

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:40 a.m. on February 1, 2001, in Room 519-S of the Capitol.

All members were present except: Senator Ed Pugh

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Ned Webb, Department of Commerce and Housing
Paul Davis, Gove County Healthcare Endowment Foundation
Rod Bates, retired hospital executive
Melinda Moeder, Logan County Healthcare Foundation
Janette Bump, Graham County Economic Development
Director

Others attending: See attached list.

Senator Corbin opened the continued discussion on a conceptual amendment proposed by Senator Clark at the hearing on **SB 69**, concerning the reauthorization of the exemption of residential property from school levies. He called the Committee's attention to copies of the amendment to be inserted on page 1, line 29, prepared by Don Hayward, Revisor of Statutes Office. (Attachment 1) He called upon Chris Courtwright, Legislative Research Department, for a commentary on the fiscal implications of the amendment.

Mr. Courtwright began by explaining that the amendment would provide that the Legislature pass a concurrent resolution in order to receive the growth from 20 mills in the second year of the biennium after the levy was set. He said, if the bill is passed with a mill levy set at 20 mills and the \$20,000 exemption and a resolution passes the second year, all of that amount of money is contemplated by the Governor's budget. Therefore, that particular of series of events would have a zero fiscal note. If, on the other hand, the mill levy is set at 20 mills and the \$20,000 exemption is passed with Senator Clark's proposed amendment and the Legislature fails next year to pass a resolution, the levy in the tax year 2002 would be reduced to 18.3 mills under the current set of assumptions relative to growth and property tax base. That would have a 2003 fiscal note of approximately \$21.1 million relative to the amount of local effort currently expected to be raised in fiscal 2003. If the Legislature would continue to authorize a mill levy for school finance but could never pass a resolution, the fiscal note would grow larger in future years. Mr. Courtwright noted that, if the Legislature does not renew a school finance levy at all, then the fiscal impact is reduction in local effort at \$235 million for fiscal 2002 and \$403 million for fiscal 2003.

Senator Clark commented that the Legislature basically discusses the general fund portion but never consciously discusses the increased amount of property tax raised. He noted that his suggested amendment will cause the Legislature to look at property tax as well as the general fund which is basically sales and income tax. Senator Clark commented that, by adopting the amendment to the reauthorization, the Legislature will look at the property tax portion annually.

On a call for a vote on the motion by Senator Clark to amend SB 69, which was carried over from the January 31 meeting, the motion failed.

Senator Lee moved to report SB 68 and SB 69 favorably for passage, seconded by Senator Jenkins. The motion carried.

CONTINUATION SHEET

SB 39—Income taxation; amending the Kansas Community Services Program Act.

Ned Webb, Community Development Division of the Kansas Department of Commerce and Housing (KDC&H), explained that community service tax credits (CSTC) are issued to businesses, banks, and insurance companies as an inducement to make contributions of cash or non-cash items to nonprofit agencies who provide children or family services, medical services, or non government crime prevention services. The Department of Commerce is responsible for allocating these credits. Mr. Webb explained that **SB 39** would allow individuals to make contributions as well as businesses.

Mr. Webb said he has two concerns with regard to passage of **SB 39**. First, he is concerned about KDC&H's ability to process a large number of small contributions in a timely manner. He noted that small contributions would overload the system. With this in mind, he asked that the Committee consider establishing a \$500 minimum contribution which would apply to individuals as well as businesses. Secondly, he is concerned about the possible fund raising abuses that could occur. He asked, "If individuals are allowed to contribute in exchange for a tax credit, what would prohibit nonprofits from turning to telemarketing providers to solicit contributions for credits?" In his opinion, business donors would not want to be associated with a program that allowed such fund raising activity.

In addition, Mr. Webb discussed another concern about the CSTC program dealing 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. He noted that, under the definition of business, tax exempt foundations can make contributions and be issued credits. He believes that the intention of the legislation was to allow for-profit, out-of-state businesses to contribute and later transfer credits. He is 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. In this regard, he suggested that the language that authorizes transfers be amended by inserting "nonprofit" before the word "business." The amendment would allow contributions by out-of-state businesses to be transferred, but would eliminate foundations. (Attachment 2)

Senator Clark, sponsor of **SB 39**, commented that, as agriculture continues to industrialize, most persons who are in management in rural areas will be employees and, therefore, not eligible for the CSTC program. The intent of the bill is to increase the number of people in rural communities, such as the district he represents, who can participate in the program.

