

Approved May 7, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 9:10 a.m. on Thursday, March 19, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. J. C. Long, excused.

Committee staff present:

Tom Severn & Chris Courtwright, Legislative Research; Bill Edds and Don Hayward, Revisors; Linda Frey, Committee Secretary; Douglas E. Johnston, Committee Assistant.

Conferees appearing before the committee:

The public hearing was opened for HB 3110, exemption provided for property of school district interlocal cooperatives.

Representative Don Crumbaker testified in favor of HB 3110 (Attachment 1). He included with his testimony a copy of the Attorney General's opinion that caused the need for the bill (Attachment 2).

Norman D. Wilks, Director of Labor Relations for the Kansas Association of School Boards, testified on HB 3110 (Attachment 3).

Rep. Bob Vancrum made a motion to amend HB 3110 as requested by the Kansas Association of School Boards. Rep. Jesse Harder seconded the motion which carried.

The hearing was closed on HB 3110.

Rep. Snowbarger made a motion to report HB 3110 favorable, as amended, for action. Rep. Ensminger seconded the motion which carried.

The public hearings on HB 2845 were continued.

Ronald Moore, Vice President of Great Plains Ventures, Inc., testified against HB 2845 (Attachment 4).

In response to a question from Rep. Shore, Moore said the economic multiplier effect from new business investments brought in as a result of property tax abatements add money to local governments. Moore said he does not favor the granting of additional taxing authority at local level.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Thursday, March 19, 1992.

Rep. Krehbiel asked Moore if it is more beneficial to businesses to have tax abatements for a limited number of years or to have reduced property taxes across the board. Moore said it is beneficial to reduce property taxes, but not to eliminate local governments abatement authority.

Rep. Snowbarger said it would be a mistake to assume a statewide mill levy means each and every city, county and school district will have the same mill levy. Johnson County, he said, will have a mill levy higher than 29 mills even if HB 2892 becomes law.

Cal Lantis, Kansas Department of Commerce, spoke on behalf of Bill Thompson, Director of Industrial Development for the Department, against HB 2845 (Attachment 5).

In response to a question from the Chair, Lantis said he would provide the committee with copies of an economic development model developed by the City of Lawrence.

Al Bailey, Community and Economic Development Department Director for Topeka, testified against HB 2845 (Attachment 6).

The meeting adjourned at 10:00 a.m. The next meeting will be March 20 at 9:00 a.m.

GUEST LIST

COMMITTEE: House Delegation

DATE: 3/19/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Alan Steppat	Topeka	Pete McGill & Associates
Norm Wickes	TOPEKA	KASB
BEU BRADLEY	TOPEKA	KS Assoc of Counties
Ethel Steichen	Manhattan	KSU Doctoral Practicum
Ladislav M. Hernandez	Topeka	Gov. Office
AL BAILEY	Topeka	City
Christy Young	Topeka	Topeka Chamber of Comm
Brian Arnesen	Emporia	Intern - Rep Larkin
Jaime Dept	Topeka	U.S.D #500
Ray Gillis	Topeka	KNEA
Kathleen Amato	Wichita	NBA
Mary Ellen Conlee	Wichita	Ks Assoc. for Small Business
LISA Getz	Wichita	Ks ASSO. for Small Business
Bernie Koch	Wichita	Wichita Chamber
Stone Jones	Wichita	Boring
Carl Daugherty	Columbus	Empire District Electric
Bob Corkins	Topeka	KCCI
Tommy W Moore	WICHITA	Great Plains Ventures inc.
Cal Lantz	Topeka	KDOC



TOPEKA

HOUSE OF  
REPRESENTATIVES

DON E. CRUMBAKER  
REPRESENTATIVE, 121ST DISTRICT  
SHERMAN, THOMAS, SHERIDAN COUNTIES  
P.O. BOX 187  
BREWSTER, KANSAS 67732-0187

COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER: EDUCATION  
MEMBER: AGRICULTURE  
LEGISLATIVE EDUCATIONAL PLANNING  
COMMITTEE

March 19, 1992

MADAM CHAIRMAN AND MEMBERS OF THE ASSESSMENT AND TAXATION COMMITTEE:

We introduced legislation in 1975 authorizing School Districts to enter into interlocal cooperating agreements.

The bill provided that a separate legal entity could be created and would be limited to programs for Special Education, Vocational Education, Career Education, Media Services, Curriculum Development and in-service training for staff. The entity was to be administered by a board of directors composed of at least one member of the Board of Education of each participating school district.

Agreements for joint or cooperative services in special education and vocational education were required to be for a term of not less than three years nor more than five years.

These entities were to be considered the same as a school district for purposes of employer-employee relations, including adoption of a resolution of affiliation with the Kansas Public Employees Retirement System (KPERS), compensation, continuing contract law, due process law, and the professional negotiations law. The cash-basis law was applied to these entities; they were entitled to receive, budget, and expend state and federal funds, except for distributions from the School District Equalization Act and P.L. 874 (federal Impact Aid).

A 1978 expansion of the law ensured that within the service areas that could be provided through interlocal agreements, an interlocal cooperative and its governing board had authority to perform any obligation or responsibility imposed by law on a school district, except for the levying of taxes.

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In 1979, the law was amended to add bilingual education programs to the list of services that could be provided by school districts through interlocal agreements.

In 1985, the law was expanded to the present form which permits the interlocal cooperatives to perform any services, duties, functions, activities, obligations, or responsibilities authorized or required by law to be performed by school districts. (But, the interlocals still could not levy taxes, nor could they issue bonds, participate in School District Equalization Act, or receive federal Impact Aid.)

Amendments adopted in 1987 made it more difficult to terminate agreements designed to furnish special education services. The amendments provided that the duration of a school district interlocal agreement for special education services is perpetual, but it may be partially or completely terminated by following the rather stringent procedures specified in the law.

Changes in the law were last made in 1990, when the following modifications were adopted:

1. A school district interlocal cooperation agreement was required to specify the organization, composition, and manner of appointment of the board of directors. Only members of boards of education of school districts party to the agreement are eligible for membership on the board of directors. (The prior law required that the board of directors be composed of at least one member from the board of education of each participating school district.
2. A school district interlocal cooperation agreement may establish an executive board which is selected by the board of directors from among its membership and which performs such duties as are delegated to it by the board of directors.

3. An amendment clarifies that school districts may engage in activities under the Interlocal Cooperation Act. However, when an agreement is entered into by boards of education of two or more school districts pursuant to that Act, the boards must comply with the requirements for an interlocal cooperation agreement.

Presently, there are 27 functioning interlocal agreements. A great many of the Kansas school districts participate in these entities.

