

Approved: 3-31-95
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 13, 1995 in Room 519-S of the Capitol.

All members were present except: Rep. Doug Lawrence - excused
Rep. Nancy Kirk - excused

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

Chair noted the Secretary of Commerce had provided the guidelines and rules and regulations on the Kansas Community Service Program Act as requested by the Chair after Secretary Sherrer testified on **SB 203** on Friday, March 10, 1995. (Attachment 1)

Chair opened for action on:

HB 2108 - Property taxation exempting certain business machinery & equipment therefrom

Consideration given to subcommittee report on **HB 2108** made on February 24, 1995. (Attachment 2)
Chair Graeber explained the changes recommended by the subcommittee.

Moved by Graeber, seconded by Aurand, the subcommittee report on HB 2108 be considered by the Taxation Committee. Motion carried.

Chair opened for action on **HB 2108** as amended by subcommittee.

Moved by Wilson, seconded by Graeber, amend **HB 2108** by adding new *Sec. 3. The director of property valuation shall institute and adopt procedures for use by all county and district appraisers to allow for consolidated rendering by aggregation by year of purchase and economic life of tangible personal property for property tax listing purposes, and shall devise forms for use by the appraisers for such purpose.* Motion withdrawn.

Moved by Pettey, seconded by McKinney, amend **HB 2108** by changing language on page 1, line 26 from 1994 to "1995". Motion failed.

Moved by Donovan, seconded by Mays, amend **HB 2108** original retail cost when new to \$1,000. Motion failed 9 -10.

Moved by Graeber, seconded by Larkin, pass **HB 2108** favorably as amended. Motion carried. "NO" votes recorded for Reps. Pettey and Wilson.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on March 13, 1995.

Chair opened for action on:

HB 2167 - Classification of certain machinery and equipment

Moved by Graeber, seconded by Larkin, the report of the Subcommittee on **HB 2167** be accepted. Motion carried. (Attachment 2)

Moved by Edmonds, seconded by Graeber, **HB 2167** be passed favorably as amended Motion carried.

Adjournment.

The next meeting is scheduled for March 14, 1995.

TAXATION COMMITTEE GUEST LIST

DATE: March 13, 1995

NAME	REPRESENTING
Hal Hudson	NEIB/KS
Bob Corkins	KCCI
HAROLD PATTIS	OBSERVER
BEV BRADLEY	KS Assoc of Counties
Janet Stubb	KBIA
Gamie Clover Adams	KGFA / KFCA
Rich McKee	KS Livestock Assoc.
DONALD SNODGRASS	KS. FOOD DEALERS ASSN.
Frances Kastner	KS Food Dealers Assn -
John Peterson	Raytheon Aircraft Co
Bill Jance	Boeing
Mike Hood	Har, Dept of Dev
Hansel Lange	KS Assn of Broadcasters
Tudy Perkins	CPAR

Community Service
Program



State of Kansas
FY95 Application Guidelines
(For Projects Starting Between July 1, 1994 and June 30, 1995)

Administered by the
Kansas Department of Commerce and Housing
700 S.W. Harrison Street, Suite 1300
Topeka, KS 66603-3712
(913) 296-3485
TTY (913) 296-3487

Governor Bill Graves
Secretary Gary Sherrer

ISSUED 9/94

House Taxation
3-13-95
Attachment 1-1

FY95 APPLICATION

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INTRODUCTION

In 1994, the Kansas Legislature passed SB 230, "Kansas Community Service Program Act", which enables business firms to receive a tax credit for cash contributions made to approved non-profit organizations.

The Director of Community Development for the Department of Commerce and Housing shall administer the program with the assistance and approval of the Secretary of the Department of Revenue.

The Department of Revenue will authorize a total of \$5 million in tax credits for eligible projects for FY95.

HOW DOES IT WORK?

The non-profit organization must submit the proposed project for approval to the Director of Community Development for the Kansas Department of Commerce and Housing. A selection committee shall review each application and recommend approval or disapproval to the director. Once the project is approved, the organization is authorized to offer tax credits for cash contributions.

The tax credit equals up to 50% of the total amount contributed during the taxable year. The amount of credit equals up to 70% of the total amount contributed to an organization in a rural community.

WHO QUALIFIES FOR THE CREDIT?

Any business entity authorized to do business in the state of Kansas which is subject to the state income tax.

Any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income.

Any insurance company paying an annual tax on its net income.

SPECIAL FEATURES OF THE CREDIT

- * Unlimited carry-forward provisions for the tax credit

WHAT KINDS OF DONATIONS QUALIFY?

- * CASH ONLY

70% RURAL CREDIT

This provision is available to projects located in a city, town or village of fewer than 15,000 population that is not part of a standard metropolitan statistical area. The exclusion is any city, town or village located in Johnson county.

WHO MAY ADMINISTER A PROJECT

Any community service organization, performing community service in Kansas, of which one of the following is true may submit a proposal:

- * Organization holding IRS rulings 501(c)3
- * Organizations incorporated in the State of Kansas or another state as a non-stock, non-profit organization
- * Organizations designed as a community development corporation by the United States government
- * Organizations chartered by the United States Congress

ELIGIBLE PROJECTS

The proposed project must be made on forms provided by the Department of Commerce and Housing. The department may request any additional information it determines necessary to evaluate a proposal.

Applications will be reviewed by a selection committee appointed by the Director of Community Development. All proposals shall be approved for a period of one (1) year. Continuation of eligibility for tax credit in the future shall require a new application and current documentation.

All proposals must address at least one (1) of the following areas in order to qualify for approval:

- 1) Targets set forth in the Blueprint for Investment in Children and Families:
- 2) Non-governmental activity which aids in the prevention of crime in an impoverished area:

- 3) Contribute to health care services.

The proposed project can begin no sooner than July 1, 1994. Donations must occur after the project has been approved in order to qualify for tax credit, and only expenses incurred during the project may be included in the budget.

SELECTION CRITERIA

All proposals must set forth the project to be conducted, why the project is needed, the estimated amount to be invested in the project and the plans for implementation of the project.

All proposals must set forth the following impact measurements. The impact measurements must include the public benefit of the project as follows:

- 1) Estimation of the individuals who will benefit from the proposed project.
- 2) Identify the population group in society which will benefit from this project, including but not limited to women, children, the elderly or teenage mothers. Include historical data on the targeted group that supports proposed project.
- 3) Describe the community need that the proposed project will benefit.
- 4) Address the impact of the project on society with projected statistical results.

REVIEW OF PROPOSALS

Approval or disapproval shall be based on the following criteria:

- 1) The non-profit organization submitting the proposal must demonstrate its capability to adequately administer the project;
- 2) There must be a demonstrated need for the project in the area within which the project is to be carried out;
- 3) Proposals submitted subsequently to the first year will be evaluated on performance of the first year

project and continued need for the project;

- 4) An independent audit of the non-profit organizations financial records must accompany each proposal. In no case shall a project be approved that does not have a written endorsement of the agency of local government or planning council within the area in which the project is to be approved.

