the Department of Commerce and Housing and the Department of Revenue for their support and help throughout the administration of this program. Particularly Bill Acree, Terry Marlin and Kathleen Smith.

Again, please consider Senate Bill 39. Thank you.

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YMCA of Topeka
 We build strong kids,
 strong families, strong communities

March 10, 2001

State of Kansas
 House Taxation Committee Members
 Capitol Building
 Topeka, Kansas 66603

Dear Friends:

I am writing to you in regards to Senate Bill 39 to comment on two points.

One, I ask that you support the extension of the tax credit to individuals through the Community Service Tax Credit program. Many non-profit organizations including the YMCA have been able to effectively use these credits in relationship to businesses in the past to generate needed capital dollars for building projects. Extending this credit to individuals will surely increase the ability of non-profit organizations to effectively meet fund raising goals for capital expansions.

Two, I ask that you vote to repeal an amendment to the bill that would ban foundations from receiving these tax credits. Representative Powell has proposed an alternative that would allow foundations to continue to sell their tax credits for no less than 75 percent of face value and no more than 100 percent of face value. I encourage you to vote in favor of Representative Powell's amendment. Again, your support of that amendment will enable non-profits to generate needed funds. Foundations play an integral role in fund raising by non-profits.

The quality of life of the citizens of Kansas will be significantly improved as a result of this proposed bill with the amendment referred to above. Please consider my requests.

Thank you.

Sincerely,

Pete Doll, President / CEO
 Topeka YMCA

Downtown Branch • 421 Van Buren • Topeka, Kansas 66603 • 785-354-8591 • Fax: 785-354-1611
 Kuehne Branch • 1936 N. Tyler • Topeka, Kansas 66608 • 785-233-9815 • Fax: 785-232-6224
 Southwest Branch • 3635 SW Chelsea Ave • Topeka, Kansas 66614 • 785-354-8591
 Camp Hammond • 6320 SE Stubbs Rd. • Tecumseh, Kansas 66402 • 785-379-5385

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Bill Graves
 Governor

Duane A. Goossen
 Director

MEMORANDUM

TO: House Committee on Taxation

FROM: Duane A. Goossen, Director of the Budget

DATE: March 13, 2001

SUBJECT: Senate Bill 44

Mr. Chairman, Members of the Committee:

SB 44 changes Homestead property tax refunds from expenditures to deductions from revenue, enacting one of the provisions of the Governor's budget.

Currently, refunds are treated as an expenditure with money appropriated from the State General Fund. In FY 2001 the Governor's budget includes a recommendation of \$15.1 million for Homestead refunds. However, for FY 2002 the Governor proposes that refunds simply be paid as they become due with the cost subtracted from income tax proceeds. This switch does not change tax policy but does lower both expenditures and projected revenues in the state budget by an equal amount.

In the past, when appropriations for the refunds have been inadequate, they have gone unpaid until the next fiscal year. SB 44 eliminates the problem of delayed refunds.

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STATE OF KANSAS

Bill Graves, Governor

DEPARTMENT OF REVENUE

Stephen S. Richards, Secretary

Office of Policy & Research
Richard L. Cram, Director
915 SW Harrison St.
Topeka, KS 66625



(785) 296-3081
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Internet Address: www.ink.org/public/kdor

Office of Policy & Research

**To: Representative John Edmonds, Chair
House Taxation Committee**

From: Richard L. Cram

Re: Testimony Supporting Senate Bill 44

Date: March 10, 2001

Homestead Property Tax Refunds

Section 1 of Senate Bill 44 proposes to amend K.S.A. 79-4501, so that (a) and (b) are combined, and the unnecessary language describing unmarried widows is deleted. One of the criteria for qualifying for the homestead property tax refund is being age 55 or over. Qualification does not depend on sex or marital status.

Section 2 proposes to amend K.S.A. 2000 Supp. 79-4504 to authorize the Department to pay homestead property tax refunds out of the income tax refund fund, instead of from funds appropriated by the legislature for these refunds. Under current law, the Department provides an estimate each year of the amount needed to pay homestead property tax refund claims anticipated to be filed and allowed in the coming fiscal year. This estimate is used in determining the legislature's appropriation. Each year, the homestead property tax refunds increase. The Department has consistently underestimated the amounts needed to pay these refunds. For the past few years, the funds appropriated for these refunds have become exhausted by late spring, before all of the claims are paid. The Department must seek supplemental funding before the balance of the claims can be paid, causing complaints and delays in payment. The Department expects this same scenario to occur this year, unless Senate Bill 44 is enacted as soon as possible. Section 2 would eliminate this recurring problem. According to our latest estimate, the current amount of appropriated funds for payment of homestead property tax refunds will likely be exhausted by April 6, 2001. Attached hereto is our latest FY 2001 Homestead Budget Analysis.