Don E. Crumbaker  
Representative,  
100th District

DCE:dr

## INTERLOCALS

- 603 ANW Special Education Cooperative**  
Dan Shoemaker, Director, 710 Bridge, Box 207, Humboldt 66748 (316) 473-2257  
School Districts Involved: USD 101-Erie-St. Paul, USD 256-Marmaton Valley, USD 257-Iola, USD 258-Humboldt, USD 366-Yates Center, USD 387-Altoona-Midway, USD 413-Chanute Public Schools, USD 479-Crest
- 605 South Central Kansas Special Education Cooperative**  
Bruce Givens, Director, Box 177, Iuka 67066 (316) 546-2227; FAX: (316) 546-2229  
School Districts Involved: USD 254-Barber County North, USD 255-South Barber, USD 331-Kingman, USD 332-Cunningham, USD 361-Anthony-Harper, USD 382-Pratt, USD 438-Skyline Schools, USD 511-Attica
- 607 Tri-County Special Education Cooperative**  
Curt Schmitz, Director, Box 668, Independence 67301 (316) 331-6303  
School Districts Involved: USD 436-Caney Valley, USD 445-Coffeyville, USD 446-Independence, USD 447-Cherryvale, USD 461-Neodesha, USD 484-Fredonia, USD 503-Parsons
- 610 Reno County Education Cooperative**  
Chet Johnson, Director, 2005 South Halstead, Hutchinson 67501 (316) 663-7178  
School Districts Involved: USD 309-Nickerson, USD 310-Fairfield, USD 311-Pretty Prairie, USD 312-Haven Public Schools, USD 313-Buhler
- 611 High Plains Educational Cooperative District**  
Gary Burkhardt, Director, 621 East Oklahoma, Ulysses 67880 (316) 356-5577; FAX: (316) 356-5522  
School Districts Involved: USD 200-Greeley County, USD 209-Moscow Public Schools, USD 210-Hugoton Public Schools, USD 214-Ulysses, USD 215-Lakin, USD 216-Deerfield, USD 217-Rolla, USD 218-Elkhart, USD 363-Holcomb, USD 371-Montezuma, USD 374-Sublette, USD 452-Stanton County, USD 466-Scott County, USD 467-Leoti, USD 476-Copeland, USD 494-Syracuse, USD 507-Satanta
- 613 Southwest Kansas Area Cooperative District**  
Howard Smith, Director, 1000 2nd, Box 460, Dodge City 67801 (316) 227-1641; FAX: (316) 227-1640  
School Districts Involved: USD 102-Cimarron-Ensign, USD 219-Minneola, USD 220-Ashland, USD 225-Fowler, USD 226-Meade, USD 227-Jetmore, USD 301-Nes Tre La Go, USD 302-Smoky Hill, USD 303-Ness City, USD 304-Bazine, USD 381-Spearville, USD 443-Dodge City, USD 459-Bucklin, USD 477-Ingalls, USD 482-Dighton, USD 483-Kismet-Plains
- 614 East Central Kansas Cooperative in Education**  
Caren Lowe, Director, Box 41, Baldwin City 66006 (913) 594-2737  
School Districts Involved: USD 289-Wellsville, USD 348-Baldwin City, USD 491-Eudora
- 615 Brown County Kansas Special Education Cooperative**  
Carol Nigus, Director, 1st and Kickapoo, Hiawatha 66434 (913) 742-7108  
School Districts Involved: USD 415-Hiawatha, USD 430-South Brown County
- 616 Doniphan County Education Cooperative**  
Tim Shafer, Box 218, Bendena 66008 (913) 988-4204  
School Districts Involved: USD 406-Wathena, USD 425-Highland, USD 429-Troy Public Schools, USD 433-Midway Schools, USD 486-Elwood
- 617 Marion County Special Education Cooperative**  
Barry Stanley, Director, 601 East Main, Marion 66861 (316) 382-3705  
School Districts Involved: USD 397-Centre, USD 398-Peabody-Burns, USD 408-Marion, USD 410-Durham-Hillsboro-Lehigh, USD 411-Goessel
- 618 Sedgwick County Area Educational Services Interlocal Cooperative**  
Larry Clark, Director, 620 Industrial, Box 760, Goddard 67052 (316) 794-8641  
School Districts Involved: USD 262-Valley Center Public Schools, USD 264-Clearwater, USD 265-Goddard, USD 266-Maize, USD 267-Renwick, USD 268-Cheney, USD 356-Conway Springs, USD 369-Burrton, USD 439-Sedgwick Public Schools
- 619 Sumner County Educational Services Interlocal**  
Pamela Chilson, Director, 1002 East Harvey, Wellington 67152 (316) 326-8935  
School Districts Involved: USD 357-Belle Plaine, USD 358-Oxford, USD 359-Argonia Public Schools, USD 360-Caldwell, USD 509-South Haven
- 620 Three Lakes Educational Cooperative**  
David Bilderback, Director, 1318 Topeka, Box 627, Lyndon 66451 (913) 828-3113  
School Districts Involved: USD 287-West Franklin, USD 420-Osage City, USD 421-Lyndon, USD 434-Santa Fe Trail, USD 454-Burlingame Public Schools, USD 456-Marais Des Cygnes Valley

## INTERLOCALS (Cont.)

- 630 **Educational Computer Service Center of Kansas**  
Tom Darnell, Director, 807 Dexter, Box 97, Clay Center 67432 (913) 632-3176  
School Districts Involved: USD 222-Washington Schools, USD 223-Barnes, USD 224-Clifton-Clyde, USD 273-Beloit, USD 333-Concordia,  
USD 379-Clay Center
- 631 **Learning Consortium Educational Cooperative**  
Paula Patton, Director, Box 2000, Hesston 67062 (316) 327-7128; FAX: (316) 327-7130  
School Districts Involved: USD 411-Goessel, USD 419-Canton-Gaiva, USD 423-Moundridge, USD 460-Hesston



## SERVICE CENTERS

- 602 **Northwest Kansas Educational Service Center**  
Gary Steele, Director, 703 West 2nd, Oakley 67748 (913) 672-3125; 1-(800) 332-1121; FAX: (913) 672-3175  
School Districts Involved: USD 103-Cheylin, USD 208-WaKeeney, USD 241-Wallace County Schools, USD 242-Weskan, USD 274-Oakley, USD 275-Triplains, USD 280-West Graham-Morland, USD 281-Hill City, USD 291-Grinnell Public Schools, USD 292-Wheatland, USD 293-Quinter Public Schools, USD 294-Oberlin, USD 297-St. Francis Community Schools, USD 314-Brewster, USD 315-Colby Public Schools, USD 316-Golden Plains, USD 317-Herndon, USD 318-Atwood, USD 352-Goodland, USD 412-Hoxie Community Schools, USD 468-Healy Public Schools
- 608 **Northeast Kansas Education Service Center**  
James Wheeler, Director, 404 Park, Box 488, Oskaloosa 66066 (913) 863-2919; FAX: (913) 863-2919  
School Districts Involved: USD 338-Valley Falls, USD 339-Jefferson County North, USD 340-Jefferson West, USD 341-Oskaloosa Public Schools, USD 342-McLouth, USD 343-Perry Public Schools, USD 377-Atchison County Community Schools
- 609 **Southeast Kansas Education Service Center**  
David DeMoss, Director, Box 189, Girard 66743 (316) 724-6281; FAX: (316) 724-6284  
School Districts Involved: USD 101-Erie-St. Paul, USD 248-Girard, USD 366-Yates Center, USD 404-Riverton, Fort Scott Community College
- 621 **North Central Kansas Educational Service Center**  
Glen Lakes, Director, 219 West 7th, Concordia 66901 (913) 243-4417  
School Districts Involved: USD 104-White Rock, USD 221-North Central, USD 222-Washington Schools, USD 223-Barnes, USD 224-Clifton-Clyde, USD 272-Waconda, USD 273-Beloit, USD 278-Mankato, USD 333-Concordia, USD 379-Clay Center, USD 380-Vermillion, USD 426-Pike Valley, USD 427-Belleville, USD 455-Hillcrest Rural Schools, USD 498-Valley Heights
- 622 **Education Services and Staff Development Association of Central Kansas (ESSDACK)**  
Dayna Richardson, Director, 1600 North Lorraine, Hutchinson 67501 (316) 663-9566; FAX: (316) 665-6790  
School Districts Involved: USD 311-Pretty Prairie, USD 313-Buhler, USD 376-Sterling, USD 410-Durham-Hillsboro-Lehigh, USD 418-McPherson, USD 423-Moundridge, USD 460-Hesston
- 623 **Area Resource Center of Central Kansas**  
Jan Hallam, Director, 1921 Harrison, Great Bend 67530 (316) 793-1518  
School Districts Involved: USD 228-Hanston, USD 300-Comanche County, USD 347-Kinsley-Offerle, USD 349-Stafford, USD 350-St. John-Hudson, USD 351-Macksville, USD 354-Claffin, USD 355-Ellinwood Public Schools, USD 388-Ellis, USD 395-LaCrosse, USD 401-Chase, USD 403-Otis-Bison, USD 407-Russell County, USD 424-Mullinville, USD 428-Great Bend, USD 431-Hoisington, USD 432-Victoria, USD 474-Haviland, USD 495-Ft. Lamed, USD 496-Pawnee Heights, USD 502-Lewis
- 624 **Iuka Center for Excellence in Education**  
Margene McFall, Director, Box 249, Iuka 67066 (316) 546-2209  
School Districts Involved: USD 254-Barber County North, USD 255-South Barber, USD 332-Cunningham, USD 361-Anthony-Harper, USD 382-Pratt, USD 438-Skyline Schools, USD 511-Attica
- 625 **Southwest Kansas Educational Consortium**  
Dick Unruh, Director, Meade High School, Box 400, Meade 67864 (316) 873-2391  
School Districts Involved: USD 219-Minneola, USD 220-Ashland, USD 226-Meade, USD 300-Comanche County, USD 422-Greensburg, USD 424-Mullinville, USD 459-Bucklin, USD 474-Haviland, USD 483-Kismet-Plains
- 626 **Southwest Plains Regional Service Center**  
Don Nigus, Director, 406 West Carson, Box 1010, Sublette 67877 (316) 675-2241; FAX: (316) 675-8347  
School Districts Involved: USD 480-Liberal, Interlocal 611-High Plains Educational Cooperative District, Interlocal 613-Southwest Kansas Area Cooperative District
- 627 **Flint Hills Educational Research and Development Association (FHERDA)**  
Sue Adams, Director, Campus Box 36, Emporia State University, 1200 Commercial, Emporia 66801-5087 (316) 343-5788; FAX: (316) 343-5785  
School Districts Involved: USD 251-North Lyon County, USD 253-Emporia, USD 284-Chase County, USD 417-Morris County, USD 420-Osage City, USD 434-Santa Fe Trail, USD 456-Marais Des Cygnes Valley
- 628 **South Central Kansas Education Service Center**  
Dr. Pat Stephens, Director, 201 West Main, Box 40, Mulvane 67110 (316) 777-0033; FAX: (316) 777-9124; FAX: (913) 827-5446  
School Districts Involved: USD 264-Clearwater, USD 265-Goddard, USD 358-Oxford, USD 359-Argonia Public Schools, USD 385-Andover, USD 396-Douglass Public Schools, USD 465-Winfield
- 629 **Smoky Hill/Central Kansas Education Service Center**  
Rita C. Cook, Director, 3023 Canterbury Drive, Suite 7, Salina 67401 (913) 825-9185; FAX: (913) 827-5446  
School Districts Involved: USD 239-North Ottawa County, USD 240-Twin Valley, USD 298-Lincoln, USD 305-Salina, USD 306-Southeast of Salina, USD 307-Ell-Salina, USD 327-Ellsworth, USD 328-Lorraine, USD 393-Solomon, USD 435-Abilene, USD 473-Chapman, USD 481-Rural Vista, USD 487-Herington