All approved proposals must file a quarterly review. In addition an annual report must be filed on or before June 30, specifying the amount of tax credit utilized in the prior year, the actual dollars utilized by the program and a complete list of contributors and amount of contribution.

A higher level of consideration shall be given to non-profits who solicit cash contributions from business firms that contribute above and beyond the firm's average annual charitable contribution for the preceding three tax years.

APPLICATION AND APPROVAL PROCESS

Application must be submitted to the:

Kansas Department of Commerce and Housing
Director of Community Development
Community Service Program
700 S.W. Harrison Street, Suite 1300
Topeka, KS 66603-3712

* **FAX COPIES WILL NOT BE ACCEPTED**

* **INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

A complete application consists of the original and three copies of the application form along with three complete sets of attachments.

There is no application fee.

When the proposed project has been approved a certificate of approval shall be sent to the non-profit organization. At that time the non-profit organization shall submit the names of the contributors to the KDOC&H. The Department of Revenue shall verify the contribution is above and beyond the prior three year's contributions. Coupons will then be issued to the non-profit organization to distribute to the contributor.

LINE-BY-LINE APPLICATION INSTRUCTION

IMPORTANT - PLEASE READ ALL INSTRUCTIONS VERY CAREFULLY!

FAX COPIES WILL NOT BE ACCEPTED

ALL APPLICATIONS MUST BE TYPEWRITTEN

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED THE ORIGINAL AND THREE COMPLETE COPIES OF THE APPLICATION FORM MUST BE SUBMITTED ALONG WITH THREE COMPLETE SETS OF ALL ATTACHMENTS.

COPIES OF THE APPLICATION MAY BE SUBMITTED DIRECTLY TO THE FOLLOWING ADDRESS:

KANSAS DEPARTMENT OF COMMERCE AND HOUSING
DIRECTOR OF COMMUNITY DEVELOPMENT
COMMUNITY SERVICE PROGRAM
700 S.W. HARRISON STREET, SUITE 1300
TOPEKA, KS 66603-371

NOTE: There is intentionally some overlap built into these questions and you may need to occasionally repeat information. Your cooperation is appreciated.

INSTRUCTIONS

All questions are to be answered in the space provided.

You may use the back of each page as additional space is required.

Applications must be typewritten.

IN THE INTEREST OF FAIRNESS TO ALL APPLICANTS THESE INSTRUCTIONS WILL BE RIGIDLY ENFORCED. ANY APPLICATION NOT ADHERING TO THESE INSTRUCTIONS WILL BE CONSIDERED INCOMPLETE AND WILL NOT BE ACCEPTED.

QUESTION**DESCRIPTION**

- 1 APPLICANT: Official name as stated in your organization's Articles of Incorporation.
- 2-5 MAILING ADDRESS: All official correspondence will be sent to this address.
- 6 PROJECT LOCATION: Enter the cities and counties where the project will take place.
- 7 CONTACT PERSON: Enter the name and title of the person to be contacted for additional information required during the review of your proposal.
- 8-9 PHONE NUMBER: Phone numbers where the contact person can be reached.
- 10 EXECUTIVE DIRECTOR: This person will serve as the alternate contact person during the review of your proposal.
- 11-12 PHONE: Phone numbers where the executive director can be reached.
- 13 FAX NUMBER: Enter the FAX number that you may have access to during the review of your proposal.
- 14 PRESIDENT (OR CHAIRPERSON) OF BOARD OF DIRECTORS: This person may be listed to receive selected mailing while serving as a second alternate contact person during the review of your proposal.
- 15-18 MAILING ADDRESS: Enter the address of the board president.
- 19-20 PHONE: Phone number where the board president can be reached.
- 21 PROJECT TITLE: Enter the name of the project which support is being requested. Do not enter the name of your organization.
- 22 PROPOSED PROJECT PERIOD: All projects should be ran on a fiscal year. This period should agree with the period indicated on the budget page.
- 23 INCORPORATION STATUS: Do not check more than one box.

- 24 TAX EXEMPTION STATUS: Please indicate which category your organization holds.
- 25 ANNUAL REPORT TO THE KANSAS SECRETARY OF STATE: All not-for-profit corporation operating in Kansas are required to file an annual report with the Office of the Secretary of State. Please enter the date of your most recent report. If your group has not yet incorporated, you are not eligible to apply for the program.
- 26 KANSAS LEGISLATORS: Which state legislators represent the area which your organization is physically located? Give the name and district number of each. This information is available from your county clerk and or local election board.
- 27 PROJECT AREA: Describe the specific geographic location of your proposed project, and service area boundaries if appropriate. Indicate the census population of the area.
- 28 DESCRIPTION OF YOUR ORGANIZATION: Provide a brief history of the applicant organization. Summarize past and present projects and sources of funding.
- 29 PROJECT CATEGORY: All projects must qualify in one or more of the following areas: targets for change in the Blueprint for Investment in Kansas Children and Families; crime prevention or health care services.
- 30 PROJECT SUMMARY: Briefly identify and describe the proposed project activity for which you are seeking approval. This description should be consistent with the Project Title entered in item #21. Be sure to identify the needs addressed by the proposed project.
- 31 NEEDS ASSESSMENT/PLANNING: The question's in this section deals entirely with the process/method your organization uses in planning for the future. Please be brief and specific as possible.
- 32 PICK ONE CATEGORY: You must pick a category and answer the questions in that category. Please pick a category that best describes your project. No category will be ranked over another. All will be given the same weight in rating and ranking. By answering questions tailored to a specific category, the selection committee can fairly rate your

application.

33 MEASURABLE GOALS/OBJECTIVES: The result of the needs assessment/planning exercise (please refer to item #31) should be a set of measurable goals and objectives.

34 EVALUATION: What will success look like? How can you tell when you have been successful?

35 PROJECT ADMINISTRATION:

a) Operational Procedure - Detail the way the proposed project is designed to work. This information should relate how the proposed operations will function to achieve the stated goals of the program. A timetable of activities should include showing when significant activities will take place during the project.

b) Administrative System and Controls - Clearly define the lines of authority for the program, including an identification of all key personnel and the role they will play in this project. If all or part of the project is to contract to another organization, the specific responsibility of both parties should be discussed and a copy of the proposed contractual agreement included in the attachments.

c) Coordination - To what extent were other individuals and organizations involved in developing this proposal? To what extent will other individuals and organizations play a role in carrying out the project? Please include letters of cooperation and support from other organizations as Attachment "G".

d) Financial Controls and Auditing - Briefly describe the accounting and fiscal control procedures that will be in place for this project.