Section 3 amends K.S.A. 79-4521 to codify the way that the Department has currently been administering the "refund advancement program." Under this program, a qualifying homeowner who has filed a homestead property tax refund claim and received a refund for the prior year is eligible in the next year to take advantage of the refund advancement program. For example, if the homeowner filed a 1999 homestead property tax refund claim by April 15, 2000

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for tax year 1999, was found to qualify for the refund and received it, then in November 2000, the Department would send a Form ELG (certificate of eligibility) to the homeowner. This form would enable the homeowner to use the anticipated tax year 2000 homestead property tax refund to apply toward payment of the homeowner's first half of property taxes due in December 2000. The homeowner would take this form to the county clerk to complete and submit to the county treasurer. The completed form indicates that the person qualifies for the homestead property tax refund and is using the expected refund for tax year 2000 (or some portion of it) to pay the first half of property taxes. The county treasurer collects the forms (certificates) and sends them to the Department, which in turn advances funds to the county treasurer to apply to the first half of property taxes for the homeowners submitting completed certificates. Later, when the homeowner files the tax year 2000 return in April 2001 with the homestead claim, the Department will deduct from the 2000 homestead property tax refund any advance made and applied to the first half of property taxes due in December 2000.

In a few situations, persons who have not previously filed homestead property tax refund claims and have not received the Form ELG's from the Department, have applied to the county clerk for certificates of eligibility, in order to take advantage of the refund advancement program. However, the determination of whether an individual qualifies for the homestead property tax refund should be based on the factual information provided to the Department in the K-40H claim form (filed with the tax return), which specifically solicits the needed information (Kansas residency for entire year, minimum age, disability, dependent under 18 living with, maximum household income level). County clerks do not receive the completed K-40H forms and typically would not be equipped to handle the detailed factual inquiries needed to make correct homestead qualification determinations. If the county clerk makes an incorrect determination that someone qualifies, then the Department will have paid funds to the county that should not have been advanced.

Section 3 would clarify that the Form ELG's (certificates of eligibility) must come from the Department, because the Department should make the eligibility determination, based on the prior year homestead property tax refund claim that was filed by the homeowner. The county clerk cannot independently make that determination or issue those certificates to anyone. If the Department is the only entity making the homestead property tax refund qualification determination, the same standards should be applied and the process should be more uniform. Otherwise, each county clerk may apply different standards.

Section 4 is a technical amendment to the original bill by the Senate Assessment and Taxation Committee to amend K.S.A. 79-32,105, so that it provides for payment of homestead property tax refunds and oil lease property tax refunds out of the income tax refund fund.

Oil Lease Property Tax Refunds

Section 5 is an amendment made on the Senate floor, amending K.S.A. 2000 Supp. 79-255 to provide that oil lease property tax refunds are payable out of the income tax refund fund, instead of from an appropriation. Oil lease operators may claim a 50% property tax refund on timely paid property tax attributable to the working interest on wells with average daily production per well of 15 barrels or less, when the price per barrel is \$16 or less. The 2000 legislature enacted K.S.A. 2000 Supp. 79-255 (L. 2000, ch. 184, § 29), in order to make the oil lease property tax refunds payable to the oil lease operators, instead of the working interest owners, as under former law. However, no appropriation was made to pay these refunds, and unless and until this amendment becomes law, the Department will be unable to pay them.

Section 7 provides that this law change will take effect upon publication in the Kansas Register. Until Senate Bill 44 becomes law, funds appropriated to pay homestead property tax refund claims may become exhausted before all claims are paid. Also, as mentioned above, no funds have been appropriated for payment of the oil lease property tax refunds. That is why it is important for this legislation to become effective as soon as possible.

The House Budget Committee has recommended Senate Bill 44 for immediate favorable passage.

