

Approved On:

3/3/87

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on March 2, 1987 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Adam, Crowell and Aylward

Committee staff present:

Tom Severn, Legislative Research  
Chris Courtright, Legislative Research  
Don Hayward, Reviser of Statutes  
Millie Foose, Committee Secretary

Mr. Paul Klotz, Executive Director Mental Health Centers of Kansas, spoke as a proponent for HB-2263 - AN ACT relating to sales taxation; exempting sales of property purchased pursuant to community-based mental retardation programs. (Attachment 1) This bill allows Community Mental Health Centers and Mental Retardation Facilities to be established exactly in the same way in the various communities. These agencies are funded primarily by county mill levies, state aid programs, and special grants, and have until very recently been exempted from state tax on the grounds that they are educational or health/hospital related.

Me. Jerry Moran, representing High Plains Mental Health Center, Hays, Kansas, also spoke as a proponent of HB-2263. He said the proposed amendment would not decrease state revenues as mental health centers have been exempted from paying sales tax. (Attachment 2)

A representative of Kansas Department of Revenue distributed information concerning the Department's ruling on sales tax -- educational institutions. (Attachment 3)

Ms. Yo Bestgen, representing Kansas Association of Rehabilitation Facilities, spoke as a proponent of HB-2263 and outlined the association's position statement and justification. (Attachment 4) This concluded the public hearing on the bill.

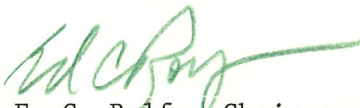
HB-2271 - AN ACT concerning stormwater management and flood control; was explained by Representative Fox. He emphasized that the problem is confined almost exclusively to Johnson County and if the bill is passed it will not be implemented until Missouri also takes action.

Mr. Kerry Wedel, representing Kansas Water Office, spoke as a proponent (Attachment 5) He said that flooding has been a recurring problem in the Kansas City metropolitan area, resulting in deaths and millions of dollars in damages. He said the Kansas Water Department recommends the favorable passage of HB-2271 and included a map showing the affected areas in Kansas and Missouri.

Mr. David Garcia, Mayor of the City of Fairway, spoke as a proponent of the bill. This concluded the public hearing on HB-2271. (Attachment 6)

The minutes of the February 26 meeting were approved.

There being no further business, the chairman adjourned the meeting.

  
E. C. Rolfs, Chairman



## Association of Community

### Mental Health Centers of Kansas

835 S.W. Topeka Ave., Suite B/Topeka, Kansas 66612/913 234-4773

*Paul M. Klotz, Executive Director*

March 1987

#### TESTIMONY ON: HOUSE BILL 2263

Paul M. Klotz, Executive Director

The Association of Community Mental Health Centers of Kansas, Inc., supports House Bill 2263 with an ammendment requested on page 9, new subsection (gg), line 0338, following "facility...; insert: and mental health center "organized pursuant to K.S.A. 19-4001 et. seq.,...."

Community Mental Health Centers and Mental Retardation Facilities are the only two entities provided for in K.S.A. 19-4001. This enabling statute allows these centers and facilities to be established exactly in the same way in the various communities and to the state. Without these agencies the care and treatment of mentally ill and mentally retarded citizens in Kansas would be drastically diminished. These agencies are primarily funded by county mill levies, state aid programs and special grants.

These agencies have, until only very recently, been exempted from state tax on the grounds that they are educational or health/hospital related. Most of these agencies, even now, are not being asked to pay sales tax. Therefore, we believe that this bill and our requested ammendment would have no significant fiscal note. Furthermore, who pays and who does not pay sales tax among the centers and facilities is unclear. House Bill 2263 would develop uniformity and continue past and current policy and practice.

Finally, since both centers and facilities are struggling with fiscal cutbacks in their local, state and federal funding, it does not seem logical for government to give with the right hand and take back with the left hand. This is especially true when these agencies have not paid this tax in the past.

We would appreciate your support for our requested ammendment.

Thank you!