36 FUND-RAISING: A comprehensive fund-raising track strategy is critical to the success of any proposed project. Please be specific and give as much detail as possible. To what extent is your board involved in giving and fund-raising.

37 FUND-RAISING STRATEGY: What is your fund-raising track record? If your organization has never done fund-raising, you can state this fact and go to the next item.

38 OTHER SOURCES OF FUNDS: What fund-raising will you do that will not employ the program?

39 PROJECT BUDGET:

Please keep these points in mind as you prepare your budget:

- * Omit all pennies from the budget, round all figures to the nearest dollar.
- * You must use the budget form included in the application package.
- * Tax credit may be requested for up to 100% of your total eligible project costs.
- * Only project cost incurred after July 1, 1994 may be included un this project budget.
- * Costs related to audits, appraisals and environmental
- * Enter only category totals on the budget form, and show category details in the justification.
- * Do not include sales tax in the estimated cost of any budget item.
- * A budget is simply a planning tool to help your organization reach its goal, and it is normal to make revisions as circumstances change.
- * You will be allowed to modify your budget while the project is underway, in order to cover cost fluctuations and unanticipated gifts.
- * The requested project period entered at the top of the budget page should agree with the period indication in question #22.

BUDGET INSTRUCTIONS

The following instructions are designed to assist you in completing you project budget form:

BUDGET COLUMNS - The budget is broken down into a series of columns (1 through 7) designed to give the selection committee a total view of the resources to be made available for the proposed project.

Column 1: "Budget Categories" - The categories in this column list the various expenses to be charged against the project individually and sub-totaled by category. The basis for estimating these costs should be included in the budget justification.

Column 2: "Business Support" - This column should detail the project expenses by budget category. Any donations from eligible businesses which have pledged or expressed an interest in the tax credit should be included in these figures, as well as the amount of additional business support you intend to seek for your project.

Column 3-6: "Other Funding Sources" - These columns should indicate the total support available or potentially available from other funding sources such as grants, United Way, city or county. There is no need to detail how these funds are being used in the budget. Filling in the gray shaded area is optional. Just enter the total at the bottom of each column used.

Column 7: "Grand Total All Support" - This column should contain the amounts in the budget categories used. The figures at the bottom of each column added across should equal the grand total to be entered in the lower right hand corner of the budget form.

BUDGET CATEGORIES

Category A: "Salaries/Wages" - Enter the amount for the full and part-time staff members who will be assigned to this project. Amounts should be prorated to reflect approximate percent of time devoted to the project. If this is a new project, provide enough flexibility to allow you to hire staff within a range established for each position.

NOTE: Salaries for development directors and professional fund-raisers are not eligible expenses.

- Category B:** "Fringe" - Enter all fringe benefits your employees will be receiving. This should include their percentage dollar value as related to FICA in addition to absolute dollar amounts such as health insurance premiums. All fringe amounts should be proportional to each employees time as specified in "Category A' above.
- Category C:** "Contracts" - Enter the amount that will be used for paid services which are not compatible with the hiring of a full or part-time staff person. These services can be for accounting, consulting, legal, auditing, architectural, engineering and other costs needed to implement your program or project. Professional fund-raising services may not be counted as eligible project costs.
- Category D:** "Travel" - Enter the amount required for both local and out of town travel costs. This category may include expenses required to participate in professional training and workshops related to implementation of the project.
- Category E:** "Equipment" - Enter the amount needed for the purchase, lease or rental of equipment, furnishings, appliances and other related items which will be used in the proposed project. Please use reasonable and current costs in your area to determine the amount requested.
- Category F:** "Supplies" - Enter the amount needed for all expendable supplies to be used during the project period. Items such as paper clips, paper, pens, etc... should be calculated at a reasonable use cost per year. Please use a separate figure for unusually large supply needs as they may relate to the nature of the project.
- Category G:** "Building Space" - Enter the amount needed for the rental or lease of all facilities needed during your project period. These costs should be comparable to the prevailing space costs in the community or geographic area in which you are located. Also, include the costs of utilities, renovations, leasehold improvements and other building modifications required to implement your project.
- Category H:** "Construction" - Enter the amount needed to complete the new construction, expansion, and/or renovation of your building. All construction cost figures should be reasonable and based on prevailing cost

in your community or geographic area.

Category I: "Property Acquisition" - Enter the amount needed to acquire the land and/or structures required to complete your project. These costs should be based on current appraisals or the best estimates of value available at the time your application is completed.

Category J: "Other" - Enter the amount needed in this category for such things as telephones, vehicle maintenance, insurance, postage, mailings, etc... These are items which do not logically fit into other categories as closely as possible.

40 **BUDGET JUSTIFICATION:** Prepare a justification of all cost included in your Budget column 2. The Budget form is intended only to give category totals, however, the justification should break out the individual items and show how the category totals were arrived at.

41 **PROJECT ASSURANCE:** Each of these items must be understood and agreed upon by the board of directors, the executive director and the person designated as project director. Two signatures are required.

42 **ATTACHMENTS:** Include all requested attachments and supporting documentation.

43 **SIGNATURE:** Signature of the executive director.

19. DAY PHONE
()

20. EVENING PHONE
()

21. PROJECT TITLE

22. PROPOSED PROJECT PERIOD

23. INCORPORATION STATUS OF YOUR ORGANIZATION

- a. Exempt from income tax under the provisions of section 501(c)3 of the federal internal revenue code.
- b. Incorporated in the State of Kansas or another state as a nonstock, non-profit corporation.
- c. Designated as a community development corporation by the United States government.
- d. Chartered by the United States Congress.

24. WHICH TAX EXEMPTION RULING DO YOU HOLD FROM THE IRS?

- a. 501(c)3
- b. Other: _____
- c. None

25. IS YOUR ORGANIZATION REQUIRED TO FILE AN ANNUAL REPORT WITH THE KANSAS SECRETARY OF STATES OFFICE?

_____ YES _____ NO IF YES, WHEN WAS THE LAST REPORT SUBMITTED?

26. STATE SENATOR NAME

DISTRICT NUMBER

STATE REPRESENTATIVES NAME

DISTRICT NUMBER

27. DESCRIBE THE AREA WHERE YOUR PROJECT WILL TAKE PLACE?

28. BRIEFLY DESCRIBE YOUR ORGANIZATION

29. WHICH AREA DOES YOUR PROPOSED PROJECT QUALIFY UNDER?

- a. Community Service
- b. Crime Prevention
- c. Health Care Services

30. PROJECT SUMMARY

31. a. List the need/problem to be addressed by the proposed project (please be specific and quantify when possible).

b. Explain why the proposed project is needed.

c. List the estimated amount to be invested in the proposed project.

d. What specific plans will be undertaken to implement the proposed project?

e. Define the population that will be impacted by the proposed project. Include historical data on targeted group that will support proposed project.

f. Describe the community need that the proposed project will benefit.

