

Approved: January 10, 1996  
Date

## MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 9, 1996, in Room 123-S of the Capitol.

Members present: Senators Salisbury, Burke, Downey, Feleciano, Gooch, Harris, Hensley, Jordon, Petty, Ranson, Reynolds, Steffes and Vidricksen.

Committee staff present: Jerry Donaldson, Legislative Research  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Karen France, Kansas Association of Realtors  
J. L. "Butch" Hardman, Jr., Hardman Real Estate, Inc.  
Kay Metcalf, Developer, "The Meadows", Fort Scott  
Al Smith, Mid-America Inc.  
Jack Kynion, Kynion Financial Group  
Ray Barmby, Senior Vice President, Chapman Securities, Olathe  
Joe Norton, Gilmore & Bell Law Offices, Wichita

Others attending: See attached list

### **SB 328 concerning cities, tax increment financing (TIF)**

Karen France, Kansas Association of Relators, appeared in favor of the bill. The Association generally opposes government programs that utilize tax dollars to help the housing industry because we believe private industry can do a better job; however, we need certain tools to drive the industry that do not put an extra burden on the taxpayers.

James L. "Butch" Hardman, appeared before the committee in support of SB 328. Mr. Hardman stated the proposed legislation will help spur housing construction throughout Kansas. He further stated that the legislation would allow TIF financing to be used to develop or redevelop areas which are presently unable to meet the blight test set forth in present law. Attachment 1

Kay Metcalf, owner-developer of The Meadows, Fort Scott, stated the need for SB 328 results from the need of a developer to finance the infrastructure of development projects. Ms. Metcalf advised that TIF would give the city of Fort Scott a tool to expand its tax base and not reduce the present taxes that are being paid. Attachment 2.

Al Smith, Mid-America, Inc. appeared in favor of SB 328. Mr. Smith stated there is a shortage of homes selling for \$60,000 to \$150,000 in the more rural areas of Kansas, and in particular the Southeastern corner of the state. SB 328 is the first step to encourage housing developments in the State. Attachment 3.

Jack Kynion, Kynion Financial Group, appeared in favor of SB 328. Mr. Kynion stated there is a link between housing and the attraction and retention of business and industry. He stated TIF has the potential to be effective in increasing economic activity and expanding the current tax base. Mr. Kynion advised that payment for development of infrastructures by special assessments do not always work due to the prohibitive cost that is attached to a home; whereas the use of TIF spreads the cost to the community as a whole, who are the beneficiaries. Attachment 4.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, ROOM 123-S STATEHOUSE, AT 8:00 A.M. on January 9, 1996.

Ray Barmby, Vice President of Chapman Securities, Inc., appeared in support of SB 328. He stated the proposed legislation offers to cities an opportunity to use a tool that today is reserved only for the redevelopment of areas defined as blighted. Mr. Barmby stated the legislation offers a method of assistance in shouldering the financial burden of extending a water line, constructing sewers instead of septic tanks, or extending a water tower or a road to an area that is developed with new houses. A city without the creation of new housing is a city that is slowly dying. Attachment 5.

Joe L. Norton, Gilmore & Bell Attorneys at Law, appeared in support of the proposed legislation. He stated the present Tax Increment Financing Act permits Kansas cities to assist in the development and redevelopment of central business district areas of cities, blighted areas located within the cities, enterprise zones located within cities and environmentlly contaminated areas located in cities and the county in which such city is located. The proposed legislation would allow the governing body of a city to determine if a sufficient need exists in its community for economic development purposes to create a redevelopment district to stimulate residential housing. The legislation provides for procedures requiring public hearings, preparation of a comprehensive feasibility study, containing the benefits and costs associated with the projects, and determines whether income will be sufficient to pay for project costs. Only land acquisitions and infrastructure improvements may be financed, and affected counties and school districts may veto such projects if their governing body determines that the proposed redevelopment district will have an adverse effect on such county or school district. Attachment 6.

The next meeting is scheduled for January 10, 1996.





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January 9, 1996

Sen Alicia L. Salisbury, Chairperson  
 Senate Commerce Committee  
 Room 123 South  
 Topeka, KS 66612-1504

RE: Senate Bill 328

Dear Senator Salisbury,

I am seeking you and your committee's support of an amendment to existing legislation that will, if enacted, help to spur housing construction through out Kansas.

We are facing in Parsons, not unlike many, many communities across Kansas, a shortage of family housing for sale to those seeking middle to upper middle priced houses.

The single family mortgage revenue bond programs serve their very specific purpose to persuade people who have not owned a residence in the prior three years to buy a house. Such restrictions, including household income and house price limits are not helping communities fill the housing needs of those who cannot meet the requirements of the SFMRB financing.

In looking at the Kansas Tax Increment Financing law as a way to "make something happen" it has become very apparent that the law limits the use of such a tool to blighted area and pre-July 1992 designated enterprise zones. TIF does not currently allow such financing to be used to develop or re-develop areas which are unable to meet the blight test set forth in the law.

It is my belief and that of others who are now joining me in this effort that home building can be measurably boosted across Kansas if the community can use the incentive

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RESIDENTIAL • FARMS • COMMERCIAL • NEW CONSTRUCTION

*Attachment 1 thru 1-*

provided by TIF to finance such public infrastructure as sewers, water lines, roads, street lighting, traffic signals, etc.

The proposed slight amendment to K.S.A 12-1770 and 12-1771(a) will allow a City, with the permission of the County and local School District, to adopt a TIF plan in those areas which are (1) presently agricultural land, (2) adjacent to a City, (3) not currently served by sewers, (4) having limited water supply and/or pressures and which (5) agree to be annexed by the City prior to any TIF funded infrastructure construction.

The TIF law, and this amendment, continue to assure the School Boards and County Commissions the power of veto of any TIF plan if, in the opinion of one of those units of government, a plan is not in the best interest of the School District or the County.

Briefly, this is the way TIF works: in the area to be developed, money for streets and other infrastructure needs is raised with special obligation bonds on a 10 or 15 year term. When houses are built and bought, the tax the homeowner would pay in property taxes instead goes to pay off the special obligation bond.

This would require the taxing entities to forego the property tax (other than the tax that was in place prior to TIF ) they would otherwise receive until the special obligation bond is paid off. But when it is paid off, the property will go on the tax rolls and provide a boost to the city, county and schools.

Will you please join me in supporting this amendment? The State of Kansas is not negatively impacted by the amendment and all of the controls remain with the community units of government. It is strongly believed that the availability of single family housing, regardless of price, remains the principal obstacle for cities to overcome if they are to be successful in retaining and attracting employment. The amendment will give communities an even chance of winning the battle for jobs and tax base that are our life blood.

Please help. Suitable sites for single family housing are invariably not found in the developed areas of a community but more often on the outskirts. This amendment will

allow a community to "partner" in a way, with the developer/builder in an effort to reduce to small extent the cost of stretching water and sewer lines and building roads.

