

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on February 14, 2008 in Room 519-S of the Capitol.

All members were present except:

Nick Jordan- excused

Committee staff present:

Gordon Self, Office of Revisor of Statutes  
Chris Courtwright, Kansas Legislative Research Department  
Scott Wells, Office of Revisor of Statutes  
Ryan Hoffman, Kansas Legislative Research Department  
Judy Swanson, Committee Assistant

Conferees appearing before the committee:

Senator Carolyn McGinn  
Patty Dengler, Inter Faith Development Corporation  
Chris Wilson, Kansas Building Industry Association  
Senator Jim Barnett  
Jeff Morris, Coffeyville City Manager  
Dennis Pruitt, Independence Economic Development Association  
Judy Bringham, Iola City Administrator  
Leslie Kaufman, Kansas Coop Council  
Kayla Oney, Kansas Downtown Development Association, Emporia  
Matt Zimmerman, Emporia City Manager  
Ron Gruber, Southern Plains Coop (Written only)  
Larry Baer, League of Kansas Municipalities (Written only)

Others attending:

See attached list.

Hearing on **SB 383, property tax exemption for certain housing for the elderly, persons with disabilities or persons with limited or low income owned by certain organizations**, was opened.

Senator Carolyn McGinn made opening comments in support of **SB 383**. There was a problem with the bill last year that the language was too broad. This bill would help with private-public partnerships to build facilities for people with low income status and help clean up blighted areas.

Gordon Self, Revisor of Statutes, reviewed **SB 383** and distributed a proposed amendment. (Attachment 1) The amendment would narrow the bill to be less encompassing.

Patricia Dengler, Counsel for Inter-Faith Development Corporation and Inter-Faith Ministries Wichita, testified the proposed amendment would do three things: 1) expand the types of legal entities allowed to benefit from the current property tax exemption to include limited partnerships, limited liability companies and corporations; 2) describe the type of financing that must be used by these entities to acquire tax-exempt status for the property, and 3) specify the sole limited partner or the sole managing member of the owner-operator or the entity itself must be a not-for-profit recognized as a 501(c)(3) tax exempt entity by the IRS. (Attachment 2)

During discussion with Ms. Dengler, it was clarified that the definition of area median income would be the same as defined by HUD and USDA. Mr. Self said the effective date of this bill is a policy decision of the Committee. Chairman Allen requested Ms. Dengler let the Committee know if she wants the bill to be retroactive which would require refunds be made. In response to Senator Apple, Mr. Self said he did not think this bill would raise constitutional issues because the key to this exemption is the purpose of use, not ownership. Senator Bruce questioned why Developmental Disabilities Organizations (DDOs) were excluded from the bill and suggested the Committee might want to consider including them.

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:40 A.M. on February 14, 2008 in Room 519-S of the Capitol.

Chris Wilson, Kansas Building Industry Association (KBIA), testified in support of **SB 383**. (Attachment 3) KBIA feels it is important to support this type of housing.

Chairman Allen stated although there is a fiscal note for **SB 383**, there is no cost estimate provided.

The hearing closed.

Hearing on **SB 445, income tax credit for capital investments in businesses located in a city substantially damaged by disaster**, was opened. Chris Courtwright, Kansas Legislative Research Department (KLRD), gave an overview of the bill, and reviewed other disaster relief bills being considered by the Legislature this session. **HB 2640** is a companion bill to **SB 445** that is being worked in a sub-committee. It is expected the House bill, as amended, will have a revised \$7-\$8 million fiscal note, rather than the \$22 million fiscal note currently attached to **SB 445**.

Senator Jim Barnett testified he would like **SB 445** conceptually amended to include economic disasters, as well as natural disasters. (Attachment 4) Last month Emporia received word from Tyson Fresh Meats Corporation it would cut 1800 jobs in Emporia, and that was certainly an economic disaster for the state. Senator Schmidt noted the fiscal note for a proposal Senator Barnett made several years ago for statewide tax incentives with no limit on investment, was approximately \$20 million; therefore it seems excessive the fiscal note on **SB 445** would be \$22 million, with limits on investments. Chairman Allen asked Senator Barnett to provide a balloon amendment for his proposal. He said he would work with the Revisor on getting it completed.

Senator Lee said Schultz Manufacturing recently cut 140 jobs in the City of Plainville, and she would like to see Plainville included in **SB 445**. Chairman Allen asked Senator Lee to put the request in writing working with the Revisor of Statutes.

Kayla Oney, Kansas Downtown Development Association, Emporia, testified that in the Emporia community of 26,000, the economic impact of losing 1,800 jobs at once is devastating. (Attachment 5) It is nearly 11% of the employment. Approximately 64% of Emporia businesses are considered small businesses with ten employees or less.

Matt Zimmerman, City Manager of Emporia, testified the preliminary estimate for the potential regional economic impact is \$80-\$100 million. (Attachment 6) **SB 445** would spur economic development in the County to replace the lost jobs and improve revenues for the affected governmental and social service agencies. In response to Senator Hensley, Mr. Zimmerman said Tyson Foods did not give the community or the state an opportunity to offer incentives to keep these jobs in Kansas. Tyson made the job cut announcement, after making the decision at corporate headquarters, with no prior discussion with community or state officials.

Jeff Morris, Coffeyville City Manager, gave a brief overview of the 2007 flood and oil release the City of Coffeyville experienced. (Attachment 7) To date, 39 businesses remain closed with only a few of those businesses working to reopen. FEMA does very little, if anything, in the form of cash assistance for business. The City of Coffeyville must fund its share of repairs to its own facilities and the levee, estimated to be \$5.8 million. Therefore, Coffeyville will not be in a good financial position to offer economic incentives to help rebuild the business economy in the immediate future. Mr. Morris asked the Committee to consider making the tax credits refundable.

Dennis Pruitt, Director of Montgomery County Action Council, asked the Committee to consider in lieu of a tax credit, a "refundable tax credit" based on the amount of investment. (Attachment 8) Unless a tax credit can be sold or transferred, it is only of benefit to companies with a tax liability. A disaster of the magnitude experienced in Montgomery County limits the profitability of a company. He made the following suggestions:

- Do not limit the investment zone to city limits but extend the zone to include land within 3 miles.
- Instead of using tax credits, make the incentive a "refundable credit" tied to the level of investment.
- If tax credits are the preferred mechanism then these credits should be sellable, redeemable, or

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:40 A.M. on February 14, 2008 in Room 519-S of the Capitol.

transferable.

- Provide additional incentives for “green industries” or “green buildings”.

Chairman Allen asked Mr. Pruitt to submit his suggested amendments to the Revisor of Statutes.

Judy Brigham, City Administrator of Iola, testified **SB 445** would provide advantages for taxpayers to make capital investments in local businesses. (Attachment 9) Since the floods of 2007, Iola has experienced a noticeable dip in sales tax revenues, and retailers attest to the drop in sales.

Leslie Kaufman, Kansas Cooperative Council (KCC), testified several KCC members were impacted by severe weather conditions in 2007. (Attachment 10) The tax credit proposed in **SB 445** is another mechanism to foster rebuilding efforts in hurting communities across the state.

Written testimony in support of **SB 445** was received from Ron Gruber, Southern Plains Coop, (Attachment 11) and Larry Baer, League of Kansas Municipalities. (Attachment 12)

Richard Cram, Kansas Department of Revenue (KDOR), expressed KDOR concerns with **SB 445**. (Attachment 13) There is no requirement the business must have sustained damage from a disaster, or that the investment repair or replace damaged property. The bill creates open-ended liability for the state for future disasters. “Capital investment” is a term that should be considered carefully. Mr. Cram included information on capital expenditures with his testimony. He suggested limiting this bill to exclude those who have already taken advantage of existing disaster relief programs. Mr. Cram reviewed the Kowa County and Southeast Kansas Business Restoration Assistance Programs which include investment assistance, job restoration assistance and sales tax exemptions. (Attachment 14) The State Finance Council approved \$5 million for the Southeast Kansas program. Mr. Cram of KDOR suggests more definite criteria than currently used in the bill be considered for **SB 445**, and also suggested specific geographic areas be listed. Senator Allen asked Mr. Cram to work with the Revisor of Statutes to present suggested amendments in balloon form.

Discussion was held concerning the fiscal note for **SB 445**. Mr. Cram said the \$22 million fiscal note would be doubled if extended to all presidentially- declared disaster areas in Kansas in 2007. Senator Schmidt expressed concern the fiscal note was not accurate, and said the numbers need to be carefully reviewed.

Being no further business, the meeting adjourned at 12:00 noon. The next meeting will be February 19.

SENATE  
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 02-14-08

NAME	REPRESENTING
Richard Crum	KDOR
Tony Folson	KDOR
Kathleen Smith	KDOR
David R. Corbin	KDOR
Dea Heier	UCD 253
Kayla Oney	KDDIA
with Zimmerman	CITY OF EMPORIA
Austin Hayden	Hein Law Firm
Dennis Pruitt	MCA C
JEFF MORRIS	CITY OF COFFEYVILLE
PATRICIA DENGLER	ENTER-FAITH D.C.
Chris Wilson	KBIA
Julio Kaufman	Ks Co-op Council
LOB MEYER	LITTLE GOVT. REVENUE
REP. DON HILL	EMPORIA - 60TH DIST

GORDON SELF

S.B. 383

An Act concerning property taxation; relating to exemptions; amending K.S.A. 2006 Supp. 79-201z and repealing the existing section.

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

Section 1. K.S.A. 2006 Supp. 79-201z is hereby amended to read as follows:

79-201z. The following described property, to the extent herein specified, shall be and is exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

a) All real property and tangible personal property actually and primarily used for housing for the elderly, persons with disabilities or persons with limited or low income, ~~which is owned solely and operated by~~ provided:

1) *the property is owned solely and operated by a limited partnership, a limited liability company, an organization recognized as a community housing development organization by the Kansas housing resource corporation, or a corporation, each formed for the purpose of development of low income housing which is defined as housing for persons with income at or below 80% of area median income;*

2) *the development utilizes income tax credits under section 42 of the internal revenue code of 1986 or the home investment partnership program or other funding sources available for low income housing as defined above; and,*

3) *the sole general partner, the sole managing member or the corporation itself is organized not-for-profit under the laws of the state of Kansas or under the laws of another state and duly admitted to engage in business in Kansas as a foreign, not-for-profit organization and is recognized as a charitable tax exempt organization by the internal revenue service pursuant to section 501(c)(3) of the internal revenue code of 1986.*

~~an organization recognized as a community housing development organization by the Kansas housing resource corporation and organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not for profit corporation.~~

For purposes of this subsection, such property shall meet housing quality standards as defined by the United States department of housing and urban development and shall be low cost housing at or below fair market rent.

b) The provisions of subsection (a) shall apply to all taxable years commencing after December 31, 2004.

Assessment & Taxation  
Date 2-14-08  
Attachment # 1

WRITTEN TESTIMONY

TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE

BY PATRICIA DENGLER, COUNSEL FOR INTER-FAITH DEVELOPMENT  
CORPORATION AND INTER-FAITH MINISTRIES WICHITA, INC.

PRESENTED ON FEBRUARY 14, 2008

*Support for S.B. 383, which proposes to amend K.S.A. 79-201z*

Thank you, Senator Allen and committee members, for allowing this hearing on S.B. 383. This bill amends K.S.A. 79-201z, a statute that exempts certain real and tangible personal property from *ad valorem* taxation. I am counsel for Inter-Faith Development Corporation and Inter-Faith Ministries Wichita, Inc., Kansas not-for-profit tax-exempt corporations and I am here to testify in support of S.B. 383.

The current statute has limited application. It only assists not-for-profit community housing development organizations (CHDO) recognized by the Kansas Housing Resource Corporation that provide housing for the elderly, persons with disabilities or persons with limited or low income. My clients and other projects would not presently qualify for the exemption even though these organizations serve the specified populations since most CHDOs join with for-profit entities to utilize income tax credits as one method for financing the development.

The amendment does three things. First, it expands the types of legal entities allowed to benefit from the exemption to include limited partnerships, limited liability companies and corporations in addition to CHDOs but retains the requirement of the purpose for the housing developments. A definition for "low income housing" is used to distinguish the use from any other housing developments. Secondly, it describes the type of financing that must be used by these entities to acquire the tax exempt status for the property. The possible financing mechanisms include Section 42, HOME investment partnership funds, or other sources, public or private, available only for low income housing. Finally, the amendment specifies that the sole limited

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Date 2-14-08  
Attachment # 2

partner or the sole managing member of the owner-operator or the entity itself must be not-for-profit and recognized as a 501(c)(3) tax exempt entity by the IRS. In other words, legal and operational control will be retained by a not-for-profit organization.

These three changes are viewed as appropriate controls so that the purpose for the exemption, development of real and personal property for low income housing, will be preserved but available for more projects.

In many low income housing developments, a limited partnership or limited liability company will be formed and will own the property. A not-for-profit organization will be the general partner or managing member in control of the development. The limited partner or non-managing member will generally be a for-profit entity which will enable the newly formed entity to access Section 42 income tax credits for financing purposes. The non-profit will transfer its tax credits to a for-profit entity in exchange for the financing to develop affordable housing for low income persons. The Section 42 program gives states the equivalent of nearly \$5 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households. The tax credits add another component available to entities that may not have all of the funding available, either through government grants or individual or corporate contributions. The Kansas Department of Housing administers the Section 42 program.

HOME investment partnership funds, mentioned in the statute, are administered by the Kansas Housing Resource Corporation and also by cities and counties. One of my clients accessed its HOME funds from the City of Wichita but it was not organized as a CHDO.