STATE OF KANSAS

## OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

February 12, 1992

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296ATTORNEY GENERAL OPINION 92- 20

J. Stanley Hill  
Counselor for Reno County  
Education Cooperative #610  
Suite 802, First National Center  
P.O. Box 2027  
Hutchinson, Kansas 67504-2027

Re: Taxation--Property Exempt from Taxation--Property  
Acquired by School Districts Pursuant to Lease  
Purchase Agreement

Synopsis: A cooperative created pursuant to K.S.A. 1991  
Supp. 72-8230 is not entitled to a property tax  
exemption under K.S.A. 79-201 First or K.S.A.  
79-201a Second. Cited herein: K.S.A. 10-1101;  
12-105a; 12-1218; 12-1679; 17-2339; 31-132; 36-501;  
K.S.A. 1991 Supp. 65-6113; K.S.A. 68-589;  
68-2101; K.S.A. 1991 Supp. 72-8230; K.S.A.  
75-1117; 75-3038; 79-201 First; 79-201a Second.

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Dear Mr. Hill:

As attorney for Reno county education cooperative #610, you request our opinion regarding the tax status of property acquired by that entity. Specifically you inquire whether property acquired pursuant to a lease purchase agreement is exempt from property taxes pursuant to K.S.A. 79-201 First or K.S.A. 79-201a Second.

K.S.A. 79-201 First provides in part:

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"The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

"First . . . all buildings used exclusively by school districts organized under the laws of this state. . . ."

Reno county education cooperative #610 was created pursuant to K.S.A. 72-8230. This provision authorizes the boards of education of two or more school districts to enter into cooperative agreements to jointly provide special education and other services. In Attorney General Opinion No. 91-4 we stated:

"[E]ntities created pursuant to K.S.A. 1990 Supp. 72-8230 are not school districts. Rather, they are entities created pursuant to the authority of school districts. While they perform many of the functions of a school district and act on behalf of school districts, they were not created in the same manner as school districts nor do they have the broad authority granted to such districts."

Thus, since Reno county education cooperative #610 is not a school district, the above-quoted exemption would not apply to it.

K.S.A. 79-201 Second provides in part:

"The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

. . . .

"Second. All property used exclusively by the state or any municipality or political subdivision of the state. All property owned, being acquired pursuant to a lease-purchase agreement or operated by the state or any municipality or political

subdivision of the state which is used or is to be used for any governmental or proprietary function and for which bonds may be issued or taxes levied to finance the same, shall be considered to be 'used exclusively' by the state, municipality or political subdivision for the purposes of this section."

In Attorney General Opinion No. 91-4, we concluded that " a school district service center created pursuant to the authority set forth at K.S.A. 12-2901 et seq. and K.S.A. 1990 Supp. 72-8230 does not qualify as a political or taxing subdivision of the state." Similarly, we do not believe cooperatives created under K.S.A. 1991 Supp. 72-8230 are political subdivisions of the state. The question remains whether such a cooperative is a municipality for purposes of the K.S.A. 79-201a Second tax exemption.

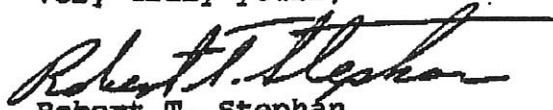
The Kansas Supreme Court has established the following rules and legal principles to be used when construing a statute exempting property from ad valorem taxes:

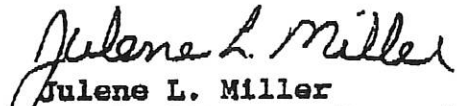
"Whether particular property is exempt from ad valorem taxation is a question of law if the facts are agreed upon. T-Bone Feeders, Inc. v. Martin, 236 Kan. 641, 645, 693 P.2d 1187 (1985); [citation omitted]. Taxation is the rule, and exemption from taxation the exception under the Kansas Constitution and statutes. T-Bone Feeders, Inc. v. Martin, 236 Kan. at 645; City of Arkansas City v. Board of County Commissioners, 197 Kan. 728, Syl. ¶ 1, 420 P.2d 1016 (1966); [citations omitted]. Constitution and statutory provisions exempting property from taxation are to be strictly construed against the one claiming exemption, and all doubts are to be resolved against exemption. In re Application of Int'l Bhd. of Boilermakers, 242 Kan. 302, 305, 747 P.2d 781 (1987); [citations omitted]. Where the language of a statute, in particular, is relied upon as creating an exemption from taxation, it must be strictly construed against the

party claiming the exemption, and he must bring himself clearly within the exemption. Meadowlark Hill, Inc. v. Kearns, 211 Kan. 35, 41 (505 P.2d 1127 (1973)); [citation omitted]. Strict construction, however, does not warrant unreasonable construction. Trustees of The United Methodist Church v. Cogswell, 205 Kan. 847, Sy. ¶ 2 [, 473 P.2d 1 (1970)]."

Attorney General Opinion No. 91-4 concluded that an entity created by two or more school districts pursuant to K.S.A. 1990 Supp. 72-8230 was a municipality for purposes of the tort claims act. However, the tort claims act specifically defines municipality to include "any agency, authority, institution or other instrumentality" of a school district. There is no such definition of municipality for purposes of K.S.A. 79-201a Second. The term municipality is defined broadly enough in some statutes to arguably include entities such as the one in question. See K.S.A. 75-1117; 75-3038; 12-105a. Other statutory definitions of the term municipality would not include entities of this sort. See K.S.A. 10-1101; 12-1218; 12-1679; 17-2339; 31-132; 36-501; 68-589; 68-2101; K.S.A. 1991 Supp. 65-6113. Since it is not clear whether Reno county education cooperative #610 is a municipality for purposes of K.S.A. 79-201a Second and all doubts must be resolved against exemption, we must conclude that the cooperative is not entitled to exemption under K.S.A. 79-201a Second for property it acquires pursuant to a lease purchase agreement.

Very truly yours,

  
Robert T. Stephan  
Attorney General

  
Julene L. Miller  
Deputy Attorney General

RTS:JLM:jm

LAW OFFICES  
BRANINE, CHALFANT & HILL  
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HUTCHINSON, KANSAS 67504-2027  
TELEPHONE 316 689-0021

RECEIVED  
FEB 18 1992  
U.S.D. #19

WILLIAM Y. CHALFANT  
J. STANLEY HILL  
DELL MARIE SHANAHAN SWEAHER  
GREGORY G. MEREDITH

CLAUDE E. CHALFANT (1903-1987)  
MICHAEL E. CHALFANT (1988-1992)  
HAROLD R. BRANINE (1992-1998)

TELECOPIER 316 689-1428

February 13, 1992


Dr. Chet Johnson, Executive Director  
Reno County Education Cooperative #610  
2005 South Halstead  
Hutchinson, KS 67501

Dear Dr. Johnson:

Enclosed is a copy of the opinion dated February 12, 1992 from the Attorney General regarding the exemption from taxation for property acquired by Reno County Education Cooperative #610, pursuant to a lease purchase agreement. The opinion of the Attorney General is that given the uncertainty of the matter, that the cooperative is not entitled to property tax exemption.

Obviously, reading the opinion gives a fuller explanation of the rationale. It is apparent to me though, that the cooperative should be entitled to this exemption, and that an appropriate legislative change should be made. If you would like me to pursue this avenue with our local legislators, all of with whom I am acquainted, I will be glad to do so.

Sincerely yours,

  
OF BRANINE, CHALFANT & HILL

JSH:k1b

Enc.



Testimony on H.B. 3110  
before the  
House Committee on Taxation

by

Norman D. Wilks, Director of Labor Relations  
Kansas Association of School Boards

March 19, 1992

Madam Chair and members of the Committee:

We appreciate the opportunity to appear before you today in support of H.B. 3110. An interlocal should be exempt from property and ad valorem taxes in the same manner as a school district.

The school district interlocal can provide educational services and has powers and duties similar to school districts. The exception is the power to issue bonds or levy a tax.

The interlocal real and personal property is used in the same manner as school district property. If the services provided by the interlocal were provided by a sponsoring school district, the property would be exempt from taxes.

An change should be made to exempt property being acquired by a lease-purchase agreement. We suggest adding after the "when" on line 29, "leased by the school district or school district interlocal cooperative according to a lease-purchase agreement or."

We urge your passage of H.B. 3110 with the changes suggested.

Thank you for your consideration.

House Taxation  
Attachment 3  
03-19-92

TESTIMONY ON HOUSE BILL 2845  
RONALD W. MOORE  
GREAT PLAINS VENTURES, INC.

I AM RONALD MOORE, VICE PRESIDENT OF GREAT PLAINS VENTURES.

OUR GROUP COMPANY HAS BEEN A RECIPIENT AND BENEFICIARY OF TAX ABATEMENT ON MANUFACTURING FACILITIES INCLUDING THE USE OF INDUSTRIAL REVENUE BONDS.

GREAT PLAINS VENTURES IS A HOLDING COMPANY OWNING THREE MANUFACTURING COMPANIES IN WICHITA: AEROSPACE SYSTEMS AND COMPONENTS, UNIFLO CONVEYOR, GREAT PLAINS INDUSTRIES, AND HILLSBORO INDUSTRIES IN HILLSBORO, KANSAS. TOTAL COMBINED EMPLOYMENT IS 350 PEOPLE. EACH SUBSIDIARY IS AN INDEPENDENT CORPORATION RANGING IN SIZE FROM 130 EMPLOYEES TO 30 EMPLOYEES.

GREAT PLAINS VENTURES IS A TRUE ENTREPRENEUR SUCCESS STORY. CHARLES PEER ORIGINAL FOUNDER STARTED A ONE PERSON OPERATION IN 1971. HE IS CURRENTLY THE PRESIDENT OF GPV AND CONTINUES TO LEAD THE GROWTH OF THE ORGANIZATION.

TWO OF OUR COMPANIES HAVE RECEIVED TAX ABATEMENT OR TAX ABATEMENT ASSOCIATED WITH IRB'S. WE FIRMLY BELIEVE THIS FAVORABLE TAX TREATMENT HAS BEEN A KEY PART OF OUR RAPID GROWTH, RESULTING IN MORE TAXES, NOT LESS, FOR ALL THE TAXING ENTITIES WE REPORT TO.

IN 1973 GREAT PLAINS INDUSTRIES HAD ONE MILLION DOLLARS IN SALES AND 30 EMPLOYEES. AT THAT TIME FOR EXPANSION PURPOSES GPI RECEIVED IRB'S WITH TAX ABATEMENT.

- 1) NOW 19 YEARS LATER GREAT PLAINS INDUSTRIES HAS GROWN TO \$18 MILLION IN SALES AND EMPLOYS 130 PEOPLE YEAR AROUND WITH AN ADDITIONAL 50 TO 70 SEASONAL PART TIME EMPLOYEES.
- 2) GPI IS THE WORLD LEADER IN SALES OF AGRICULTURAL FUEL TRANSFER PUMPS, AGRICULTURAL CHEMICAL TRANSFER PUMPS AND METERS AND INDUSTRIAL TURBINE METERS.
- 3) IN 1989 & 1990, GPI WAS A FINALIST IN THE GOVERNOR'S EXPORTER OF THE YEAR AWARD. IN 1986 THE KANSAS ENGINEERING SOCIETY AWARDED GPI THE GOVERNOR'S NEW PRODUCT OF THE YEAR AWARD.
- 4) GPI DERIVES 97% OF ITS SALES FROM OUTSIDE THE STATE OF KANSAS WITH 15% OF SALES FROM OUTSIDE THE U.S.A.
- 5) GPI IS A PRO-EMPLOYEE EMPLOYER WITH A CURRENT PAYROLL OF \$3 MILLION PER YEAR. WE OFFER LIBERAL BENEFITS WHICH INCLUDE AN EMPLOYEE STOCK OWNERSHIP PLAN, 401K SAVINGS PLAN AND PROFIT SHARING PROGRAMS, AND OUR EMPLOYEES HAVE A GOOD HEALTH INSURANCE PROGRAM.

IN 1991 GREAT PLAINS INDUSTRIES APPLIED FOR AND RECEIVED A TAX ABATEMENT FOR A NEW 80,000 SQ. FT. EXPANSION FOR ASSEMBLY AND

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WAREHOUSE. WE ANTICIPATE EXTENSIVE FURTHER GROWTH OF GPI IN THE FUTURE. THIS FACILITY SHOULD BE COMPLETE WITHIN TWO MONTHS.

I FEEL IT IS IMPORTANT FOR YOU TO UNDERSTAND THIS IS NOT JUST A ISSUE OF SEDGWICK COUNTY. WE HAVE A SECOND SUBSIDIARY, HILLSBORO INDUSTRIES LOCATED IN HILLSBORO, KANSAS.

THIS COMPANY EMPLOYS 60 PEOPLE AND BUILDS STOCK TRAILERS AND INDUSTRIAL TRAILERS. HILLSBORO HAS BEEN THE RECIPIENTS OF TAX ABATEMENT AS A PART OF IRB'S TWICE IN ITS SUCCESSFUL HISTORY.

THE HILLSBORO CITY COUNCIL AND ECONOMIC DEVELOPMENT COUNCIL UNDERSTAND HOW IMPORTANT JOBS ARE. HILLSBORO INDUSTRIES IS THE SECOND LARGEST EMPLOYER IN THAT COMMUNITY. THE COOPERATION WITH BUSINESS IN OUTSTANDING. THEY REALLY UNDERSTAND WHAT JOBS ARE WORTH IN TERMS OF A VIBRANT ECONOMY. THE LOSS OF, OR INCREASE OF 30 OR 40 JOBS HAS A VERY VISIBLE IMPACT ON THE ENTIRE COMMUNITY. BECAUSE OF THAT REALITY, THEY WORK HAND IN HAND WITH BUSINESS. IT IS A GOOD PLACE FOR SMALL BUSINESS!

WE ARE MOST APPRECIATIVE OF THESE TAX ABATEMENTS AND ARE STRONG BELIEVERS THAT NOT ONLY HAS IT BEEN HELPFUL TO US, IT HAS BEEN VERY GOOD FOR THE COMMUNITY AND ITS CITIZENS.

I WOULD LIKE TO MAKE THE POINT THAT WE AS A COMPANY UNDERSTAND HOW IMPORTANT EDUCATION OF OUR CHILDREN IS. WE ALSO UNDERSTAND EDUCATION IS A LIFETIME ENDEAVOR. 85% OF THE WORKFORCE IN THE YEAR 2000 HAS ALREADY PASSED HIGH SCHOOL AGE. THE SMALL MANUFACTURER IS A TRAINING GROUND FOR MANY LARGE EMPLOYERS WHO CAN PAY MORE. WE ACCEPT THAT AS A PART OR OUR CHALLENGE. WE ALSO WORK WITH THE SCHOOL THROUGH "BEST" BUSINESS EDUCATION SUCCESS TEAM - WE HAVE PARTICIPATED IN SHADOW DAY AND FOR THREE YEARS WE HAVE HIRED A TEACHER THROUGH THE SUMMER HIRE PROGRAM. THAT TEACHERS PRIMARY MISSION WAS TO LEARN FROM US WHAT SMALL BUSINESS WAS ALL ABOUT. OUR HUMAN RESOURCE OFFICER IS TEACHING A CLASS FOR PROJECT BUSINESS IN WICHITA SCHOOLS. I AM A MEMBER OF THE CHAMBER EDUCATION COMMITTEE, A MEMBER OF THE INTEGRATION COMMITTEE OF THE WICHITA SCHOOL BOARD AND HAVE SERVED FOR FOUR YEARS ON THE N.W. HIGH SCHOOL PARENT ADVISORY COMMITTEE. WE ARE NOT INTERESTED IN THIS ISSUE SOLELY FROM A TAX PROSPECTIVE.

DURING THE PAST SEVERAL YEARS THE U.S. HAS LOST SEVERAL MILLION MANUFACTURING JOBS. MANUFACTURERS AS A GENERAL RULE COMPETE WITH OTHER MANUFACTURERS IN ALL PARTS OF THE WORLD. WE BELIEVE IT IS IMPORTANT WE RECOGNIZE THAT THE ENVIRONMENT IN WHICH MANUFACTURERS OPERATE IS EXTREMELY COMPETITIVE AND IF WE WANT TO PROTECT MANUFACTURING JOBS, WE NEED TO BE AGGRESSIVE AND BUILD AN ENVIRONMENT FAVORABLE TO MANUFACTURING CONCERNS.

