

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Vice Chairperson Lynn Jenkins at 10:50 a.m. on February 22, 2002, in Room 519-S of the Capitol.

All members were present except: Senators Corbin and Allen

Committee staff present: Chris Courtwright, Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Senator Jay Scott Emler
Craig Simons, Harvey County Administrator
Craig Clough, Harvey County Appraiser
John Waltner, Mayor, City of Hesston
Bill Williams, City of Inman
Larry Sharp, Reno County Commissioner
Gary Meagher, City of McPherson
Judy Moler, Kansas Association of Counties
Don Moler, League of Kansas Municipalities
John Grace, Kansas Association of Homes and Services for the
Aging
William Ward, Presbyterian Manors of Mid-America

Others attending: See attached list.

The minutes of the February 21, 2002, meeting were approved.

SB 479–Property tax exemption moratorium for certain elderly housing

Senator Emler, who requested the introduction of **SB 479**, explained that the issue the bill addresses was brought to his attention by citizens of Inman, Kansas. However, he feels that the issue is of great concern to small communities statewide.

Craig Simons, Harvey County Administrator, testified in support of **SB 479**, noting that the issue of the property tax exemption status of independent elderly housing units owned by nonprofit retirement communities is pitting local governments against retirement communities, splitting communities, and creating ill will between members of the communities. An example is Harvey County where there are five nonprofit retirement communities in three cities. Mr. Simons explained that the problem was created by K.S.A. 79-201b, Fifth, which does not limit the income of residents in the units or on the costs of the housing being constructed. He pointed out that the bill does not apply to the tax exempt status of nursing homes, housing for low income elderly financed through federal acts, and housing for low income elderly owned by municipalities. Mr. Simons noted that Harvey County has approached the issue in three ways, one of which was an attempt to negotiate an in-lieu payment from the nonprofit retirement communities. However, no agreement could be reached. He noted that nonprofit retirement communities generally have financial requirements which screen out lower income persons, and consequently, the housing facility becomes a group of middle to upper income residents who are able to secure long-term care along with a tax advantage. Mr. Simons supports the one year moratorium (tax year 2002) on exempting this type of housing in order to allow additional time to study the issue. (Attachment 1)

Craig Clough, Harvey County Appraiser, testified in support of **SB 479**. He noted that elderly housing operated by nonprofit retirement communities currently tends to be upscale and expensive and that less expensive housing affordable for lower income persons is seldom constructed. In this regard, he called the Committee's attention to a photograph of a duplex valued at \$225,200 in a retirement community in Hesston, Kansas, for which no property taxes were paid in 2001. He noted that entire subdivisions of apartments, duplexes, and houses are paying no property taxes because of the tax loophole in K.S.A. 79-201b, Fifth. He informed the Committee that Harvey County has 461 tax exempt elderly residential units valued at

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\$34,324,330, which would be paying an estimated total of \$461,200 in property taxes in 2002 if Kansas law did not exempt them. He emphasized that, although elderly persons living in housing operated by a nonprofit retirement community pay no property taxes, elderly persons living in their own homes must pay property taxes, thus subsidizing the services used by independent living residents. In his opinion, in fairness to elderly citizens who must pay property taxes, the loophole should be eliminated. (Attachment 2)

John Waltner, Mayor of the City of Hesston, testified in support of **SB 479**, noting that its passage would be a significant step toward equity and fairness. He explained that Hesston's not-for-profit retirement center has expanded during the last decade and currently has an appraised value of \$9,202,000. He noted that the target market for the units are the "young/old" retirees who are quite healthy, energetic, and affluent. The City of Hesston believes the retirees should be required to pay their fair share of the cost to expand city services to meet the needs of the retirement center. (Attachment 3)

Bill Williams, who testified in support of **SB 479** on behalf of the Inman City Council, acknowledged that Pleasant View Home, Inc., located in Inman has had a positive impact on the local economy. He reasoned that the economic success of the city should not become a tax burden for business and property owners. He explained that Pleasant View Home has requested a tax exemption for its independent living units. If approved, the exemption will add an additional appraised valuation loss of 14.42 percent to the total loss of appraised valuation to not-for-profit entities, making the total loss 33.42 percent. He contended that the proposed reduction in assessed valuation will impact the ability of the City of Inman to incur indebtedness in the future. He noted that, although Pleasant View Home offered voluntary payment in-lieu-of taxes (PILOT), the PILOT is not acceptable because the procedure is seriously flawed, inconsistent, and can be discontinued. In addition, he noted that the city is concerned that the residents of the independent units, who do not pay their fair share of property taxes, can exercise their right to vote on tax issues that could affect the outcome of a city or school district election. (Attachment 4)