This amendment will continue to assist not-for-profit organizations involved in affordable housing developments but it will expand the number of eligible entities and thus, the number of projects. We believe that this is an appropriate and beneficial solution to the affordable housing problem faced by senior citizens, disabled and low income Kansans. Based upon the controls that

are included in this amendment, we believe that developments for higher income residents will not qualify for an exemption.

Let me explain why the current statute and other exemption statutes inhibit the development of affordable housing for these populations. My client's situation will serve as one example.

Inter-Faith Ministries has existed in Wichita for over 120 years. One of its ministries works on solutions to the homeless and chronic homeless problem in Sedgwick County. It owns and operates a temporary shelter for the homeless or jobless, and another shelter, which provides temporary housing and care for the chronically mentally ill homeless population. Both of these shelters received *ad valorem* exemptions based on humanitarian services which serve a community need, K.S.A. 79-201 Ninth.

The third phase of Inter-Faith Ministries' homeless ministry is what brings us here today in support of S.B. 383. Beginning in 2002, IFM opened two permanent apartment housing developments with supportive services, Villa Central and Villa North. One property, which has 37 units, is owned by a limited partnership which is operated by IFM as the general partner but the limited partner is a for-profit entity. Its funding sources were the acquisition of Section 42 low income tax credits, supportive services housing grants under the McKinney-Vento Homeless Assistance Act, a HUD grant, a conventional loan and contributions. The second property, which has 24 units, is owned by Inter-Faith Development Corporation, a Kansas not-for-profit corporation which is a controlled subsidiary of IFM. It was financed with HUD funding through the HOME Investment Partnership program administered by the City of Wichita, HUD supportive services and housing grants and contributions.

The residents of both of these apartment projects are chronic homeless disabled due to mental illness, drug and alcohol abuse or physical disabilities. The residents include the elderly, men, women and families with children. What distinguishes both of these projects from other



apartment developments is that IFM provides supportive services, or case management, to steer the residents to a productive existence. The residents do not pay for the supportive services but they do pay below market rent, which includes utilities. Many receive assistance through Section 8 vouchers for housing. Safe and affordable housing stabilizes one aspect of a low income person's existence so he or she can devote attention to job training, health care and other needs while becoming a productive member of the community.

The affordable permanent housing with supportive services developments of IFM fit into the goals of the United States Interagency Council on Homelessness to end chronic homelessness in ten years. This council was set up by President George W. Bush with all cabinet secretaries serving as members. It is chaired by the Secretary of the Department of Housing and Urban Development.

Beginning in 2004, IFM applied for exemptions from *ad valorem* taxation based on:

- K.S.A. 79-201b Fourth, which exempts housing for limited or low income elderly and handicapped persons or cooperative housing with financing received under two specific federal statutes which are part of the National Housing Act;

- K.S.A. 79-201 Ninth, which exempts property used predominantly for humanitarian services that meet a demonstrated community need; and,

- Article 11, Section 1(b) of the Kansas Constitution, which exempts property used exclusively for charitable purposes.

Sedgwick County supported both of these applications.

In 2006, the Board of Tax Appeals denied both applications. BOTA viewed both projects simply as housing with financing that did not come from the sources referenced in K.S.A. 79-201b Fourth. Based upon an earlier Kansas Court of Appeals decision, BOTA determined that the applicable exemption statute was the one which specifically addressed low income housing, rather than the more general exemption statute dealing with property used for providing

humanitarian services. The housing exemption statute had to be considered as it was currently written regardless of the fact that the funding programs mentioned in that exemption statute may have been replaced or supplemented by new programs since the state statute was last substantively amended in 1988.

I am aware of another organization in Kansas, a limited partnership, that applied for exemption for its affordable housing property under the current statute but BOTA denied its application. The denial was based on the fact that the applicant had a for-profit limited partner which excluded the exemption under the current statute's requirement that the property be "solely owned" by a not-for-profit CHDO recognized by the KHRC.

As K.S.A. 79-201z is currently written, these projects of my client, and possibly others around the state that are organized to solve the affordable housing for low income citizens, are not able to receive exemption from *ad valorem* taxation. If these projects are only going to be considered as housing, there are no other statutory housing exemptions for which they would qualify. That inhibits the development of affordable housing for low income and very low income residents which is normally undertaken by not-for-profit organizations. The need for the development of affordable housing clearly exists throughout Kansas. Safe and affordable shelter is a basic need for all residents. This situation can be corrected with the proposed amendment in S.B. 383.

Thank you for your consideration of this request.

**STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION  
TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE**

**SENATOR BARBARA ALLEN, CHAIR**

**REGARDING S.B. 383**

**February 14, 2008**

Chairman Allen and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Building Industry Association (KBIA). KBIA is the statewide trade and professional organization of the home building industry. We appreciate your hearing of S.B. 383 and the opportunity to submit comments in support of this bill.

S.B. 383 corrects a problem with housing for the elderly, persons with disabilities or persons with limited or low income being eligible for property tax exemptions. This type of housing is very important to Kansas and is the type that has been exempted under current statutes. However, the legal structure for these projects does not qualify under the current language in the statute. These projects have the support of their local S.B. 383 corrects that by expanding the types of legal entities allowed to benefit from the exemption, but retains the requirement of the purpose for the housing developments. These projects have the support of their community and county for the exemption – they just don't quite fit the current statute.

We appreciate all the work of Interfaith Ministries, KHRC and the Department of Revenue in fine tuning the language in this bill to craft a narrow exemption that meets the need yet doesn't create a loophole for other entities.

We urge the Committee to recommend S.B. 383 favorable for passage.

Assessment & Taxation  
Date 2-14-08  
Attachment # 3

STATE OF KANSAS

**JIM BARNETT**  
SENATOR, 17TH DISTRICT  
CHASE, COFFEY, GREENWOOD  
LYON, MARION, MORRIS, AND OSAGE  
COUNTIES



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
CHAIR: SENATE PRESIDENTS TASK FORCE ON  
HEALTH CARE  
CHAIR: PUBLIC HEALTH AND WELFARE  
CHAIR: KANSAS HEALTH POLICY AUTHORITY  
OVERSIGHT COMMITTEE  
MEMBER: FINANCIAL INSTITUTIONS AND  
INSURANCE  
HEALTH CARE STABILIZATION FUND  
ORGANIZATION, CALENDAR AND RULES  
FEDERAL AND STATE AFFAIRS

Testimony to  
Assessment and Taxation  
Senate Bill 445 – Income tax credit for capital investments in businesses located in a city  
substantially damaged by disaster.

Thursday, February 14  
10:30am – Room 519-South

Chairman Allen and other distinguished members of the Senate Assessment and Taxation Committee, thank you for the opportunity to speak in support of Senate Bill 445.

Kansas has experienced a number of disasters during the year of 2007. Tornadoes, ice storms, and floods devastated many areas across our state. I am here today to ask for your consideration of another disaster that has affected the east central region of our state.

Last month Emporia received word of the closure of Tyson Fresh Meats Corporation. With the loss of 1800 number of jobs nearly overnight, it was apparent that an economic disaster had hit our region. I strongly support your efforts with Senate Bill 445 and come before you today to ask your consideration of broadening this legislation to help another region of Kansas that has experienced a significant devastation. I respectfully ask that you consider addition of language to SB 445 that would provide a ten percent (10%) investment tax credit for the people of Emporia and surrounding communities to encourage business investment and economic growth in our region.

Thank you for the opportunity to come before you and speak in support of this legislation.

Senator Jim Barnett

Assessment & Taxation  
Date 2-14-08  
Attachment # 4

Testimony to Assessment and Taxation  
 Senate Bill 445—Income tax credits for capital investments in businesses located in a  
 city substantially damaged by disaster  
 Thursday, February 14  
 10:30 a.m. – Room 519-South  
 Kayla Oney  
 Citizen of Emporia, Kansas Downtown Development Association member  
 Proponent, requesting amendments

Chairman Allen and committee members, thank you for the opportunity to speak in support of Senate Bill 445.

As many of you are probably aware TYSON Fresh Meats corporation of Arkansas has ceased slaughter operations in Emporia, cutting a total of 1,500 jobs and another 300 jobs two weeks later. TYSON Fresh Meats cited the cattle economy as a reason for this decision. In a community of nearly 26,000 the economic impact of losing 1,800 jobs at once is devastating. Those 1,800 jobs of the 19,000 able to work is nearly 11% of the employment. TYSON Fresh Meats was also the largest employer in the community with 2,400 jobs. When you consider the multiplier effect of economics that is 2 people per employee that will be affected in some aspect by this layoff, which in turn affects the school district largely and the local businesses. The multiplier effect would involve over 3,600 people, which is 7% of the total population. The preliminary estimate for the potential regional economic impact is \$80 to \$100 million.

This truly is a disaster for the community, especially local small businesses. As a citizen of Emporia and an active member of the Kansas Downtown Development Association, I am requesting an amendment to proposed SB 445. I support the current Senate Bill 445 and am requesting an amendment to broaden the legislation to include economic devastation. I am respectfully requesting that the Emporia and Lyon County area be included in SB 445 language to provide a ten percent (10%) investment tax credit for any taxpayer who makes a capital investment within three years to encourage entrepreneurial development and economic growth.

Thank you for the opportunity to speak in support of this legislation.

Kayla Oney

Testimony to  
Assessment and Taxation  
Senate Bill 445 – Income tax credit and capital investments in businesses located  
in a city substantially damaged by disaster  
Thursday, February 14  
10:30 a.m. – Room 519 South

The City of Emporia has received an economic disaster similar to other Kansas communities that were affected by natural disasters in 2007. Tyson Inc., the City of Emporia and Lyon County's largest employer, announced that up to 1,800 out of 2,400 employees would be laid off. This excludes up to 200 contractual employees that are not covered by the WARN Act. Layoffs began in early February with final paychecks being issued as early as March 25. The contractual employees were laid off with no severance in early February. The workforce reduction is approximately 10% of the available workforce in Lyon County. Emporia State University professor Rob Catlett has calculated that the economic impact will be between \$50 and \$100 million with the likely impact being between \$65 and \$75 million in the 2-County region.

Numerous governmental agencies will see a major reduction in revenue and/or surge in the demand for services. Some specific impacts include:

City of Emporia:	\$1,367,500
USD 253:	\$2,000,000
Flint Hills Technical College:	\$ 150,000*
FHTC Adult Education Center	\$ 10,000**

\* assumes an increase in training programs of less than 100 students. Costs increase if more students sign up for classes.

\*\* assumes 40-50 students sign up for ESL or GED classes. Costs more than double if 100 students sign up (possible demand)

These impacts are estimated for governmental units. It does not include social service agencies, which will likely also see a decrease in contributions while dealing with an increase in services.

Senate Bill 445, which would include Emporia/Lyon County if the amendment is approved, would spur economic development in the County to replace these jobs and improve revenues for the affected governmental and social service agencies. I urge your support for Sen. Barnett's amendment and thank you for providing me the opportunity to testify today.

Matt Zimmerman  
City Manager  
City of Emporia

Assessment & Taxation  
Date 2-14-08  
Attachment # 6

Jeff Moris

**Senate Assessment and  
Taxation Committee  
February 14, 2008**





7th & Walnut • P.O. Box 1629 • (620) 252-6163  
Coffeyville, Kansas 67337-0949

**Senate Assessment and Taxation Committee**  
February 14, 2008

RE: SB 445

Members of the Senate Assessment and Taxation Committee, I am Jeff Morris City Manager of Coffeyville located in Montgomery County in Southeast Kansas.

On June 30<sup>th</sup> of 2007 Coffeyville experienced a major flood event unlike any other in its 139 year existence. Verdigris River flood waters exceeded the height of the levee that was built to protect our city by nearly four (4) feet. The flood waters covered approximately 25% of our community. To make matters worse, the flood waters also carried 90,000 gallons of oil into our community.

The damage left behind as the waters receded was devastating. Water entered 549 residential and commercial structures in our community damaging over 400 homes and affecting over 70 business and non-profit entities including 6 hotels, 5 restaurants, 4 convenience stores/gas stations, 2 mobile home parks, a grocery store and 3 churches. Due to the period of time the water stood in our community, the majority of the structures impacted by the flood will be demolished. To date, 39 businesses remain closed with only a few of that group still working to reopen. These businesses that remain closed are what I define as small business, which in rural areas such as Coffeyville are the backbone of the local economy. A number of non-profit entities are still unable to operate as well.

The vast majority of the area that flooded in Coffeyville is a 500 year flood plain. Very few entities for various reasons carried flood insurance and have no insurance proceeds with which to make repairs, replace damaged equipment or rebuild. Further, FEMA does very little if anything in the form of cash assistance for business. This leaves flood affected business entities in



**Senate Assessment and Taxation Committee**  
**February 14, 2008**

Coffeyville with very limited options. Those options include going into debt by borrowing money, using cash from any savings they have accumulated, and closing the doors for good. Unfortunately, statistics are showing that many affected businesses in Coffeyville are choosing to close their doors for good.