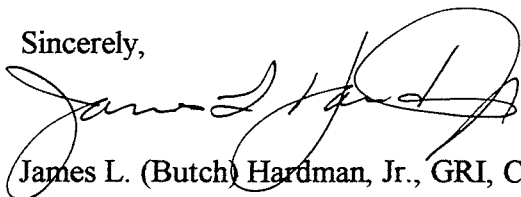
As you may be aware, our communities throughout Kansas need to get started meeting the housing needs right away and if this can become a priority it will enable us to begin meeting this need.

Our region must appropriately address housing issues if we are to continue the successful economic rebirth we have experienced over the past few years. Housing issues continue to rank as one of the biggest reasons we at times are not able to lure new, or grow existing businesses and opportunities these businesses create for the citizenry of our area. The proposed TIF legislation amendment language will create a better opportunity to solve the housing issue. I feel that your support of this amendment is critical for the long term well-being of our area.

Your support of the proposed amendment to K.S.A. 12-1770 and 12-1771(a) would be very much appreciated by myself and others concerned about our ability to successfully continue the advancement made in the quality of life in our region over the past several years

Thank you!

Sincerely,



James L. (Butch) Hardman, Jr., GRI, CRS

Encl: Suggested TIF amendment language

## SENATE BILL NO. 328

By Committee on Commerce

AN ACT concerning cities; relating to tax increment financing; amending K.S.A. 1994 Supp. 12-1771 and repealing the existing section.

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

Section 1. K.S.A. 1994 Supp. 12-1771 is hereby amended to read as follows: 12-1771. (a) No city shall exercise any of the powers conferred by K.S.A. 12-1770 et seq., and amendments thereto, unless the governing body of such city has adopted a resolution finding that the specific project area sought to be developed or redeveloped is a blighted area or was designated prior to July 1, 1992, as an enterprise zone pursuant to K.S.A. 12-17,110 prior to its repeal, and the conservation, development or redevelopment of such area is necessary to promote the general and economic welfare of such city. Enterprise zones designated prior to July 1, 1992, may be enlarged by the city to an area not exceeding 25% of the city's land area upon a finding by the secretary of the department of commerce and housing that a redevelopment project proposed by the city which requires the enlargement is of statewide importance and that it will meet the criteria specified in K.S.A. 12-1774 (a)(1)(D), and amendments thereto. For the purpose of this subsection, the term "blighted area" means an area which: (1) Because of the presence of a majority of the following factors, substantially impairs or arrests the sound development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use: (A) A substantial number of deteriorated or deteriorating structures; (B) predominance of defective or inadequate street layout; (C) unsanitary or unsafe conditions; (D) deterioration of site improvements; (E) diversity of

ownership; (F) tax or special assessment delinquency exceeding the fair value of the land; (G) defective or unusual conditions of title; (H) improper subdivision or obsolete platting or land uses; (I) the existence of conditions which endanger life or property by fire and other causes; or (J) conditions which create economic obsolescence; or (2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation, feasibility study and remediation or other similar state or federal action; or (3) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 et seq., and amendments thereto; or (4) is composed of open land that, because of its location within the corporate boundary of a city, it is necessary for sound community growth through platting or replatting, and planning and development for predominantly residential uses.

(b) The powers conferred upon cities under the provisions of K.S.A. 12-1770 et seq., and amendments thereto, shall be exercised in central business district areas of cities, as determined by resolution adopted pursuant to K.S.A. 12-1772, and amendments thereto, in enterprise zones designated prior to July 1, 1992, including any area added to such enterprise zone after July 1, 1992, pursuant to subsection (a), in blighted areas of cities and counties described by subsection (a)(2) or in blighted areas of cities, as determined by resolution adopted pursuant to K.S.A. 17-4742 et seq., and amendments thereto or in blighted areas of cities, as determined by resolution adopted pursuant to subsection (a)(4).

(c) Within that portion of the city described in subsection (b), the governing body of a city may establish a district to be known as a "redevelopment district". Within that portion of a city and county described in subsection (b), the governing body of the city, upon written consent of the board of county commissioners, may establish a district inclusive of land outside the boundaries of the city to be known as a "redevelopment



district". In all such cases, the board of county commissioners, prior to providing written consent, shall be subject to the same procedure for public notice and hearing as is required of a city pursuant to subsection (d) for the establishment of a redevelopment district. One or more redevelopment projects may be undertaken by a city within a redevelopment district after such redevelopment district has been established in the manner provided by subsection (d).

(d) Any city proposing to establish a redevelopment district shall adopt a resolution stating that the city is considering the establishment of a redevelopment district. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the establishment of a redevelopment district and fix the date, hour and place of such public hearing;

(2) describe the proposed boundaries of the redevelopment district;

(3) describe a proposed comprehensive plan that identifies all of the proposed redevelopment project areas and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area;

(4) state that a description and map of the proposed redevelopment district are available for inspection at a time and place designated;

(5) state that the governing body will consider findings necessary for the establishment of a redevelopment district.

Notice shall be given as provided in subsection (c) of K.S.A. 12-1772, and amendments thereto.

(e) Upon the conclusion of the public hearing, the governing body may adopt a resolution to make any findings required by subsection (a) and may establish the redevelopment district by ordinance. Such resolution shall contain a comprehensive plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings and

facilities that are proposed to be constructed or improved in each redevelopment project area. The boundaries of such district shall not include any area not designated in the notice required by subsection (d). Any addition of area to the redevelopment district or any substantial change to the comprehensive plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the district.

(f) No privately owned property subject to ad valorem taxes shall be acquired and redeveloped under the provisions of K.S.A. 12-1770 et seq., and amendments thereto, if the board of county commissioners or the board of education levying taxes on such property determines by resolution adopted within 30 days following the conclusion of the hearing for the establishment of the redevelopment district required by subsection (d) that the proposed redevelopment district will have an adverse effect on such county or school district.

(g) Any redevelopment plan undertaken within the redevelopment district may be in separate development stages. Each plan shall be adopted according to the provisions of K.S.A. 12-1772, and amendments thereto, and shall fix a date for completion. Except as provided herein, any project shall be completed within 15 years from the date of the establishment of the redevelopment district. Projects relating to environmental investigation and remediation under subsection (i) shall be completed within 20 years from the date a city enters into a consent decree agreement with the Kansas department of health and environment or the United States environmental protection agency.

(h) Any increment in ad valorem property taxes resulting from a redevelopment district undertaken in accordance with the provisions of this act, shall be apportioned to a special fund for the payment of the cost of the redevelopment project, including the payment of principal and interest on any special obligation bonds or full faith and credit tax increment bonds issued to finance such project pursuant to this act and may be pledged to the payment of principal and interest on such bonds.

The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed 20 years. For the purposes of this act, "increment" means that amount of ad valorem taxes collected from real property located within the redevelopment district that is in excess of the amount which is produced from such property and attributable to the assessed valuation of such property prior to the date the redevelopment district was established, as determined under the provisions of K.S.A. 12-1775, and amendments thereto.