FY 2001 Homestead Budget Analysis
as of 03/09/2001

FY 2001 Approved Budget	\$13,780,767
Prior year refunds through 12/31/00	-\$1,894,073
ELG to Counties	-\$2,242,269
32,459 tax year 2000 refunds @ \$185 avg	-\$6,005,730
Remainder Available	<u>\$3,638,695</u>

Estimated 35,000 more claims @ <u>\$200</u> avg	-\$7,000,000
FY 2001 potential shortfall	-\$3,361,305

Estimated 35,000 more claims @ <u>\$180</u> avg	-\$6,300,000
FY 2001 potential shortfall	-\$2,661,305

Estimated depletion date @ \$185 avg - Friday, April 6

Supplemental Request in Governor's Budget \$1,319,233
not included in calculations above

As of 3/9, avg. refund is about \$21 greater than same time period last year, \$16 greater than avg refund all of calendar year 2000.

Refund requests processed in calendar year 2000 for tax year 1999 = 71,392

Refund requests processed in calendar year 1999 for tax year 1998 = 71,801

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March 13, 2001

To: House Taxation Committee
Topeka, KS

Fr: David R. Smith *David R. Smith*
Holton, KS 66436

Re: Rewording of K.S.A. 79-4502 Homestead Property Tax Refunds

If the intent of the Homestead Law is to provide tax relief for all qualifying low income taxpayers, there is a problem with the way the Department of Revenue is interpreting the term "net operating loss."

It is my contention, that a current year loss should be allowed to determine household income. (This would not include any loss carried back or forward from a year other than the current tax year.) It is the opinion of the Board of Tax Appeals that no losses, including current year losses, can be used to determine current year household income. They state that a current loss must be valued at "0" with no benefit to the low income taxpayer to offset other income with a loss from trade or business.

It is an unjust interpretation of the Homestead Law. These are low income tax payers whom need tax relief. This is not a large refund for any one taxpayer. The maximum refund can not exceed \$600. Many times the refund is much smaller.

The wording of the current law needs to be rewritten. It should clearly indicate that current year losses from trade or business (Schedule F or Schedule C) may be used to calculate household income for the current tax year.

The purpose of the Homestead Law is to assist low income home owners. To deny current year losses disallows many low income households badly needed tax relief. Your consideration of this issue will be appreciated.

Thank you

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INDUSTRY COUNCIL FOR TANGIBLE ASSETS

TESTIMONY IN SUPPORT OF HB 2030

**DIANE PIRET, INDUSTRY AFFAIRS DIRECTOR
INDUSTRY COUNCIL FOR TANGIBLE ASSETS (ICTA)**

**KANSAN HOUSE OF REPRESENTATIVES, TAXATION COMMITTEE
THE HONORABLE JOHN EDMONDS, CHAIRMAN'**

TUESDAY, MARCH 13, 2001

The Industry Council for Tangible Assets (ICTA) is the national trade association that represents the precious metals and rare coin industry. ICTA supports HB 2030 which will benefit the consumers and businesses in Kansas by promoting business within the state. HB 2030 creates an exemption from the punitive effect of sales taxes for investment precious metals and rare coin products. Currently more than half of the states in the U.S. (26 states) have implemented this type of exemption on these products.

HB 2030 will:

- 1. PROVIDE KANSAS BUSINESSES WITH A LEVEL PLAYING FIELD WITH THOSE 26 STATES THAT ALREADY HAVE THIS EXEMPTION.**

Kansas companies are losing business to neighboring states. In fact, many out-of-state companies direct their advertising to Kansas residents citing "no sales tax" in the Yellow Pages and other print ads.

In addition to Kansas, 11 other states are currently examining similar exemption legislation: New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Indiana, Alabama, Minnesota, Iowa, New Mexico and Nevada.

- 2. PROVIDE A FAIR MARKET PLACE FOR THE WORKING PERSON** who wishes to provide for their retirement by investing in precious metals and rare coins. Currently, Kansas residents are "forced" to spend their investment dollars with businesses outside their home state.

Being able to buy locally also means certain safeguards for the small investor who is no longer forced to buy out-of-state and possibly become vulnerable to telemarketing scams that always prey on out-of-state buyers. [The problem of investment opportunity telemarketing fraud has become so serious that the 1995 Federal Trade Commission (FTC) Telemarketing Rule created special requirements for only two areas: prize promotions and investment opportunities.]

