

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by the Chairman Edmonds at 9:02 a.m. March 8 in Room 519-S of the Capitol.

All members were present except: Representative Mays, excused

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor  
Winnie Crapson, Secretary

Conferees appearing before the committee:  
Representative Merrick  
Hal Hudson, National Federation of Independent Business  
Marlee Carpenter, Kansas Chamber of Commerce and Industry  
Ron Hein, Kansas Restaurant and Hospitality Association

Others attending: See attached list.

Hearing was opened on:  
HB 2512 - Sales tax payment timing

Hal Hudson presented testimony in support of **HB 2512** on behalf of the National Federation of Independent Business (Attachment #1). In response to questions from members of the Committee Mr. Hudson pointed out that K.S.A. 79-3607 requires return of taxes on sales for which the retailer has not yet collected payment.

Marlee Carpenter presented testimony in support of **HB 2512** on behalf of the Kansas Chamber of Commerce and Industry (Attachment #2), and responded to questions from members of the Committee.

Ron Hein presented testimony in support of **HB 2512** on behalf of the Kansas Restaurant and Hospitality Association (Attachment #3), and responded to questions from members of the Committee.

Written testimony of Natalie Bright was distributed in support of **HB 2512** on behalf of the Wichita Independent Business Association and Kansas Organization for Private Enterprise (Attachment #4), and responded to questions from members of the Committee.

Hearing on **HB 2512** was closed.

The Chairman opened consideration of **HB 2408**, Blue Valley recreation system.

Representative Merrick referred to his testimony at the hearing on March 7 that it was his intention to offer three amendments. He provided the Committee with balloons covering those amendments (Attachments #5, #6 and #7). He explained each amendment and responded to questions from Committee members.

CONTINUATION SHEET

Representative T. Powell moved adoption of amendment #1: On page 1, line 16 to delete language in (a) Except as provided by subsection (b) The, inserting: Except as provided in subsection (b), the; and on page 2 delete lines 19 through 24 and substitute as (b), Prior to adopting the budget pursuant to subsection (a), the Blue Valley recreation commission appointed by the Blue Valley unified school district No. 229 shall submit its proposed budget to the board of education of such school district. The school board either shall approve, or modify and approve, the proposed budget. The recreation commission shall adopt such budget as approved, or modified and approved, by the board. Section references to be changed as appropriate. Representative Vickrey seconded and amendment was adopted.

Representative T. Powell moved adoption of amendment #2: On page 5, line 35, add: Any levy made pursuant to this section shall be considered to be part of the recreation commission's general fund for the purpose of determining the maximum annual mill levy pursuant to K.S.A. 12-1927 and amendments thereto. Representative Vickrey seconded and amendment was adopted.

Representative T. Powell moved adoption of amendment #3: On page 5, in line 8, insert after "No real property may be purchased "or leased, including any renewal thereof, for a term exceeding three years. Representative Vickrey seconded

Representative Hutchins moved a substitute motion to change the term to two years. Representative Powers seconded. The substitute motion failed.

Motion to adopt amendment #3 was adopted.

Representative T. Powell moved recommend **HB 2408** as amended favorable for passage. Representative Vickrey seconded and motion was adopted.

(N.B. Refer to further technical amendments made to **HB 2408** on March 12.)

The meeting adjourned at 10:16 a.m. The next scheduled meeting is March 12.

GUEST LIST

DATE March 8

NAME	REPRESENTING
Marlee Carpenter	KCOI
Bernie Koch	Wichita Chamber
George Peterson	KTV
Tucker Poling	Rep. Huff - intern
Hal Kurland	NFIB/ES
Bill Henry	KS Gov. Consulting
Ann Duker	DOB
John Frederick	The Boeing Company
David Johnson	KSTP
Eoghan O'Malley	OP. Chamber
Marsha Lee Smith	KUMH



KANSAS

**Statement by  
Hal Hudson, Kansas State Director  
National Federation of Independent Business  
Before the House Taxation Committee  
On House Bill 2512**

**March 8, 2001**

Mr. Chairman and members of the committee:

Thank you for this opportunity to appear in support of House Bill 2512.