(i) The governing body of a city, in contracts entered into with the Kansas department of health and environment or the United States environmental protection agency, may pledge increments receivable in future years to pay costs directly relating to the investigation and remediation of environmentally contaminated areas. The provisions in such contracts pertaining to pledging increments in future years shall not be subject to K.S.A. 10-1101 et seq. or K.S.A. 79-2925 et seq., and amendments thereto.

(j) Before any redevelopment project is undertaken, a comprehensive feasibility study, which shows the benefits derived from such project will exceed the costs and that the income therefrom will be sufficient to pay for the project shall be prepared. Such feasibility study shall be an open public record.

Sec. 2. K.S.A. 1994 Supp. 12-1771 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.



**INTRODUCTION** Kay Metcalf owner developer of The Meadows project began after 5 years in the real estate business working with the market and having to send people away without finding what they needed or wanted.

During 1994 serving on the housing survey committee it was shown that the shortage of housing in Fort Scott was not only in low cost housing but there was a definite lack of new housing available on the market.

The Fort Scott Housing Needs Survey Concluded and Recommend the following : 1. There is a lack of buildable sites within the corporate limits. This lack of building sites constrains the City's ability to provide additional, new housing that could enable existing dwellings to "trickle-down" to citizens whose housing needs cannot be met by new, non-subsidized construction.

There is need to form a public private partnership for development of housing strategies and actions.

2. The 1986 Tax Reform Act penalized individuals seeking to speculate in housing developments, however there are distinct advantages for limited partnerships and corporations. 3. Develop joint ventures to enable land annexation, provision of public infrastructure. 4. Provide a regular ongoing coordination role which will bring developers, financial institutions, Federal and state level funding agencies (subsidy agencies, as well as loaning and the City Governing Body together so that private sector housing investors are made to feel welcome within Ft. Scott.

There are situations where revising the local industrial development guidelines on issuance of industrial revenue bonds may open the door for a housing development project.

The Meadows followed all recommendations and requirements made by the City of Fort Scott for final plat approval. All utilities and roads meet requirements and were dedicated to the public at the time the plat was filed in the office of registered of deeds in Bourbon County.

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*Attachment 2 thru 2-3*

The Bourbon County Economic Development Committee, an important team of leaders formed to coordinate between developers, financial institutions, Federal and state level funding agencies, and City Governing Bodies at the present time has no tools or incentives in place to assist in the infrastructure necessary to create the quality development that is necessary. Bedco is also a critical part of marketing and promoting a new development. Housing is a crucial component to the recruiting package presented to our future prospects for business in Fort Scott.

I am here today to inform you of our progress to date and our hopes for the next year. TIF would give the the city of Ft. Scott the tool to expand their tax base and not reduce the present taxes that are being paid. These plans will remain outside the city limits under the present conditions. Only with the TIF in place would we annex into the city limits. With TIF can we expand and grow.

All expenses encured have been at the expense of the Meadows Developer. Interest on the loan, \$ 6,000, roads, \$20,000, landscaping, \$2000, advertising, \$5,000, electric, gas, \$5,600, water lines, \$40,000, survey, and fees, \$1,000, and the cost to cap an abandon gas line, \$4,000. The only incentive has been a vision, and the absolute belief in the future of Fort Scott. If the land had not been owned by the developer, this project would have been abandon. Only after to announcement of American States Insurance Division expanding to a Regional Center were we able to obtain a builder from Olathe for spec houses. Construction will begin this week. Community support has got us through the past year. Now only time will tell.

The original plan was to annex and become part of the the city. However when given the cost of the sewer lines, \$666,475, alone, for Phase I, and water distribution, \$170,060 Phase I,

annexation was no longer an option. The assesment on each lot in the project would have priced the lots out of the market and would have killed the project. Present taxes will continue as county taxes and the city loses the opportunity once again to increase the tax base in Bourbon County. The increase in tax value would have covered the infrastructure within 15 years, had the city been able to use TIF for the infrastucture, I pray this year the State will see the importance of TIF for the growth of our State and pass Bill 328 and we can continue our project . The gamble I have taken is a big one. It is possible but at the risk of our childrens future, not one I would recommend. Please consider Bill 328 to insure others will be able to develope and grow in their small towns across the state.

The Meadows would appreciate yourconsideration of TIF and Thank you for your attention and allowing time here this morning.



**MID-AMERICA**  
INCORPORATED

Remarks to the  
**Commerce Committee**  
**Kansas State Senate**  
January 9, 1996

by

Albert G. Smith  
Mid-America, Incorporated  
Parsons, Kansas

My name is Albert Smith. I am President of Mid-America, Incorporated, a non-profit economic development organization formed in 1957 to promote development of Southeast Kansas. Mid-America is based in Parsons, funded by a combination of public and private financial resources and serves a 12 county area in the Southeastern corner of Kansas.

**THE PROBLEM**

1. The population of SE Kansas has been steadily decreasing for more than 50 years, making economic development initiatives to provide jobs and draw new residents critical to economic survival of the region.
2. During the same period, housing units demolished in the region have exceeded new housing starts.
3. Because net housing units lost has exceeded population lost, there is a general shortage of housing in the region, and particularly in the unsubsidized sector of the market - homes selling for \$60,000 to \$150,000.
4. The single family housing industry in the region is nearly non-existent because small builders left the industry during hard economic times in the mid-eighties.
5. Many communities have a shortage of vacant, improved lots.
6. The Revenue Act of 1986 changed the tax status of investment housing making it difficult to develop rental units at reasonable rent.

*Senate Commerce Com.*  
*January 9, 1996*

7. There are few, if any, programs available at state and federal level to encourage or assist development of unsubsidized units.

I believe that the Kansas Department of Commerce & Housing should assume a leadership position in overcoming this problem. There are many measures that could be taken by the State of Kansas to encourage housing development. These include development of tax and other incentives to encourage development -- tax abatement programs for new housing, use of tax increment financing for construction of housing infrastructure, and the like. KDOCH can and should support enactment of legislative initiatives in this area, promote development of new methods of housing finance by the Kansas banking community and promote communication among interest groups around the state such as the SE Kansas Housing Roundtable.