WE ARE STRONG BELIEVERS THAT MANUFACTURING IS GOOD FOR WICHITA, THE COUNTY, THE STATE, AND THE COUNTRY. WE ARE IN AN ERA OF GLOBAL COMPETITION AND A GLOBAL MARKET PLACE. FOR US TO COMPETE IN THIS EXTREMELY COMPETITIVE MARKET, WE MUST MAKE HEAVY

INVESTMENTS IN THE FUTURE. TAX ABATEMENT AIDS US IN MAKING THIS INVESTMENT.

WE NEED TO RECOGNIZE THAT THE CITY OF WICHITA, SEDGWICK COUNTY, AND THE STATE ARE THE REAL WINNERS WITH GOOD JOBS FOR ITS CITIZENS.

IT STRIKES ME THAT I AM ONE OF THOSE CITIZENS WHO BENEFITS. I WAS BORN IN WICHITA, EDUCATED IN WICHITA'S PUBLIC SCHOOLS, GRADUATED FROM WICHITA STATE UNIVERSITY.

IN 1979 - SIX YEARS FOLLOWING THE IRB'S ISSUANCE, I WAS HIRED AS THE CONTROLLER. THE CONTINUING GROWTH OF THE COMPANY HAS GIVEN ME OPPORTUNITY TO GROW AND RAISE A FAMILY. THIS IS THE ESSENCE OF A VIBRANT COMMUNITY.

GREAT PLAINS VENTURES IS INVOLVED IN A NUMBER OF BUSINESSES. BUT THE ONE BUSINESS THAT IS COMMON THROUGHOUT ALL OUR COMPANIES IS THE BUSINESS OF DIRECTLY CREATING MANUFACTURING JOBS!

IN ORDER TO CREATE JOBS WE MUST BE COMPETITIVE. YOU CONTROL ONE FACTOR IN OUR ABILITY TO BE COMPETITIVE. THAT FACTOR IS TAXES. WE NEED YOU TO BE COMPETITIVE WITH OTHER TAXING DISTRICTS IN KANSAS, TAXING DISTRICTS IN OTHER STATES, AND IN THE CASE OF MANUFACTURERS WE NEED YOU TO BE COMPETITIVE WITH TAXING DISTRICTS AROUND THE WORLD. FOR WE IN MANUFACTURING MUST BE COMPETITIVE IN A WORLD MARKET.

THE LAST TEN YEARS THERE HAS BEEN AN IMPROVEMENT IN LABOR/MANAGEMENT RELATION. THE PRIMARY DRIVING FORCE BEHIND THIS TRANSFORMATION HAS BEEN THE NEED TO BE COMPETITIVE. LIKEWISE THERE HAS ALREADY BEGUN A NEW ERA IN BUSINESS/GOVERNMENT RELATION. THIS NEW COOPERATION MUST GROW AND IT MUST DEVELOP FAST AS THE U.S. IS LOOSING GOOD MANUFACTURING JOBS AT AN ALARMING RATE.

WE BELIEVE THAT TAX ABATEMENT FOR A MANUFACTURING FACILITY, AND EQUIPMENT WHILE DEFERRING TAXES FOR A PERIOD OF YEARS RETURNS TO THE COMMUNITY SUBSTANTIALLY MORE TAX REVENUES OVER THE LONG TERM THAN WOULD BE LIKELY WITHOUT TAX ABATEMENT.

I APPRECIATE THE ISSUE YOU REALLY STRUGGLE WITH, WHICH IS THE LOSS OF REVENUES FOR A TEN YEAR PERIOD FROM PROPERTY TAX. BUT THAT IS ONLY ONE REVENUE SOURCE. OUR CALCULATIONS SHOW THAT FROM 1986 THROUGH 1991, ALL TAXES PAYED TO ALL TAXING ENTRIES (EMPLOYEE AND EMPLOYER) IS EQUAL TO \$12,000 PER EMPLOYEE PER YEAR.

SINCE IT IS COMMON KNOWLEDGE THAT THE CREATION OF MANUFACTURING JOBS CREATES MULTIPLES OF OTHER SERVICE JOBS EACH WHICH PROBABLY PAYS CLOSE TO \$12,000 PER EMPLOYEE PER YEAR IN TAXES. IT SEEMS A SHORT STEP IN LOGIC THAT CREATION OF JOBS PARTICULARLY MANUFACTURING JOBS IS THE BEST INVESTMENT GOVERNMENT CAN MAKE.

PROPERTY TAXES ARE REGRESSIVE BY THERE NATURE. THEY ARE DUE WHETHER THE COMPANY IS MAKING MONEY OR NOT. THIS CAN BE DEVASTATING TO A STRUGGLING COMPANY AND TO THE JOBS ASSOCIATED WITH THE COMPANY. BY CONTRAST INCOME TAXES ARE DUE ONLY IF THERE IS PROFITS.

IN CONCLUSION WE AT G.P.V., EMPLOYEES AND MANAGEMENT ARE APPRECIATIVE OF THE PAST COOPERATION. WE NEED YOUR AGGRESSIVE AND DEDICATED COOPERATION IN THE FUTURE.

WE ARE PLOWING BACK INTO THE COMPANIES MILLIONS OF DOLLARS IN PRODUCT DEVELOPMENT, MARKET DEVELOPMENT, SYSTEMS DEVELOPMENT AND MANUFACTURING TECHNOLOGY. PLEASE CONTINUE TO SUPPORT US IN CREATING JOBS!

PROPERTY TAX EXEMPTIONS ARE AN EFFECTIVE ECONOMIC DEVELOPMENT TOOL.

BUT IT IS ALSO TRUE

PROPERTY TAX EXEMPTIONS ARE AN EFFECTIVE TAX DEVELOPMENT TOOL.

MARCH 19, 1992

/RM/BILL2845

Testimony on HB 2845  
Restrictions on Property Tax Abatement

Presented to the  
House Taxation Committee

by  
Bill Thompson  
Director, Industrial Development  
Kansas Department of Commerce

March 18, 1992

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Attachment 5  
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Testimony -- HB 2845  
Restrictions on Property Tax Abatements

The Kansas Department of Commerce understands the challenge that confronts the legislature regarding the school financing issue. The legislature's mission to establish a school financing formula that will offer an equitable approach to providing quality education is certainly a monumental task.

HB 2845 attempts to protect school district mill levies from property tax abatements that are available under section 13 of article 11 of the Kansas constitution. While this proposed legislation is well-intended, the impact on the long-term creation of new jobs and economic wealth in the state could be negative. This legislation could put Kansas at a competitive disadvantage both in terms of the attraction of new companies, as well as the expansion of existing operations.

The purpose of property tax abatement is to ensure that long-term economic growth occurs in our state. In order to successfully compete in this day-and-age with other states for job creation opportunities, tax incentives are often necessary. The constitutional property tax abatement in question has played an important role in bringing new jobs to Kansas. The Department of Commerce believes that HB 2845 could hinder our ability to be successful in the future.

Should the legislature decide that some type of restrictions need to be placed on granting property tax abatements, perhaps a compromise position might be to allow the abatements on only new construction or new equipment. Such an approach would keep existing property on the tax rolls even if, for example, a building became vacant and a new business ultimately acquired the facility.

The Department of Commerce is supportive of the legislature's efforts to solve the school finance issue. However, the economic health of the state should not be put in jeopardy.



# CITY OF TOPEKA

Department of Community & Economic Development  
515 S. Kansas Avenue Suite 405  
Topeka, Kansas 66603-3420  
Phone 913-295-3711

**TO: House Taxation Committee**

**FROM: Al Bailey, Community and Economic Development  
Department Director; City of Topeka**

**SUBJECT: House Bill No. 2845**

**DATE: March 18, 1992**

The passage of HB # 2845 would substantially erode the effectiveness of the constitutional amendment which authorized counties and cities to grant property tax exemptions. For example, in 501 and 437 school districts 45.75% and 44.49% of the total mill levy is attributed to the school districts. Therefore, the tax incentives would be reduced accordingly. In Topeka, \$236,865 in incentives was granted to 4 businesses over the last four [4] years. If HB #2845 was in effect the incentives would have been reduced to \$129,193.

## TAX STRUCTURE COMPETITIVENESS

A Kansas Inc. report confirms that the post-reappraisal and classification shift has unduly burdened commercial and industrial property owners. Before re-appraisal these properties paid about 11% of the state's property taxes. After re-appraisal, the burden exceeded 25%. From a competitive standpoint, according to Mr. Warren, President of Kansas Inc. commercial property taxes in Kansas are about 70% higher than our neighboring states making our tax structure non-competitive.