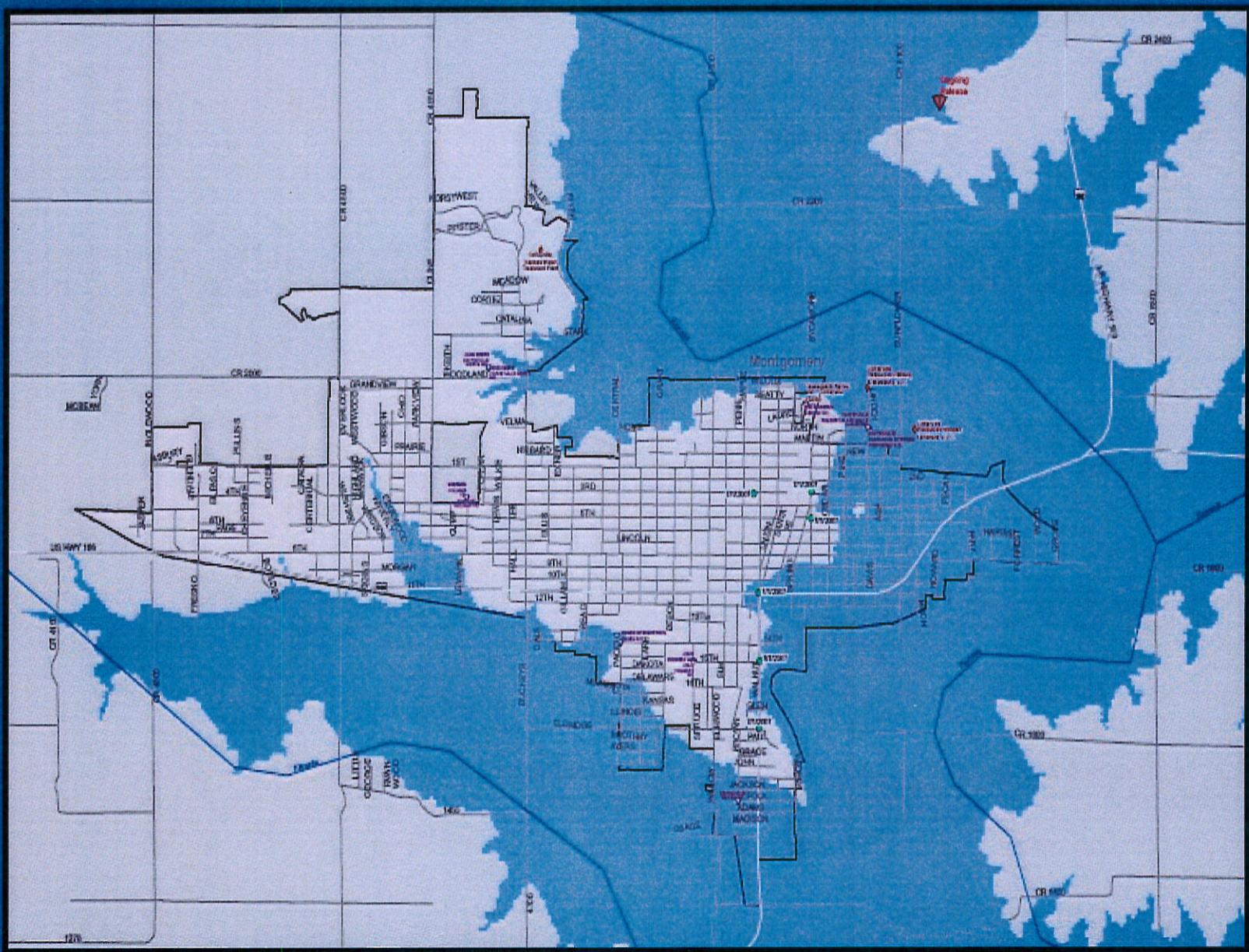
With the loss of roughly 400 homes and 39 businesses, Coffeyville will see a decrease in its tax base as well as a decrease in utility revenues. The city must fund its share of repairs to its own facilities and the levee which are estimated at a total of \$5.8 million. Therefore, Coffeyville will not be in a good financial position to offer economic incentives to help rebuild the business economy in the immediate future and may not be for a number of years. To expedite economic recovery, we need your help to assist businesses and residents in whatever ways possible to rebuild the tax base and minimize the burden on the remaining tax and utility rate payers.

I do support this bill and believe it can be beneficial to businesses that have the ability to make an investment. However, business owners who make a substantial investment in a business may show little if any profit for a number of years as a result of depreciation expense on the new investment. Business owners also have an option to fully expense, subject to tax code limitations, the cost of new equipment in the very first year, which may result in a substantial loss in the first year that can be carried forward to offset any profit in future years. If the potential business investors feel the aforementioned will likely happen, the bill as written may not provide the economic stimulus you are looking for. One solution to that problem is to make the proposed tax credits refundable, especially if the business has been impacted by natural disaster so that this bill would provide some immediate assistance to those business owners.

Thank you for this opportunity to share.

Jeffrey D. Morris  
City Manager  
City of Coffeyville  
PO Box 1629  
Coffeyville, KS 67337  
620-252-6163  
jmorris@coffeyville.com

7-4



# 2007 FLOOD

**Coffeyville**  
KANSAS

7-4

# 2007 FLOOD

## Business & Industry Impacted



# 2007 FLOOD

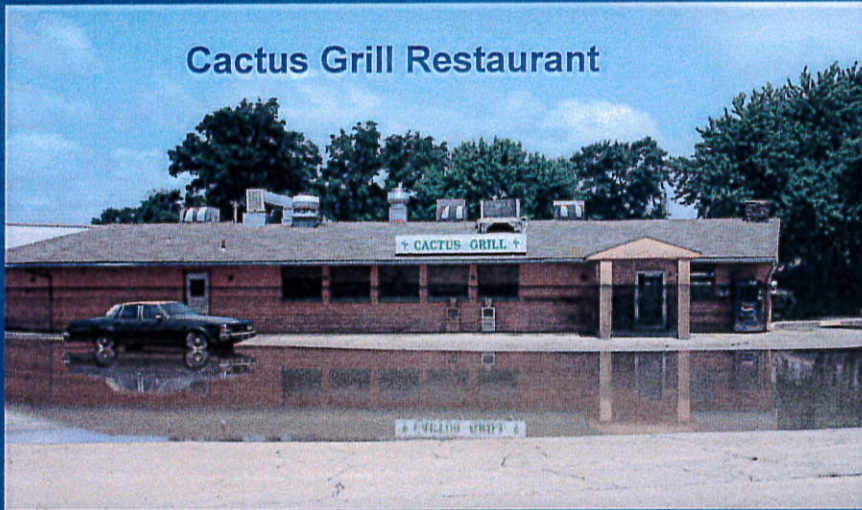
Business & Industry Impacted



# 2007 FLOOD

## Business & Industry Impacted

Cactus Grill Restaurant



China Garden Restaurant



Kanoma Co-Op

Sav-A-Lot Grocery



Kansas Senate Committee on Assessment and Taxation Testimony: SB 445 Disaster Recovery Zone

February 14, 2008

Dennis Pruitt, CEcD, AICP

Director

Montgomery County Action Council

P.O. Box 588

Independence, Kansas 67301

620-331-3830

Thank you for the opportunity to discuss with you economic recovery strategies for disaster-impacted communities. I am the director of the Montgomery County Action Council, a public/private economic development agency in southeast Kansas.

**I. THE NEED FOR BUSINESS ASSISTANCE**

On January 18, 2008 I testified to the Kansas Senate Ways & Means Committee in support of Senate Bill 417 which would establish a housing development block grant for disaster-declared counties. I will not repeat that testimony but just stress a key point: businesses suffered tremendously by the flood. Approximately 86 businesses in Montgomery County suffered direct flood damage, with more than \$29 million in losses. Please note this does not include Coffeyville Resources or farmers.

A slow economic recovery in the disaster area will have a negative fiscal impact on state and local governments for years to come. Revenue from property tax, sales tax, guest tax, and utilities will be diminished. Smart state assistance at this time could pay huge dividends in the future. A full economic recovery in the disaster zone is in the best interest of all of us.

**II. A TWO-TIERED APPROACH**

Economic restoration in the disaster zone requires financial assistance to impacted businesses and the creation of an environment that stimulates economic investment.

**A. Business Assistance**

At the federal level, there is only a "low-interest" loan program from the Small Business Administration. At the state level, there is the Southeast Kansas Business Restoration Assistance Program. There are three main components:

• **Investment Assistance**

A grant of up to 10% of qualifying investment made to rebuild or replace a business facility within the same community in one of the affected counties and the business machinery and equipment of a business that has been damaged or destroyed by the flood or other severe weather that began on June 26, 2007.

• **Job restoration Assistance**

A grant of up to \$3,500 per qualifying job to a business damaged by the flood and other severe weather that began on June 26, 2007 that restores an employment position within the same community in one of the affected counties.

- **Rental Assistance**

An assistance grant for the rent paid by a qualified business to lease a temporary business facility within the same community while the permanent facility is being rebuilt. Rental assistance will be granted for a period of up to six months and may not exceed a total of \$1,500.

I have spoken with many businesses following the flood and the message was a consistent call for cash grants, not loans. Cash flow has been inversely proportional to water flow. As of February 1, 2008, only 26 of the impacted businesses in Coffeyville have reopened. We need to do more to help.

#### B. Disaster Investment Zone

Today we are discussing the creation of a 10% investment tax credit in disaster communities. I am supportive of efforts to create a special investment zone. The flood put several Kansas counties at a competitive disadvantage with neighboring states: local governments cannot afford to offer economic incentives for new business expansions and damaged businesses have focused on survival, not productivity. I would suggest that in lieu of a tax credit, this committee consider a “refundable tax credit” based on the amount of investment. Unless a tax credit can be sold or transferred, it is only of benefit to companies with a tax liability. A disaster of the magnitude we experienced limits the profitability of a company.

I am not an expert on tax credits so I asked others to review this bill. Here is the analysis provided by Mr. Bruce Fairbank: *If someone invested \$1 million to get the \$100,000 tax benefit, they would have to show an accumulative \$2.5 million in taxable income (assuming 4% Kansas tax rate) within a ten year period. I think that could be a problem for many small businesses. The income level drops to \$1.67 million using a 6% tax rate. Thus, a taxpayer would have to have between \$167,000 and \$250,000 in Kansas taxable income each year for ten years to use the benefit. Then the question is how much is the benefit really worth when you add in the inflation factor of an 8-10 year period.*

A refundable credit would provide a real benefit. To limit the fiscal impact on the state, the refund could be capped or spread out over time.

### III. RECOMMENDATIONS

Here are my suggestions for the proposal currently under consideration:

- Do not limit the investment zone to city limits but extend the zone to include land within 3 miles. Many of our industrial parks are outside city limits.
- Instead of using tax credits, make the incentive a “refundable credit” tied to the level of investment.
- If tax credits are the preferred mechanism then these credits should be sellable, redeemable, or transferable.
- Provide additional incentives for “green industries” or “green buildings”.

In addition to this bill I suggest the legislature consider these measures:

- Provide sales tax exemption status retroactive to the flood.
- Establish a disaster relief fund for businesses. Disasters will continue to ravage our state and we need to be prepared.
- Provide matching grants for the construction of speculative industrial buildings to communities impacted by a disaster.
- Provide matching grants for the rehabilitation of downtown buildings in communities impacted by a disaster.
- Provide funding for regional targeted industry planning and marketing.
- Amend 12-747 to include "hazard mitigation" as a required component of a comprehensive plan (current requirements: land use, population & building intensity, public facilities, transportation & transportation facilities, economic conditions, natural resources)

#### **IV. CONCLUSION**

Bill Grinker, CEO of Seedco Financial, a non-profit community lending organization wrote an op-ed piece in the September 27, 2005 Wall Street Journal. In it he discussed some of the recovery lessons learned from the September 11<sup>th</sup> attack. Here is his concluding advice: *"The lesson of lower Manhattan is crisis-tested and clear: If the government wants to help local employers recover from disaster, it must shelve the usual bureaucratic procedures. A rapid, flexible response customized to the needs of the individual applicants is the region's best hope of preserving these businesses and the jobs they provide to their employees."*

I encourage you to continue to solicit the input of businesses on this and other bills. I also encourage you to support Senate Bill 417 which provides housing incentives in disaster communities. And finally, whatever disaster zone incentive program is enacted, I ask for you to make it simple for the businesses to implement. We need rapid assistance, not cumbersome regulations. Thank you.





# CITY OF *IOLA*

February 13, 2008

Dear Ladies and Gentlemen:

The City of Iola is a community of 6,000 citizens in Allen County and is located in southeast Kansas. Iola was devastated by the flood of 2007 which left the community with over 200 homes damaged, half of those damaged beyond repair, and 17 businesses flooded. The City also sustained major damage to its entire parks and recreation system, electric generation, and wastewater facilities. Damage left in the wake of the flood of 2007 will take many years to recover from, both physically and financially.

Iola is centered on a town square which houses many of its commercial businesses right along 54 highway. Iola has managed to maintain its commercial and industrial base along State Street which previously had served as 169 highway, until the bypass was completed a number of years ago. Iola has prided itself in making itself attractive to businesses and keeping businesses in the community. The City is blessed to have a very active Chamber of Commerce that works diligently to promote Iola and keep businesses involved in activities that help attract new folks to the community. Two of Iola's industries sustained major flooding and through sheer determination, and some help from a local industry group, are back in full operation and have maintained their workforce.

The floods of 2007 have affected many local businesses in a negative fashion. With the City's parks and recreation facilities not operating, people who normally would have been drawn to restaurants and convenience stores, had no reason to come. A ball program that normally has 600 youth involved at Riverside Park, was rescheduled to alternate sites, or forced to cancel games. A swimming pool that is normally alive with children and their families, sat empty and broken, and people were routed to other areas, not affected by floods.

Many families have been displaced by the floodwaters and have not had the resources, or the need, to purchase many non-necessity items from local vendors. Without a home to live in, there are fewer items purchased. There was a noticeable dip in sales tax revenues following the July floods, and certainly retailers could attest to the drop in sales.