32. Please pick one category and answer all questions in that category.

1) Community Services

In what way will the proposed project directly meet the targets set forth in the Blueprint for Investment in Kansas Children and Families.

2) Crime Prevention

What is the basis for the conclusion that the proposed project will aid in the prevention of crime in an impoverished area?

3) Health Care Services

Describe the way in which the proposed project will directly benefit the area of health care services.

33. Briefly describe the measurable goals/objectives of the proposal (please be specific).

34. Using the goals/objectives of the project, please explain how you plan to evaluate/measure the success of this project. Be sure to indicate appropriate time frames for meeting each goal/objective and for measuring the over-all success of the project.

35. Describe in detail your plans for administering the proposed project.

A. Operational Procedures

B. Administrative Systems and Controls

C. Coordination of funding and project administration with other organizations (public or private).

D. Fiscal Controls and Auditing

36. What is your organizations fund-raising strategy? Please discuss who will be responsible for ongoing fund-raising activities (i.e. staff, volunteers, communities, etc.).

37. Demonstrate your agency's fund-raising strategy over the past three years. What support has been granted or sought (even if rejected) through reimbursement for services (i.e. fees, rents, etc.)?

Briefly describe other fund-raising activities during that period.

38. Briefly describe other existing or planned funding sources for your proposed project.

39. PLEASE COMPLETE THE PROPOSED BUDGET AT THE END OF THE APPLICATION

40. BUDGET JUSTIFICATION

41. PROJECT ASSURANCE

Should our project receive approval, we hereby agree to accept an allocation of tax credit under the following terms and conditions.

- A. We understand that all cash donations are to be maintained in a sperate Community Service Program fund account. Six (6) months after the project closing date, any remaining funds will be placed in an escrow account established specifically for the project.
- B. If the amount of tax credits authorized for this project exceed \$100,000, an independent audit of the account is to be submitted to KDOC&H no later than nine (9) months after the official project ending date. Auditing expenses are allowed as eligible project costs.
- C. We will inform all qualifying contributors to this project that tax credits are available, and will provide the necessary forms and instructions to enable them to apply for the credit.
- D. We agree to apply cash donations toward only those budget categories that are contained in the approved budget (column 2), and will make financial records available to KDOC&H for spot-auditing when given advance notice of at least five (5) working days.
- E. We understand that we will be permitted to make unlimited budget revisions, provided the actual project remains the same. Such revisions will be implemented as needed and will not require permission from KDOC&H, but will require approval of our Board of Directors.
- F. We agree to cooperated with KDOC&H in review and processing of Tax Credit applications, in order to ensure donors of a timely response.
- G. When soliciting for contributions, we agree not to promise credits in excess of the amount allocated by the KDOC&H for any contributions that will not directly benefit the approved project activity.
- H. We understand that we are fully responsible for all fund-raising and solicitation of support on behalf of our project. We further understand that KDOC&H reserves the right, once we have reached the mid-point of our project period, to reduce our credit allocation. If, after 30 days notice, we are unable to show evidence that our remaining credits will

be utilized, KDOC&H will determine the amount of credit reduction.

- I. We understand that continued approval is contingent upon satisfactory adherence to the ASSURANCES, continued endorsement of the local governing body, and remaining in good standing with the Kansas Secretary of State. We understand that our project may be placed on probation or termination by KDOC&H for failure to comply with any of these conditions.
- J. We have designated the person listed below as Project Director and understand that all pertinent correspondence from KDOC&H will be addressed to him/her. We will notify KDOC&H (in writing) within 30 days of any change in this position.

PROJECT DIRECTOR

PRESIDENT OF THE BOARD*

DATE

EXECUTIVE DIRECTOR*

DATE

* IN THE EVENT THAT THE PRESIDENT OF THE BOARD IS ALSO SERVING AS EXECUTIVE DIRECTOR, THE SIGNATURE OF THE SECRETARY OR TREASURER MAY BE SUBSTITUTED FOR THE EXECUTIVE DIRECTOR.

- 42. THE FOLLOWING ATTACHMENTS ARE INCLUDED AS PART OF THIS APPLICATION:
 - A. PLEDGE LETTERS OF FINANCIAL SUPPORT
 - B. ARTICLES OF INCORPORATION
 - C. ORGANIZATION BY-LAWS
 - D. MINUTES OF BOARD MEETING WHERE THIS APPLICATION WAS REVIEWED AND APPROVED
 - E. MAP SHOWING BOUNDARIES OF PROJECT AREA

- F. LOCAL GOVERNMENT OR PLANNING COUNCIL ENDORSEMENT FORM
- G. OTHER LETTERS OF SUPPORT AND COOPERATION
- H. CURRENT BOARD OF DIRECTORS

43. I HEREBY CERTIFY THAT THE BOARD OF DIRECTORS HAS REVIEWED THIS APPLICATION AND HAS AUTHORIZED ITS SUBMITTAL TO THE COMMUNITY SERVICE PROGRAM.

EXECUTIVE DIRECTOR (SIGNATURE)

DATE

**KANSAS DEPARTMENT OF COMMERCE & HOUSING
PROJECT BUDGET ----- MUST BE TYPEWRITTEN
PLEASE ROUND ALL FIGURES TO NEAREST DOLLAR**

NOTE: Once a project is approved, budget revision may be implemented as needed and will not require approval from the Department of Commerce & Housing.

1-33

NAME OF ORGANIZATION _____

This project budget represents a _____ month period
with a proposed starting date of _____, 19____.

1	2	3	4	5	6	7
BUDGET CATEGORY	BUSINESS SUPPORT	OTHER SOURCES OF SUPPORT				GRAND TOTAL ALL SUPPORT
		NAME	NAME	NAME	NAME	
A. Salaries/Wages						
B. Fringe						
C. Contracts						
D. Travel						
E. Equipment						
F. Supplies						
G. Building Space						
H. Construction						
I. Property Acquisition						
J. Other Costs						
TOTAL						



KANSAS

DEPARTMENT OF COMMERCE & HOUSING

Bill Graves
Governor

Gary Sherrer
Secretary

January 23, 1995

Dear Government or Planning Council Official:

In 1994, the Kansas Legislature passed SB 230, "Kansas Community Service Program Act", which enables business firms to receive a tax credit for cash contributions made to approved non-profit organizations.

The tax credit received can be up to 50%, or 70% in rural areas, of the value of the contribution and may be used by the contributor to defray Kansas tax liabilities.

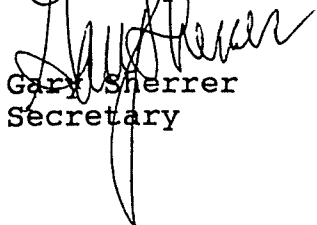
Organizations seeking to offer the tax credits must first apply to the Kansas Department of Commerce & Housing for project approval. An integral part of the application is the local government endorsement affirming that the proposed project activity does not conflict with existing plans and ordinances of the community where the project is located. This endorsement is required by law (SB 230) and a standard endorsement form is provided with the application. No application will be considered without the inclusion of the signed endorsement. In completing this form, the local government is simply stating that the activity being proposed by the organization is consistent with existing local plans and ordinances. The local government body is not obligated to fund, supervise or in any other way associate itself with the applicant agency and/or its project.