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The passage of HB #2845 would further restrict our competitiveness by not allowing us to compete with the incentive packages offered by neighboring states.

#### **RISK CAPITAL**

The lack of financing programs to provide risk capital to assist new or existing companies with expansion plans is a major deterrant to most economic development programs. Data from the County Business Patterns shows 135 manufacturing establishments in Shawnee County. Seventy [70] of the establishments or 52% employ one [1] to nine [9] employees. Many small firms do not have access to risk capital. They look at the tax exemption incentive as a way to provide capital for their expansion.

The passage of HB #2845 would reduce almost by 50% the amount of capital that could be utilized for the expansion.

#### **TOPEKA'S TAX EXEMPTION PROGRAM**

Responsible tax exemptions programs benefit the school districts in the short and long term. For example in Topeka, the formula by which tax exemptions are granted require a minimum payment at the front end so that taxing jurisdictions affected will not receive less tax revenue from the property than was received prior to the exemption. Further, the formula does not allow the total exemption to excess 80% insuring the school district will receive tax revenue as a result of the expansion.



-3-

In addition, continuation of at least one of the new jobs created is required or no exemption is granted.

In the long term, after 10 years of implementing a tax exemption program, the school districts will receive the full amount of their tax revenue. I content that their tax revenue will be higher after the ten [10] years than if they received the tax revenue during the ten year period because fewer businesses would fail an more jobs would be created as a result of the exemption program.

#### **TOPEKA'S PROPERTY TAX EXEMPTION PROCEDURE**

Topeka's property tax exemption procedure creates an administrative review committee composed of the Mayor, CAO, Director of CED and a designee of the affected school district. The committee reviews the tax exemption application and makes a recommendation to the City Council.

The school board designee has the opportunity to present the exemption application to the school board for their input. In all of the tax exemptions granted by the City, the school boards have recommended the exemption.

ECONOMIC DEVELOPMENT PROPERTY TAX EXEMPTIONS  
18-Mar-92

NAME OF COMPANY	YEAR OF EXPT	NUMBER OF JOBS CREATED	NUMBER OF JOBS PRIOR EXPANSION	TOTAL PAYROLL	CAPITAL INVESTMENT	ESTIMATED TAXES	PERCENT OF EXEMPTION	DOLLAR AMT EXEMPTION	ESTIMATED TAX PAYMENT
CO-NECT-IT	1992	1	4.5		\$175,000.00	\$8,641.00	75.00%	\$6,481.00	\$2,160.00
	1991	1				\$8,769.00	62.00%	\$5,437.00	\$3,332.00
	1990	1				\$7,881.00	63.00%	\$4,965.00	\$2,916.00
	1989	1				\$4,062.00	58.00%	\$2,356.00	\$1,706.00
LA SIESTA	1992	83	138		\$494,000.00	\$23,794.00	100.00%	\$23,794.00	\$0.00
	1991	79				\$21,848.00	100.00%	\$21,848.00	\$0.00
	1990	50				\$36,981.00	99.00%	\$36,611.00	\$370.00
	1989	72				\$30,049.00	94.00%	\$28,246.00	\$1,803.00
SEYMOUR	1992	8	85		\$1,650,000.00	\$74,999.00	22.00%	\$16,500.00	\$58,499.00
	1991	6				\$75,858.00	32.00%	\$24,275.00	\$51,583.00
	1990	7				\$64,394.00	22.00%	\$14,167.00	\$50,227.00
TOPEKA FOUNDRY	1992	-3	43		\$1,075,000.00	\$23,396.00	0.00%	\$0.00	\$23,396.00
	1991	5				\$25,155.00	65.00%	\$16,351.00	\$8,804.00
	1990	4				\$44,793.00	80.00%	\$35,834.00	\$8,959.00
		89				270.5	\$5,774,909.96	\$3,394,000.00	\$450,620.00

1  
2 (Published in the Topeka Capital Journal July 31, 1991)  
3  
4

5  
6 ORDINANCE NO. 16349

7 AN ORDINANCE introduced by Mayor Felker concerning the official policy and  
8 procedures of the City of Topeka for the granting of property tax  
9 exemptions for real and personal property used for the establishment  
10 of a new business or the expansion of an existing business which results  
11 in additional employment, amending City of Topeka Code Sections 42-  
12 31, 42-32, 42-39, 42-41 and 42-42 and specifically repealing said original  
13 sections.  
14

15 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:  
16

17 Section 1. That City of Topeka Code Section 42-31 is hereby amended to  
18 read as follows:

19 **General objectives.**

20 (a) The securing of private economic growth and development and the  
21 addition of new jobs within the community are important current and long-term objectives  
22 of this city. The granting of property tax exemptions is one of the tools available under  
23 Kansas law to secure these public objectives. The benefit/costs analysis of tax  
24 exemptions is important in order to prevent the erosion of the city's tax base and maintain  
25 the fiscal capacity to provide the public infrastructure and service necessary to promote  
26 economic development. Therefore, property tax exemptions will be linked to job creation  
27 and capital investment. For the purpose of this article, "job" is defined as a total of two  
28 thousand eighty (2,080) hours annually at a qualified business facility. Employees with  
29 less than two thousand eight (2,080) hours annually may be combined with other  
30 employees until combined total hours equal two thousand eight (2,080) meeting  
31 requirements for one job.

32 (b) The governing body of the city may exempt certain property used for  
33 economic development purposes from ad valorem taxes for a maximum of ten (10) years.  
34 This discretionary authority is subject to such limitation or prohibitions as may be enacted  
35 by the legislature of the state that are uniformly applicable to all cities and counties, and  
36 any requirements or conditions imposed by the governing body of the city. The city may:

- 37 (1) Require the owners of any property for which an exemption is  
38 requested to provide certain information,  
39 (2) Require owners of property to pay property taxes on a percentage  
40 of assessed valuation, and  
41 (3) Require the payment of initial application and annual renewal fees  
42 reasonably necessary to cover the costs of administration.

43 Section 2. That City of Topeka Code Section 42-32 is hereby amended to  
44 read as follows:

45 **Application required.**

46 (a) The city will not consider the granting of any tax exemption unless the  
47 business submits a full and complete application, and provides such additional information  
48 as may be requested by the governing body. The director of community and economic  
49 development is hereby authorized and empowered to prepare a standard application form  
50 which, upon completion, will provide the governing body will adequate and sufficient  
51 information to determine whether a tax exemption should be granted and the amount  
52 thereof. The accuracy of the information provided in the application shall be verified by  
53 the applicant. Any misstatement of or error in fact may render the application null and  
54 void and may be cause for the repeal of any ordinance adopted in reliance on such

55 information. No application shall be received or considered after the start of construction  
56 for improvement on which the exemption is sought.

57 (b) Any business requesting a tax exemption pursuant to this article shall pay  
58 to the city an application fee of two hundred fifty dollars (\$250.00), which shall be  
59 submitted at the same time the application form is submitted. In addition, any business  
60 which has been granted a tax exemption shall pay an annual renewal fee in the amount  
61 of one hundred dollars (\$100.00).

62 Section 3. That City of Topeka Code Section 42-33 reads as follows:

63 **Initial review procedure.**

64 On receipt of the completed application form and the required fee, the director  
65 of community and economic development shall determine (a) whether the application is  
66 complete and sufficient for review, and (b) whether the applicant business is eligible for  
67 an exemption under the Kansas Constitution, this article and any other applicable laws.  
68 If the application is incomplete, the director of community and economic development  
69 shall immediately notify the applicant, noting the need for such changes or additions as  
70 deemed necessary. If questions arise as to whether the business is legally eligible for an  
71 exemption, the matter shall be referred to the city attorney, who shall consult with the  
72 applicant. If the application is found complete, and is for a purpose which appears to be  
73 authorized by law, the director of community and economic development shall so notify  
74 the administrative review committee.

75

76           Section 4.     That City of Topeka Code Section 42-34 reads as follows:

77           **Administrative review committee.**

78           There is hereby created an administrative review committee, which shall be  
79           composed of the mayor who shall serve as chairman, the chief administrative officer and  
80           the director of community and economic development and a representative of the affected  
81           school district which shall meet on call of the chairman. The purpose of the administrative  
82           review committee shall be to receive and review requests and applications for tax  
83           exemptions, to gather and review such additional information as may be deemed  
84           necessary, to conduct preliminary negotiations with the applicant business, and to make  
85           such recommendations as deemed advisable to the governing body. Administrative  
86           review committee records, including applications for tax exemptions, may be withheld from  
87           public disclosure as provided for under the Kansas Open Records Act but shall be  
88           available for public inspection when otherwise required by law. The committee is  
89           authorized to issue administrative letters of intent when requested by the applicant upon  
90           a finding that the public interest requires confidentiality in order to successfully negotiate  
91           the location of the prospective business within the city or an expansion of an existing  
92           business. such administrative letters of intent shall not be binding on the governing body  
93           and shall be superseded by any final action of the governing body or by any letter of  
94           intent issued by the governing body.