The proposed Senate Bill today will provide advantages for taxpayers to make capital investments in local businesses. The time to reassess, reevaluate and look to the future is after the waters have receded from the flood. This credit will be an incentive for investors to consider when making decisions about the future. An investment in local

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business is to the benefit of local government, as well as, to the State of Kansas. With passage of this bill, taxpayers would benefit in making the investment in their businesses, and citizens would benefit from the improvements made to their communities.

Thank you for your consideration,

Judith A. Brigham  
City Administrator



Flooded businesses located along State Street in Iola, Kansas



**Kansas Cooperative Council**

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67504-1747

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## Senate Committee on Assessment & Taxation

February 14, 2008  
Topeka, Kansas

### SB 445 - Tax Credit for Capital Investment in a Disaster Area.

Chair Allen and members of the Senate Assessment & Taxation Committee, thank you for the opportunity to share our support for SB 445 establishing a tax credit for capital investment in a disaster area. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Cooperative enterprises operate in every county across Kansas.

Several of our members were impacted by severe weather conditions in 2007. By far the most extensively damaged was Southern Plains Cooperative's Greensburg branch. Southern Plains is a member of the Kansas Cooperative Council. Except for the concrete grain storage, most of their facility was wiped-out. Ron Gruber, President of Southern Plains has provided written testimony regarding their experiences so I will not go into detail myself. The co-op is committed to reestablishing their facility in Greensburg and has made significant steps to rebuild.

It will take time to basically re-build a town from scratch. The tax credit provides an incentive for businesses to come back into an area devastated by disaster, wherever in Kansas that may occur. If businesses return, residents will be encouraged to come back. More residents will entice other businesses and a town can grow.

Many tools are needed to help a disaster area recover. We think the tax credit proposed in SB 445 is another mechanism to foster rebuilding efforts in hurting communities across our state. We respectfully encourage this committee to act favorably on this measure.

Thank you.

Leslie Kaufman, Executive Director  
Kansas Cooperative Council  
785-220-4068

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

Assessment & Taxation  
Date 2-14-08  
Attachment # 10



# Southern Plains Co-op

P. O. Box 128

Lewis, Kansas 67552

620-324-5536

Thursday, February 14, 2008

**Testimony from:**

Ron Gruber  
President Southern Plains Co-op  
100 North Main Street; P.O. Box 128  
Lewis, KS 67552  
Ph. 620-324-5536  
[cnlew@gbta.net](mailto:cnlew@gbta.net)

**RE: SB 445 – Tax Credit for Capital Investment in a Disaster Area**

I am Ron Gruber, President and General Manager of Southern Plains Co-op which is headquartered in Lewis, Kansas with five branches located in Edwards and Kiowa County Kansas. One of the branches is located in Greensburg, Kansas.

On Friday, May 4, 2007 a massive tornado struck Greensburg wiping 80% of the community off the map. The Co-op lost seven of its structures leaving only the concrete grain elevators standing in the middle of a huge debris pile. In addition, eighteen vehicles ranging from pickups to dry fertilizer applicators were also destroyed. With the help of dedicated employees from all the branches, we were able to provide fertilizer and feed service to our customers within four days. Within eight days, with the assistance of employees and suppliers, we had temporary electricity to our elevator and a temporary office brought in to handle the customers' needs. The primary objective was to provide service to the customers of the area. The results of the tornado were drastic but the cattle still needed to be fed, and the corn fertilized.

Today we have built a new chemical building; a new dry plant; a new card-trol fuel station (located on the highway); a new feed warehouse; and a new office building. When needed repairs are made to the grain elevators, we will have spent approximately three million dollars to reach this level which does not include replacement of all lost structures.

The community of Greensburg is not proceeding nearly as quickly in their rebuilding efforts. As of last week, 38 building permits have been approved for new commercial structures. Eight of those permits were for Co-op buildings. Senate Bill 445 would not only provide financial assistance to our business and to those in the process of trying to build, but also encourage business development by others.


I have been talking only of Greensburg, but this Bill would also benefit other communities in Kansas. Believe me, when faced with such destruction as seen with the tornados and floods, any assistance is

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appreciated. The 10% restoration assistance, which the Governor signed in the middle of our destroyed office, and the tax exemptions available to this point were an important benefit and this legislation would be just as beneficial. They are valuable tools to spur redevelopment and bring needed business back to communities after a disaster.

2007 was not a good year for many Kansas communities, but if we work together, all the communities and the State itself will be stronger when the businesses are rebuilt and back in operation.

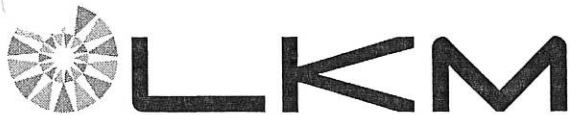
Thank you for your consideration.



Ron Gruber, President/General Manager  
Southern Plains Co-op

RG:sh

11-21



300 SW 8th Avenue- .00  
Topeka, Kansas 66603-3951  
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Fax: (785) 354-4186

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League of Kansas Municipalities

Date: February 13, 2008  
To: Senate Assessment and Taxation Committee  
From: Larry R. Baer  
Assistant General Counsel  
Re: SB 445  
Written Testimony in Support

Thank you for allowing me to present testimony in support of SB 445 on behalf of the League of Kansas Municipalities and its 627 member cities.

As we understand it, SB 445 is one of a series of bills to be introduced this session to assist the citizens of Kansas in their recovery from the large losses sustained in the many natural disasters that befell Kansas last year. In addition, it will also make these same type of benefits available in future years to those Kansans unfortunate enough to suffer similar hardships. It is following these trying times that it is important to step out and extend a hand to those with a need.

HB SB 445 and the tax credits to be allowed thereunder, is one way that the state of Kansas can extend its hand. Sometimes the deciding factor in whether a business will remain in a small city or a rural area is simply the difference of a few thousand dollars. The tax credits contemplated in this legislation just might be the catalyst that encourages a business owner to rebuild rather than relocate or close.

Our members spend a lot of money to encourage businesses to locate in their cities. They spend much money on retaining existing businesses and helping these businesses expand. It seems only right that money is expended, in this case in the form of tax credits, to assist them in their recovery from a natural disaster.

For these reasons the League of Kansas Municipalities stands in support of SB 445

Again, thank you for allowing me to present testimony.

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Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

February 14, 2008

**Department Concerns with Senate Bill 445**

Senator Barbara Allen, Chair, and Members of the Committee:

Senate Bill 445 provides for non-refundable income tax credits of 10% of capital investment made by a business in cities sustaining substantial damage from a disaster, made within 3 years of the disaster, with the credit not to exceed \$100,000 per taxpayer. Unused credit may be carried forward for up to 10 years. There is no requirement that the business must have sustained damage from a disaster, or that the investment repair or replace damaged property. Also, the term "capital investment" is not defined in the bill.

The bill provides: "Notwithstanding any other provision of law, no taxpayer shall claim more than one credit for the same investment as provided by this section." This provision should prevent taxpayers from attempting to claim more than one tax credit under different tax credit programs for the same investment. However, additional language needs to be inserted to prevent a taxpayer from attempting to claim tax credits under this section, based on investment made under the grant program for Kiowa County businesses under 2007 House Bill 2540 or the business assistance program for SE Kansas businesses damaged by the June-July 2007 flooding approved by the state finance council in August, 2007. Under those two programs, qualifying businesses are currently receiving payments of 10% of the costs of rebuilding tornado-damaged or flood-damaged business premises and \$3500 per job retained or replaced. Those same investments should not also qualify for the tax credits contemplated under this program. House Bill 2540 appropriated \$5 million for relief grants to businesses damaged by the May 2007 Kiowa County tornado, and the State Finance Council approved \$5 million in relief grants to businesses damaged by the June-July 2007 SE Kansas flooding. House Bill 2540 also included a sales tax exemption for repair and reconstruction of tornado-damaged businesses in Kiowa County, plus fencing. Project exemption certificates covering an estimated \$1 million in state sales tax have been approved thus far for Kiowa County. The sales tax issue is not addressed in Senate Bill 445.

In order for a city to be considered "substantially damaged by disaster," it must be located in a county within a disaster emergency area declared by the Governor and the President, and declared by the Governor to have suffered major property damage, displacement of residents, significant economic disruption, and significant costs to city taxpayers. According to the FEMA website, www.fema.gov, during 2007, there were 3

Presidential disaster declarations for Kansas, all of which were preceded by Governor disaster declarations:

- (1) FEMA-1675-DR for the early 2007 Western Kansas severe snowstorms, which included 44 counties in the western half of the state;
- (2) FEMA-1699-DR for the Kiowa County tornado, as well as other severe weather and flooding in Spring 2007 in other areas of the state, which included 41 counties, including such populous counties as Shawnee, Lyon, Leavenworth, Douglas, Riley, Saline, Reno, and Ellsworth; and
- (3) FEMA-1711-DR for severe flooding in Southeast Kansas in summer 2007, including 23 counties.

Only about 10 counties (Mitchell, Republic, Barber, Sedgwick, Wyandotte, Johnson, Atchison, Jefferson, Geary and Marion) fell outside one of the above disaster declarations during 2007. Given the criteria set forth in the bill, capital investment by a business located in any city in Kansas, except for the those located in the above 10 counties, could potentially qualify for the tax credits. The bill lacks firm guidance to the Governor for determining which cities within those 95 counties in the State have sustained sufficient damage from disasters for the businesses within those cities to qualify for this tax credit program. The bill should provide clear parameters for making such a determination. Hard criteria should be provided for defining what should be considered "major property damage," "significant disruption," "significant costs," "displacement of residents," etc. The bill also should provide a timeframe for when those determinations are to be made.

Assuming that any city within the boundaries of the above 3 disaster declarations could potentially be determined as "substantially damaged by disaster," the fiscal impact could reach an estimated negative \$22 million in FY 09 and in out years. Administrative costs are programming and implementation expenses of \$313,485 and annual recurring costs of \$54,290. Taxpayers claiming the credit for 2007 capital investment will need to file amended returns.

The bill also creates open-ended liability for the State for future disasters. If Kansas sustains another year of disasters on the scale of those suffered in 2007, or even worse, will the State have the resources available to fund this tax credit program?

The Department recommends that the bill should identify the specific dates, disasters, and cities in determining the capital investment that should qualify for the tax credits. If the intent is to provide continuing assistance to businesses in cities damaged by the Southeast Kansas flooding in the summer of 2007 or the Kiowa County tornado, then the bill should be limited to that. If the intent is to provide an on-going tax credit program for businesses in cities damaged by future disasters, then the tax credit should have a total cap per fiscal year, with an application process to allocate the credits to the areas most in need.

The Department would be pleased to work with the proponents of this bill in revising the bill's provisions to address the above concerns.



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Testimony to the House Taxation Committee

Richard Cram

February 1, 2008

**Information on Capital Expenditures**

Representative Wilk, Chair, and Members of the Committee:

K.S.A. 79-32,109(a) provides that any term used in the income tax act "shall have the same meaning as when used in a comparable context in the federal internal revenue code." The term "capital expenditures," as used in the federal internal revenue code, is very broad. Since the term "capital investment" is not defined in House Bill 2640, the federal term "capital expenditures" might be relied upon for guidance. In general, federal regulations consider "capital expenditures" to include amounts paid to add to the value, or substantially prolong the useful life, of property owned by the taxpayer, such as plant or equipment, or to adapt property to a new or different use. Incidental repairs or maintenance are not considered to be capital expenditures. Income Tax Regulation Section 1.263(a)-1. Under I.R.C. Section 263, capital expenditures generally cannot be deducted from income but must instead be charged to a capital account and depreciated or amortized over the useful life of the asset. Ordinary and necessary business expenses, on the other hand, are deductible from income in the year incurred. I.R.C. Section 162.

Regulation Section 1.263(a)-2 provides some examples of capital expenditures, including:

- (a) cost of acquisition, construction, or erection of buildings, machinery and equipment, furniture and fixtures, and similar property having a useful life substantially beyond the taxable year;
- (b) amounts expended for securing a copyright;
- (c) cost of defending or perfecting title to property;
- (d) amounts expended for architect's services;
- (e) commissions paid in purchasing securities;
- (f) certain amounts assessed and paid under bondholder or shareholder agreements;
- (g) certain holding company guarantees of dividends; or
- (h) cost of good will.

Capital expenditures under the I.R.C. also can include amounts paid to acquire or produce real or personal property (Regulation Section 1.263(a)-3), amounts paid to acquire or create intangibles (stocks, bonds, debt instruments, patents, trademarks, insurance contracts, software, etc.) (Regulation Section 1.263(a)-4), amounts paid to

facilitate an acquisition of a trade or business, a change in capital structure of a business entity (such as mergers and acquisitions, recapitalizations, etc.), and certain other transactional costs (Regulation Section 1.263(a)-5). Inventory costs can be considered capital expenditures. Regulation Section 1.263(a)-1. Intangible drilling costs for oil and gas are also considered capital expenditures (although the taxpayer can in some cases elect to deduct these rather than capitalize). Regulation Section 1.612-4.

The current Business & Job Development (B&J) and High Performance Incentive Program (HPIP) tax credit programs use a much narrower definition of investment for purposes of the investment tax credits earned than the term "capital investment" or "capital expenditures." See K.S.A. 2007 Supp. 79-32,154 (attached). The investment is the value of real and tangible personal property, excluding inventory, constituting the qualified business facility or used in the operation of such facility for which the credit is claimed. K.S.A. 2007 Supp. 79-32,154(e). Intangible assets are not included. "Facility" is defined at K.S.A. 2007 Supp. 79-32,154(a) as the factory, mill, plant, refinery, warehouse, feedlot, building or complex of buildings, land on which the facility is located, and all machinery and equipment located at or in the facility and used in its operations. Mobile equipment, such as motor vehicles that leave the facility, are excluded. Wells and agricultural land (except feedlots) are excluded. "Qualified business facility" is defined at (b) as employed by the taxpayer in a "revenue producing enterprise," as defined in (c). Similar definitions are used in Section 2 of Senate Bill 497.