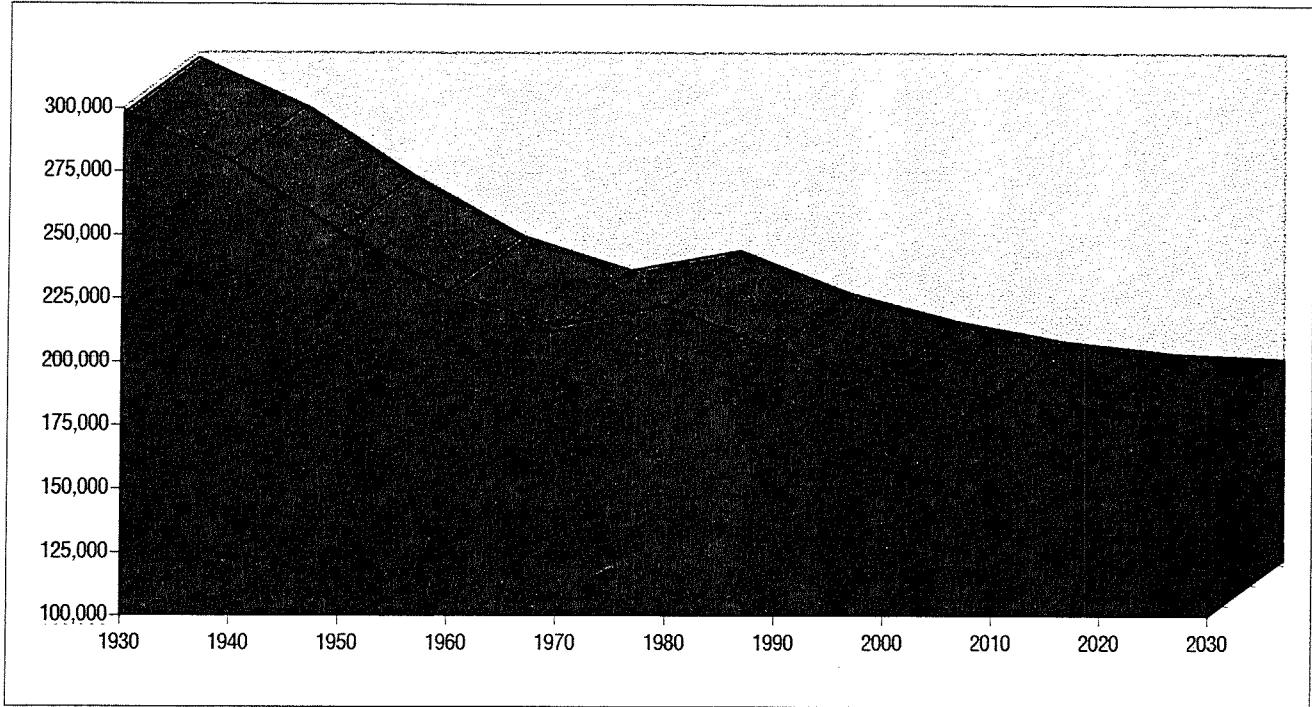
Housing development and economic development functions should not be separated. Employees hired to fill new jobs created in SE Kansas through the efforts of KDOCH and local allies need to be able to find places to live in SE Kansas. If housing in the region can't be found, they will take their checks back to Oklahoma and Missouri and stimulate the economies of those states.



# 100 Year Population Trend

## Southeast Kansas

### 1930 to 2030



	1930	1940	1950	1960	1970	1980	1990	2000	2010	2020	2030
<b>TOTAL - SE Kansas</b>	297,699	278,759	251,089	227,249	213,967	221,854	204,956	193,736	185,958	181,428	179,353
Allen County	21,391	19,874	18,187	16,369	15,043	15,654	14,638	13,214	12,279	11,615	10,922
Anderson County	13,355	11,658	10,267	9,035	8,501	8,749	7,803	7,308	6,893	6,605	6,370
Bourbon County	22,386	20,944	19,153	16,090	15,215	15,969	14,966	14,242	13,415	12,905	12,641
Cherokee County	31,457	29,817	25,144	22,279	21,549	22,304	21,374	20,942	20,171	19,638	19,274
Coffey County	13,653	12,278	10,408	8,403	7,397	9,370	8,404	7,698	7,272	7,068	7,013
Crawford County	49,329	44,191	40,231	37,032	37,850	37,916	35,568	34,037	33,879	33,709	33,882
Labette County	31,346	30,352	29,285	26,805	25,775	25,682	23,693	23,059	22,637	22,572	22,785
Linn County	13,534	11,969	10,053	8,274	7,770	8,234	8,254	8,498	8,779	8,969	9,205
Montgomery County	51,411	49,729	46,487	45,007	39,949	42,281	38,816	35,955	33,706	32,445	31,828
Neosho County	22,665	22,210	20,348	19,455	18,812	18,967	17,035	15,842	15,014	14,652	14,646
Wilson County	18,646	17,723	14,815	13,077	11,317	12,128	10,289	9,307	8,571	8,053	7,674
Woodson County	8,526	8,014	6,711	5,423	4,789	4,600	4,116	3,634	3,342	3,197	3,114

# TIF - ECONOMIC IMPACT & OTHER ISSUES

## THE LINK BETWEEN HOUSING AND ECONOMIC DEVELOPMENT

*CESSNA AIRCRAFT COMPANY - Presentation to Joint Committee on Economic Development - October 23-24, 1995*

Jerry Hiatt, Director of Human Resources for Cessna Aircraft discussed the impact available housing had on their decisions regarding location of new facilities. The three key areas he discussed included an evaluation of current housing data in Southeast Kansas and the associated housing demand created by the project. Specifically, during the site selection process they reviewed seven items, two of which pertained directly to housing. These two items were availability of housing and the capacity to build in the area. He went on to say how important it was for a community to have the cost and availability of housing consistent with the needs of the different income levels of employees. The link between housing and the attraction and retention of business and industry is conclusive.

## SOME ECONOMIES HAVE SPECIAL NEEDS

While not a cure all for every development challenge, TIF has the potential of being quite effective in increasing economic activity and expanding the current tax base. If used selectively, TIF will allow the municipalities to encourage development and experience an immediate increase in revenues generated for each municipality. In the case of land not currently annexed into the city, the city is currently receiving no revenue.

Urban areas, other than economically depressed areas in need of revitalization, probably have little need for TIF. The value of the building sites and the demand for housing has been great enough to allow development to occur. This is not the case for the preponderance of communities in Kansas. Most towns with populations of 8-20 thousand people simply don't have any development taking place unless a new industry is attracted or an existing business has a major expansion. Without TIF, most communities will be forced to wait until they get "lucky". Putting the infrastructure in place to attract those industries is simply not currently financially viable. Not ever situation is the same. The local community is probably in the best position to evaluate it's own needs and develop a plan the meet those needs. TIF would simply be another piece to a difficult puzzle.

## WHY SPECIAL ASSESSMENTS DON'T ALWAYS WORK

Affordability to employees is obviously a key element during the corporate site selection process. Upper management will in all likelihood not feel the impact of special assessments to the degree of the rank and file. Adding \$130 per month to a home costing \$180,000 is probably not a prohibitive expense. However, adding that same \$130 per month to a home costing \$90,000 has the effect of increasing the monthly payment by 20-25%. Keeping special assessments as low as possible should be viewed as an additional attraction to any businesses seeking a commercial development site.