95           Section 5.     That City of Topeka Code Section 42-35 reads as follows:

96           **Initial governing body action.**

97           Upon receiving the recommendations of the administrative review committee, the  
98           governing body shall first determine whether to reject the requested exemption or to

99 further the request. Upon a favorable vote for further consideration, the governing body  
100 shall either (1) issue a letter of intent or (2) schedule a public hearing thereon.

101 Section 6. That City of Topeka Code Section 42-36 reads as follows:

102 **Notice and hearing.**

103 No tax exemption shall be granted by the city prior to a public hearing thereon,  
104 except by waiver of this requirement pursuant to the provisions of this article. Notice of  
105 the public hearing shall be published at least seven (7) days prior to the hearing in the  
106 official city newspaper, giving the time and place, and the hearing may be held at a  
107 regular or special meeting of the governing body. The city clerk shall thereupon notify the  
108 board of county commissioners, the superintendent of the appropriate school district, and  
109 the clerk of any other taxing jurisdiction, excluding the state, which derives or could derive  
110 property taxes from the affected business, advising them of the scheduled public hearing  
111 and inviting their review and comment. Failure to give notice pursuant to this section shall  
112 not affect the validity of the application. Upon request, the city clerk shall provide any  
113 such public agency with a copy of the application. The applicant business shall be invited,  
114 but not required, to attend the public hearing.

115 Section 7. The City of Topeka Code Section 42-37 reads as follows:

116 **Letter of intent.**

117 Upon receiving the recommendations of the administrative review committee, the  
118 governing body may issue a letter of intent, setting forth in general terms its proposed  
119 plans for granting a tax exemption and any conditions thereto. such letters of intent shall  
120 be issued only with the approval of the governing body, and as an expression of good  
121 faith intent, but shall not in any way bind the city to the granting of an exemption. Such

122 letters of intent shall expire six (6) months after issuance but may be renewed. A public  
123 hearing shall not be required prior to the issuance of letters of intent. No elected or  
124 appointed officer, employee or committee of the city, and no chamber, board,  
125 development council or other public or private body or individual, shall be authorized to  
126 speak for and commit the governing body to the granting of a tax exemption. Letters of  
127 intent issued by the governing body shall supersede any letters issued by the  
128 administrative review committee.

129 Section 8. That City of Topeka Code Section 42-38 reads as follows:

130 **Standards for determining benefits.**

131 The city will consider granting tax exemptions only upon a clear and factual  
132 showing of direct economic benefit to the city through advancement of its economic  
133 development goals, including the creation of additional jobs and the stimulation of  
134 additional private investment. The governing body, in determining the amount and term  
135 of exemption to be granted, shall consider various factors including, but not limited to, the  
136 following:

- 137 (1) The assessed valuation of the property in relation to the economic benefit  
138 to the city of increased employment.
- 139 (2) The gain in tax revenue which may result from the new or expanded  
140 business, including the increase in the property tax base upon the  
141 expiration of the exemption.
- 142 (3) The contribution that the new or expanded business will make towards  
143 increased employment and earnings within the community.



- 144 (4) The number of new jobs created directly by the business in relation to the  
145 amount of tax exemption granted.
- 146 (5) The kinds of jobs created in relation to the type of skills available from the  
147 local labor market.
- 148 (6) The utilization by the business of labor skills and abilities of unemployed  
149 persons in the community.
- 150 (7) The degree to which the business improves the diversification of the  
151 economy of the city and its environs.
- 152 (8) The degree to which the ultimate market products is outside the  
153 community, recognizing that outside markets bring in "new money" to the  
154 local economy.
- 155 (9) The potential of the business for future expansion and additional job  
156 creation.
- 157 (10) The beneficial impacts the business may have by creating any other new  
158 jobs and businesses, including the utilization of local products or other  
159 materials and substances in manufacturing.
- 160 (11) The beneficial economic impact the business will have on a particular area  
161 of the city, including designated enterprise zones and areas of needed  
162 revitalization or redevelopment.
- 163 (12) The compatibility of the location of the business with land use and  
164 development plans of the city and the availability of existing infrastructure  
165 facilities and essential public service.

166 (13) The extent to which additional direct or indirect public costs to the city and  
167 to other local units would be necessary such as the cost of the extension  
168 of public facilities.

169 (14) The extent to which the economic and employment benefits of the tax  
170 exemption accrue to the residents and taxpayers of those taxing  
171 subdivisions which indirectly "subsidize" the business as a result of the  
172 foregone tax revenue.

173 Section 9. That City of Topeka Code Section 42-39 is hereby amended to  
174 read as follows:

175 **Amount of tax incentive.**

176 The two (2) primary objectives of the city in granting tax exemptions for economic  
177 development are to (1) provide needed jobs, and (2) expand the economic and tax base  
178 of the city. The city recognizes that a simple system of determining the amount of tax  
179 exemption to be granted to reach these objectives may not always be equitable if applied  
180 uniformly to different kinds of businesses. As a result, in determining the actual amount  
181 of tax exemption granted, the city shall consider the factors and criteria set forth in section  
182 43-28. In addition, the city shall consider the following guidelines:

183 ~~(1) *Base exemption:* The base exemption shall equal fifty (50) per cent of~~  
184 ~~taxes due for all firms that qualify under Kansas law.~~

185 (1)(2) *Job quantity exemption:* A maximum additional thirty-five (35) per cent tax  
186 exemption in addition to the base exemption will be determined at the rate  
187 of one per cent exemption for each new job created as defined in section  
188 42-31, not to exceed thirty-five (35) per cent. A Job Quantity exemption

189 shall be determined at the rate of 1% exemption for each new full time  
190 equivalent job created not to exceed 70%.

191 ~~(2)(3)~~ *Job quality exemption: A maximum additional twenty-five (25) per cent tax*  
192 *exemption in addition to the base exemption and job quantity exemption*  
193 *will be determined according to the applicant's average wage rate. The*  
194 *amount of exemption in this category will be determined by deriving the*  
195 *applicant's wage rate as a percentage of the base wage rate which is nine*  
196 *dollars and sixty cents (\$9.60) per hour. That percentage will be applied*  
197 *to the twenty-five (25) per cent job quality exemption factor to determine*  
198 *the amount of exemption resulting from this factor. A Job Quality*  
199 *exemption shall be determined by dividing the company's average wage*  
200 *rate for the newly created jobs by the Shawnee County base wage rate.\**  
201 *The resulting factor shall be multiplied by 30% to determine the Job Quality*  
202 *payment exemption. The Job Quality exemption shall not exceed 30%.*  
203 *\*The Shawnee County base wage rate is computed annually using the*  
204 *most recent County Business Patterns published by the U.S. Bureau of*  
205 *Census. The base wage rate is determined by averaging the hourly wage*  
206 *rate for all Shawnee County industries with the combined hourly wage rate*  
207 *for the Manufacturing and Wholesale Trade industries.*  
208 *The City reserves the right to change the methodology of calculating the*  
209 *tax exemption. For those businesses which have applied for or received*  
210 *an exemption prior to May 1, 1991 the calculation shall be based upon the*  
211 *formula in Ordinance 15898.*

212            Section 10.    That City of Topeka Code Section 42-40 reads as follows:

213            **Nominal tax determination.**

214            All tangible property of a business receiving a tax exemption under this article  
215 shall be annually assessed by the county appraiser in the same manner as if it were not  
216 exempt, but only the amount thereof not exempted by this article shall be placed on the  
217 tax rolls. The amount of the property taxes which would be payable shall also be  
218 determined annually by the county clerk and treasurer, in the same manner as if the  
219 property were not exempt, but only such amounts not exempted by this article shall be  
220 placed on the tax rolls. Separate assessments and tax calculations shall be made for the  
221 land, for the improvements thereon, and for any tangible personal property associated  
222 therewith, of the exempt business. The appropriate county officers are requested to  
223 provide the city with this information as early as possible, but not later than November 15  
224 of each year.