Dwight Young

Kermit George

John Randolph  
Vice President

Larry W. Nikkel  
Past President

House Tax Com. - 3/2/87 - Attach. 1

Steven J. Solomon  
Secretary

Gene Jacks  
Bd. Memb. at Large

0305 prise zone, which will qualify for an income tax credit under  
0306 K.S.A. 79-32,153, and amendments thereto, and the sale and  
0307 installation of machinery and equipment purchased and in-  
0308 stalled in conjunction with the original establishment of such a  
0309 facility. When a person shall contract for the construction, re-  
0310 construction, enlargement or remodeling of any such facility,  
0311 such person shall obtain from the state and furnish to the con-  
0312 tractor an exemption certificate for the project involved, and the  
0313 contractor may purchase materials, machinery and equipment for  
0314 incorporation in such project. The contractor shall furnish the  
0315 number of such certificates to all suppliers from whom such  
0316 purchases are made, and such suppliers shall execute invoices  
0317 covering the same bearing the number of such certificate. Upon  
0318 completion of the project the contractor shall furnish to the  
0319 owner of the qualified business facility a sworn statement, on a  
0320 form to be provided by the director of taxation, that all purchases  
0321 so made were entitled to exemption under this subsection. All  
0322 invoices shall be held by the contractor for a period of five years  
0323 and shall be subject to audit by the director of taxation. Any  
0324 contractor or any agent, employee or subcontractor thereof, who  
0325 shall use or otherwise dispose of any materials, machinery or  
0326 equipment purchased under such a certificate for any purpose  
0327 other than that for which such a certificate is issued without the  
0328 payment of the sales or compensating tax otherwise imposed  
0329 thereon, shall be guilty of a misdemeanor and, upon conviction  
0330 therefor, shall be subject to the penalties provided for in sub-  
0331 section (g) of K.S.A. 79-3615, and amendments thereto; ~~and~~  
0332 (ff) on and after October 1, 1986, all sales of tangible personal  
0333 property purchased with food stamps issued by the United States  
0334 department of agriculture; and  
0335 (gg) *all sales of tangible personal property or services, in-*  
0336 *cluding the renting and leasing of tangible personal property,*  
0337 *purchased directly on behalf of a community-based mental*  
0338 *retardation facility organized pursuant to K.S.A. 19-4001 et seq.,*  
0339 *and amendments thereto, and licensed in accordance with the*  
0340 *provisions of K.S.A. 75-3307b, and amendments thereto.*  
0341 Sec. 2. K.S.A. 1986 Supp. 79-3606 is hereby repealed.

and mental health center

JETER AND LARSON

LAWYERS

FIRST NATIONAL BANK BUILDING

P. O. BOX 128

HAYS, KANSAS 67601

TELEPHONE  
AC 913-628-8226

NORMAN W. JETER  
EDWARD LARSON  
JOSEPH W. JETER  
WILLIAM W. JETER  
JERRY MORAN

March 2, 1987

The Honorable Edward C. Rolfs,  
Chairman  
Committee on Taxation  
Kansas House of Representatives  
State Capitol  
Topeka, Kansas 66612

RE: Sales Tax Exemption, HB 2263

Dear Chairman Rolfs and Members of the Committee on Taxation:

I am Jerry Moran of Hays, Kansas. I appear today before your Committee on behalf of High Plains Mental Health Center, a governmental entity headquartered in Hays, Kansas. I appear in support of an amendment to HB 2263. I specifically request that HB 2263, Paragraph (gg) be amended to read as follows:

"All sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or a community-based mental health facility organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto."

This amendment and the ultimate passage of HB 2263 will assist High Plains Mental Health Center in resolving a very serious issue which it faces.

High Plains Mental Health Center was established in 1964 pursuant to K.S.A. 19-4001 et seq. The Mental Health Center serves twenty counties in northwest Kansas whose county commissioners have imposed a tax levy to finance the operations of the Mental Health Center. The Mental Health Center is governed by a board whose members are appointed by the respective boards of county commissioners from each of the twenty counties.

Since its inception, the Mental Health Center has been exempted from the payment of sales tax on its purchases. In September, 1986,

(over)

the Department of Revenue unilaterally determined that the Mental Health Center no longer qualified for such exemption. High Plains Mental Health Center is currently appealing this decision. In order to avoid a lengthy and costly appeal, it was decided that a legislative enactment could make clear to the Department of Revenue that the legislature does not intend political subdivisions like High Plains Mental Health Center to be burdened with the payment of sales tax.

