



Date: February 21, 2013
To: House Taxation Committee
From: Don Moler, Executive Director
Re: Opposition to HB 2285

First I would like to thank the Committee for allowing the League to testify today in opposition to HB 2285. This legislation raises a number of concerns for cities in Kansas. Most significantly, this legislation is yet another reduction in the property tax base which would have a significant impact on the ability of cities across Kansas to adequately fund their operations. In addition, a reduction in the property tax base of one segment, the large business community, inevitably means a property tax shift which would increase the burden on residential properties, small business properties, and agriculture.

In 2012, there was an attempt by a limited group of taxpayers to expand the definition of machinery and equipment under the property tax law. This effort continues with HB 2285. In short, this proposal would reclassify certain “fixtures” as personal property in order to exempt it under the machinery and equipment law that was enacted in 2006. Key concerns with this legislation include:

- **Loss of Property Tax Base.** The county appraisers have estimated that based on last year’s proposed legislation, the property tax base loss could exceed \$3 billion statewide.
- **Shift to Other Taxpayers.** It is estimated by the Legislative Division of Post Audit that this expansion of the M&E exemption would result in a yearly shift of local property taxes of between \$140 million and \$420 million to be paid by those properties remaining on the tax rolls. This would include residential property owners, small businesses, and agriculture.
- **Loss of State Revenues.** An expansion of the M&E exemption would also have a negative impact on the revenues received from the statewide mill levy and would decrease the availability of funding for education. The Legislative Division of Post Audit estimates that the state would lose between \$30 and \$85 million per year.
- **Case is Still in Litigation.** Two proponents of this legislation are currently in litigation appealing their appraised valuations. Rather than pass preemptive

legislation with the potential for unintended consequences, the appeals process should be completed before consideration of further legislation.

As written, the bill also presents an unworkable and very expensive definition.

*On and after January 1, 2013, "commercial and industrial machinery and equipment," as that term is used in article 11, section 1, class 2, subclass (5) of the Kansas constitution, means machinery or equipment used directly in commercial, manufacturing or processing activities to produce income. Commercial and industrial machinery and equipment items shall not become a fixture or improvement for property tax purposes if the item may be disassembled, detached or removed from real property without causing significant damage to the item.*** "Commercial and industrial machinery and equipment" does not include fixtures that are common to buildings and intended to primarily benefit real property rather than the trade or business conducted on the premises.*

We would suggest that if this legislature were to move forward with this legislation, that the words "the improvement or land" should be inserted here. ***

Finally, it is important to note that several years ago the Kansas Legislature was asked to remove all the property taxes on new machinery and equipment in Kansas with the promise that this would stimulate business, increase manufacturing, draw new manufacturing concerns to Kansas, and cause those entities that were already existing in Kansas to expand. We are still waiting for those promises to be fulfilled. Despite the fact that we have seen little in the way of such growth, we are now in the seventh year of this tax giveaway which has caused a tax shift in Kansas amounting to roughly \$1.05 billion. It seems unreasonable to us to further expand this definition at this time. We would urge the Kansas legislature to reject expanding the definition of "commercial and industrial machinery and equipment" as the original promise remains unfulfilled, and this will create even more problems at the local level.

I would like to thank the Committee for allowing the League to testify today, and will be happy to answer any questions the committee may have.