225            Section 11.    That City of Topeka Code Section 42-41 is hereby amended to  
226 read as follows:

227            **Minimum payment.**

228            ~~Any applicant receiving a tax exemption pursuant to this article may be required~~  
229 ~~to pay a percentage of the assessed valuation of the real estate, including either buildings~~  
230 ~~together with land or land only, prior to the construction of new buildings or added~~  
231 ~~improvements to buildings on such property or prior to the acquisition of the property by~~  
232 ~~the business. When required, this percentage payment of the assessed valuation will~~  
233 ~~insure that the city, county, school district and any other taxing jurisdictions affected by~~  
234 ~~the exemption will not receive less tax revenue from the exempted property than was~~

235 ~~received prior to the exemption. For extraordinary reasons, such as when vacant~~  
236 ~~buildings are acquired for a new business, or when the market value of the property~~  
237 ~~decreases, this requirement may be waived in part or in whole by the governing body.~~

238 Any applicant making an application and receiving an exemption pursuant to this  
239 ordinance is required to pay taxes on the assessed valuation of the real estate, including  
240 either buildings together with land or land only, prior to the construction of new buildings  
241 or added improvements to buildings on such property or prior to the acquisition of the  
242 property by the business. This payment will insure that the City, County, school district  
243 and any other taxing jurisdictions affected will not received less tax revenue from the  
244 property than was received prior to the exemption.

245 Additionally, each business will pay taxes equal to 20% of the tax otherwise due  
246 with respect to the exemption. If application of the formula as set forth herein yields a  
247 lesser payment, then the minimum payment of 20% will apply. For extraordinary reasons,  
248 such as when vacant buildings are acquired for a new business, when the market value  
249 of the property has decreased, or when the size of the project is exceptionally large (i.e.  
250 40 or more jobs created per million dollars of new capital investment), this requirement  
251 may be waived in part or in whole by the Council of the City of Topeka.

252 Section 12. That City of Topeka Code Section 42-42 is hereby amended to  
253 read as follows:

254 (a) The extent and term of any tax exemption granted shall be subject to  
255 annual review ~~and determination~~ by the ~~governing body~~ Council of the City of Topeka to  
256 insure that the ownership and use of the property and any other qualifying criteria of the  
257 business for the tax exemption continue to exist. ~~The review shall be completed by no~~

258 ~~later than February 1 of each year. The city may require an annual renewal application~~  
259 ~~to be filed or other information necessary to assure the continued qualification of the~~  
260 ~~exempt business.~~ Information justifying the continued exemption will be submitted  
261 annually, together with a fee of one hundred dollars (\$100.00) to CED for review and  
262 approval. CED will advise the Council of all annual determinations. CED determinations  
263 may be reversed if the Council places the matter on an Agenda and so votes.

264 (b) Upon the failure of the business to fully and timely pay the taxes due as  
265 may be required or to provide reports or other information requested by the city and  
266 reasonably necessary for the implementation of this policy, the city ~~shall~~ may at its sole  
267 discretion either revoke or not renew the authorization of such an exemption.

268 Section 13. That City of Topeka Code Section 42-43 reads as follows:

269 **Exemption ordinance.**

270 The city clerk shall provide a copy of the ordinance, as published in the official  
271 city newspaper, granting an exemption from taxation to the applicant for use in filing an  
272 initial request for tax exemption as required by K.S.A. 79-213, and by K.S.A. 79-210 for  
273 subsequent years.

274 Section 14. That City of Topeka Code Section 42-44 reads as follows:

275 **Exemption forms.**

276 A copy of the exemption applications required by K.S.A. 79-213 and 79-210, and  
277 the statement required by K.S.A. 79-214 for the cessation of an exempt use of property,  
278 shall be filed with the city clerk by the property owner.

279

280           Section 15.   That City of Topeka Code Section 42-45 reads as follows:

281           **Waiver of requirements.**

282           The governing body reserves the right to grant or not to grant tax exemption  
283 under circumstances beyond the scope of this article or to waive any procedural  
284 requirement. However, no such action or waiver shall be taken or made except upon a  
285 finding by the governing body that a compelling or imperative reason or emergency exists,  
286 and that such action or waiver is found and declared to be in the public interest.

287           Section 16.   That City of Topeka Code Section 42-46 reads as follows:

288           **Transfer of ownership or use.**

289           No tax exemption granted by the city shall be transferred as a result of a change  
290 in the majority ownership of the business. Any new owner shall file a new application for  
291 a tax exemption. Further, the city shall be notified by the business of any substantive  
292 change in the use of a tax exempt property.

293           Section 17.   That City of Topeka Code Section 42-47 reads as follows:

294           **Special assessments.**

295           Any tax exemption granted for real property under this article shall not affect the  
296 liability of such property for any special assessments levied or to be levied against such  
297 property.

298           Section 18.   That City of Topeka Code Section 42-48 reads as follows:

299           **No exemptions for prior commencement or expansion.**

300           No tax exemption shall be granted to any business which commenced operations  
301 prior to August 5, 1986, nor for the expansion of a business unless such expansion  
302 created new employment after August 5, 1986.

303            Section 19.    That City of Topeka Code Section 42-49 reads as follows:

304            **Jurisdiction.**

305            The city shall grant tax exemptions only as to property located within the city.  
306            The city encourages the board of county commissioners to consult with the city as to  
307            applications outside the city and within the three-mile area of the city.

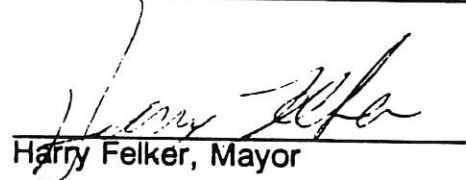
308            Section 20.    That the City of Topeka Code is hereby amended by the addition  
309            of the following language:

310            The policy set forth herein with regard to property tax exemptions is considered  
311            separate and distinct from the City of Topeka's policy regarding payments in lieu of taxes  
312            and reduced payments in lieu of taxes in relation to industrial revenue bonds. In the event  
313            a property would qualify under both policies, then the property shall be eligible for only  
314            one (1) incentive program which shall be at the election of the applicant.

315            Section 21.    That City of Topeka Code Sections 42-31, 42-32, 42-39, 42-41 and  
316            42-42 are hereby specifically repealed.

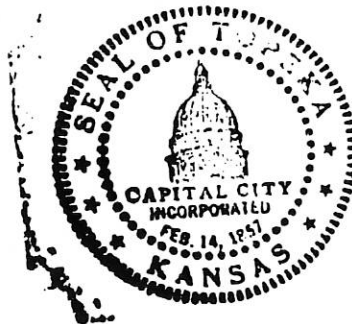
317            Section 22.    This ordinance shall take effect and be in force from and after its  
318            passage, approval and publication in the official city newspaper.

319            PASSED and APPROVED by the City Council July 23, 1991.

  
\_\_\_\_\_  
Harry Felker, Mayor

324            ATTEST:

325  
326  
327              
328            Nona M. Hastings Deputy City Clerk  
329





## Property Tax Exemption Procedures

1. Application Submitted to CED - A completed application form including a \$250 application fee must be submitted to the City of Topeka Community and Economic Development Dept. (CED).
2. CED Review - CED will review the application for completeness and eligibility for tax exemption. CED may utilize the City Attorney's office and Board of Tax Appeals in questionable cases. Completed applications will be referred to the Administrative Review Committee.
3. Administrative Review Committee - The review committee will be composed of the Mayor, CAO, Director of CED and designee of the affected school district. The committee will review and research applications submitted for tax exemption and make recommendations to the city council. The committee may issue administrative letters of intent that are not binding upon the city council.
4. City Council - Upon receiving the recommendation of the administrative review committee the city council may either reject the request or vote to further consider the request. If the council votes to further consider the request the council may either schedule a public hearing or waive the public hearing requirement and issue a letter of intent.
  - 4(a) Public Hearing - If the city council schedules a public hearing notice of the hearing will be published at least seven days prior to the hearing. The City Clerk will also notify other taxing jurisdictions of the public hearing.
  - 4(b) Letter of Intent - Upon receiving the recommendation of the administrative review committee the city council may issue a letter of intent as an expression of good faith intent which shall expire after a period of six months. A public hearing is not required prior to issuance of letters of intent.
5. \*Ordinance - The constitutional amendment authorizing property tax exemptions requires the city to adopt an ordinance providing the tax exemption for each case approved by the city council regardless of whether a public hearing has been held or letter of intent has been issued. The ordinance must identify the property being exempted and specify the terms of the exemption.
6. \*County Appraiser - The applicant must file the appropriate forms and copies of the exemption ordinance adopted by the city to the county appraiser. The county appraiser then reviews the application and supporting data and sends the completed forms to State Board of Tax Appeals.

7. \*State Board of Tax Appeals - The Board of Tax Appeals then grants or denies the exemption based on its legal and factual basis.
8. \*Annual Renewal - The tax exemption is subject to annual review by the city council to insure that ownership, use, job creation, and other qualifying criteria have been met and continue to exist. The business must file an annual renewal application including a \$100 renewal fee. The City may revoke the exemption if the business does not provide the required information.

\* State of Kansas Legal Requirement