In its present form, HB 2263 resolves this problem for community-based mental retardation facilities. The amendment of HB 2263 to include community-based mental health facilities is a logical step. Community-based mental retardation facilities and community-based mental health facilities are the only two entities created by K.S.A. 19-4001 et seq. Both entities belong in this bill.

I urge you to assist High Plains Mental Health Center and other community-based mental health centers across the state by including community-based mental health centers in the exemption granted by HB 2263. The proposed amendment does not decrease state revenues; mental health centers have been exempted from payment of sales tax. Without the amendment, to a great extent, mental health facilities will be paying sales tax with funds generated from property taxes. In the instance of High Plains Mental Health Center the imposition of the sales tax will mean the elimination of a professional staff position -- a blow to the economy of northwest Kansas and a reduction in mental health services.

Thank you for your consideration of this matter.

Respectfully,



Jerry Moran

JM/ram



KANSAS DEPARTMENT OF REVENUE  
*Division of Taxation*  
State Office Building · Topeka, Kansas 66625-0001

**REVENUE RULING 19-86-2**

**SALES TAX - EDUCATIONAL INSTITUTIONS  
K.S.A. 79-3606(c) and (d)**

Advice has been requested concerning the Department of Revenue's interpretation, definition and application of the term "educational institution" as that term is used in K.S.A. 79-3606(c) and (d), which state in part:

"All sales of tangible personal property or services including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution..."

"All sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such school or educational institution..."

Neither the Kansas statutes nor regulations specifically define the term "educational institution". A literal reading of the above referenced statutes would seem to include any nonprofit entity that imparts knowledge, skill or instruction on any subject. However, such a broad reading of these sections violates the tenets of statutory construction, and the legislative intent which appears in the legislative history of these statutes. Generally, charitable, benevolent and other nonprofit organizations are not exempt from Kansas sales or compensating tax based solely on their nonprofit identity. Like other businesses and individuals, nonprofit organizations must meet the statutory requirements for exemption under the Sales and Compensating Tax Acts.

Definitions of such terms as: scholar, pupil, teacher, school, university, education, teaching, etc. lead to the conclusion that an educational institution is something more than an entity that imparts knowledge. These various definitions, the usage and phraseology of the term itself within the statutes, coupled with the legislative history of the statute, indicates that the Kansas Legislature intended the exemption for educational institutions to be more restrictive.

Based on the foregoing, the Department of Revenue has determined that the term "educational institution" means:

An institution with enrolled students which provides an organized curriculum of classes and courses involving the systematic teaching and learning processes that collectively make up the arts and sciences, the humanities, and other subjects or fields of study that are commonly associated with a classroom environment, and that are taught by certified or bona fide teachers or instructors in a centralized building or buildings that commonly comprise a school building or campus environment.

A list of examples which would qualify as "nonprofit educational institutions" under this ruling are: universities, colleges, jr. colleges, community colleges, vocational-technical schools, business colleges and pre-schools that offer structured lessons in rudimentary mathematics, spelling, health, social studies, etc. to help prepare a child enter the elementary school level.

Unless an organization or entity can meet the requirements established within this rule, that organization or entity will not be afforded sales or compensating tax exemption as a "nonprofit educational institution".

Thus, even if an organization imparts knowledge or informs the public, that does not necessarily bring them under the "nonprofit educational institution" exemption. The teaching and information must be in a structured environment, the instruction and knowledge must be taught by accredited or bona fide teachers or instructors and the organization's curriculum must include the instruction or teaching of multiple fields of study involving the whole course of training the moral, mental and physical faculties.

Therefore, any organization, institution or entity that has obtained a previous letter from the Department of Revenue verifying that they are a "nonprofit educational institution" must request the department to provide a new ruling on their organization. Any organization that does not request a new ruling will be presumed to not qualify for the exemption afforded "nonprofit educational institutions".

This Revenue Ruling supersedes all previous Department of Revenue rulings, letters, opinions, grants of exemption, etc., and shall become effective July 1, 1986.