When considering the use of TIF to improve the attractiveness of the smaller community to the corporate world a question arises concerning who should bear the economic costs of that attractiveness. It can be argued that a community of 10,000 residents allowing a small group of 20-50 families to not pay their property taxes, but instead use those dollars to pay for infrastructure costs is unfair to the current residents. On the other hand there are two major points. First, the new homeowners will add very little of any additional fixed or variable cost to city and county services. Secondly, if you ask these new homeowners to pay all of the additional costs, in reality you are asking 20-40 families to pay for a portion of the economic development process that should more rightly be born by the entire community.

Perhaps the most telling point as to why special assessments by themselves do not work is the fact that so little development is actually taking place.

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*Attachment 4 thru 4-2*

## ***RISK ASSESSMENT***

The risks to the city are minimal. Delay in return of investment is probably most critical. The local developer will actually have additional risk by using TIF. The developer's hope is that the building sites will be more attractive to potential buyers and the numbers of sites sold in any one year will increase substantially. Lots without special assessments should also bring a higher price to help offset some of the additional risks and costs associated with development. By additional risks we mean carrying costs. The carrying costs, interest and principal payments on loans and bond issues, of any development project provide the greatest degree of risk. Currently some cities are looking for ways to participate in the development of projects with cash investment and/or paying part of the carrying costs. If you allow TIF to be used, these cities should have to put up less of their own money and be able to strike better deals with the developer. Other developer risks include the inability to sell lots, no houses being built on lots that are sold, economic downturn in local economy, rising interest rates decreasing attractiveness of new home purchases, local job loss, inability to attract new industry, project carrying and finance costs, and loss of initial and subsequent investments.

## ***POSITIVE IMPACT OF REAL ESTATE DEVELOPMENT ON LOCAL ECONOMY***

The positive financial impact on the local economy created by the development of new housing is substantial. Assuming a completed development in nine years, an average home cost of \$100,000 per home the total impact is \$4.5 million dollars. Contractors, builders, plumbers, heating and air, lumber yards, attorney's fees real estate agents and banks are just some of the people who will benefit from development. If, as we suspect, the development is a key component in attracting new industry, the economic impact could literally mean the difference between growth and stagnation.

## ***CURRENTLY HOUSING GROWTH GOING TO COUNTY***

It is our understanding that most of the new housing development taking place is occurring outside the city limits. As a consequence the property tax base is not being expanded. Many counties have faced a helter skelter environment and now face the need to greatly enhance the county road and infrastructure system with minimal funds. In addition, more county housing projects will make it more difficult for developments within the city limits due to competition for the same buyers in a less than spectacular real estate environment.

***Jack Kynion II***

# CHAPMAN SECURITIES, INC.

Stockbrokers and Investment Bankers

12 Corporate Woods  
10975 Benson, Suite 570  
Overland Park, KS 66210  
(913) 663-1420 (800) 314-7978  
(913) 663-1025 Facsimile

January 9, 1996

Honorable Alicia Salisbury and Members of the Senate Commerce Committee:

Good Morning ladies and gentlemen. My name is Ray Barmby and I am a senior vice president of Chapman Securities, Inc. I'm located in our branch office in Overland Park while our firm's home office is in Wichita. For more than 30 years I have specialized in providing municipal bond underwriting services to Kansas counties, cities and, in the form of industrial revenue bonds, to businesses expanding or locating in Kansas.

As I have traveled from border to border within our great state the overwhelming question from local elected officials and those involved as volunteers or professionals in the quest for job development continues to be - "is there any tool, any incentive that we can offer to make housing happen just as we use tools to make jobs happen"? And my answer is - other than the first time homebuyer programs offered by the Federal government and low income housing tax credits, there isn't a tool available that can help lower the cost of creating affordable housing for those who don't qualify for the aforementioned programs.

If new housing is in process of development then communities can attract employers and workers.

Without the availability of housing the increasingly scarce new and expanding employer will not choose a plant location from among the many, many rural communities desperately seeking jobs.

Senate Bill 328 offers to cities an opportunity to use a tool that today is reserved only for the redevelopment of areas defined as blighted. Whether in Stockton, Hays, Medicine Lodge, Cherryvale, Elwood or Parsons new residential sub-divisions invariably require previously undeveloped land as sites suitable for single family housing.

*Senate Commerce Committee  
January 9, 1996*

Member  
National Association of  
Securities Dealers, Inc.



Member  
Securities Investor  
Protection Corporation

*Attachment 5 thru 5-2*

The Bill is not a housing panacea - it guarantees nothing. But it does offer a method of assistance in shouldering the financial burden of extending a water line, or sewers instead of septic tanks, a water tower or a road to an area that can bloom with new houses and hope for a community's continued existence. A City without the creation of some new housing from time to time is a city that is slowly dying - Senate Bill 328 can breathe some life back into those communities.

As you know, housing, whether single or multi-family, is assessed for ad valorem tax purposes at 11 1/2% of appraised value with the result that the available tax increment to service TIF bonds is much smaller than for a project involving warehouses, manufacturing plants, retail or office buildings. TIF projects don't "throw off" taxes until many, many months following project ground breaking. The nature of the payment and distribution of taxes necessitates the capitalization of interest during construction and up to the expected date of the first tax payments.

It is my opinion that debt service for housing projects, in particular, will need assistance from franchise tax collections at least within the TIF area and possibly the district if the numbers are going to make the bond financing feasible. It's very unlikely that there will be sufficient funds from the increment and franchise taxes to cover more than the cost of such bare necessities as roads, curbs, gutters, water and sewer lines.

From a bond underwriting standpoint may I say that in every case "the numbers have to be right for any TIF bond issue to be feasible". And while many of the projects will be small, in terms of the cost of the new infrastructure and the homes to be built, as long as the tax increment will cover the debt service on the bonds the issues can be underwritten. TIF bonds for housing infrastructure will need all the sources of funds for debt service that the legislature will permit in any amendment to the law if such developments - largely in rural communities - are to be successful.

I ask the Committee to act favorably upon the proposal before you and extend to you my appreciation for allowing me to appear this morning. Thank you.

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## MEMORANDUM

January 1996

### TAX INCREMENT FINANCING IN KANSAS

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JLNTIFMEMO

*Senate Commerce Committee*  
*January 9, 1996*

*Attachment to the 6-11*

# TAX INCREMENT FINANCING IN KANSAS

## I. GENERAL

Tax increment financing is a statutory procedure available to cities in the State of Kansas to encourage the redevelopment of certain designated areas. Cities may coordinate with non-governmental developers to undertake redevelopment projects in central business districts and other areas that meet statutory criteria. Such projects may include acquisition of a site or sites and existing structures thereon, razing such structures, undertaking infrastructure improvements adjacent thereto and related public parking areas. Financing is available from the proceeds of bonds to be issued by the city. Such bonds are primarily secured by the incremental increase in property valuation within the redevelopment district as a result of the rehabilitation, but may, under certain circumstances, also be general obligations of the city. The city may sell or lease property acquired for redevelopment purposes to developers, but may not finance with bonds construction of or improvements to buildings or structures to be owned by developers.