# Kansas Statutes Annotated

Updated Through the 2006 Legislative Session

Statute Number: 79-32,154  
Chapter Title: TAXATION  
Article Title: INCOME TAX  
Tax Type: Individual Income Tax; Corporate Income Tax; Privilege  
Brief Description: Same; definitions.  
Keywords:

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Body:

79-32,154

Chapter 79.--TAXATION

Article 32.--INCOME TAX

79-32,154. Same; definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Facility" shall mean any factory, mill, plant, refinery, warehouse, feedlot, building or complex of buildings located within the state, including the land on which such facility is located and all machinery, equipment and other real and tangible personal property located at or within such facility used in connection with the operation of such facility. The word "building" shall include only structures within which individuals are customarily employed or which are customarily used to house machinery, equipment or other property.

(b) "Qualified business facility" shall mean a facility which satisfies the requirements of paragraphs (1) and (2) of this subsection.

(1) Such facility is employed by the taxpayer in the operation of a revenue producing enterprise, as defined in subsection (c). Such facility shall not be considered a qualified business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue producing enterprise, the portion employed by the taxpayer in the operation of a revenue producing enterprise shall be considered a qualified business facility, if the requirements of paragraph (2) of this subsection are satisfied.

(2) If such facility was acquired by the taxpayer from another person or persons, such facility was not employed, immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue producing enterprise and the taxpayer continues the operation of the same or substantially identical revenue producing enterprise, as defined in subsection (i), at such facility.

(c) "Revenue producing enterprise" shall mean:

(1) The assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;

(2) the storage, warehousing, distribution or sale of any products of agriculture, aquaculture, mining or manufacturing;

(3) the feeding of livestock at a feedlot;

(4) the operation of laboratories or other facilities for scientific, agricultural, aquacultural, animal husbandry or industrial research, development or testing;

(5) the performance of services of any type;

(6) the feeding of aquatic plants and animals at an aquaculture operation;

(7) the administrative management of any of the foregoing activities; or

(8) any combination of any of the foregoing activities.

"Revenue producing enterprise" shall not mean a swine production facility as defined in K.S.A. 17-5903, and amendments thereto.

(d) "Qualified business facility employee" shall mean a person employed by the taxpayer in the

operation of a qualified business facility during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed:

(1) A person shall be deemed to be so engaged if such person performs duties in connection with the operation of the qualified business facility on: (A) A regular, full-time basis; (B) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (C) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. The number of qualified business facility employees during any taxable year shall be determined by dividing by 12 the sum of the number of qualified business facility employees on the last business day of each month of such taxable year. If the qualified business facility is in operation for less than the entire taxable year, the number of qualified business facility employees shall be determined by dividing the sum of the number of qualified business facility employees on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment, the number of qualified business facility employees employed in the operation of such facility shall be reduced by the average number, computed as provided in this subsection, of individuals employed in the operation of the facility during the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(2) For taxable years commencing after December 31, 1997, in the case of a taxpayer claiming a credit against the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79 article 11 of the Kansas Statutes Annotated, "qualified business employee" shall not mean any person who is employed in the operation of a qualified business facility in the state due to the merger, acquisition or other reconfiguration of the taxpayer unless such employee's position represents a net gain of total positions created by the taxpayer and the employee's position was not in existence at the time of the merger acquisition or other reconfiguration of the taxpayer.

(e) "Qualified business facility investment" shall mean the value of the real and tangible personal property, except inventory or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the qualified business facility, or which is used by the taxpayer in the operation of the qualified business facility, during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. The value of such property during such taxable year shall be: (1) Its original cost if owned by the taxpayer; or (2) eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The qualified business facility investment shall be determined by dividing by 12 the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the qualified business facility is in operation for less than an entire taxable year, the qualified business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment the amount of the taxpayer's qualified business facility investment in such facility shall be reduced by the average amount, computed as provided in this subsection, of the investment of the taxpayer or a related taxpayer in the facility for the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(f) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the qualified business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue producing enterprise in which the taxpayer intends to use the qualified business facility.

(g) "Qualified business facility income" shall mean the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility. If a taxpayer has income derived from the operation of a qualified business facility as well as from other activities conducted within this state, the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility shall

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**Kiowa County Business Restoration Assistance Program**

House Bill 2540 was passed by the 2007 Kansas Legislature establishing the Kiowa County business restoration assistance program. The program was established for the purpose of assisting businesses that were in operation in Kiowa County and damaged by the tornado and other severe weather in Kansas on May 4, 2007.

The business restoration assistance program includes:

- **INVESTMENT ASSISTANCE**  
A grant of up to 10% of qualifying investment made to rebuild or replace a business facility in Kiowa County and the business machinery and equipment of a business that has been damaged or destroyed by the tornado or other severe weather that occurred on May 4, 2007.
- **JOB RESTORATION ASSISTANCE**  
A grant of up to \$3,500 per qualifying job to a business damaged by the tornado and severe weather on May 4, 2007 that fills an employment position in Kiowa County, Kansas.
- **SALES TAX EXEMPTION**  
A sales tax exemption is available for those businesses in Kiowa County that were damaged as a result of the tornado and other severe weather on May 4, 2007. This sales tax exemption will exempt all construction, reconstruction, materials and machinery and equipment to be incorporated into the business facility. Replacement of tornado damaged or destroyed fencing, the purpose for which is to enclose land devoted to agricultural use shall also be exempt from sales tax.

To date the Kansas Department of Revenue has pre-approved assistance as follows for the Kiowa County Business Restoration Assistance Program:

**70 applications have been pre-approved for assistance**

**Pre-approved assistance total-\$4,171,607**

Investment assistance-\$2,691,107

Job restoration assistance-\$1,480,500 (423 jobs)

To date the Kansas Department of Revenue has processed the following requests for payment of the restoration assistance:

**15 requests for payments have been received and processed**

**Total assistance given to businesses-\$635,088**

Investment assistance-\$36,588

Job restoration assistance-\$598,500 (171 jobs)

To date the Kansas Department of Revenue has received the following requests for sales tax exemption:

**65 requests for project exemption certificate have been received and approved**

**Total estimated project costs-\$19,056,412**

Estimated state sales tax foregone-\$1,000,000

## Southeast Kansas Business Restoration Assistance Program

A Southeast Kansas (SEK) business restoration assistance program was established by the State Finance Council for the purpose of assisting businesses with less than 50 employees that were in operation in one of the affected counties and damaged by the flooding and other severe weather in Kansas that began on June 26, 2007. The counties included in this SEK business restoration assistance program are: Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson

The business restoration assistance program includes:

- **INVESTMENT ASSISTANCE**  
A grant of up to 10% of qualifying investment made to rebuild or replace a business facility within the same community in one of the affected counties and the business machinery and equipment of a business that has been damaged or destroyed by the flood or other severe weather that began on June 26, 2007.
- **JOB RESTORATION ASSISTANCE**  
A grant of up to \$3,500 per qualifying job to a business damaged by the flood and other severe weather that began on June 26, 2007 that restores an employment position within the same community in one of the affected counties.
- **RENTAL ASSISTANCE**  
An assistance grant for the rent paid by a qualified business to lease a temporary business facility within the same community while the permanent facility is being rebuilt. Rental assistance will be granted for a period of up to six months and may not exceed a total of \$1,500.

To date the Kansas Department of Revenue has pre-approved assistance as follows for the Southeast Kansas Business Restoration Assistance Program:

**69 applications have been pre-approved for assistance**

**Pre-approved assistance total-\$3,564,516**

Investment assistance-\$1,647,516

Job restoration assistance-\$1,904,000 (544 jobs)

Rental assistance-\$13,000

To date the Kansas Department of Revenue has processed the following requests for payment of the restoration assistance:

**21 requests for payments have been received and processed**

**Total assistance given to businesses-\$618,798**

Investment assistance-\$48,028

Job restoration assistance-\$567,000 (162 jobs)

Rental assistance-\$3,770



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## KIOWA COUNTY BUSINESS RESTORATION ASSISTANCE PROGRAM

The 2007 Kansas Legislature established the Kiowa County business restoration assistance program for the purpose of assisting businesses that were in operation in Kiowa County and damaged by the tornado and other severe weather in Kansas on May 4, 2007.

The business restoration assistance program includes:

- Investment Assistance**  
 A grant of up to 10% of qualifying investment made to rebuild or replace a business facility in Kiowa County and the business machinery and equipment of a business that has been damaged or destroyed by the tornado or other severe weather that occurred on May 4, 2007.
- Job restoration assistance**  
 A grant of up to \$3,500 per qualifying job to a business damaged by the tornado and severe weather on May 4, 2007 that fills an employment position in Kiowa County, Kansas.

The Kansas Legislature has set aside \$5,000,000 for the investment assistance payment program and the job restoration assistance payment program. To apply for these assistance programs, a business must complete and submit a [Business Restoration Assistance application, Form PR-BRP](#). Applications received by August 31, 2007 will be considered for funding initially. Funding for this program is currently available. Please submit your application. [Policies and procedures for this program are available here.](#)

- Sales Tax Exemption**  
 A sales tax exemption is available for those businesses in Kiowa County that were damaged as a result of the tornado and other severe weather on May 4, 2007. This sales tax exemption will exempt all construction, reconstruction, materials and machinery and equipment to be incorporated into the business facility. Replacement of tornado damaged or destroyed fencing, the purpose for which is to enclose land devoted to agricultural use shall also be exempt from sales tax. As soon as the business has decided to rebuild, a request for project exemption certificate (Form PR-70BRP) should be submitted to the Kansas Department of Revenue. Applications will be accepted through June 30, 2008.

Questions may be directed to the Kansas Department of Revenue at (785) 296-3081 or to [kathleen\\_smith@kdor.state.ks.us](mailto:kathleen_smith@kdor.state.ks.us) ([kathleen\\_smith@kdor.state.ks.us](mailto:kathleen_smith@kdor.state.ks.us)).

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**BUSINESS RESTORATION ASSISTANCE PROGRAM**

Kansas Department of Revenue  
Office of Policy and Research  
915 SW Harrison St., Room 230  
Topeka, KS 66612-1588

Telephone: (785) 296-3081  
FAX: (785) 296-7928

Date \_\_\_\_\_

(1) Name of business: \_\_\_\_\_ EIN of business: \_\_\_\_\_  
Business type:  Corporation  L.L.C.  Limited Liability Partnership/Partnership  Individual  
 Other \_\_\_\_\_

(2) Individual contact for business: \_\_\_\_\_  
Name  
\_\_\_\_\_  
Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

(3) Mailing address of business: \_\_\_\_\_  
Box Number and/or Street Number and Name  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(4) Location of business facility on May 4, 2007: \_\_\_\_\_  
Street Number and Address  
County: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Parcel No: \_\_\_\_\_  
Approximate square footage of this business facility: \_\_\_\_\_

(5) Did you own or lease your business facility on May 4, 2007? Owned  Leased

(6) County appraised value of business real property: \_\_\_\_\_  
County appraised value of business tangible personal property: \_\_\_\_\_  
**Provide** a list of your business machinery and equipment and its fair market value that was in place on May 4, 2007.

(7) Number of employees on May 4, 2007: \_\_\_\_\_ full-time \_\_\_\_\_ part-time \_\_\_\_\_ seasonal  
**Complete** attached employee worksheet and file with your business restoration assistance application.

(8) Are you rebuilding a business facility that was located in Kiowa County, Kansas on May 4, 2007 that was damaged by the May 4, 2007 tornado? Yes  No

(9) Proposed location of business facility: \_\_\_\_\_  
Street Number and Address  
County: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Parcel No: \_\_\_\_\_  
Approximate square footage of this business facility: \_\_\_\_\_

**CONTINUE ON REVERSE SIDE**

**FOR OFFICE USE ONLY**

Application Received: \_\_\_\_\_ Log No.: \_\_\_\_\_  
Investment Assistance approved: \_\_\_\_\_  
Job Restoration Assistance approved: \_\_\_\_\_ Total Assistance approved: \_\_\_\_\_  
Approved by: \_\_\_\_\_ Date: \_\_\_\_\_



(10) Will you own or lease this proposed business facility? Own  Lease

(11) Describe specifically the type of business activity to be conducted by this business at the proposed business facility:

\_\_\_\_\_  
\_\_\_\_\_

(12) **ATTACH** an explanation or list of improvements to be constructed, repairs or remodeling to be done, and machinery and equipment to be purchased.

(13) Estimated project costs: Total \_\_\_\_\_ Construction costs: \_\_\_\_\_  
Machinery and equipment costs: \_\_\_\_\_

(14) List the name(s) and address(es) of the general contractor(s): \_\_\_\_\_  
Contract date: \_\_\_\_\_ Contract No.: \_\_\_\_\_

(15) Estimated completion date (not to exceed two years): \_\_\_\_\_

(16) Number of employees to be restored: \_\_\_\_\_ full-time \_\_\_\_\_ part-time \_\_\_\_\_ seasonal  
**Complete** attached employee worksheet and file with your business restoration assistance application.

(17) Has your business submitted a property loss claim to your insurer? Yes  No   
If yes, please **provide** a copy of the claim submitted and any supporting documents, the amount of reimbursement you have received and the amount of any reimbursement that is currently pending.

(18) **Provide** any additional documentation to evaluate the financial needs of your business.

I authorize the Secretary of Revenue or the Secretary's designee the ability to review business property records on file with the city or county.