Larry Sharp, Reno County Board of Commissioners, testified in support of **SB 479**. Mr. Sharp stated that he has no objection to the construction of housing complexes for the elderly which include independent living units, and he believes that this type of housing will continue to grow statewide and will be an asset to communities. However, in his opinion, the people who can most afford local tax assessment unfairly escape property taxation when they sell their principal residence, keep the proceeds, and move into elderly housing units on or near nursing home complexes. He emphasized that the issue does not involve new or increased taxation but rather involves spreading taxes appropriately over as many of the county citizens as possible to ensure as much fairness as possible. (Attachment 5)

Gary Meagher, representing the McPherson City Commission, testified in support of **SB 479**. He commented that the assisted living area in a nonprofit elderly housing community in McPherson is tax exempt under current state law as it should be. He noted that the chief executive officer of the community is considering an application for a property tax exemption for the independent living units. Mr. Meagher objects to the exemption on the grounds that the residents of independent living units have the same demands for good roads, adequate police and fire protection, and the other services the city offers as all other residents in the city. He posed the question, "Are we really being fair to other senior citizens and members of our community that pay their share, even though they may not be as financially secure as those living in this upper income independent living development?" He urged the passage of **SB 479** to allow time for assessment of the impact of K.S.A. 79-201b, Fifth, on all levels of government. (Attachment 6)

Judy Moler, Kansas Association of Counties (KAC), testified in support of **SB 479**, noting that KAC's platform position for several years has endorsed tax equity in the area of current statutory exemption from property taxation of independent, elderly housing units owned by nonprofit retirement communities. She noted that the problem with inequity in taxation will increase as Kansas ages. She contended that the one year moratorium the bill provides will allow time to work out alternatives. (Attachment 7)

Don Moler, League of Kansas Municipalities, gave final testimony in support of **SB 479**. He informed the Committee that the League has discussed the issue of tax exemptions for residential elderly housing at all of its meetings since last September, and it determined that the appropriate course of action is to study the current ramifications of this property tax exemption and the equities, or lack thereof, in both large and small communities within the state. The League intends to conduct statewide research and survey its member cities during the spring and summer of 2002 in an effort to ascertain the breath and depth of the tax fairness issue.

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Once a determination whether or not to proceed is made, the League may return to the Legislature in 2003 to ask for a permanent solution to the problem. (Attachment 8)

John Grace, Kansas Association of Homes and Services for the Aging (KAHSA), testified in opposition to **SB 479**. At the outset, he emphasized, "There is no loophole: This is good public policy." He informed the Committee that of approximately 14,000 people residing in not-for-profit retirement communities in Kansas, less than five percent live in units described by conferees testifying in support of the bill. He followed with a description of typical residents of a not-for-profit housing for the elderly, and he outlined the reasons seniors choose to reside in retirement community housing. He discussed the following reasons he opposes the bill as listed in his written testimony under the heading, "Government Can't do it all: Why This is Good Public Policy:" (1) Not-for-profit retirement communities relieve the burden local governments, (2) Not-for-profit retirement communities provide substantial community benefits; (3) Without the property tax exemption, Medicaid costs to the state would increase; (4) Services offered through retirement communities prevent or delay the use of more costly health services; (5) Government financed housing for the elderly is shrinking, and not-for-profit organizations will be called upon to serve the needs of the growing elderly population; (6) Older people are taking personal responsibility by planning for their own housing and health needs. Mr. Grace pointed out that, in order to obtain this exemption, organizations must meet very strict statutory requirements and that K.S.A 79-201b, Fifth, was strengthened and clarified by the Legislature in 1974 and 1999. He noted that, in order to meet the concerns in a few communities about the issue, KAHSA created the "Good Neighbor Program," and several retirement communities have moved ahead with the program. He explained that KAHSA worked on an agreement with the Harvey County Commission for over a year; however, the Commission rejected the program. In his opinion, the exemption is based on sound principles and should stand. (Attachment 9)

Bill Ward, Presbyterian Manors of Mid-America, Inc., testified in opposition to **SB 479**. He noted that conferees testifying in support of the bill focused on the tax revenue communities would like to receive. In his opinion, more consideration should be given to the benefits not-for-profit retirement living corporations bring to communities. In this regard, he noted that Presbyterian Manors has a \$30 million annual payroll in Kansas and, in addition, provides an opportunity for elderly residents to remain active in the community in which they spent many years of their life. He pointed out that the circumstances of independent living residents are not the same as elderly persons living in private homes as almost all of them make the decision to leave their homes following a life changing event such as the death of a spouse. The residents get several types of supportive services which allow them to feel that they are maintaining control and independence. With regard to the proponents' argument that passage of the bill would allow time for a study of the issue, Mr. Ward compared the passage of a bill before studying the issue to the risk of performing surgery before making a diagnosis. In conclusion, he called attention to the last page of his written testimony which lists the various services retirement communities provide for affiliated universities and educational institutions. He pointed out that, today, communities are developed in totality, and when one part of the whole piece is pulled out, the whole community is affected. He noted that affluent residents in nonprofit living communities for the elderly are the exception, not the rule. (Attachment 10).

There being no others wishing to testify, the hearing on **SB 479** was closed.

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for February 26, 2002.