APPROVED:

A handwritten signature in dark ink, appearing to read "Harley T. Duncan", written over a horizontal line.

Harley T. Duncan  
Secretary of Revenue



# Kansas Association of Rehabilitation Facilities

Jayhawk Tower • 700 Jackson • Suite 802  
Topeka, Kansas 66601 • 913-235-5103

TO: House Taxation Committee

FROM: Kansas Association of Rehabilitation Facilities (KARF)

RE: HB 2263; Sales tax exemptions; exempting sales of property purchased pursuant to community-based mental retardation programs.

DATE: March 2, 1987

## 1.0 Position Statement

- 1.1 KARF supports HB 2263 which exempts sales of property purchased pursuant to community-based mental retardation programs.
- 1.2 Community-based facilities serving the mentally retarded have prior to mid-1986 been sales tax exempt.
- 1.3 Of the community-based facilities who were asked to re-apply for exemption, all have been reinstated except for the residential programs. The Kansas Department of Revenue determined that residential facilities did not qualify as a non-profit educational institution. In fact, those programs are educational.

## 2.0 Justification

- 2.1 Residential facilities provide a program with a curriculum to train clients in independent living skills, such as, money management, cooking, personal hygiene, laundry and household maintenance. Clients can progress through the curriculum to a less restrictive living environment based on skills attained.
- 2.2 Facilities which have both vocational and residential programs provide a full continuum of training. If the residential program is not sales tax exempt it would require extensive administrative tracking to determine which supplies should be taxed to which program.
- 2.3 This is basically a revenue neutral issue. Residential programs have paid sales tax for only about six months, prior to that they had never been required to pay.



Presentation to the  
**House Taxation Committee**  
March 2, 1987

H.B. 2271

Testimony of the Kansas Water Office on House Bill 2271 - an act concerning stormwater management and flood control.

Flooding has been a recurring problem in the Kansas City metropolitan area. Two of the most severe floods in recent years occurred in 1977 and 1984. In 1977, a storm caused flash flooding in the Kansas City area resulting in an estimated \$100 million in property damage and 25 deaths. Flooding along Brush Creek alone caused over \$66 million in damages and 12 deaths. In 1984, flooding occurred along Indian Creek resulting in extensive property damage. Brush Creek and Indian Creek are located in the Blue River drainage basin. Heavy rains and flooding in September of 1986 also resulted in property damage in the Kansas City area.

The Kansas City metropolitan area is composed of several major drainage basins which encompass more than 100 local jurisdictions as well as portions of two states. Thus, flood problems in this region are often intergovernmental in scope. Figure 1 shows a map of the Kansas City region.

In 1985, the Missouri Legislature passed Senate Bill No. 26 proposing an interstate compact to address stormwater management and flood control problems in the Kansas City metropolitan area.

In response to the Missouri legislation, the 1986 Kansas Legislature passed House Concurrent Resolution 5048 which directed the Kansas Water Office to initiate interstate

negotiations with the State of Missouri to address stormwater and flood control problems in the Kansas City Metropolitan area.

Joseph Harkins, Director of the Kansas Water Office and Fredrick Brunner, Director of the Missouri Department of Natural Resources, were appointed by their governors to represent their respective states in the negotiations. It was agreed by both state negotiators that input and consensus from the local communities should be acquired through the Mid-America Regional Council. The Mid-America Regional Council is a bi-state planning agency for the Kansas City region and represents local cities and counties.

After reviewing various alternatives for intergovernmental stormwater management including a regional district approach used in the Denver, Colorado, area, a special committee of the Mid-America Regional Council proposed an intergovernmental agreement utilizing the existing Mid-America Regional Council board as the coordinating body to plan and implement intergovernmental stormwater and flood control projects in the Kansas City metropolitan region. The agreement would be executed through existing interlocal agreement statutes in Kansas and Missouri. Counties participating in the agreement would be assessed an annual contribution for planning and construction of regional stormwater and flood control projects.