The collection of retail sales tax is a responsibility the state has imposed on vendors who sell goods or services in the state. It is a duty imposed without compensation or consideration for the time, effort or expense involved by the vendor.

Although the issue involved in H.B. 2512 is not new, the Kansas Department of Revenue only recently has become more aggressive in enforcing early collection of sales taxes.

For small businesses, those that have annual taxable sales of \$1,000,000 or less, the calculation and remittance of the tax due on sales during the first 15 days of the month is an extra time consuming effort. The work of monthly calculation and payment essentially is doubled, and it actually provides no additional revenue for the state.

For many small businesses, the preparation of tax returns falls on the owner or manager, and takes them away from the productive work of their business. These firms often do not have automated equipment or accounting staff to do this work.

The argument for increasing the threshold to \$75,000 is a simple one. It is a way to give paperwork relief to small business owners, with no loss of revenue to the state.

I urge you to report H.B. 2512 favorably, and to support its enactment.

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# LEGISLATIVE TESTIMONY



*The Unified Voice of Business*

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HB 2512

March 8, 2001

## KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Taxation Committee

by

Marlee Carpenter

Executive Director, Kansas Retail Council

Mr. Chairman and members of the Committee:

My name is Marlee Carpenter and I am the Executive Director of the Kansas Retail Council, an affiliate of the Kansas Chamber of Commerce and Industry. I am here today in support of HB 2512.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 2,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 48% of KCCI's members having less than 25 employees, and 78% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The law that requires retailers to prepay their monthly sales tax receipts to the Kansas Department of Revenue has been on the books for many years. For retailers to be required to prepay their sales tax on a monthly basis, they must collect a certain threshold of sales tax per year. The Kansas Department of Revenue has not added any additional retailers to the prepay monthly list for several years. This year, because of advances in the Department's computer system, they were able

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to update their list and sent out approximately 5,314 letters notifying taxpayers that their filing frequencies for sales tax needed to be increased. Many of our retailers have expressed concern about these increased filing periods, especially those that are now required to prepay their sales tax.

KCCI and the Kansas Retail Council have advocated many years for an administrative allowance for retailers. In Kansas, the argument has been that since the retailers have the use of the sales tax dollars for a period of time, and time is money, that the enactment of an administrative allowance was unnecessary. The increasing frequency of filing remittances with the Department and increasing the number of retailers that must prepay, time is no longer money. In some cases, retailers must pay before they even collect the money.

In today's society, consumers often pay for goods with a credit card. The credit card companies often do not reimburse the retailer for sales until 30 or 60 days have passed. For retailers who are required to prepay, the sales tax payment to the state may be required before the credit card company reimburses them. This poses a cash flow problem for many retailers.

Last year, the Kansas Department of Revenue implemented a telefile system for the remittance of sales tax by retailers. Those who prepay their sales tax cannot use the telefile system. Retailers must remit sales tax payments to the Department on a paper form. Retailers that must now prepay find this system much more burdensome than the telefile system they used in the past.

Enactment of HB 2512 will remove many retailers from the list that must prepay and alleviate the many burdens that accompany it. The Kansas Retail Council and the Kansas Chamber of Commerce and Industry urge your support of HB 2512. I will be happy to answer any questions.



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**Testimony Re: HB 2512**

**House Taxation Committee**

**Presented by Ronald R. Hein**

**on behalf of**

**Kansas Restaurant and Hospitality Association**

**March 8, 2001**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the Kansas trade association for restaurant, hotel, lodging and hospitality businesses in Kansas..

KRHA supports HB 2512. This bill increases the threshold tax liability from \$32,000 to \$75,000 at which sales tax collecting businesses must remit the taxes twice monthly.