All organizations must secure endorsement from the locality in which the proposed project is to take place.

After reviewing the enclosed endorsement form, please complete Section II and return to the applicant organization.

For information about the proposed project, please contact the applicant. For general information on the Community Service Program, do not hesitate to contact the Department of Commerce & Housing.

Sincerely,


Gary Sherrer
Secretary



Kansas Department of Commerce & Housing
Community Service Program (CSP)
Local Government Endorsement

**THIS MUST ACCOMPANY ALL PROPOSALS
MUST BE TYPEWRITTEN**

SECTION I. APPLICANT INFORMATION

1. LEGAL NAME OF AGENCY SPONSORING PROPOSED PROJECT

2. OFFICIAL AGENCY ADDRESS

3. CONTACT PERSON/TITLE

4. DAYTIME TELEPHONE NUMBER

()

EVENING TELEPHONE NUMBER

()

5. STATEMENT OF INTENT TO SUBMIT APPLICATION TO DEPARTMENT OF COMMERCE & HOUSING:

I have examined this request in its entirety and believe it to be an accurate description of the project to be submitted by this organization for the purpose of securing support through the Community Service Program administered by the Kansas Department of Commerce & Housing. In the event that the proposed project is significantly altered and information contained herein is no longer accurate, I understand that a new local government endorsement will be required.

**MUST BE SIGNED
IN PRESENCE OF NOTARY**

SIGNATURE OF EXECUTIVE DIRECTOR

DATE

NOTARY PUBLIC EMBOSSE OR
BLACK INK RUBBER STAMP SEAL

STATE OF

SUBSCRIBED AND SWORN BEFORE ME, THIS

DAY OF

19

USE RUBBER STAMP IN CLEAR AREA BELOW

NOTARY PUBLIC SIGNATURE

MY COMMISSION
EXPIRES

NOTARY PUBLIC NAME (TYPED OR PRINTED)

SECTION II. LOCAL GOVERNMENT ENDORSEMENT

The following unit of government: _____ has
determined, based upon the information presented herein, that the forenamed project:

does

does not

appear to conflict with the existing plans and ordinances approved, enacted or enforced by this body.

NAME

TITLE

AGENCY

TELEPHONE

SIGNATURE

DATE

1-35

K.A.R.110-7-1 Definitions. For the purpose of these regulations, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

(a) "Business firm" means:

- (1) any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act;
- (2) any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas statutes annotated; or
- (3) any insurance company paying an annual tax on its net income pursuant to article 28 of chapter 40 of the Kansas statutes annotated.

(b) "Community service organization" means any organization performing community service in Kansas which:

- (1) is exempt from income taxation under the provisions of section 501(c)3 of the federal internal revenue code;
- (2) is incorporated in the state of Kansas or another state as a nonstock, non-profit corporation;
- (3) has been designated as a community development corporation by the United States government under the provisions of title VII of the economic opportunity act of 1964; or
- (4) is chartered by the United States congress.

APPROVED
ATTORNEY GENERAL

BY: W. S. 8-25-94 (AS)

AUG 23 1994

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(c) "Community service program".

(1) Community service program means a program in which activities are conducted that meet a demonstrated community need and that are designed to achieve one or more of the targets for change identified on pages 23-68 of the report to the 1992 Kansas legislature by the special committee on children's initiatives, entitled "A Blueprint for Investing in the Future of Kansas Children and Families", as filed December, 1991, which is hereby adopted by reference. The targets for change which are set forth in the blueprint include:

- (A) greater support to children and their families;
- (B) invest in young children ages 0-5;
- (C) restructure schools to respond to changing educational and developmental needs of children;
- (D) improve the physical health and mental health status of children;
- (E) modify service delivery systems;
- (F) make business a partner; and
- (G) reduce high risk behavior in children and families.

(2) Each community service program shall be approved by local planning councils prior to submittal to Kansas department of commerce & housing.

(d) "Crime prevention" means any nongovernmental activity which aids in the prevention of crime in an impoverished area.

APPROVED
ATTORNEY GENERAL

97, Aug 8-25-94, ASST

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(e) The term "health care services" shall include, but not be limited to, the following:

(1) services provided by:

(A) local health departments;

(B) city, county or district hospitals;

(C) city or county nursing homes; or

(D) other residential institutions;

(2) preventive health care services offered by a community service organization, including:

(A) immunizations;

(B) prenatal care;

(C) home health care services which enable postponement of entry into nursing homes; and

(3) community-based services, including:

(A) services for persons with a disability;

(B) mental health services;

(C) indigent health care;

(D) physician or health care worker recruitment;

(E) health education;

(F) emergency medical services;

(G) services provided by rural health clinics;

(H) integration of health care services;

(I) home health services; and

(J) services provided by rural health networks.

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ATTORNEY GENERAL

Mrs. 8-25-94 (A357)

AUG 23 1984

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(f) "Department" means the Kansas department of commerce and housing (KDOC&H).

(g) "Director" means the director of community development of KDOC&H.

(h) "Proposal" means the act by a non-profit organization of putting forth a proposed program for carrying out a specific project consistent with the Kansas community services program act, L. 1994, Chapter 38.

(i) "Rural community" means:

(1) any city having a population of fewer than 15,000 located in a county that is not part of a standard metropolitan statistical area as defined by the United States department of commerce or its successor agency;

(2) any city having a population of fewer than 15,000 located in a county defined as a standard metropolitan statistical area, if a substantial number of persons in such county derive their income from agriculture; and

(3) any city in a county defined as a standard metropolitan statistical area which is the only city in its county that has a population that exceeds 15,000. (Authorized by and implementing

L. 1994 Chap. 38, Sec. 5; effective T-_____, effective P-_____).

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ATTORNEY GENERAL

BY YNS 8-25-94 /ASB

DEPT. OF COMMUNITY DEVELOPMENT

AUG 23 1994

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K.A.R.110-7-2. Submission of proposals. (a) Each proposal shall be made on an application form prescribed by the department. The department may request any additional information the department determines to be necessary to evaluate a proposal or plan.

(b) A proposal shall be approved by the director for a period of one year. To continue eligibility for tax credit in future years, a new application and current documentation shall be required.

(c) Proposals shall be accepted for consideration during a specified period which will be announced by the director for the tax year 1994. If tax credits remain from the 1995 state fiscal year another specified period for accepting proposals shall be announced prior to the end of the fiscal year. Future periods in which proposals will be accepted for consideration shall be announced by the director, as determined by the availability of tax credits.