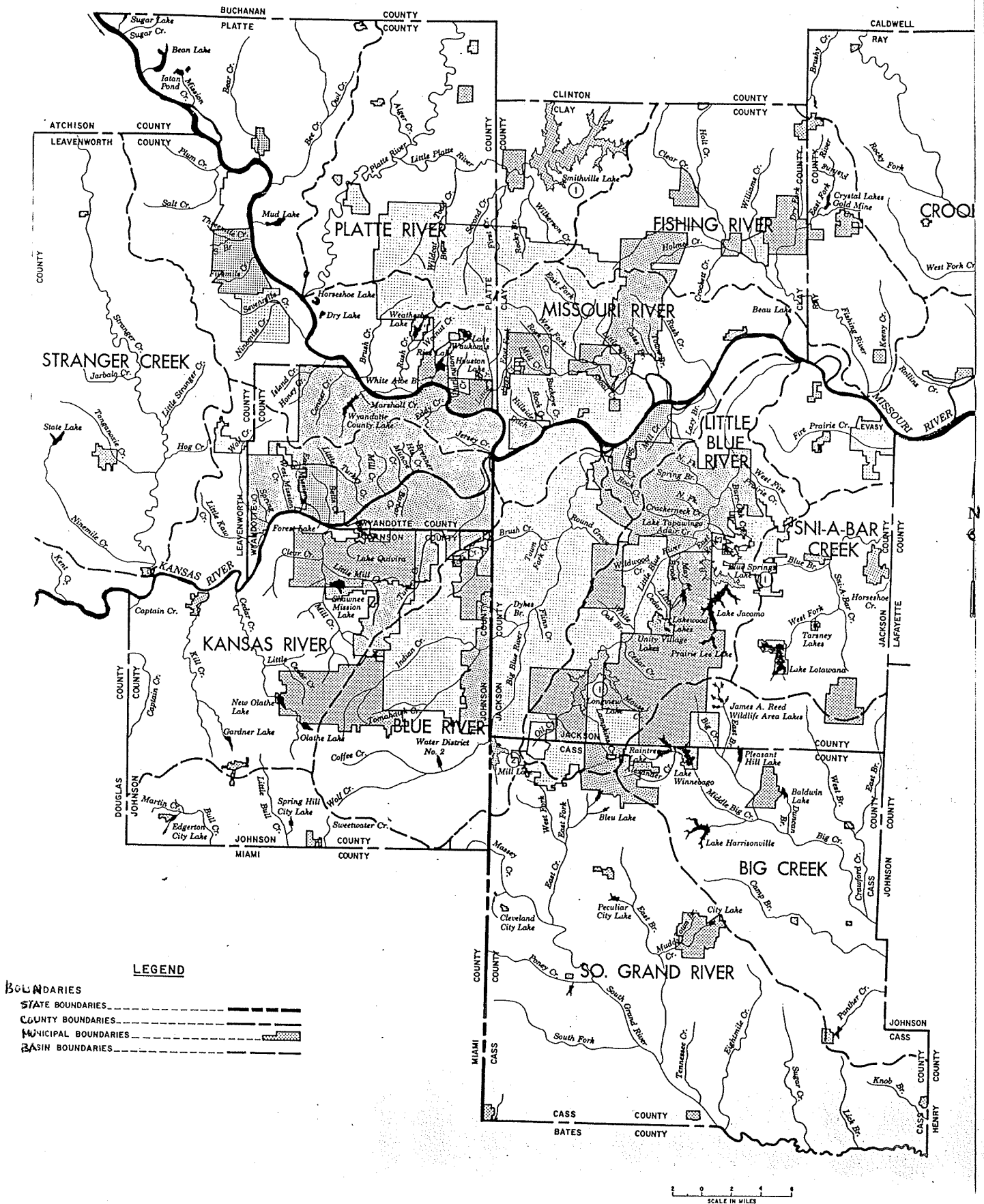
This intergovernmental agreement concept was endorsed by resolution of the Mid-America Regional Council Board. The

appointed state negotiators have also pledged their support for the Mid-America Regional Council proposal.

H.B. 2271 is an important piece of legislation to facilitate the implementation of the proposed intergovernmental stormwater management program. This bill would provide counties involved in the interlocal agreement an optional means of generating funds for the planning and construction of intergovernmental stormwater and flood control projects. A key component of the proposed agreement is the provision that funds generated within a participating county would be spent on projects benefiting that county within a five-year period.