We will preface our comments by stating that Kansas is one of the states which does not allow businesses that collect sales tax for the benefit of the government to receive remuneration for the services they provide to the state and local governments. In the states that do permit a sales collectors allowance, the business is generally allowed a percentage fee off the top of the collections. Sales tax is a tax which is imposed on the consumer, not the businesses that must collect the tax, and businesses in the state are required by law to collect the tax without being paid for their efforts and without remuneration to cover any expenses which the businesses incur in order to comply with the state mandate. It is, in short, an unfunded state mandate.

One rebuttal to the argument that businesses should be paid for collecting sales tax is that such businesses have the use of the tax from the time that they collect it until such time as they are required to remit the tax. Prior to 1983, all sales tax collecting businesses were required to remit taxes quarterly. In 1983, the law was changed to provide for some tax payers to remit sales taxes monthly and others twice a month, depending upon the tax liability.

Under current law, a business that collects sales tax where the total liability for the calendar year exceeds \$32,000 is required to remit sales tax collected during the first 15 days of each month on or before the 25<sup>th</sup> day of the month. Assuming receipts are processed through the bank on the same day they are received, which generally does not occur with checks and certain other transactions, the retailer may have access to the

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interest on approximately \$1,500 for an average of approximately 17 days. Unless the business is highly sophisticated on its investment techniques, which most small businesses are not, they are probably depositing the money into a money market-type account with perhaps 2-3% interest. Interest on \$1,500 for the entire year would be, at 2-3% interest, \$30-45. The \$45 of annual interest divided by the 24 remittance periods is approximately \$2.00 per period.

This \$2.00 is offset by the cost of the business having to calculate receipts mid-month, complete the remittance form, draft a check or make an electronic deposit to the state, and perform all the accounting functions involved in that entire transaction. That cannot be done by a competent bookkeeper, accountant, or CPA for \$2.00 per remittance period.

Therefore, it would seem more than reasonable to provide for monthly remittance of sales tax receipts to the state and local units of government, in light of the fact that such governments are asking private businesses to incur the costs and detriments of collecting the tax. I mention the word "detriment" in collecting the tax, because not only are the businesses required to collect the tax, but even when there is the possibility of tax confusion because of the difficulties of the law, the businesses are required to know the law and to apply it correctly, or face the penalty of audit and liability for the tax, if they did not collect it properly.

We understand the desire of the legislature to speed up collections as much as possible so that the state can have access to the money and the interest on it. But, we believe that having a requirement of twice monthly calculations on small and medium-sized businesses which generally do their bookkeeping and accounting on a monthly basis, is asking these businesses who already sacrifice in order to collect the tax to sacrifice too much. We believe that the \$75,000 of total tax liability for the calendar year is a reasonable threshold to differentiate some of the smaller and mid-sized retail businesses from the larger more sophisticated businesses which probably have the staff and support services to make more frequent payments to the state.

We urge the committee to report HB 2512 with the recommendation that it be passed.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

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**Wichita Independent Business Association  
Kansas Organization for Private Enterprise**

Natalie Bright  
Governmental Affairs Consultant

Testimony Presented To The House Taxation Committee  
In Favor Of HB 2512--Sales Tax Payment Timing

Good morning Chairman Edmonds and committee members. Thank you for the opportunity to submit written testimony in favor of HB 2512.

My name is Natalie Bright and I am writing on behalf of the Wichita Independent Business Association (WIBA) and the Kansas Organization for Private Enterprise (KOPE). WIBA is an organization founded in 1931 by local grocers and today represents over 1,200 businesses in over 250 different industries in the Wichita Metro Area. KOPE is a new organization that was launched in March 2000 to allow WIBA to extend its benefits and services to independent businesses across the state of Kansas. Currently, KOPE has 150 members from all four corners of the state.