(1) The program year shall coincide with the state fiscal year for all projects which shall begin July 1 and end June 30.

(2) Proposals may be accepted at other times during the year at the discretion of the director.

(d) For each proposal submitted, a prompt reply acknowledging receipt shall be provided to the applicant by the director.

(e) Contents of proposals.

(1) Each proposal shall address at least one of the following areas in order to qualify for approval.

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ATTORNEY GENERAL
MJD 8-25-94

(A) The proposed project shall meet a demonstrated community need related to one or more of the targets for change set forth in " A Blueprint for Investing in the Future of Kansas Children and Families".

(B) The proposed project shall aid in the prevention of crime in an impoverished area.

(C) The proposed project shall contribute to health care services.

(2) Each proposal shall set forth:

(A) the project to be conducted;

(B) why the project is needed;

(C) the estimated amount to be invested in the project; and

(D) the plans for implementing the project.

(3) Each proposal shall set forth the following impact measurements of the project.

(A) The proposal shall estimate the number of individuals who will benefit from the proposed project.

(B) The proposal shall identify the population group in society which will benefit from this project, including but not limited to women, children, the elderly, or teenage mothers. The proposal shall also set forth historical data on the targeted group that supports the need for services which will be provided by the proposed project.

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RD, YDS 8-25-94 (RSP)

DEPT. OF COMM. SERVICES

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(C) The proposal shall describe the community needs, the proposed project will benefit, including but not limited to care of the elderly, crime prevention or prevention of teenage suicide.

(D) The proposal shall address the impact of the project on society, with projected statistical results. (Authorized by and implementing L. 1994 Chap. 38, Sec. 5; effective T-_____, effective P-_____).

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ATTORNEY GENERAL
BY: My 8-25-94 (135)

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K.A.R.110-7-3. Review of proposals. (a) Approval or disapproval of each proposal shall be based on the following criteria.

(1) The non-profit organization submitting the proposal shall demonstrate its capability to adequately administer the project.

(2) There shall be a demonstrated need for the program in the area within which the project is to be carried out.

(3) A proposal which was granted approval for the previous program year, and is being submitted for approval for the current program year shall be evaluated on the performance of the project in the previous year or years, and the continued need for the project.

(4) An independent audit of the non-profit organization's financial records shall accompany each proposal.

(b) A project shall not be approved if the proposal does not include a written endorsement of the agency of local government or planning council within the area in which the project is to be provided.

(c) Within 90 days after submission, the applicant shall be notified by the director of the disposition of the submitted proposal.

(d) Only those contributions which are cash contributions shall be eligible for tax credit provided in K.A.R. 110-7-4.

(e) Each applicant who submits a proposal that is approved shall file an annual report on or before June 30, specifying:

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ATTORNEY GENERAL
BY: Mrs. 8-25-94 (155)

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(1) the amount of tax credit which was utilized in the prior fiscal year;

(2) the actual dollars utilized by the project; and

(3) a complete list of contributors and the amount of each contribution.

(f) Selection committee.

(1) There shall be a selection committee comprised of three members appointed by the director.

(2) The selection committee shall review each application and recommend approval or disapproval to the director.

(g) Priority.

(1) In making recommendations for approval or disapproval to the director, the selection committee shall give priority to proposals from nonprofit organizations who solicit cash contributions from business firms that contribute above and beyond the firm's average annual charitable contribution for the preceding three tax years. All other proposals shall be considered equally.

(2) In order to receive approval priority, the non-profit organization submitting a proposal which meets the requirements of paragraph (g)(1) above shall also be responsible for obtaining from the business firm or firms from which contributions were solicited a signed certification form which shall include the following language:

APPROVED
ATTORNEY GENERAL
BY: *Mrs. 8-25-94* (ASS)

DEPT. OF ADMINISTRATION

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"I (name), as a duly authorized representative of (name of firm), do hereby certify that a tax credit will only be claimed for that portion of (name of firm)'s cash donation which exceeds the amount of (name of firm)'s average annual charitable donation for the proceeding three tax years."

_____ (Signature of firm's representative)

_____ (Date)

(Authorized by and implementing L. 1994, Chap. 38, Sec. 5; effective T-_____, effective P-_____).

5758.01

APPROVED
ATTORNEY GENERAL

BY, MJS 8-25-94 (133)

REGISTRATION

AUG 23 1994

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K.A.R.110-7-4. Amount of tax credits. (a) If the proposal has been approved, a tax credit against the tax liability of a business firm shall be granted by the department of revenue. The tax credit shall not exceed 50% of the total amount contributed during the taxable year by the business firm to a community service organization or governmental entity.

(b) The amount of credit shall not exceed 70% of the total amount contributed during the taxable year by the business firm to a community service or governmental entity in a rural community.

(c) Tax credits shall not be given to a business firm whose contributions are granted for activities that are a part of that firm's normal course of business.

(d) Any tax credit not used for the taxable year the contribution was made may be carried over in succeeding tax years until the total amount of the credit is used.

(e) Tax credit shall not be given for any funds expended or contributions received prior to the approval of the proposal by the director.

(Authorized by and implementing L. 1994, Chap. 38, Sec. 5; effective T-_____, effective P-_____).

5758.01

APPROVED
ATTORNEY GENERAL
BY: MJS 8-25-94 / 1559

AUG 23 1994

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1-46

TO: Rep Clyde Graeber
FROM: Chris W. Courtwright, Principal Analyst
RE: Subcommittee Report on HB 2108, HB 2167

This memo is in response to your request for a brief description of the amendments to HB 2108 and HB 2167 recommended by your subcommittee. Your subcommittee has completed its recommendations and should not be confused with either of the two new subcommittees recently empaneled which may look at other property tax issues. Two balloons are attached showing your subcommittee's amendments, which have now been adopted by the full House Tax Committee.

HB 2167 -- Classification of Certain Machinery and Equipment

HB 2167 as amended by the subcommittee would provide that in accordance with the classification amendment to the Kansas Constitution, all commercial and industrial machinery and equipment not classified as such and not being used for the production of income by the owner would be defined as "all other" tangible personal property. This would allow such property to be assessed at 30 percent of fair market value.

This would statutorily codify instructions that PVD has relayed to all county appraisers regarding the taxation of machinery and equipment NOT being used for the production of income.

The bill would clarify that a 40-year old inoperative machine stored in the basement of a business would be taxed at fair market value (as little as \$1) and would no longer have a minimum appraised value of 20 percent of its retail cost when new -- assuming that such a machine is not being cannibalized for parts or being used in any other way for production of income.

The bill would be effective starting in tax year 1995.

HB 2108 -- Exemption for Certain Machinery, Equipment, Materials, and Supplies

HB 2108 would now exempt any item of machinery, equipment, materials, and supplies actually and regularly used: (1) exclusively for business purposes; or (2) in the conduct of activities by a not-for-profit entity whose retail cost when new is \$500 or less.