Paul Davis, Gove County Healthcare Endowment Foundation, testified in support of **SB 39**. He pointed out 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 the CSTC program. To avoid slowing the system down, he recommended a minimum tax liability of \$250 or \$500 before a tax credit contribution could be made. Mr. Davis believes that passage of the bill is vital for the program to work in small communities. (Attachment 3)

Rod Bates, Logan County Healthcare Foundation, testified in support of **SB 39**. He informed the Committee that the foundation has turned down offers for contributions because the contributors had income only from wages, and they wished to have the tax credits for their contributions. He believes that their inclusion would help bring more support in all the foundation's efforts to provide healthcare to his community. Mr. Bates supports a threshold contribution amount to ensure the paperwork required to administer the program would not be increased inordinately. (Attachment 4)

Melinda Moeder, Logan County Healthcare Foundation, followed with further testimony in support of **SB 39**. In working with the tax credit program over the past three years, she has had to turn down contributions for the program because the contributor's type of income did not qualify as business income. Because her goal in administering the program is to get community support for health care issues, she strongly feels that all individuals, regardless of their type of income, should qualify for tax credits under the program. She emphasized that it is vital that rural communities unite to keep their health care strong. She had no opposition to setting a minimum contribution as suggested by other conferees. (Attachment 5)

Janette Bump, Graham County Economic Development Director, gave final testimony in support of **SB 39**. She noted that, while the tax credit program is good, the fact that individuals with only wage earner, retirement, or interest only income are not eligible is discriminatory. She stated that she supports a minimum contributin limit of \$250, and she felt that possibly the Committee should address the aspect of telemarketing of the tax credits. (Attachment 6)

CONTINUATION SHEET

There being no others wishing to testify, the hearing on **SB 39** was closed.

Senator Lee moved to amend **SB 39** by inserting “for profit” before “business” as suggested by Mr. Webb, seconded by Senator Clark. The motion carried.

Senator Donovan moved to amend **SB 39** by setting a \$250 minimum threshold for contributions, seconded by Senator Haley. The motion carried.

Senator Clark moved to recommend **SB 39** favorably for passage as amended, seconded by Senator Donovan. The motion carried.

The minutes of the January 31, 2001, were approved.

The meeting was adjourned at 11:40 a.m.

The next meeting is scheduled for February 5, 2001.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 1, 2001

NAME	REPRESENTING
NED WEBB	KDOCH
Jim Allea	KEG • KEFC
Dave Helstrom	WR
Mike Beam	Ks. LUSTK. ASSN.
Julie Hein	Hein + Weir
Don Ryan	Kan Valley USD 321
Craig Grant	HWEA
Bill Brady	Schools for Fair Funding
Dennis apt	USA / KCR -
Marka Smith	KOMHA
Marlee Carpenter	KCCI
Christy A Caldwell	Topeka Chamber of Comm.
Tom Folsom	BOFA
Terry Marlin	KDOC ^{PH}
Bru Akese	KDOCH
Ed O'Malley	Overland Park Chamber of Commerce
John Crandon	Sen. Star Clark
Kathy Olsen	Ks Bankers Assn.
Tom Brown	CPAK

On page 1, in line 29, after the period, by inserting the following: "Notwithstanding the foregoing, the mill levy rate established for the second year of a two-year authorization period shall not be applied in the event that the amount of revenue produced therefrom exceeds the amount of revenue so produced for the next preceding year unless the legislature adopts a concurrent resolution providing for such application. If any such resolution is not adopted, the mill levy rate to be applied for such second year shall be computed to produce the amount of revenue equal to that produced for the next preceding year. Such levy rate shall be computed and certified to the several county clerks on or before November 1 of the appropriate year by the state department of education."

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Attachment 1

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

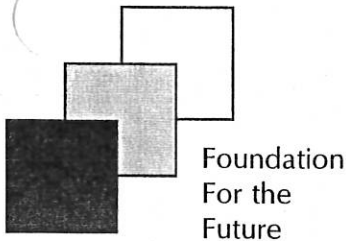
Under the 1999 Legislation, the Community Development Director must be notified of the transfers. Credits are not reissued, but rather a transfer letter of approval, along with the original credit, is submitted to the Department of Revenue with the business tax filing.

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.

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.



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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Attachment 3

We ask that you approve the changes proposed to the community services program outlined in Senate Bill No. 39. It is our belief that this change is vital for the program to work in small communities.

Thank you for hearing my comments

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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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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Attachment 5*

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
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Attachment 6