I am pleased you are considering HB 2512. As a representative for many small Kansas retail establishments, I can assure any changes that you make to alleviate the burdens placed on our retailers when it comes to remitting sales tax will be greatly appreciated. For several years, our members have supported initiatives that would allow Kansas retailers an administrative allowance for their efforts in collecting and remitting sales tax back to the State. In fact, the President of WIBA and KOPE testified in favor of SB 38, which would allow Kansas Retailers to keep 2% (or up to a \$1,000 per month) of the sales tax they collect on the state behalf for free. Unfortunately, it is our understanding that bill is no longer viable for this session.

Though HB 2512 will not directly compensate Kansas retailers, it will provide them with some relief. By increasing the threshold amount for monthly reporting requirements from \$32,000 to \$75,000, some Kansas retailers will have additional time before they are required to report on a monthly basis. This additional time will eliminate some of their administrative costs. Though this is not the ultimate relief our members are seeking, it is a step in the right direction.

I appreciate your consideration of HB 2512 and encourage you to contact me if you have any additional questions regarding our members' position on this bill. Thank you.

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*Amendment #1*

**HOUSE BILL No. 2408**

By Committee on Taxation

2-7

AN ACT concerning recreational districts; relating to the Blue Valley recreation system established by the Blue Valley unified school district No. 229; amending K.S.A. 2000 Supp. 12-1927, 12-1928 and 12-1935 and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 12-1927 is hereby amended to read as follows: 12-1927. (a) ~~Except as provided by subsection (b)~~ [The] recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city or school district, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district. After such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission shall annually, not later than August 1 of any year, certify its budget to such city or school district which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district. Each year a copy of the budget adopted by the recreation commission shall be filed with the city clerk in the case of a city-established recreation system or with the clerk of the school district in the case of a school district-established recreation system or with the clerk of the taxing district in the case of a jointly established recreation system. A copy

Except as provided in subsection (b), the

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1 of such budget also shall be filed with the county clerk of the county in  
 2 which the recreation system is located. If the recreation system is located  
 3 in more than one county, a copy of the budget shall be filed with the  
 4 clerk of the county in which the greater portion of the assessed valuation  
 5 of the recreation system is located. The city or school district shall not be  
 6 required to levy a tax in excess of the maximum tax levy set by the city  
 7 or school district by current resolution. In the case of a new recreation  
 8 commission established under the provisions of this act, such levy shall  
 9 not be required to exceed one mill. Whenever the recreation commission  
 10 determines that the tax currently being levied for the commission, as  
 11 previously established by the city or school district, is insufficient to op-  
 12 erate the recreation system and the commission desires to increase the  
 13 mill levy above the current levy, the commission shall request that the  
 14 city or school district authorize an increase by adopting a resolution de-  
 15 claring it necessary to increase the annual levy. The city or school district  
 16 may authorize the increase by resolution, but such increase shall not ex-  
 17 ceed one mill per year. The maximum annual mill levy for the recreation  
 18 commission general fund shall not exceed a total of four mills.

19 ~~(b) Prior to adopting the budget pursuant to subsection (a), the Blue~~  
 20 ~~Valley recreation commission appointed by the Blue Valley unified school~~  
 21 ~~district No. 229 shall submit its proposed budget to the board of education~~  
 22 ~~of such school district. The school board either shall approve, or modify~~  
 23 ~~and approve, the proposed budget. The recreation commission shall~~  
 24 ~~adopt such budget as approved, or modified and approved, by the board.~~