I declare under the penalties of perjury that to the best of my knowledge this is a true, correct, and complete application.

\_\_\_\_\_  
Business Applicant (please type or print)

\_\_\_\_\_  
Name of Authorized Representative (please type or print)

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number



## INSTRUCTIONS

The business restoration assistance program has been established for the purpose of assisting businesses that were in operation in Kiowa County, Kansas and that were struck by the tornado and other severe weather in Kansas on May 4, 2007. This program shall provide the following: (a) investment assistance payments shall be available for investment made to rebuild or replace the building or structure or to replace the business machinery and equipment; and (b) job restoration assistance payments for businesses that restore employees in Kiowa County.

- Line (1) Enter the name and EIN of the business applying for assistance and check the appropriate box identifying the business type. If the business is a sole proprietorship, enter the SSN of the owner. This business entity must have been in operation providing goods or services within Kiowa County, Kansas, on May 4, 2007 and was damaged by the tornado and other severe weather on May 4, 2007.
- Line (2) Print the name, telephone number, and fax number of the individual to be contacted regarding this application.
- Line (3) Enter the complete mailing address of the business entity seeking assistance.
- Line (4) Enter the address and parcel number of the location of the business on May 4, 2007, and the approximate square footage of the business facility prior to the tornado and severe weather. The parcel number may be obtained from the county appraiser.
- Line (5) Indicate whether the business owned or leased their business facility on May 4, 2007 prior to the tornado and severe weather.
- Line (6) Enter the appraised value of the real and tangible personal property this business had as of the most recent county appraisal.
- Line (7) Indicate the number of full-time, part-time, and seasonal employees the business employed on May 4, 2007 prior to the tornado and severe weather. Full-time shall mean that an employee works at least 40 hours per week; part-time shall mean such person is customarily performing such duties at least 20 hours per week; and seasonal basis, shall mean such person performs such duties at least 20 hours per week for substantially all of the season customary for the position in which such person is employed.
- COMPLETE** the first half of the Employee Worksheet on page 3 of this application. Indicate the type of position (sales clerk, accountant, manager, etc.) this business employed on May 4, 2007 prior to the tornado and severe weather. Provide each positions monthly salary, whether that position was located in Kiowa County and whether that position was considered as full-time, part-time, or seasonal.
- Owners, partners or shareholders of a business shall be considered in this worksheet when that individual performs duties in connection with the operation of the qualifying business on a full-time or part-time basis as defined above.
- An independent contractor is not considered as a qualifying job.
- Line (8) Check whether you are rebuilding a business facility that was located in Kiowa County, Kansas on May 4, 2007 prior to the tornado and severe weather. If you have checked no, you will not qualify for this business restoration assistance program.
- Line (9) Enter the street address, county, city, zip and parcel number of the property you are proposing to rebuild upon as well as the approximate square footage of the proposed business facility. The parcel number may be obtained from the county appraiser.
- Line (10) Indicate whether your business will own or lease the business facility you are proposing to locate to.
- Line (11) Describe specifically the type of business activity to be conducted by this business at the business facility.
- Line (12) **ATTACH** a scope of work, construction contract and description of the materials, machinery, equipment, and services you will make for this project.
- Line (13) Enter the estimated cost of the project. These costs should be separated between construction costs (materials and labor) and machinery and equipment costs.
- Line (14) List the name and address of the general contractor if available. If a general contractor does not exist for this project, please attach a list of all the contractors/subcontractors (if available) involved in performing labor services or supplying materials for the project. Include in this list, the estimated project costs, contract date, contract number, and the estimated completion date for each contract.
- Line (15) Enter the estimated completion date for this project.

Line (16) Indicate the number of full-time, part-time, and seasonal employees the business is proposing to restore. Full-time shall mean that an employee works at least 40 hours per week; part-time shall mean such person is customarily performing such duties at least 20 hours per week; and seasonal basis, shall mean such person performs such duties at least 20 hours per week for substantially all of the season customary for the position in which such person is employed.

**COMPLETE** the second half of the Employee Worksheet on page 3 of this application. Indicate the type of positions (sales clerk, accountant, manager, etc.) this business is proposing to restore. Provide each positions monthly salary, whether that position will be located in Kiowa County, whether that position is considered as full-time, part-time, or seasonal, and when that position will be filled.

Owners, partners or shareholders of a business shall be considered in this worksheet when that individual performs duties in connection with the operation of the qualifying business on a full-time or part-time basis as defined above.

An independent contractor will not be considered as a qualifying job.

Line (17) Check whether your business has submitted a property loss claim to your insurer. If a property loss claim has been submitted, **PROVIDE** a copy of the claim and any supporting documents, the amount of reimbursement you have received and the amount of any reimbursement that is currently pending.

Line (18) Provide any additional documentation to evaluate the financial needs of your business.

Signature The name of the business as well as the authorized representative requesting the assistance should be typed or printed in the area provided. The authorized representative must also sign the request and provide a phone number where they can be reached during business hours.

Kansas Department of Revenue  
Policies and Procedures Manual  
for the  
Kiowa County Business Restoration  
Assistance Program

May 2007

The policies and procedures for the Kiowa County Business Restoration Assistance Program shall be in effect as of May 4, 2007 for Kiowa County, Kansas.

The 2007 Kansas Legislature established the county business restoration assistance program for the purpose of assisting businesses that were in operation in Kiowa County and damaged by the tornado and other severe weather in Kansas on May 4, 2007. This assistance program shall be administered by the secretary of revenue.

The county business restoration assistance program is comprised of three components:

- Investment assistance payment;
- Job restoration assistance payment; and
- Sales tax exemption.

The Kansas Legislature has set aside \$5,000,000 for the investment assistance payment program and the job restoration assistance payment program. To apply for these assistance programs, a business must complete Form PR-BRP. Applications for these two assistance programs should be submitted as soon as possible. Applications received by August 31, 2007 will be considered for funding initially.

A sales tax exemption is also available for those businesses in Kiowa County that were damaged as a result of the tornado and other severe weather on May 4, 2007. This sales tax exemption will exempt all construction, reconstruction, materials and machinery and equipment to be incorporated into the business facility (including fencing for land devoted to agricultural use). As soon as the business has decided to rebuild, a request for project exemption certificate (Form PR-70BRP) should be submitted to the Kansas Department of Revenue.

#### **INVESTMENT ASSISTANCE PAYMENT**

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award an investment assistance payment of up to 10% of the qualifying investment made to rebuild or replace a business facility in Kiowa County and the business machinery and equipment of a business that has been damaged or destroyed by the tornado or other severe weather that occurred on May 4, 2007. The investment assistance payment shall be for the purpose of assisting the business in recovering from the damages sustained from the storm on May 4, 2007 and as an incentive to remain in Kiowa County.

Any business taxpayer that was operating in Kiowa County, Kansas on May 4, 2007 suffering damage, may be eligible for assistance.

The following definitions have been provided to implement this program:

**Business facility** means a permanent building or structure used in business or commercial operations located within Kiowa County, Kansas. It shall include any building or complex of buildings, including the land on which the facility is located and all business machinery and equipment located at or within the facility used in connection with the operation of the facility. For purposes of this program, commercial operations shall include medical facilities and mental health facilities.

**Business machinery and equipment** means the tangible personal property permanently and physically located at the business facility and used in the business operations. Trade fixtures, racks, shelving, office furnishings and computers are some examples of business machinery and equipment. It does not include (A) mobile equipment that leaves the business facility, such as motor vehicles, or (B) any items held for sale, such as business inventory.

**Qualifying business** means a business that was in existence and in commercial operations providing goods or services within Kiowa County, Kansas which was damaged or destroyed by the tornado and other severe weather on May 4, 2007.

**Qualifying investment** shall mean the value of real and tangible personal property permanently and physically located at the Kansas business facility, except inventory, or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the business facility or which is used by the taxpayer in the operation of the Kansas business facility. Investment, such as rolling stock and motor vehicles, that leaves the business facility, shall not be considered as qualifying investment.

Only that real and tangible personal property that rebuilds or replaces what was in place prior to the severe weather on May 4, 2007 shall be considered as qualifying investment. The investment must be made between May 4, 2007 and June 30, 2008 to be considered as qualifying investment.

The value of such property shall be (1) its original cost if owned by the business and purchased after May 4, 2007; or (2) actual lease payments made after May 4, 2007 through June 30, 2008, if leased by the business.

For those lessors that choose to rebuild their business facility which will then be leased to a qualifying business, assistance for investment made in the facility is available. For this program, the property shall be valued at its original cost in determining investment assistance to the lessor. The lease payments that are made by a lessee to rent the business facility will not be considered as qualifying investment.

The lease payments made by a qualifying business after May 4, 2007 through June 30, 2008 to replace business machinery and equipment may be included in qualifying investment.

Qualifying investment shall be determined by calculating the value of the investment that has been placed into service at the taxpayer's business facility in Kiowa County, Kansas after May 4, 2007 through June 30, 2008.

#### **JOB RESTORATION ASSISTANCE PAYMENT**

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award a job restoration assistance payment of up to \$3,500 per qualifying job to a business damaged by the tornado and severe weather on May 4, 2007 that fills an employment position in Kiowa

County, Kansas. The purpose of the job restoration assistance program shall be to assist the business in recovering from the damages sustained from the storm on May 4, 2007 and as an incentive to the business to restore jobs within Kiowa County, Kansas.

**Qualifying job** means a job employed by a qualifying business in Kiowa County that was lost as a result of damage sustained by the tornado and other severe storms that struck Kansas on May 4, 2007, that is restored in the county between May 4, 2007 and June 30, 2008, and shall not include any part-time or seasonal job that provides the employee with less than 20 hours per week of paid employment.

A qualifying job shall mean a person employed by the business in the operation of the qualifying business. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the business on: (A) a regular, full-time basis; (B) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week; or (C) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed.

Owners, partners, and shareholders of a business may be considered as a qualifying job, if that individual performs duties in connection with the operation of the qualifying business on a full-time or part-time basis as defined above.

An independent contractor will not be considered as a qualifying job.

#### **ASSISTANCE PAYMENT PROCESS**

Eligible businesses applying for the assistance programs must complete Form PR-BRP (see Appendix A). Applications for assistance that are submitted to the Kansas Department of Revenue by August 31, 2007 will be considered for funding initially. It is very important that applications be received within this time frame as not more than \$5,000,000 can be expended from the state emergency fund to provide assistance payments through the investment assistance program and job restoration assistance program. Applications received after August 31, 2007 will be considered for assistance if funding is available.

Applications will be accepted by the Department of Revenue by fax (785-296-7928), through e-mail (kathleen\_smith@kdor.state.ks.us), or through mail (Kansas Department of Revenue, Office of Policy and Research, 915 SW Harrison St., Room 230, Topeka, KS 66612-1588).

Applications will be reviewed and evaluated based upon the following factors:

- Commitment to rebuild business facility in the community, financial need, timeframe to rebuild, and amount of investment in the community, in comparison to investment prior to May 4, 2007;
- Number of employees business is proposing to rehire in the community, in comparison to employment level prior to May 4, 2007; and



- Salary level and hours or duration of proposed jobs in the community, in comparison to salary levels, hours and duration of jobs prior to May 4, 2007.

Upon review of the application, the Department of Revenue will provide a proposed investment assistance payment and/or job assistance payment for which the applicant is eligible. (The Kansas Legislature has set aside \$5,000,000 for this assistance payment program. Therefore, allocations based on this cap and the number of eligible businesses applying will be made.) A letter will be mailed to the applicant indicating the proposed assistance.

Once the investment is placed into service and/or the jobs are employed, the applicant will certify to the Department and document the actual amount of investment made and/or the number of jobs hired by completing Form PR-Assist. The Department of Revenue will review this documentation and determine if the conditions for payment assistance have been met. If those conditions have been met, the Department will issue a letter to the applicant identifying the amount of the assistance payment to be made. The amount of the assistance issued may not exceed the amount that was previously approved. The assistance payment will be mailed shortly after the approval letter.

#### **Conditions for Payment Assistance**

The investment assistance will be issued to the applicant in the determined amount after the applicant has completed the investment, the business facility is operational and placed in service, and the applicant has provided the required documentation to the Department of Revenue for the qualifying investment expenditures.

The jobs assistance payment will be issued to the applicant in the determined amount after the applicant has hired employees to fill the positions for which payments were sought, such employees have been employed for at least 3 months, and the applicant has provided the required documentation to the Department of Revenue that these positions have been filled.

#### **SALES TAX EXEMPTION**

An exemption from sales tax shall be allowed on all sales of tangible personal property or services purchased for the construction, reconstruction, enlarging or remodeling of a business facility that was located in Kiowa County, Kansas on May 4, 2007 and that has been damaged or destroyed by tornado and other severe weather on May 4, 2007. The sale and installation of machinery and equipment purchased for installation at any such business facility shall be exempt as well. Replacement of fencing damaged or destroyed by the tornado, the purpose for which is to enclose land devoted to agricultural use, shall also be exempt from sales tax.

Any business constructing, reconstructing, enlarging or remodeling a business facility that was located in Kiowa County, Kansas and was damaged on May 4, 2007 shall make application for a project exemption certificate. Businesses shall complete form PR-70BRP (Appendix B) and submit to the Kansas Department of Revenue prior to June 30,

2008. Applications will be accepted by the Department of Revenue by fax (785-296-7928), through e-mail (kathleen\_smith@kdor.state.ks.us), or through mail (Kansas Department of Revenue, Office of Policy and Research, 915 SW Harrison St., Room 230, Topeka, KS 66612-1588).