The theory of tax increment financing is by encouraging redevelopment projects the value of real property in a redevelopment district will increase. When a redevelopment plan is adopted, the assessed valuation of real property in the redevelopment district is frozen for tax purposes at the current base level prior to construction of redevelopment improvements. As property is improved, the assessed value in the redevelopment district increases above the base level. This "increment" produced is captured and utilized to pay the costs associated with the redevelopment, including debt service on bonds issued by the city to finance the redevelopment projects. The net effect of tax increment financing is to permit the city and a developer to use a portion of the property taxes that otherwise would be paid on a completed redevelopment project to repay all or a portion of the redevelopment costs of the city, thereby reducing or eliminating debt service requirements on that portion of the project associated with the tax increment. Future tax increases associated with redevelopment are **not** abated, but rather are used to fund costs associated with redevelopment.

The remainder of this memorandum outlines Kansas statutory provisions relating to tax increment financing, provides a summary of procedures necessary to implement a tax increment project and analyzes federal tax laws affecting bonds issued by cities to finance tax increment projects. Additional questions relating to this subject may be addressed to Joe L. Norton or Philip C. Lacey of our Wichita office or David W. Queen or Gary D. Anderson of our Kansas City office.

## II. KANSAS STATUTORY PROVISIONS

*General.* K.S.A. 12-1770 *et seq.* (the "Act") authorizes cities to create redevelopment districts, acquire certain property and to issue special obligation bonds and/or full faith and credit tax increment bonds for the financing of redevelopment projects. Any city proposing to undertake one or more redevelopment projects (the "Project") must create a redevelopment district (the "District") by adoption of an ordinance. The District must be located in central business district areas of cities, blighted areas located within cities, environmentally contaminated areas located within and without cities and enterprise zones established prior to July 1, 1992 located within cities. No privately owned property shall be acquired and redeveloped under the provisions of the Act if the board of county commissioners or the board of education levying

JLNTIFMEMO

taxes on property proposed to be included in the District determines that the proposed District will have an adverse effect on such county or school district. The city must also prepare a redevelopment plan (the "Plan") in consultation with the planning commission of the city. The Plan must contain, among other items, a summary of the comprehensive feasibility study showing the benefits derived from the Project will exceed the costs and that the income therefrom will be sufficient to pay for the Project, a description of the buildings and facilities proposed to be constructed or improved and a relocation assistance plan for property owners within the District. The city is required to conduct a public hearing on the adoption of the Plan. At the conclusion of such public hearing, the governing body of the city may approve the Plan, by ordinance adopted by two-thirds vote. Once the redevelopment plan has been adopted in accordance with the specific provisions of the Act, the city may purchase or otherwise acquire real property. Eminent domain proceedings may be pursued upon two-thirds vote of the governing body of the city. Any property acquired by the city under the Act may be sold or leased to any person, firm or corporation, as the developer, in accordance with the Plan. The redevelopment plan may be undertaken in separate stages. Any Project shall be completed within fifteen years from the establishment of the District; provided that environmentally related Projects must be completed within twenty years from the date of a consent decree agreement with environmental regulators.

**Blighted Areas.** For the purposes of the Act, the term "blighted area" means an area which: (1) because of the presence of a majority of the following factors, substantially impairs or arrests the sound development and growth of the city or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use: (a) a substantial number of deteriorated deteriorating structures; (b) predominance of defective or inadequate street layout; (c) unsanitary or unsafe conditions; (d) deterioration of site improvements; (3) diversity of ownership; (fa) tax or special assessment delinquency exceeding the fair value of the land; (g) defective or unusual conditions of title; (h) improper subdivision or obsolete platting or land uses; (i) the existence of conditions which endanger life or property by fire and other causes; or (j) conditions which create economic obsolescence; or (2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation, feasibility study and remediation or other similar state or federal action; or (3) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*, ("Urban Renewal Law") and amendments thereto.

**Tax Increment Captured.** In any Plan the primary revenue source for repayment of debt is the tax increment generated from the redevelopment of the Project within the District. The Act provides that such increment is that portion of *ad valorem* taxes collected on real property (land and improvements thereon) within the District that is in excess of the amount produced from such property attributable to the assessed valuation of such property prior to the date the District was established. *Ad valorem* taxes collected on assessed valuation in existence on the date of establishment of the District will continue to be distributed to all taxing districts in the same manner as all other property taxes. The additional tax increment shall be captured, placed in a special fund and applied only for the purposes of paying the costs of the Project, including repayment of any authorized indebtedness associated with the Project. When such bonds and the interest thereon shall have been paid, the increment shall be apportioned to all taxing jurisdictions as before the creation of the District; provided however, if the Project has not been completed, the increment shall continue to be captured for the special fund until the Project is completed, not to exceed fifteen years after establishment of the District.

The incremental increase in valuation shall not be utilized in determining the bonded debt limit of the affected taxing jurisdictions or for any purpose other than raising funds for the District. The county



appraiser shall certify the increment to the county clerk on or before July 1 of each year. *The raising or lowering of tax levies by the affected taxing district (city, county and school district) or state law changes (e.g., school district funding formula and classification amendments) have an impact on the increment captured in each year.*

**Bond Authority.** Cities may use proceeds of special obligation bonds or full faith and credit tax increment bonds to finance the undertaking of any Project. The city may also issue industrial revenue bonds to benefit a developer located with the District. The maximum maturity of any such special obligation bonds or full faith and credit tax increment bonds shall be twenty (20) years. The Act specifies several different permissible uses of proceeds, including:

1. Acquisition of property within the Project area..
2. Payment of relocation assistance.
3. Site Preparation.
4. Sanitary and storm sewers and lift stations.
5. Drainage conduits, channels and levees.
6. Street grading, paving, graveling, macadamizing, curbing, guttering and surfacing.
7. Street lighting fixtures, connection and facilities.
8. Underground gas, water, heating and electrical services and connections located within the public right-of-way.
9. Sidewalks and pedestrian underpasses or overpasses.
10. Drives and driveway approaches located within public right-of-way.
11. Water mains and extensions.
12. Plazas and arcades.
13. Parking facilities.
14. Landscaping and plantings; fountains, shelters, benches, sculptures, lighting, decorations and similar amenities.
15. All related expenses to redevelop and finance the Project.

*None of the proceeds from the sale of such bonds, however, shall be used for the construction of buildings or other structures to be owned by any developer.*

**Special Obligation Bonds.** A city may issue special obligation bonds to finance those permissible expenses of a Project. Such bonds shall be payable, both as to principal and interest: (1) from property tax increments allocated to, and paid into a special fund of the city; (2) from revenues of the city derives from or held in connection with the undertaking and carrying out of any Project; (3) from any private sources, contributions or other financial assistance from the state or federal government; *or* (4) by any combination of these methods.

Special obligation bonds are not general obligations of the city, nor in any event shall they give rise to a charge against its general credit or taxing powers or be payable out of any funds or properties other than nay of those set forth above. These bonds shall be exempt from all state taxes except inheritance taxes and do not count toward the city's bonded debt limitations.