Owners of all such machinery, equipment, materials, and supplies would be exempt from having to file for the property tax exemptions with the Board of Tax Appeals.

The subcommittee chose the \$500 exemption level after lengthy discussions with county appraisers and PVD officials regarding the tax shift on to other classes of property.

The bill would be effective starting in tax year 1995.

I have also attached for your reference a copy of my original memorandum to the subcommittee regarding a number of issues raised by the bills.

HOUSE BILL No. 2167

By Committee on Taxation

1-24

Printed out

9 AN ACT relating to property taxation; exempting certain commercial and
10 industrial machinery and equipment therefrom

defining and classifying

11
12 *Be it enacted by the Legislature of the State of Kansas:*

for constitutional purposes

13 Section 1. The following described property, to the extent specified
14 by this section, shall be exempt from all property or ad valorem taxes
15 levied under the laws of the state of Kansas

(a) In accordance with the provisions of section 1
of article 11 of the Kansas constitution, all

16 All commercial and industrial machinery and equipment which is
17 not classified for property tax purposes within subclass (5) of class 2 of
18 section 1 of article 11 of the Kansas constitution, and which is not being
19 used for the production of income by the owner thereof.

, is hereby defined as all other tangible personal
property not otherwise specifically classified,
and shall be classified for property tax purposes
within subclass 6 of class 2 of section 1 of
article 11 of the Kansas constitution. All such
property shall be valued in accordance with the
provisions of K.S.A. 79-503a, and amendments
thereto

20 The provisions of this section shall apply to all taxable years com-
21 mencing after December 31, 1994.

22 Sec 2 This act shall take effect and be in force from and after its
23 publication in the statute book.

(b)

*at fair market
value to not at cost*

2.2

HOUSE BILL No. 2108

By Committee on Taxation

1-18

9 AN ACT relating to property taxation; exempting certain business ma-
10 chinery and equipment therefrom; amending K.S.A. 1994 Supp. 79-
11 213 and repealing the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. The following described property, to the extent spec-
15 ified by this section, shall be exempt from all property or ad valorem taxes
16 levied under the laws of the state of Kansas:

17 (a) Any item of machinery, equipment, materials and supplies used actually and regularly
18 exclusively for business purposes whose original retail cost when new is
19 \$2,500 or less.

20 ~~(b) As used in this section and for the purposes of class 2(E) of sub-~~
21 ~~section (b) of section 1 of article 11 of the Kansas constitution, "retail~~
22 ~~cost when new" shall mean the total cost to the consumer less the amount~~
23 ~~of any transactional taxes, installation costs and freight or transportation~~
24 ~~charges included in such cost.~~ or in the conduct of activities by an entity
not subject to Kansas income taxation pursuant
to K.S.A. 79-32,113, and amendments thereto,

25 ~~(e)~~ The provisions of this section shall apply to all taxable years com-
26 mencing after December 31, 1994. (b)

27 Sec. 2. K.S.A. 1994 Supp. 79-213 is hereby amended to read as fol-
28 lows: 79-213. (a) Any property owner requesting an exemption from the
29 payment of ad valorem property taxes assessed, or to be assessed, against
30 their property shall be required to file an initial request for exemption,
31 on forms approved by the board of tax appeals and provided by the county
32 appraiser.

33 (b) The initial exemption request shall identify the property for which
34 the exemption is requested and state, in detail, the legal and factual basis
35 for the exemption claimed.

36 (c) The request for exemption shall be filed with the county appraiser
37 of the county where such property is principally located.

38 (d) After a review of the exemption request, and after a preliminary
39 examination of the facts as alleged, the county appraiser shall recommend
40 that the exemption request either be granted or denied, and, if necessary,
41 that a hearing be held. If a denial is recommended, a statement of the
42 controlling facts and law relied upon shall be included on the form.

43 (e) The county appraiser, after making such written recommenda-

2-3

1 rem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing
2 apparel, household goods and personal effects exempted from ad valorem
3 taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5)
4 hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and
5 amendments thereto; (6) merchants' and manufacturers' inventories ex-
6 empted from ad valorem taxation by K.S.A. 79-201m and amendments
7 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n,
8 and amendments thereto; (8) property exempted from ad valorem taxa-
9 tion by K.S.A. 79-201a *Seventeenth* and amendments thereto, including
10 all property previously acquired by the secretary of transportation or a
11 predecessor in interest, which is used in the administration, construction,
12 maintenance or operation of the state system of highways. The secretary
13 of transportation shall at the time of acquisition of property notify the
14 county appraiser in the county in which the property is located that the
15 acquisition occurred and provide a legal description of the property ac-
16 quired; (9) property exempted from ad valorem taxation by K.S.A. 79-
17 201a *Ninth*, and amendments thereto, including all property previously
18 acquired by the Kansas turnpike authority which is used in the adminis-
19 tration, construction, maintenance or operation of the Kansas turnpike.
20 The Kansas turnpike authority shall at the time of acquisition of property
21 notify the county appraiser in the county in which the property is located
22 that the acquisition occurred and provide a legal description of the prop-
23 erty acquired; (10) aquaculture machinery and equipment exempted from
24 ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used
25 in this section, "aquaculture" has the same meaning ascribed thereto by
26 K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery
27 and equipment exempted from ad valorem taxation by K.S.A. 79-201j,
28 and amendments thereto; and (12) property used exclusively by the state
29 or any municipality or political subdivision of the state for right-of-way
30 purposes; and (13) business machinery and equipment exempted from ad
31 valorem taxation by section 1, and amendments thereto. The state agency
32 or the governing body of the municipality or political subdivision shall at
33 the time of acquisition of property for right-of-way purposes notify the
34 county appraiser in the county in which the property is located that the
35 acquisition occurred and provide a legal description of the property ac-
36 quired.

, materials and supplies

37 (m) The provisions of this section shall apply to property exempt pur-
38 suant to the provisions of section 13 of article 11 of the Kansas consti-
39 tution.

40 Sec. 3. K.S.A. 1994 Supp. 79-213 is hereby repealed.

41 Sec. 4. This act shall take effect and be in force from and after its
42 publication in the statute book.

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MEMORANDUM

Kansas Legislative Research Department

300 S.W. 10th Avenue
Room 545-N -- Statehouse
Topeka, Kansas 66612-1504
Telephone (913) 296-3181 FAX (913) 296-3824

February 20, 1995

To: Representative Phill Kline, Representative Bruce Larkin, Representative Clyde Graeber
From: Chris W. Courtwright, Principal Analyst
Re: Personal Property Taxation of Commercial and Industrial Machinery and Equipment

This memo is in response to your request to list some of the questions which may need to be addressed regarding H.B. 2108 and H.B. 2167 regarding the property taxation of personal property.