Any person that was leasing a business facility to a qualifying business in Kiowa County, Kansas that was damaged or destroyed on May 4, 2007, and wishes to rebuild the facility may also be eligible to obtain a project exemption certificate. The lessor may obtain a project exemption certificate for the facility construction or reconstruction if the facility will be occupied by a business that was previously located in Kiowa County, Kansas.

The Department shall review the application and issue a project exemption certificate if approved. The project exemption certificate will be effective for a period of two years. The project exemption certificate shall be furnished to the contractor to purchase materials for incorporation into the project. The business shall use the certificate to purchase any business machinery and equipment to be installed at the facility. The contractor shall furnish the certificate to all suppliers from whom such purchases are made, and the suppliers shall execute invoices covering the same bearing the number of such certificate.

Upon completion of the project, the contractor shall furnish to the person that obtained the exemption certificate, a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation.

Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which the certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefore, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.

**REQUEST FOR PROJECT EXEMPTION CERTIFICATE  
BUSINESS RESTORATION PROGRAM**

Kansas Department of Revenue  
Office of Policy and Research  
915 SW Harrison St., Room 230  
Topeka, KS 66612-1588

Telephone: (785) 296-3081  
FAX: (785) 296-7928

Date \_\_\_\_\_

It is requested that a Certificate of Exemption from sales tax be issued to the taxpayer for the following described project.

(A) 1. Name of taxpayer: \_\_\_\_\_ Taxpayer EIN: \_\_\_\_\_  
Business type:  Corporation  L.L.C.  Limited Liability Partnership/Partnership  Individual  
 Other \_\_\_\_\_

2. Will the taxpayer on line (A)(1) lease this facility to a qualified business? Yes  No  If yes, please provide the lessee's name and business type on line (B)(1). If no, proceed to line (B)(2).

(B) 1. Name and EIN of business that will operate the business facility (if different from the name listed on Line (A)):  
Name: \_\_\_\_\_ Business EIN: \_\_\_\_\_  
Business type:  Corporation  L.L.C.  Limited Liability Partnership/Partnership  Individual  
 Other \_\_\_\_\_

2. Location of business facility investment: \_\_\_\_\_  
Street Number and Address  
County: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

3. Mailing address of taxpayer (business) who will own and/or operate the business facility:  
\_\_\_\_\_  
Box Number and/or Street Number and Name  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(C) Are you rebuilding a business facility that was previously located in Kiowa County, Kansas prior to May 4, 2007 that was damaged by the May 4, 2007 tornado? Yes  No

(D) Type of project:  Original construction of a new facility  Remodel or reconstruction of an existing facility  
 Addition to an existing facility  Additional machinery and equipment, not to include the purchase of a motor vehicle or trailer.  
 Fencing

(E) **ATTACH** an explanation or list of improvements to be constructed, repairs or remodeling to be done, and machinery and equipment to be purchased.

(F) Describe the type of business activity to be conducted by the taxpayer [name on Line (A)] at the business facility:  
\_\_\_\_\_  
\_\_\_\_\_

(G) List the name(s) and address(es) of the general contractor(s): \_\_\_\_\_

(H) Contract date: \_\_\_\_\_ (I) Contract No.: \_\_\_\_\_

(J) Estimated project costs: Total \_\_\_\_\_ Construction costs: \_\_\_\_\_  
Machinery and equipment costs: \_\_\_\_\_

(K) Estimated completion date (not to exceed two years): \_\_\_\_\_

(L) **Would you like your project exemption certificate faxed rather than mailed to you?** Yes  No

If yes, please provide your fax number: \_\_\_\_\_

\_\_\_\_\_  
Taxpayer (please type or print)

\_\_\_\_\_  
Name of Authorized Representative (please type or print)

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

## INSTRUCTIONS

An exemption from sales tax is allowed on all sales of tangible personal property or services purchased for the construction, reconstruction, enlarging or remodeling of a business facility that was located in Kiowa County on May 4, 2007 and that was damaged or destroyed by tornado and other severe weather on May 4, 2007. The sale and installation of machinery and equipment purchased for the installation at the business facility as well as fencing that is used to enclose land devoted to agricultural use shall also be exempt from sales tax.

If this business facility will be leased by a qualified business, and both the lessor and lessee will incur expenditures to construct or reconstruct the facility and purchase machinery and equipment to be installed at the business facility, two applications will be submitted, one for the lessor and one for the lessee. If the lessor will incur expenditures, the lessor's application will have line (A)(1) completed with the lessor's name and EIN. Line (A)(2) will be checked to indicate that the facility will be leased. The lessor will insert the lessee's name, EIN and business type on line (B)(1). The lessee's application will have the lessee's name and EIN completed on line (A) and with an indication on line (B)(1) of any doing business as (DBA) name.

- Line (A)(1) Enter the name and EIN of the entity that will own and/or operate the business facility and claim the sales tax exemption, and check the appropriate box identifying the business type. This business entity must have been in operation providing goods or services within Kiowa County, Kansas, on May 4, 2007 and was damaged by the tornado and other severe weather on May 4, 2007.
- Line (A)(2) Indicate whether this business facility will be leased by a qualified business. A qualified business is a business that was in operation providing goods or services within Kiowa County, Kansas, which was struck by the tornado and other severe weather in Kansas on May 4, 2007.
- Line (B)(1) Enter the doing business as (DBA) name of the business, if it is different than line (A), above, and check the appropriate box identifying the business type.
- Line (B)(2) Enter the location (actual street address), including the county of the business facility where the investment is going to be made.
- Line (B)(3) Enter the complete mailing address of the entity (on line (A)(1)) who will own and/or operate the above referenced business facility. This is the address your project exemption certificate will be mailed to.
- Line (C) Indicate whether your business was located in Kiowa County on May 4, 2007 prior to the tornado. If your business was not located in Kiowa County on May 4, 2007, you will not qualify for the sales tax exemption.
- Line (D) Check the applicable box(es) that describe your project.
- Line (E) Briefly describe the purchases of materials, machinery, equipment, and services you will make for this project to qualify for exemption from retailers' sales tax. Inventory and property that leaves the facility, such as motor vehicles, will not qualify for exemption.
- Line (F) Describe specifically the type of business activity to be conducted by the taxpayer at the business facility.
- Line (G) List the name and address of the general contractor if available. If a general contractor does not exist for this project, please attach a list of all the contractors/subcontractors (if available) involved in performing labor services or supplying materials for the project. Include in this list, the estimated project costs, contract date, contract number, and the estimated completion date for each contract.
- Line (H) Enter the date of the contract.
- Line (I) Enter the applicable contract number if available.
- Line (J) Enter the estimated cost of the project. These costs should be separated between construction costs (materials and labor) and machinery and equipment costs.
- Line (K) Enter the estimated completion date for this project. The Department requests that this period not extend beyond two years from the application date.
- Line (L) Provide your fax number if you would prefer that your project exemption certificate be faxed to you rather than mailed.
- Signature The name of the taxpayer as well as the authorized representative requesting the exemption should be typed or printed in the area provided. The authorized representative must also sign the request and provide a phone number where they can be reached during business hours.



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## SOUTHEAST KANSAS BUSINESS RESTORATION ASSISTANCE PROGRAM

A Southeast Kansas (SEK) business restoration assistance program has been established for the purpose of assisting businesses with less than 50 employees that were in operation in one of the affected counties and damaged by the flooding and other severe weather in Kansas that began on June 26, 2007. The counties included in this SEK business restoration assistance program are: Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson

The business restoration assistance program includes:

- Investment Assistance**  
 A grant of up to 10% of qualifying investment made to rebuild or replace a business facility within the same community in one of the affected counties and the business machinery and equipment of a business that has been damaged or destroyed by the flood or other severe weather that began on June 26, 2007.
- Job restoration Assistance**  
 A grant of up to \$3,500 per qualifying job to a business damaged by the flood and other severe weather that began on June 26, 2007 that restores an employment position within the same community in one of the affected counties.
- Rental Assistance**  
 An assistance grant for the rent paid by a qualified business to lease a temporary business facility within the same community while the permanent facility is being rebuilt. Rental assistance will be granted for a period of up to six months and may not exceed a total of \$1,500.

The State Finance Council has set aside \$5,000,000 for the investment assistance, job restoration assistance, and rental assistance program. To apply for these assistance programs, a business must complete and submit a Business Restoration Assistance application, [Form PR-SEK](#). Applications received by September 30, 2007 will be considered for funding initially. Funding for this program is currently available. Please submit your application. Policies and procedures for this program are available [here](#).

Small businesses that have damage due to the flood are encouraged to attend one of the informational meetings on August 16, 2007 regarding this program. [Locations for these informational meetings are available here.](#)

Questions may be directed to the Kansas Department of Revenue at (785) 296-3081 or to [kathleen\\_smith@kdor.state.ks.us](mailto:kathleen_smith@kdor.state.ks.us) ([kathleen\\_smith@kdor.state.ks.us](mailto:kathleen_smith@kdor.state.ks.us)).

# SOUTHEAST KANSAS BUSINESS RESTORATION ASSISTANCE PROGRAM

Kansas Department of Revenue  
Office of Policy and Research  
915 SW Harrison St., Room 230  
Topeka, KS 66612-1588

Telephone: (785) 296-3081  
FAX: (785) 296-7928

Date \_\_\_\_\_

(1) Name of business: \_\_\_\_\_ EIN of business: \_\_\_\_\_  
Business type:  Corporation  L.L.C.  Limited Liability Partnership/Partnership  Individual  
 Other \_\_\_\_\_

(2) Individual contact for business: \_\_\_\_\_  
Name \_\_\_\_\_  
Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

(3) Mailing address of business: \_\_\_\_\_  
Box Number and/or Street Number and Name \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(4) Location of business facility on June 26, 2007: \_\_\_\_\_  
Street Number and Address \_\_\_\_\_  
County: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Parcel No: \_\_\_\_\_  
Approximate square footage of this business facility: \_\_\_\_\_

(5) Did you own or lease your business facility on June 26, 2007? Owned  Leased

(6) County appraised value of business real property: \_\_\_\_\_  
County appraised value of business tangible personal property: \_\_\_\_\_  
**Provide** a list of your business machinery and equipment and its fair market value that was in place on June 26, 2007.

(7) Number of employees on June 26, 2007: \_\_\_\_\_ full-time \_\_\_\_\_ part-time \_\_\_\_\_ seasonal  
**Complete** attached employee worksheet and file with your business restoration assistance application.

(8) Are you rebuilding a business facility that was located in one of the affected counties on June 26, 2007 that was damaged by the flooding and other severe weather that began on June 26, 2007? Yes  No   
If yes, is the business facility you are rebuilding within the same community where the business facility was located at the time of the flood? Yes  No

(9) Proposed location of business facility: \_\_\_\_\_  
Street Number and Address \_\_\_\_\_  
County: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Parcel No: \_\_\_\_\_  
Approximate square footage of this business facility: \_\_\_\_\_

**CONTINUE ON REVERSE SIDE**

## FOR OFFICE USE ONLY

Application Received: \_\_\_\_\_ Log No.: \_\_\_\_\_  
Investment Assistance approved: \_\_\_\_\_  
Job Restoration Assistance approved: \_\_\_\_\_ Total Assistance approved: \_\_\_\_\_  
Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

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(10) Will you own or lease this proposed business facility? Own  Lease

(11) Describe specifically the type of business activity to be conducted by this business at the proposed business facility:

\_\_\_\_\_  
\_\_\_\_\_

(12) **ATTACH** an explanation or list of improvements to be constructed, repairs or remodeling to be done, and machinery and equipment to be purchased.

(13) Estimated project costs: Total \_\_\_\_\_ Construction costs: \_\_\_\_\_  
Machinery and equipment costs: \_\_\_\_\_

(14) List the name(s) and address(es) of the general contractor(s): \_\_\_\_\_  
Contract date: \_\_\_\_\_ Contract No.: \_\_\_\_\_

(15) Estimated completion date (not to exceed two years): \_\_\_\_\_

(16) Number of employees to be restored: \_\_\_\_\_ full-time \_\_\_\_\_ part-time \_\_\_\_\_ seasonal  
**Complete** attached employee worksheet and file with your business restoration assistance application.

(17) Will you be leasing a temporary business facility while your permanent facility is being repaired or rebuilt? Yes  No

If yes, please provide the location of the temporary business facility.

Location of temporary facility: \_\_\_\_\_  
Street Number and Address

County: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(18) If you will be or are leasing a temporary business facility, enter the monthly rental payment and the date the rent payment commenced. Monthly rent payment \_\_\_\_\_ Date rent commenced \_\_\_\_\_  
**Provide** a copy of the executed rental agreement.

(19) Has your business submitted a property loss claim to your insurer? Yes  No   
If yes, please **provide** a copy of the claim submitted and any supporting documents, the amount of reimbursement you have received, and the amount of any reimbursement that is currently pending.

(20) **Provide** any additional documentation to evaluate the financial needs of your business.

I authorize the Secretary of Revenue or the Secretary's designee the ability to review business property records on file with the city or county.

I declare under the penalties of perjury that to the best of my knowledge this is a true, correct, and complete application.

\_\_\_\_\_  
Business Applicant (please type or print)

\_\_\_\_\_  
Name of Authorized Representative (please type or print)

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

**EMPLOYEE WORKSHEET**  
**SOUTHEAST KANSAS BUSINESS RESTORATION ASSISTANCE PROGRAM**

Employees employed on June 26, 2007

Type of Position	Monthly Salary for Position Type	Was this position located in one of the affected counties?	Full-time, part-time or seasonal

Proposed positions to be filled

Type of Position	Monthly Salary for Position Type	Will this position be located in the same community of one of the affected counties?	Will this position be full-time, part-time or seasonal?	When will this position be filled?



