



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 89- 55

Ted Ayres  
General Counsel  
Kansas Board of Regents  
400 SW Eighth, Suite 609  
Capitol Towers  
Topeka, Kansas 66603-3911

Re: Agriculture -- County Extension Councils, Boards  
and Agents -- Deposit of Moneys; Duties of  
Treasurers; Moneys Remaining in Account at the  
Conclusion of a Budgetary Year

Synopsis: Funds derived from a tax levy made pursuant to  
K.S.A. 1988 Supp. 2-610 et seq. must be  
dispersed to the extension council in accordance  
with the provisions of the statutes. Once such  
funds are properly levied and dispersed, the county  
does not possess authority at the conclusion of a  
budgetary year to mandate the return of remaining  
funds to the county merely because the funds were  
not entirely expended by the extension council.  
Cited herein: K.S.A. 1988 Supp. 2-610; K.S.A.  
2-612, 12-503a; 18-211; 18-212; 19-312; 19-318;  
19-506; 19-508; 79-1807; 79-2934.

\* \* \*

Dear Mr. Ayres:

You request our opinion on whether the county treasurer can  
require the county extension council to refund moneys  
previously dispersed by the treasurer to the council. It is  
our opinion that the county treasurer may not require the

county extension council to return previously dispersed funds.

K.S.A. 2-610 et seq. provide mechanisms whereby county extension counsels are created and funded. K.S.A. 1988 Supp. 2-610(b) sets forth the procedures whereby the extension council budget is established and a tax levied in order to provide funds to the extension council:

"The board of county commissioners shall make an appropriation and certify to the county clerk the amount of tax necessary to be levied on all tangible taxable property of the county sufficient to provide a program of county extension work. . . ."

K.S.A. 2-612 discusses how moneys received for the council shall be dispersed:

"All moneys received by the treasurer for the council or executive board shall be deposited by the treasurer in a bank or trust company designated by the executive board and authorized to received public deposits. The treasurer shall pay out, on the warrant of the secretary of the executive board, or by a combination warrant check, in either case, signed by the chairperson of the executive board all moneys which shall come to the treasurer's hands for the use of the council or executive board, and the treasurer shall not pay any sum for the funds of the council or executive board in any other manner. The treasurer shall keep a record of all the moneys received and disbursed, specifying the person or persons from whom received and to whom paid, and the object for which same has been paid out. The treasurer shall present to the executive board at each regular meeting of the board a report in writing containing a statement of all moneys received from the county treasurer and from any other source since the last regular meeting of the executive board; and of the disbursements made with the

items of such disbursements, and exhibit the warrants or checks or combination warrants and checks therefor, which report shall be recorded by the secretary of the executive board; and at the close of the treasurer's term of office shall settle with the executive board; and shall hand over to the successor all records and papers received as treasurer, together with all moneys remaining in the hands of the treasurer. (Emphasis added).

Thus, the statute contemplates all moneys raised for the extension council to be disbursed to the council and moneys may remain in the hands of the treasurer for the council.

K.S.A. 19-312 discusses the duties of the county treasurer regarding county accounts. K.S.A. 19-318, 19-506, and 19-508 further provide for the receipt, disbursement and accounting of all funds handled by the county treasurer. We find no statutory authority that requires, mandates, or contemplates the return to the county of moneys disbursed to the extension council pursuant to K.S.A. 1988 Supp. 2-610 et seq.

As opined in Attorney General Opinion No. 84-56, county extension councils are municipalities, separate and distinct from the county in which they are located and organized. Thus, although county mechanisms are employed in order to levy and collect funds for the operation of the extension councils, the tax moneys thus raised are not paid over to a county entity. Rather, state authority establishes and creates these extension councils and provides for a fund for their operations.

Statutory authority determines which entity or fund may receive the moneys from specific tax levies. Certain authority permits or mandates the transfer of funds from one public entity to another. See e.g. K.S.A. 79-1807, 12-503a, 18-211 and 18-212. See also Attorney General Opinions No. 86-30, 86-98 and 89-23. In the absence of specific authority permitting a transfer of tax funds from one public entity to another, K.S.A. 79-2934 directs that appropriations made for a particular fund "shall not be used for any other purpose . . . [and] any balance remaining in such funds at the end of the current budget year shall be carried forward to the credit of the fund for the ensuing budget year." Thus, "[n]o part of any fund shall be diverted to any other fund, whether before or after the distribution of

taxes by the county treasurer, except as provided by law." We find no law providing for the return of extension council money to the county at the conclusion of a budgetary year.

It is therefore our opinion that funds from a tax levy made pursuant to K.S.A. 1988 Supp. 2-610 must be disbursed to extension councils in accordance with procedures set forth at K.S.A. 2-612 and 19-318. Once such funds have been properly collected and disbursed, a county does not possess the authority to mandate the return of funds remaining in the extension council accounts at the conclusion of a budgetary year.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Theresa Marcel Nuckolls  
Assistant Attorney General

RTS:JLM:TMN:bas