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ICTA Testimony – Support HB 2030

When sales taxes are applied to investment products, it is the small investor (who can least afford it) who is penalized.

- A. For the smaller investor, who can only make small purchases for his/her portfolio, the Kansas state sales tax acts as a 4.9% penalty.
- B. Sales taxes increase the cost of these investments, thereby interfering with their performance as profit-generating vehicles.
- C. The Taxpayer Relief Act of 1997 includes language that defines precious metals products as acceptable investments for Federal, tax-advantaged, IRA programs.

3. PROVIDE ADDITIONAL TAX REVENUE FOR THE STATE that will be generated via replacement taxes from increased sales of products that remain taxable. The State also benefits from increased business income taxes and new jobs in Kansas.

Without the exemption, Kansas not only does not collect any sales taxes on out-of-state transactions, but also loses sales taxes on other impulse purchase items that will remain taxable, such as jewelry, books, supplies, etc.

In 1998, ICTA compiled sales tax collection statistics from its members in Ohio that show sales tax collections in 1997 (after implementation of the exemption) were more than double the taxes collected in 1989 (prior to the exemption.) A sales tax exemption for precious metals and rare coins has proven to be so successful in other states, that the exemption has been renewed upon review by the state legislatures.

4. STOP THE EXODUS OF BUSINESSES AND TRADE SHOWS AND CONVENTIONS FROM KANSAS TO TAX-EXEMPT STATES.

One example of convention business lost to Kansas is the American Numismatic Association (ANA). This is the world's largest numismatic organization with a membership of approximately 31,000. This association sponsors two conventions annually. As a long-time member of the ANA Convention Committee, I am regularly consulted regarding the taxation policies of prospective sites for future conventions. Those states that still impose a sales tax on these products rarely receive favorable consideration. The ANA conventions have a documented estimated economic impact ranging from \$12 to \$24 million per convention.

I hope this brief outline will be helpful in the Committee's consideration of HB 2030. I would be pleased to respond to any questions the Members might have.

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Testimony as proponent of H.B. 2030
by
Robert Dunlap II owner
Equity Standard Numismatics Of Kansas
8237 East Kellogg
Wichita, Kansas 67207-1811
Ph. 316-689-8773

To: Committee on Taxation

Subject: Sales tax exemption for precious metals and rare coins

H.B. 2030 WILL CREATE EQUAL OPPORTUNITY FOR KANSAS BUSINESSES AND CONSUMERS

1. 26 states have sales tax exemption on precious metals and rare coins.

Colorado, Missouri and Illinois(a member of the midwest border compact which includes Kansas) are 3 of the 26. These 26 states represent approximately 65 % of the population of the United States.

2. 11 states not including Kansas are crafting or in process for an exemption.

Indiana, New Jersey, Pennsylvania and Virginia are 4 of the 11 currently have Legislation being crafted for an exemption. These 11 states represent approximately 22 % of the population of the United States.

3. Kansas businesses are losing sales to out of state competition.

Kansas is at a competitive disadvantage with sales tax exempt states not only for sales of precious metals and rare coins but regional and national conventions for these products. Out of state companies use sales tax exemption as a powerful tool when advertising in Kansas taking revenue away from my business and businesses like mine, ultimately the state. The number of primary retailers for these products in Wichita alone is a third of what it was 13 years ago. As a retailer I am losing secondary sales as well(supplies, etc.) which will still be sales taxable even with a sales tax exemption in place.

4. Kansas investors are at risk.

Kansas consumers are motivated to buy out of state due to sales tax making them targets for telemarketing scams. Sales tax exemption would allow Kansas investors to buy locally overcoming the vulnerability of telemarketing scams and at the same time by buying locally create revenue for the state that otherwise would be lost.

Robert Dunlap II
District Delegate American Numismatic Association
International Society of Appraisers
Life Member #4227 American Numismatic Association

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PROPOSED HOUSE BILL 2030

to the extent that the gross receipts received therefrom is \$100 or more,
all sales of:(1) Gold, silver and numismatic coins;(2) platinum, palladium,
gold and silver bullion; and (3)currency.

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Testimony re: HB 2458

House Taxation Committee

Presented by Ronald R. Hein

on behalf of

Kansas Restaurant and Hospitality Association

March 13, 2001

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the trade association for restaurant, hotel, lodging and hospitality businesses in Kansas.