**Full Faith and Credit Bonds.** Cities may also issue full faith and credit tax increment bonds to finance a Project. These bonds are payable, both as to principal and interest: (1) from the revenue sources identified for special obligation bonds; and (2) from a pledge of the city's full faith and credit to use its *ad valorem* taxing authority for repayment thereof in the event all other authorized sources of

revenue are not sufficient. Prior to the issuance of these bonds, a feasibility study is required showing that the benefits derived from the Project will exceed the cost and that the income therefrom will be sufficient to pay the costs of the Project. The resolution establishing the public hearing on the Plan shall state the city's intent to issue full faith and credit tax increment bonds. The city may issue such bonds unless a protest petition signed by not less than three percent (3%) of the qualified voters of the city is filed with the city clerk within sixty (60) days following the date of such public hearing.

Full faith and credit tax increment bonds are general obligations of the city and shall be exempt from all state taxes except inheritance taxes. The amount of full faith and credit tax increment bonds issued and outstanding which exceed three percent (3%) of the assessed valuation of the city shall be within the bonded debt limit of the city.

Industrial Revenue Bonds. The city may issue industrial revenue bonds pursuant to K.S.A. 12-1740 et seq. to benefit a developer within the redevelopment district. All state law benefits associated with such bonds shall be available, **except that no ad valorem tax abatement shall be available.**

### *Relocation Assistance Plan*

The city shall adopt a relocation assistance plan prior to undertaking the Project. Such assistance plan shall provide for relocation payments to persons and businesses who move from real property or must move personal property as a result of the Project. No persons or families residing in the redevelopment district shall be displaced unless there is a suitable housing unit available and ready for occupancy. The city shall also be responsible for damages to retailers by reason of liquidation of inventories necessitated by relocation.

### III. PROCEDURES FOR IMPLEMENTING A TAX INCREMENT FINANCING PROJECT

Pursuant to the Act, the city must establish District and prepare a Plan in consultation with the planning commission of the city which outlines the proposed Project. The specific Project area must be declared a "blighted area" within the meaning of the Act, have been designated as an enterprise zone prior to July 1, 1992, or be in an environmentally contaminated area. The city must make a finding that the redevelopment of the area is necessary to promote the general and economic welfare of the city. The Act provides separate procedures for establishing a District and approving a Plan. These procedures may be combined. A summary of the procedural steps necessary to establish the District and approve the Plan are as follows:

1. City adopts resolution stating that is considering creation of a District. Notice of public hearing is disseminated to affected county, school district and property owners and published in official city newspaper. At conclusion of public hearing, city adopts resolution finding that a certain area within the city meets the requirements of a "blighted area," is in an enterprise zone established prior to July 1, 1992 or meets the requirements of an environmentally contaminated area. Thereafter, the city passes an ordinance creating the District.
2. No privately owned property may be acquired or redeveloped under the Act, if the board of county commissioners or the board of education levying taxes on such property determines by resolution adopted within 30 days following the conclusion of the public

hearing for the establishment of the redevelopment district, that the proposed redevelopment district will have an adverse effect on the county or the school district.

3. City formulates the Plan in conjunction with the planning commission. The city must also prepare a comprehensive feasibility study on the benefits and costs of the Project and the expected income derived therefrom. The planning commission must determine that the Plan is consistent with the comprehensive general plan for the development of the city. The Plan shall contain the following: (a) summary of feasibility study; (b) identification of District and Project area; (c) map of redevelopment area; (d) the relocation assistance plan; (e) detailed description of the buildings and facilities to be constructed or improved; and (f) other relevant information. Copy of Plan is forwarded to county and school board.
4. City adopts resolution calling public hearing, which fixes the date, time and location of the hearing and provides for giving notice of such public hearing. The date of the public hearing shall be not less than thirty (30) or more than seventy (70) days after adoption of the resolution calling the public hearing. The resolution shall describe the Plan, the boundaries of the District (including a map thereof), the method of financing the same (*i.e.*, special obligation bonds or full faith and credit bonds) and other relevant matters. A copy of such resolution shall be delivered to the county and school board associated with the District and mailed (certified) within ten (10) days to each owner and occupant of property within the District. The resolution shall also be published one time in the official city newspaper not less than one (1) week or more than two (2) weeks preceding the date of public hearing.
5. Upon conclusion of the public hearing and upon making the appropriate findings, the city may adopt the Plan by ordinance passed by not less than two-thirds vote of the governing body.
6. City issues full faith and credit bonds or special obligation bonds to finance the Project. No full faith and credit tax increment bonds may be issued until the sixty day protest period expires after the date of public hearing.
7. City may proceed to acquire property within the District by purchase or eminent domain (2/3 vote of city governing body required) and implement the Plan.

#### IV. FEDERAL TAX CONSIDERATIONS

**General.** Special obligation bonds or full faith and credit bonds may be issued either as "tax-exempt" or taxable obligations. The interest on such obligations will be excluded from federal income taxation if the proceeds are used only for a governmental purpose or if the bonds meet certain other requirements established in the Internal Revenue Code of 1986, as amended (the "Code").

**Governmental Purpose Bonds.** The interest on Bonds, the proceeds of which are used to finance traditional governmental facilities such as streets, water lines and sewers, is excluded from gross income for purposes of federal income taxation under *Section 103* of the Code. This generally will be true even when the bonds are paid from tax increment payments made by the owner/developer, provided the

governmental facilities are available for use by members of the general public on an equal basis. However, if bond proceeds are used to finance facilities used in the trade or business of a developer or other non-governmental entity, the bonds may be "private activity bonds" within the meaning of *Section 141* of the Code and must meet certain other very restrictive provisions of the Code for the interest to be excluded from federal income taxation.

***Private Activity Bond Tests.*** A bond is a "private activity bond" (as said term is defined in *Section 141* of the Code) if it meets either the "private business tests" or the "private loan financing test." The private business test consists of (a) the "private business use test" and (b) the "private security or payments test."

The "private business use test" is met if more than 10% of the proceeds of an issue are used, directly or indirectly, in the trade or business of any person other than a governmental unit. Use on the same basis as the general public is disregarded. Thus, if bond proceeds are used for essential governmental functions, it does not matter that a single developer owns the land, provided that the developer is proceeding to develop and sell the land to members of the general public for residential or commercial use.

The "private security or payments test" is met if payment of the principal of or the interest on more than 10% of the proceeds of an issue is (under the terms of such an issue or any underlying arrangement) directly or indirectly: (a) are secured by an interest in (i) property used or to be used for a private business use, or (ii) payments in respect of such property; or (b) to be derived from payments (whether or not to the issuer), in respect of property or borrowed money, used or to be used for private business use.

With respect to the private security interest or payment test, relevant provisions of the Joint Committee on Taxation "Blue Book" provide:

1. Ad valorem taxes, or tax increments derived therefrom solely from the developer's property, are classified as "revenues from generally applicable taxes," and therefore are not treated as payments for purposes of the private security interest or private payment test.
2. However, even if bonds are nominally secured by incremental property tax revenues, the bonds will meet this test if a nongovernmental person has (i) entered into a special agreement with the city that the redevelopment site will be considered to have an assessed value for local property tax purposes of not less than a prescribed amount, until such time as the bonds are repaid, or (ii) agreed to be personally liable to pay the difference between the amount of real property taxes levied against the site and the amount of debt service on the bonds, or (iii) agreed to finance the cost of credit enhancement for the bonds.
3. Payments made by a lessee of bond-financed property to a redevelopment agency or similar agency are considered, even though the city is the issuer of the bonds and does not receive payments from the redevelopment agency.
4. Where bonds are used to acquire land that is to be sold to private persons for redevelopment, amounts paid by those persons for the land are payments for purposes of

the private security interest or private payment test, even though incremental property tax revenues are the stated security for the bonds.

The "private loan financing test" is met if the proceeds of an issue are to be used directly or indirectly to make or finance loans to persons other than a governmental unit if the loan exceeds the lesser of: (a) Five percent (5%) of such proceeds, or (b) \$5,000,000. "Private business use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit. Any activity carried on by a person other than a natural person shall be treated as a trade or business.

**Qualified Redevelopment Bonds.** Even if tax increment bonds are "private activity bonds", the Code allows for exclusion of interest in certain circumstances. *Section 144(c)* of the Code defines "qualified redevelopment bonds" as "any bond issued as part of any issue 95% or more of the net proceeds of which are to be used for one or more redevelopment purposes in any designated blighted area." Qualified redevelopment bonds must be part of an issue wherein (1) 95% or more of the net proceeds are to be used for redevelopment purposes in a locally designated blighted area, and (2) the payment of principal and interest on which is primarily secured either (a) by taxes of general applicability imposed by a general purpose governmental unit, or (b) by a pledge of incremental property tax revenues, which must be reserved exclusively for debt service on the issue and other similar issues, to the extent necessary to cover such debt service.

Qualified redevelopment bond proceeds may be used only for the following purposes:

1. The acquisition, by a governmental unit having the power of eminent domain, of real property in the redevelopment area;
2. The clearing and preparation for redevelopment of land in the area that was acquired by the governmental unit;
3. The rehabilitation of real property located in the area that was acquired by the governmental unit; and
4. Relocation of occupants of the real property.

New construction may not be financed with bond proceeds.

Other Federal tax requirements in connection with qualified redevelopment bonds include:

1. *Assessed value limitation:* The assessed valuation of all blighted areas within the jurisdiction may not exceed 20% of the assessed value of all real property.
2. *Acreage limitation:* The blighted area must be "compact and contiguous." Also, the blighted area must equal or exceed 100 acres but it can be as small as 10 acres, if not more than 25% of the "financed area" is to be provided to one person.
3. *No additional charges:* Owners or users of land in the redevelopment area cannot be subject to charges not imposed on comparable property outside the project area.

Included in these specifications are the requirements that the interest in any real property located in the District and transferred to a person other than a governmental unit, be transferred for fair market value. The term "blighted area" is defined more strictly in the Code than under the Act.

*Summary.* If the bonds fail either private activity test, they may be issued as governmental purpose bonds. The business use test will be failed if no property is used in the trade or business of a non-governmental entity. In essence, the city will be its own developer of the Project. It may hire contractors, etc., but the property financed may not be transferred or leased to a private developer. The portions of the Project consisting of traditional infrastructure improvements usually fail the business use test. The security interest test may be failed if the developer pays no or nominal (less than ten percent [10%] of the principal amount of the bond issue) consideration for property transferred to it by the city. Additionally, if the only funds that support the bonds are taxes of general application (e.g., ad valorem or sales taxes) as opposed to special assessments, lease payments or other developer guarantees or credit support, the security interest test may not be met. The Act authorizes bonds to be issued regardless of whether the interest thereon is "taxable" or "tax-exempt." If bonds are "taxable," federal securities laws may place additional restrictions on the marketability of such bonds.

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## SENATE BILL NO. 328

### KANSAS SENATE COMMITTEE ON COMMERCE

SENATOR ALICIA L. SALISBURY, CHAIRMAN

JANUARY 9, 1996

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PRESENTATION MATERIALS SUBMITTED

BY

JOE L. NORTON

---

Senate Bill No. 328 (the "Bill") was introduced by the Senate Committee on Commerce in the 1995 Session of the Legislature. The Bill proposes to amend K.S.A. 12-1771, which is a part of the Kansas act relating to redevelopment of central business district areas, commonly referred to as the "Tax Increment Financing Act" (the "Act").

The Act permits Kansas cities to assist in the development and redevelopment of central business district areas of cities, blighted areas located within cities, enterprise zones located within cities and environmentally contaminated areas located in cities and the county in which such city is located. The Act authorizes cities to issue tax increment special obligation and full faith and credit bonds to finance certain redevelopment projects in redevelopment districts created under the Act. Eminent domain powers are granted to cities in conjunction with such projects.

Attached hereto is a **Memorandum** prepared by our law firm summarizing the Act, procedures necessary to implement a tax increment project and associated federal tax law matters relating to bonds issued by cities to finance redevelopment projects.

Due to a number of factors, including limitations of the kinds of projects that can be financed by the Act and federal tax law considerations, the utilization of the Act to finance redevelopment projects has been limited.

The Act defines "Blighted Area" [Page 1, lines 27 to 43] to mean areas which: (1) because of a presence of a majority of certain factors, substantially impairs or arrests the sound development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health safety and welfare; (2) has been identified by any federal or state environmental agency as being environmentally contaminated; and (3) was previously found to be slum and blighted under the "urban renewal law." The Bill [Page 2, lines 2 to 5] creates a fourth category of "blighted area" consisting of an area *composed of open land that, because of its location within the corporate boundary of a city, it is necessary for sound community growth through platting or replatting, and planning and development for predominantly residential uses.* The Bill [Page 2, lines 14 and 15] clarifies that powers conferred by the Act may be exercised in such designated residential development areas.

The Bill, if adopted in its present form, would allow the governing body of a city to determine if a sufficient need exists in its community for economic development purposes to create a redevelopment district to stimulate residential housing.

It is important to note that the Bill does not affect or modify other provisions of the Act. These provisions prescribe the method and manner of creating Districts and implementing a Plan. These procedures include provisions requiring public hearings, preparation of a comprehensive feasibility study which provides the benefits and costs associated with Projects and determines that income will be sufficient to pay for Project costs, that only land acquisition and infrastructure improvements may be financed (**costs of residential housing may not be financed with tax increment financing**), and that affected counties and school districts may veto such projects if their governing body determines that the proposed redevelopment district will have an adverse effect on such county or school district.

JLNTIFMEMO

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6-11