H.B. 2108

As you know, H.B. 2108 would exempt any "item" of machinery, equipment, materials, and supplies used exclusively for business purposes whose retail cost when new is \$2,500 or less. "Retail cost when new" for purposes of the bill AND FOR PURPOSES OF THE SUBCLASS OF COMMERCIAL AND INDUSTRIAL MACHINERY AND EQUIPMENT IN THE *KANSAS CONSTITUTION* (emphasis added) would be defined to exclude from the total cost to the consumer, transactional taxes, installation costs, and freight or transportation chargers.

H.B. 2167

H.B. 2167, on the other hand, would exempt all commercial and industrial machinery and equipment which is not classified within the commercial and industrial machinery subclass of the *Kansas Constitution* and which is not being used for the production of income by the owner.

The *Kansas Constitution*

Article 11, Section 1 of the *Kansas Constitution* provides that "tangible personal property shall be . . . assessed uniformly as to subclass at the following percentages of value: [. . .]

- (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding

2-5

its economic life and as long as such property is being used, shall not be less than 20 percent of the retail cost when new of such property . . . 25 percent

- (6) All other tangible personal property not otherwise specifically classified . . . 30 percent”

Questions Regarding H.B. 2108

What is an “item” of machinery, equipment, materials, and supplies and does the term need to be defined?

Depending on the meaning of the term, would there be an opportunity for individuals to avoid taxation by obtaining a \$4,000 personal computer system by purchasing each of its components -- which cost less than \$2,500 apiece -- separately?

Since the bill would define “retail cost when new” to exclude transactional taxes, installation costs, and freight or transportation charges for purposes of the bill AND FOR PURPOSES OF THE SUBCLASS OF COMMERCIAL AND INDUSTRIAL MACHINERY AND EQUIPMENT IN THE *KANSAS CONSTITUTION*, is it appropriate for the Legislature to attempt to define “retail cost when new” for purposes of the *Kansas Constitution* when a court might find that the people of Kansas thought the term meant something different when the classification amendment was adopted?

How might a court interpret what the people of Kansas thought the term meant, since -- according to testimony from appraisers -- the IRS and IAAO both include the taxes, installation, and transportation costs in their definitions?

Since the bill seeks to impose the new definition of “retail cost when new” on ALL commercial and industrial machinery and equipment, the valuation of property whose retail cost when new was ABOVE \$2,500 also would be reduced. Is it the intent of the bill to provide such a valuation reduction for ALL business machinery and equipment (as well as the outright exemption for the lower-cost items)?

If the current definition is to be continued to be used for purposes of property which is to remain on the tax rolls, would using a different definition for purposes of determining the exemption level create additional administrative complexity for county appraisers?

Since property tax exemptions for one class of property causes a shift to all other classes, should the subcommittee consider a lower exemption threshold than \$2,500?

What sort of statutory change or administrative policy change by PVD would be necessary to implement Mr. Welcome’s suggestions regarding the filing of “consolidated” renditions by taxpayers, who would be required to maintain the more complete documentation in case of audit?

Questions Regarding H.B. 2167

If property is no longer being used for the production of income by the owner, should it still be classified as commercial and industrial machinery and equipment?

If not, could not PVD simply instruct county appraisers to classify all such property as "all other" and assess it at 30 percent of market value -- which might be as little as \$1?

If a 50-year-old machine not being cannibalized for parts (or a trophy) is sitting in the basement of a business and is in no way associated with the production of income by that business, is it not true that the use of the property has changed and it should be market valued at \$1 and have no tax liability?

Since the *Kansas Constitution* says that the "floor" (appraised) valuation of 20 percent of retail cost when new is to apply "as long as such property is being used", is it not fair to suggest that the floor valuation would no longer apply when the property is no longer in use?

How is the machinery and equipment owned by not-for-profit organizations classified by county appraisers under current law? Is it classified as "all other" or is it classified as commercial and industrial machinery and equipment?

If it is classified in some instances as commercial and industrial machinery and equipment, is it not true that H.B. 2167 would exempt all such property?

Relative to the wording of the bill, how can commercial and industrial machinery and equipment NOT be classified as such under the *Kansas Constitution*? In other words, once machinery and equipment is no longer used for the production of income by the owner, does it not by definition cease being commercial and industrial?

Is a machine being cannibalized for parts being used for the production of income?

Taxation of Used Machinery and Equipment

Since the *Kansas Constitution* says that commercial and industrial machinery and equipment SHALL be valued based on retail cost when new, depreciated, is it possible that the method under which the market value of used machinery and equipment is sometimes used as a proxy to "back into" retail cost when new is unconstitutional?

Or can such a methodology be defended under certain circumstances when the retail cost when new of used machinery cannot otherwise be determined?

Example

Representative Edmonds purchases four computers for \$10,000. Assume that computers fully depreciate over five years (rather than seven years). In the fifth year, each computer would be valued at \$2,000 and would be assessed at 25 percent of that amount, or \$500. If the mill levy is 100 mills, the tax on each computer would be \$50, and his total tax bill on the computers would be \$200.

Say that instead, in the fifth year (or any subsequent year) he sells one of the computers to Representative McKinney (who owns a business and also happens to be Representative Edmonds' brother-in-law) for \$300; sells another one of the computers to Representative Graeber (a business competitor) for \$1,000; and sells another one of the computers to a not-for-profit entity managed by Representative Wempe for \$700.

If the county appraiser cannot determine the retail cost when new of the sold computers but still is able to determine that they are fully depreciated, the price at which they were sold could enter into the determination of retail cost when new. In other words based on the fact that Representative Graeber bought a fully-depreciated computer of five years old for \$1,000, it might be determined that the retail cost when new must have been \$5,000. The assessed valuation would be 25 percent of the \$1,000, or \$250, and the tax due if the mill levy is 100 would be \$25. But if Representative Edmonds had retained that same computer, the tax would have been \$50.

Since the notion of "arms-length transactions" does not necessarily have to come into play, it is possible that the assumption would be made that the retail cost when new of Representative McKinney's computer was only \$1,500. With an assessed valuation of \$75 (25 percent of the \$300), the tax would be \$7.50. But if Representative Edmonds had retained that same computer, the tax would have been \$50.

Under such circumstances, is commercial and industrial machinery and equipment being "assessed uniformly as to subclass" as required in Article 11, Section 1?

If the computer sold to the not-for-profit entity managed by Representative Wempe is to be taxed as "all other" and market valued, would the tax be based on an assessed value equal to 30 percent of \$700, or \$210? In our example and under such circumstances, the tax on that computer would be \$21. If on the other hand, the computer is still valued as commercial and industrial machinery and equipment and its sales price is adopted as a proxy for its fully depreciated retail-cost-when-new value, the tax would be calculated based on an assessed valuation of \$175 (25 percent of \$700), and would be \$17.50.