25 (c) Any resolution adopted under subsection (a) shall state the total  
 26 amount of the tax to be levied for the recreation system and shall be  
 27 published once each week for two consecutive weeks in the official news-  
 28 paper of the taxing district. Whereupon, such annual levy in an amount  
 29 not to exceed the amount stated in the resolution may be made for the  
 30 ensuing budget year and each successive budget year unless a petition  
 31 requesting an election upon the proposition to increase the tax levy in  
 32 excess of the current tax levy, signed by at least 5% of the qualified voters  
 33 of the taxing district, is filed with the county election officer within 30  
 34 days following the date of the last publication of the resolution. In the  
 35 event a valid petition is filed, no such increased levy shall be made without  
 36 such proposition having been submitted to and having been approved by  
 37 a majority of the voters of the taxing district voting at an election called  
 38 and held thereon. All such elections shall be called and held in the manner  
 39 provided by the general bond law, and the cost of the election shall be  
 40 borne by the recreation commission. Such taxes shall be levied and col-  
 41 lected in like manner as other taxes, which levy the city or school district  
 42 shall certify, on or before August 25 of each year, to the county clerk who  
 43 is hereby authorized and required to place the same on the tax roll of the

Prior to adopting the budget pursuant to subsection (a), the Blue valley recreation appointed by the Blue Valley unified school district No. 229 shall submit its proposed budget to the board of education of such school district. The school board either shall approve, or modify and approve, the proposed budget. The recreation shall adopt such budget as approved, or modified and approved, by the board.

(c)

county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission.

(d) 3 (d)(c) The tax levy provided in this section shall not be considered a  
4 levy of such city or school district under any of the statutes of this state,  
5 but shall be in addition to all other levies authorized by law and, with  
6 respect to any such levy made for the first time in 1989, shall not be  
7 subject to the provisions of K.S.A. 79-5021 et seq., and amendments  
8 thereto.

(e) 9 (e)(d) At any time after the making of the first tax levy pursuant to  
10 this act, the amount of such tax levy may be reduced by a majority of the  
11 voters of the taxing district voting at an election called pursuant to a  
12 petition and conducted in the same manner as that prescribed by sub-  
13 section (e)(b). The authority of any recreation commission in existence  
14 on the effective date of this act or any recreation commission established  
15 under the provisions of this act to operate and conduct its activities, other  
16 than the recreation commission appointed by the Blue Valley unified  
17 school district No. 999, may be revoked in any year following the third  
18 year of its operation by a majority of the voters of the taxing district voting  
19 at an election called pursuant to a petition and conducted in the same  
20 manner as that prescribed by subsection (e)(b). If the petition submitted  
21 is for the purpose of reducing the mill levy, it shall state the mill levy  
22 reduction desired. Upon revocation, all property and money belonging to  
23 the recreation commission shall become the property of the taxing au-  
24 thority levying the tax for the commission, and the recreation commission  
25 shall be dissolved.

(c) 26 (e)(e) All financial records of the recreation commission shall be au-  
27 dited as provided in K.S.A. 75-1122, and amendments thereto, and a copy  
28 of such annual audit report shall be filed with the governing body of the  
29 city or school district, or both, in the case of a jointly established recre-  
30 ation system. A copy of such audit also shall be filed with the county clerk  
31 of the county in which the recreation system is located. If the recreation  
32 system is located in more than one county, a copy of the budget shall be  
33 filed with the clerk of the county in which the greater portion of the  
34 assessed valuation of the recreation system is located. The cost of each  
35 audit shall be borne by the recreation commission.

Sec. 2. K.S.A. 2000 Supp. 12-1928 is hereby amended to read as follows: 12-1928. Every recreation commission appointed pursuant to this act shall have the power to:

- 36 (a) Make and adopt rules and regulations for the operation of the recreation system;
- 41 (b) conduct the activities of the recreation system on any property  
42 under its custody and management, or, with proper consent, on any other  
43 public property and upon private property with the consent of the owners;

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*Amendment #2*

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1 this subsection, employee benefits shall include social security as provided  
2 by subsection (c) of K.S.A. 40-2305, and amendments thereto, workers'  
3 compensation as provided by K.S.A. 44-505c, and amendments thereto,  
4 unemployment compensation as provided by K.S.A. 44-710a, and amend-  
5 ments thereto, health insurance and retirement benefits;