HB 2458 provides that the renting of hotel rooms by federal or state agencies, officers, or employees operating in association with the performance of their official government duties are not subject to sales tax. The 1999 Interim Assessment and Taxation Committee reviewed this issue, and introduced 2000 HB 2587, which provides an exemption for all government employees or agencies renting hotel rooms. 2000 HB 2678 was introduced to exempt only state and federal employees. That bill passed the House but was not worked in the Senate last session.

Under Kansas law, when payment is made "directly by the government agency", the hotel stay by the government employee is exempt from sales tax. However, if the government employee uses their own credit card or other payment methodology, and then gets reimbursed by the governmental entity, the transaction is not exempt. The key is that there must be direct payment from the government to the hotel to qualify for the exemption.

There are two problems addressed by HB 2458. One of these problems is that hotels along Kansas borders, especially the border with Missouri, have been at a competitive disadvantage regarding securing conventions of government employees. The second problem relates to the difficulty of explaining the current law and its complexities to desk clerks and other personnel who are on the front line of hotel operations.

It is my understanding that Kansas has already lost one major convention of federal employees in the KC metro area to a competitor in Missouri because of this law. I am sure there have been others.

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On the tax confusion issue, it is difficult to educate desk clerks and even more difficult for the desk clerk to explain the procedures to government employees. Many government employees attempt to argue with the desk clerks or hotel management because they are there on official government business, and they believe that they should not be subject to the sales tax because they are going to be reimbursed by the government.

The law is so complex to understand that hotels have, while attempting to follow the law, misinterpreted the law, only to have audits reveal that they should have collected a sales tax which they did not collect. As a result of those audits, the hotel has been required to pay the tax that they should have collected from the government employee in the first place.

Under current law, some hotels will collect the tax, others will not, and the ones that do not are at a competitive advantage. This is being done not because the hotels are attempting to cheat the state out of money, but because of the difficulty of knowing exactly when the government employee is exempt and when they are not exempt, and documenting the proper information.

The law should be as simple and clear as possible so that the hotels can enforce it properly. HB 2458, which provides for an exemption for federal and state employees, has a fiscal note of approximately \$280,000. The law will be clearer to understand, clearer to enforce, and will eliminate the competitive disadvantage that Kansas currently faces, at least regarding conventions or other business of federal or state employees.

Under HB 2458, the hotel would have to document who the government employee is, and have the government employee execute documentation to establish that they are indeed a government employee and that they are on official government business.

However, HB 2458 will still leave some confusion regarding how hotel personnel are to deal with city, county, and school district employees, and will still put Kansas at a competitive disadvantage with regards to those employees, especially along the Missouri border. However, a total exemption would cost \$1.2 million, so it is unrealistic to expect legislative approval of a full exemption this year.

One of the keys, of course, will be for the Department of Revenue to promulgate regulations and/or forms that are clear to understand and easy to explain to appropriate desk personnel and government employees seeking to rent a hotel room. The KRHA offers its expertise and services in working with the Department of Revenue to make sure that, the rules, policies, forms, and guidelines issued by the Department are clear and simple.

Dennis Carpenter, CEO of the KRHA, and I met last year with Shirley Sicilian and Tom Hattan of the Department of Revenue to discuss these issues as well. We feel confident that the agency will work with us on this legislation. We are hopeful that the committee, likewise, will feel that

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Hotel Taxation Committee
Testimony on HB 2458
March 13, 2001

one of the goals and intent of this legislation will be to clarify and simplify what has been, to date, a complex law to implement and enforce, especially given the fact that the hotels have to enforce it. We hope to make the process as simple as that which is currently used by entities utilizing exemption certificates.

The KRHA strongly supports the passage of HB 2458. Even though it is not a full and complete solution to the problem, it is a step in the right direction to solving the problems. We hope that the legislature will address other government entities at sometime in the future.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

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JENE VICKREY

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CONTINUAL QUALITY IMPROVEMENT
COMMITTEE FOR FOSTER CARE

March 12, 2001

To Chairman Edmond & Tax Committee:

The subcommittee studying the excise tax issue has met a couple of times. Although we did progress toward a more workable product, there remain several key components that we have not solved.

At this point in the session we would ask for this to be an interim committee topic. We would also ask the interim committee to study defining the proper use of an excise tax.

Gene Vickrey

Howell

Amey

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