The Kansas Water Office recommends the favorable passage of H.B. 2271 to facilitate intergovernmental stormwater management and flood control in the Kansas City metropolitan region.

FIGURE 1  
KANSAS CITY REGION



MR. CHAIRMAN  
MEMBERS OF THE KANSAS HOUSE TAXATION COMMITTEE

MY NAME IS NEALE PETERSON. I AM MAYOR OF FAIRWAY, KANSAS, AND SERVE AS CHAIRMAN OF TWO KANSAS CITY AREA STORMWATER COMMITTEES. ONE IS A COMMITTEE OF THE MID-AMERICA REGIONAL COUNCIL, A BI-STATE ASSOCIATION OF LOCAL GOVERNMENTS IN THE KANSAS CITY AREA. THE SECOND COMMITTEE IS A JOHNSON COUNTY, KANSAS, STORMWATER COMMITTEE.

LOCAL GOVERNMENTS IN THE KANSAS CITY METROPOLITAN AREA HAVE IDENTIFIED STORMWATER AND FLOODING AS ONE OF THE MOST SERIOUS ENVIRONMENTAL PROBLEMS FACING OUR REGION. OUR CITIES AND COUNTIES ALSO RECOGNIZE THAT FLOOD WATERS HAVE NO REGARD FOR POLITICAL BOUNDARIES, PARTICULARLY THE STATE LINE.

LAST YEAR, THE KANSAS LEGISLATURE DIRECTED THE KANSAS WATER OFFICE TO WORK WITH THE MID-AMERICA REGIONAL COUNCIL AND THE STATE OF MISSOURI ON A SOLUTION TO INTERJURISDICTIONAL STORMWATER PROBLEMS FACING THE KANSAS CITY AREA.

WORKING THROUGH THE MID-AMERICA REGIONAL COUNCIL, LOCAL GOVERNMENTS IN OUR AREA ARE ATTEMPTING TO BEGIN THIS REGIONAL EFFORT TO SOLVE OUR MOST SERIOUS INTERJURISDICTIONAL STORMWATER PROBLEMS. PART OF OUR EFFORTS INVOLVE IDENTIFYING THE MOST APPROPRIATE AND EQUITABLE MEANS OF FINANCING STORMWATER IMPROVEMENTS.

HOUSE BILL 2271 BEFORE YOUR COMMITTEE THIS MORNING WOULD PROVIDE COUNTIES ON THE KANSAS SIDE OF OUR REGION THE OPTION OF RAISING THEIR SHARE OF A REGIONAL STORMWATER FUND THROUGH A ONE-TENTH OF ONE CENT SALES TAX. I WANT TO EMPHASIZE THAT THE WAY THE MARC COMMITTEE HAS OUTLINED THIS REGIONAL STORMWATER EFFORT, LOCAL GOVERNMENTS WOULD MAKE THE DECISION FOR THEIR OWN COMMUNITY AS TO HOW THEIR SHARE OF THE TOTAL FUND WOULD BE RAISED. THE SALES TAX BILL WOULD PROVIDE A TOOL FOR COUNTIES SHOULD THEY CHOOSE TO USE IT.

THE MID-AMERICA REGIONAL COUNCIL BOARD OF DIRECTORS REPRESENTING THE 8 COUNTIES AND 4 LARGEST CITIES IN THE KANSAS CITY METROPOLITAN AREA HAVE GONE ON RECORD SUPPORTING THIS CONCEPT. THE TWO KANSAS CITY'S IN OUR AREA HAVE PASSED RESOLUTIONS OF SUPPORT, AND OTHER CITIES AND COUNTIES ARE NOW CONSIDERING SIMILAR RESOLUTIONS OF SUPPORT.

I WOULD BE HAPPY TO ANSWER QUESTIONS REGARDING THE KANSAS CITY METROPOLITAN AREA'S PROGRESS IN DEALING WITH INTERJURISDICTIONAL STORMWATER PROBLEMS, AND HOW THIS SALES TAX BILL RELATES TO THOSE EFFORTS.