## INSTRUCTIONS

The Southeast Kansas business restoration assistance program has been established for the purpose of assisting businesses with less than 50 employees that were in operation in one of the affected counties and damaged by the flooding and other severe weather in Kansas that began on June 26, 2007. The counties included in this Southeast Kansas business restoration program include: Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson. This program shall provide the following: (a) investment assistance payments shall be available for investment made to rebuild or replace the building or structure or to replace the business machinery and equipment; (b) job restoration assistance payments for businesses that restore employees in one of the affected counties; and (c) rental assistance payments to lease a temporary business facility while the permanent facility is being rebuilt. Applications received by September 30, 2007 will be considered for funding initially.

- Line (1) Enter the name and EIN of the business applying for assistance and check the appropriate box identifying the business type. If the business is a sole proprietorship, enter the SSN of the owner. This business entity must have been in operation providing goods or services within one of the affected counties, on June 26, 2007 and was damaged by the flooding and other severe weather that began on June 26, 2007.
- Line (2) Print the name, telephone number, and fax number of the individual to be contacted regarding this application.
- Line (3) Enter the complete mailing address of the business entity seeking assistance.
- Line (4) Enter the address and parcel number of the location of the business on June 26, 2007, and the approximate square footage of the business facility prior to the flood and severe weather. The parcel number may be obtained from the county appraiser.
- Line (5) Indicate whether the business owned or leased their business facility on June 26, 2007 prior to the flood and severe weather.
- Line (6) Enter the appraised value of the real and tangible personal property this business had as of the most recent county appraisal.
- Line (7) Indicate the number of full-time, part-time, and seasonal employees the business employed on June 26, 2007 prior to the flood and severe weather. In order to qualify for the job restoration assistance, your business must have employed less than 50 employees. Full-time shall mean that an employee works at least 40 hours per week; part-time shall mean such person is customarily performing such duties at least 20 hours per week; and seasonal basis, shall mean such person performs such duties at least 20 hours per week for substantially all of the season customary for the position in which such person is employed.
- COMPLETE** the first half of the Employee Worksheet on page 3 of this application. Indicate the type of position (sales clerk, accountant, manager, etc.) this business employed on June 26, 2007 prior to the flood and severe weather. Provide each positions monthly salary, whether that position was located in one of the affected counties and whether that position was considered as full-time, part-time, or seasonal.
- Owners, partners or shareholders of a business shall be considered in this worksheet when that individual performs duties in connection with the operation of the qualifying business on a full-time or part-time basis as defined above.
- An independent contractor is not considered as a qualifying job.
- Line (8) Check whether you are rebuilding a business facility that was located in one of the affected counties on June 26, 2007 prior to the flood and severe weather. If you have checked no, you will not qualify for this business restoration assistance program.
- Line (9) Enter the street address, county, city, zip and parcel number of the property you are proposing to rebuild upon as well as the approximate square footage of the proposed business facility. The parcel number may be obtained from the county appraiser.
- Line (10) Indicate whether your business will own or lease the business facility you are proposing to locate to.
- Line (11) Describe specifically the type of business activity to be conducted by this business at the business facility.
- Line (12) **ATTACH** a scope of work, construction contract and description of the materials, machinery, equipment, and services you will make for this project.
- Line (13) Enter the estimated cost of the project. These costs should be separated between construction costs (materials and labor) and machinery and equipment costs.

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- Line (14) List the name and address of the general contractor if available. If a general contractor does not exist for this project, please attach a list of all the contractors/subcontractors (if available) involved in performing labor services or supplying materials for the project. Include in this list, the estimated project costs, contract date, contract number, and the estimated completion date for each contract.
- Line (15) Enter the estimated completion date for this project.
- Line (16) Indicate the number of full-time, part-time, and seasonal employees the business is proposing to restore. Full-time shall mean that an employee works at least 40 hours per week; part-time shall mean such person is customarily performing such duties at least 20 hours per week; and seasonal basis, shall mean such person performs such duties at least 20 hours per week for substantially all of the season customary for the position in which such person is employed.
- COMPLETE** the second half of the Employee Worksheet on page 3 of this application. Indicate the type of positions (sales clerk, accountant, manager, etc.) this business is proposing to restore. Provide each positions monthly salary, whether that position will be located within the same community of one of the affected counties, whether that position is considered as full-time, part-time, or seasonal, and when that position will be filled.
- Owners, partners or shareholders of a business shall be considered in this worksheet when that individual performs duties in connection with the operation of the qualifying business on a full-time or part-time basis as defined above.
- An independent contractor will not be considered as a qualifying job.
- Line (17) Enter the address location of the temporary business facility you are renting. In order to qualify for the rental assistance, the temporary business facility must be located within the same community and county as your original business facility at the time it sustained flood damage.
- Line (18) If you are leasing a temporary business facility, provide the monthly rental payment and the date the rent payment commenced. **ATTACH** a copy of the executed rental agreement.
- Line (19) Check whether your business has submitted a property loss claim to your insurer. If a property loss claim has been submitted, **PROVIDE** a copy of the claim and any supporting documents, the amount of reimbursement you have received and the amount of any reimbursement that is currently pending.
- Line (20) Provide any additional documentation to evaluate the financial needs of your business.
- Signature The name of the business as well as the authorized representative requesting the assistance should be typed or printed in the area provided. The authorized representative must also sign the request and provide a phone number where they can be reached during business hours.

Kansas Department of Revenue  
Policies and Procedures Manual  
for the  
Southeast Kansas Business Restoration  
Assistance Program

August 2007

The policies and procedures for the Southeast Kansas Business Restoration Assistance Program shall be in effect as of June 26, 2007 for the following counties: Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson.

A Southeast Kansas (SEK) business restoration assistance program has been established for the purpose of assisting businesses with less than 50 employees that were in operation in one of the affected counties and damaged by the flooding and other severe weather in Kansas that began on June 26, 2007. The counties that are included in this SEK business restoration assistance program are Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson. This assistance program shall be administered by the secretary of revenue.

The SEK business restoration assistance program is comprised of three components:

- Investment assistance;
- Job restoration assistance; and
- Rental assistance.

The State Finance Council has set aside \$5,000,000 for the investment assistance, job restoration assistance, and the rental assistance programs. To apply for these assistance programs, a business must complete Form PR-SEK. Applications for these three assistance programs should be submitted as soon as possible. Applications received by September 30, 2007 will be considered for funding initially.

#### **INVESTMENT ASSISTANCE PAYMENT**

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award an investment assistance payment of up to 10% of the qualifying investment made to rebuild or replace a business facility within the same community in one of the affected counties and the business machinery and equipment of a business that has been damaged or destroyed by the flooding and other severe weather that began on June 26, 2007. The investment assistance payment shall be for the purpose of assisting the business in recovering from the damages sustained from the storm and as an incentive to remain in the same community of one of the affected counties.

Any business taxpayer with less than 50 employees that was operating in one of the affected counties on June 26, 2007 suffering damage, may be eligible for assistance.

The following definitions have been provided to implement this program:

**Business facility** means a permanent building or structure used in business or commercial operations located within one of the affected counties. It shall include any building or complex of buildings, including the land on which the facility is located and all business machinery and equipment located at or within the facility used in connection with the operation of the facility.

**Business machinery and equipment** means the tangible personal property permanently and physically located at the business facility and used in the business operations. Trade fixtures, racks, shelving, office furnishings and computers are some examples of business machinery and equipment. It does not include (A) mobile equipment that leaves the

business facility, such as motor vehicles, or (B) any items held for sale, such as business inventory.

**Qualifying business** means a business with less than 50 employees that was in existence and in commercial operations providing goods or services within one of the affected counties, which was damaged or destroyed by the flooding and other severe weather that began on June 26, 2007 and is to be rebuilt or replaced at a location within the same community and county where such business was located when the flood damage was sustained.

**Qualifying investment** shall mean the value of real and tangible personal property permanently and physically located at the qualifying business facility, except inventory, or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the business facility or which is used by the taxpayer in the operation of the qualifying business facility. Investment, such as rolling stock and motor vehicles, that leaves the business facility, shall not be considered as qualifying investment.

Only that real and tangible personal property that rebuilds or replaces what was in place prior to the severe weather that began on June 26, 2007 shall be considered as qualifying investment. The investment must be made between June 26, 2007 and June 30, 2008 to be considered as qualifying investment.

The value of such property shall be (1) its original cost if owned by the business and purchased after June 26, 2007; or (2) actual lease payments made after June 26, 2007 through June 30, 2008, if leased by the business.

For those lessors that choose to rebuild their business facility which will then be leased to a qualifying business, assistance for investment made in the facility is available. For this program, the property shall be valued at its original cost in determining investment assistance to the lessor. The lease payments that are made by a lessee to rent the business facility will not be considered as qualifying investment.

The lease payments made by a qualifying business after June 26, 2007 through June 30, 2008 to replace business machinery and equipment may be included in qualifying investment.

Qualifying investment shall be determined by calculating the value of the investment that has been placed into service at the taxpayer's business facility in one of the affected counties after June 26, 2007 through June 30, 2008.

**JOB RESTORATION ASSISTANCE PAYMENT**

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award a job restoration assistance payment of up to \$3,500 per qualifying job to a business damaged by the flooding and severe weather that began on June 26, 2007 that fills an employment position in one of the affected counties. The purpose of the job restoration assistance

program shall be to assist the business in recovering from the damages sustained from the storm that began on June 26, 2007 and as an incentive to the business to restore jobs within the affected counties.

Any business taxpayer with less than 50 employees that was operating in one of the affected counties on June 26, 2007 suffering damage, may be eligible for assistance.

**Qualifying job** means a job employed by a qualifying business in one of the affected counties that was lost as a result of damage sustained by the flood and other severe storms that began on June 26, 2007. This job or position must be restored within the same community and county where such business was located when the flood damage was sustained between June 26, 2007 and June 30, 2008. A qualifying job shall not include any part-time or seasonal job that provides the employee with less than 20 hours per week of paid employment.

A qualifying job shall mean a person employed by the business in the operation of the qualifying business. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the business on: (A) a regular, full-time basis; (B) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week; or (C) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed.

Owners, partners, and shareholders of a business may be considered as a qualifying job, if that individual performs duties in connection with the operation of the qualifying business on a full-time or part-time basis as defined above.

An independent contractor will not be considered as a qualifying job.

#### **RENTAL ASSISTANCE PAYMENT**

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award a rental assistance payment to lease a temporary facility within the same community and county where the business was located at the time the flood damage was sustained, while the permanent facility is being rebuilt. Rental assistance will be granted for a period of up to six months and may not exceed \$1,500. The purpose of the rental assistance program shall be to assist the business in recovering from the damages sustained from the storm that began on June 26, 2007 and as an incentive to the business to remain in the same community of the affected county.

Any business taxpayer with less than 50 employees that was operating in one of the affected counties on June 26, 2007 suffering damage, may be eligible for assistance.

#### **ASSISTANCE PAYMENT PROCESS**

Eligible businesses applying for the assistance programs must complete Form PR-SEK. Applications for assistance that are submitted to the Kansas Department of Revenue by

September 30, 2007 will be considered for funding initially. It is very important that applications be received within this time frame as not more than \$5,000,000 can be expended from the state emergency fund to provide assistance payments through the investment assistance program, job restoration assistance program, and the rental assistance program. Applications received after September 30, 2007 will be considered for assistance if funding is available.

Applications will be accepted by the Department of Revenue by fax (785-296-7928), through e-mail (kathleen\_smith@kdor.state.ks.us), or through mail (Kansas Department of Revenue, Office of Policy and Research, 915 SW Harrison St., Room 230, Topeka, KS 66612-1588).

Applications will be reviewed and evaluated based upon the following factors:

- Commitment to rebuild business facility in the community, financial need, timeframe to rebuild, and amount of investment in the community, in comparison to investment prior to June 26, 2007;
- Number of employees business is proposing to rehire in the community, in comparison to employment level prior to June 26, 2007; and
- Salary level and hours or duration of proposed jobs in the community, in comparison to salary levels, hours and duration of jobs prior to June 26, 2007.

Upon review of the application, the Department of Revenue will provide a proposed investment assistance payment, job assistance payment, and/or rental assistance payment for which the applicant is eligible. (The State Finance Council has set aside \$5,000,000 for this assistance payment program. Therefore, allocations based on this cap and the number of eligible businesses applying will be made.) A letter will be mailed to the applicant indicating the proposed assistance.

Once the investment is placed into service, the jobs are employed, and/or the rents have been paid, the applicant will certify to the Department and document the actual amount of investment made, the number of jobs hired, and/or the actual rent paid for the temporary facility by completing Form PR-Assist. The Department of Revenue will review this documentation and determine if the conditions for payment assistance have been met. If those conditions have been met, the Department will issue a letter to the applicant identifying the amount of the assistance payment to be made. The amount of the assistance issued may not exceed the amount that was previously approved. The assistance payment will be mailed shortly after the approval letter.

#### **Conditions for Payment Assistance**

The investment assistance will be issued to the applicant in the determined amount after the applicant has completed the investment, the business facility is operational and placed in service, and the applicant has provided the required documentation to the Department of Revenue for the qualifying investment expenditures.

The job restoration assistance payment will be issued to the applicant in the determined amount after the applicant has hired employees to fill the positions for which payments

were sought, such employees have been employed for at least 3 months, and the applicant has provided the required documentation to the Department of Revenue that these positions have been filled.

The rental assistance payment will be issued to the applicant in the determined amount after the applicant has incurred the cost for the rental of the temporary facility, and the applicant has provided the required documentation to the Department of Revenue for the qualifying rental expense.