6 (k) acquire title to personal property by purchase, bequest, gift or  
7 other donation and acquire title to real property by devise, gift or other  
8 donation. No real property may be purchased by the recreation commis-  
9 sion appointed by the Blue Valley unified school district No. 229 without  
10 first obtaining the approval of the board of education of such school dis-  
11 trict *and following all procedures set forth in K.S.A. 12-1935, and amend-*  
12 *ments thereto.* Whenever property owned by a recreation commission is  
13 sold, the proceeds shall be used for recreation purposes; and

14 (l) perform any other acts necessary to carry out the provisions of this  
15 act.

16 Sec. 3. K.S.A. 2000 Supp. 12-1935 is hereby amended to read as  
17 follows: 12-1935. (a) The recreation commission appointed by the Blue  
18 Valley unified school district No. 229 may petition the board of education  
19 of such school district to adopt a resolution proposing to make an annual  
20 levy not to exceed one mill upon all taxable tangible property within the  
21 taxing district for the purpose of creating a capital improvement fund to  
22 be used for the acquisition of sites, and for the constructing, equipping,  
23 repairing, remodeling and furnishing of buildings for recreation system  
24 purposes and to pay a portion of the principal and interest on bonds issued  
25 under the authority of K.S.A. 12-1774, and amendments thereto, by cities  
26 located in the taxing district. Upon receipt of such petition, the board  
27 shall adopt a resolution imposing such levy. *The resolution shall identify*  
28 *specifically each capital improvement project and be published once each*  
29 *week for three consecutive weeks in one or more newspapers of general*  
30 *circulation in the Blue Valley recreation system established by the Blue*  
31 *Valley unified school district No. 229.* No levy shall be made unless the  
32 proposal to make such levy is submitted to and approved by a majority  
33 of the qualified electors of the taxing district voting at an election thereon.  
34 Such election shall be called and held in the manner provided by the  
35 general bond law.

Any levy made pursuant to this section ~~shall be~~ shall be considered to be part of the recreation commission's general fund for the purpose of determining the maximum annual mill levy pursuant to K.S.A. 12-1927 and amendments thereto.

36 (b) Any fund created pursuant to this section shall not be subject to  
37 the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments  
38 thereto. In making the budget of the recreation system, the amounts  
39 credited to, and the amount on hand in, the capital improvement fund  
40 and the amount expended therefrom shall be shown on the budget for  
41 the information of the taxpayers of the taxing district. Moneys in such  
42 fund may be invested in accordance with the provisions of K.S.A. 10-131,  
43 and amendments thereto, with interest thereon credited to such fund.



1 this subsection, employee benefits shall include social security as provided  
2 by subsection (c) of K.S.A. 40-2305, and amendments thereto, workers'  
3 compensation as provided by K.S.A. 44-505c, and amendments thereto,  
4 unemployment compensation as provided by K.S.A. 44-710a, and amend-  
5 ments thereto, health insurance and retirement benefits;

6 (k) acquire title to personal property by purchase, bequest, gift or  
7 other donation and acquire title to real property by devise, gift or other  
8 donation. No real property may be purchased by the recreation commis-  
9 sion appointed by the Blue Valley unified school district No. 229 without  
10 first obtaining the approval of the board of education of such school dis-  
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20 levy not to exceed one mill upon all taxable tangible property within the  
21 taxing district for the purpose of creating a capital improvement fund to  
22 be used for the acquisition of sites, and for the constructing, equipping,  
23 repairing, remodeling and furnishing of buildings for recreation system  
24 purposes and to pay a portion of the principal and interest on bonds issued  
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41 the information of the taxpayers of the taxing district. Moneys in such  
42 fund may be invested in accordance with the provisions of K.S.A. 10-131,  
43 and amendments thereto, with interest thereon credited to such fund.

or leased, including any renewal thereof, for a term  
exceeding two years

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