

FILE

Subject

*State Transfers
Lands - Lands & Property*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

August 8, 1974

Opinion No. 74- 265

John L. Bingham
Governor's Pardon and
Extradition Attorney
2nd Floor, Capitol Building
Topeka, Kansas 66612

Dear Mr. Bingham:

You have furnished to this office a copy of a letter dated June 17, 1974, addressed to Governor Robert Docking, from John L. McLucas, Secretary of the Air Force.

The United States currently exercises exclusive legislative jurisdiction over 2,088 acres at Forbes Air Force Base by virtue of cession statutes enacted by the legislature of the State of Kansas. See K.S.A. 27-101 et seq. The Secretary advises that as a result of the diminution of military activities at Forbes Air Force Base incident to base closure, he considers retrocession of this exclusive jurisdiction appropriate to accommodate local law enforcement on the facility. Accordingly, he furnishes notice pursuant to 10 U.S.C. § 2683, that the United States relinquishes and retrocedes exclusive legislative jurisdiction currently exercised over the described lands to the State of Kansas to take effect upon acceptance thereof in such manner as the laws of the State of Kansas may prescribe. The Secretary requests that you advise him that jurisdiction has been accepted by Governor Docking by acknowledging receipt of the notice and returning it to his office.

You inquire whether acceptance of this preferred retrocession of jurisdiction is required by law to be accepted by the Governor.

K.S.A. 27-102 states in pertinent part thus:

"That exclusive jurisdiction over and within any lands so acquired by the United States shall be, and the same is hereby, ceded to the United States, for

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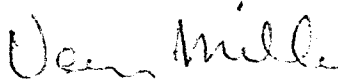
all purposes; . . . but the jurisdiction hereby
ceded shall not continue after the United States
shall cease to own said lands."

The Governor is given no express power to accept retrocession of
legislative jurisdiction ceded under this provision. K.S.A.
75-107 states, however:

"The governor shall transact all the business
of the state, civil and military, with the general
government, except in cases otherwise specially pro-
vided by law."

Thus, the Governor is authorized to accept the retrocession pro-
posed by the Secretary of the Air Force, if, in the opinion of
the Governor, it is appropriate to do so. Title 10, U.S.C. §2683
provides that relinquishment of jurisdiction thereunder may be
accomplished by filing with the Governor a "notice of relinquish-
ment to take effect upon acceptance thereof" Acceptance
lies within the discretion of the Governor, in our opinion.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm