

STATE AFFAIRS COMMITTEE
March 13, 1967

The meeting was called to order by the Chairman who stated the rules of the Committee, stating that those who wished to speak in favor of the H.B. 1452, would be permitted to do so and then members of the Committee could ask questions. Mr. Robert D. Watson, Chairman of the Kansas Civil Rights Commission was introduced; and he in turn introduced members of his Commission: Mr. Bumgardner, Mr. Renner, Mr. Hernandez, Mr. McDaniel; and introduced Mr. Homer Floyd, Executive Director of the Commission on Civil Rights, Mr. Seaton from the Attorney General's Office, Rep. Davis, Mr. Harder from the Governor's office and Mrs. Gatewood, representing the League of Women Voters.

Mr. Floyd discussed the proposal in detail (see explanation attached). Mr. Doyen inquired about the 72 hour limitation, and Mr. Watson explained that they had been understaffed and the limitation made it very difficult to get the job done; that he believed it was to the best interest of the claimant and the respondent to strike this.

With regard to people not being aware of the existence of the Commission, Mr. Doyen expressed surprise that people are not that informed. Mr. Floyd explained that the people who need assistance the most are generally of limited education; that he is not speaking of people in the professional category, but those who read little and are little informed about governmental activities.

Mr. Bunten made inquiry about the subpoena powers and hearings before the Commission, rules of evidence, etc. He wondered who decided what should be allowed. Mr. Floyd explained that the information has to be relevant to the particular matter under investigation; that they are particularly concerned with employment practices; that they have sometimes found that minority applications are coded or "special" filed, etc. and this is the main thing they are interested in. Rep. McCray asked to make a comment concerning people not being aware of the existence of the commission; stating that it is not unique; that many people are not aware that we have a Board of Tax Appeals or a Corporation Commission. The Chairman stated this is not unique to any class of people--educated, uneducated--majority or minority.

Mr. Boyer inquired about appeals to the courts and rules of evidence, and Mr. Watson stated that the judge would read the records and strike what he considered not applicable and would decide if the commission acted within its authority. He stated that anytime they make an investigation, before they have a hearing they try to make sure they have enough evidence for a public hearing.

Mr. Harder of the Governor's office stated that the Governor had recommended to the legislature that they support the Kansas Commission on Civil Rights and mentioned power of subpoena and the right to initiate complaints. Mr. Turner inquired what the Governor's position would be if the Committee amended the Fair Housing Bill into this proposal, and Mr. Harder replied that he supported the provisions dealing with subpoena powers and right to initiate complaints, and takes no position on other sections of the bill. Mr. Turner again inquired what his position is on Fair Housing. Mr. Harder replied that the Governor had alluded to this at a press conference after the Fair Housing Bill had been killed in the Senate; that he had indicated that he would have signed the bill if it had arrived at his desk.

Mr. Rogers inquired if members tried to amend it back, if it would have his support. Mr. Harder stated that he believed that he would not in any way want to place this bill in jeopardy. Mr. Turner inquired then if the members of the Committee did this, they then could not depend on him? Mr. Harder stated that he believed the Governor would want to review the amendments. Mr. Buchele inquired if he got the proposed Fair Housing Amendments, would he see that the Governor got them, and Mr. Harder stated that he would do so.

Rep. Davis appeared in support of this proposal, stating that he had been involved in two of the public hearings before the Commission; that the then Attorney General had been very reluctant to initiate the complaint for them; that so much time was spent on what was considered to be admissible evidence that it was very lengthy; that he believes the rules of evidence should be liberalized and the Commission authorized to initiate complaints and issue subpoenas. He states that now he believes the climate is much improved and that there is no hostility toward the Commission. Mr. Andrews inquired if he would be in favor of a Fair Housing Amendment on this bill and Mr. Davis replied that he is in favor of Fair Housing and if he was a member of the Committee that he would urge it. Mr. Doyen inquired if other agencies had these powers, and it was established that some do-- see exhibit attached.

Mr. Watson was complimented by the Chairman and members of the Committee on the straightforward presentation; and he replied that the legislature can expect just what they see; that their budget request is valid and they intend to operate just the way the legislature intended.

Senator Haley appeared in support of this proposal and/that he believed the proposal would add much to the work of the Commission. The Chairman asked Senator Haley if Fair Housing were amended into this bill if he felt it would be endangered in the Senate, and Senator Haley replied that the Chairman is a veteran legislator better able to answer the question than he was. The Chairman stated that he believed the Senator to be in a position to answer the question and that he would like an answer.

Mr. Haley stated that he was not in position to say what might happen; that he knows some of the people in the Senate have been examining themselves and he would hold they had come to a different decision than they did on SB 6; however, he could not say definitely, but that the attitude of this Committee was so helpful he hoped that they might influence some Senators; that indeed he would like to see the Housing provisions tacked on, but that neither would he want to jeopardize the commission bill. Mr. McCray stated that he is concerned about the reservations on such an amendment; that these people must feel that it would kill the bill in the Senate. Mr. Haley stated that in all legislative matters one takes a calculated risk; that they recently killed the Fair Housing Bill but by the same token, the complexion can change--people change; that his personal position is that he would like to see the amendments mentioned in this bill and fair housing. He stated again that he couldn't say what would happen, and that he meant it sincerely.

Mrs. Peggy Gatewood, representing the League of Women Voters appeared in support of H.B. 1452, stating that it would be a step forward in eliminating the problems of the minority; that she feels it is consistent with changing times to give the Commission every authority to help solve the problems we have experienced.

Mr. Rogers inquired what sections of the statutes were involved in the Fair Housing legislation, and Mr. Floyd replied that all of the sections in the act were involved, and would include the ones in this bill. Mr. Rogers further inquired if a fair housing bill could be drawn which would not amend these sections and Mr. Floyd replied that it could be drawn but would be only a statement of policy.

Senator McClinton appeared in support of the bill, pointing out that there had been no problems as a result of the public accommodations section, and that he believed this proposal would cause none. Rev. Jack W. Bremer appeared and stated that the Advisory Council was strongly in support of this bill; that they are in full accord with the Commission and its recommendations.

The Chairman stated that a special committee had been studying the statutes with regard to the change in legislative sessions, and stated that Mr. Turner had a proposal dealing with this. Mr. Turner explained that this proposal came from the Legislative Facilities Committee, and deals with this particular matter, but makes no substantial change in the statutes. Mr. Doyen moved that the bill be introduced as a Committee bill and referred to the Committee of the Whole. Motion was seconded by Mr. McGill and carried unanimously.

Meeting was adjourned.

Margaret Gentry, SECRETARY

Minutes
return

Explanations of Proposed Amendments to
The Kansas Act Against Discrimination
As Contained in House Bill 1452

The Kansas Act Against Discrimination is the name given to the law which created the Kansas Commission on Civil Rights and set forth its authority in eliminating discrimination in employment and places of public accommodation because of race, religion, color, national origin or ancestry. There are several provisions of this Act which place unusual handicaps on the Commission in exercising its responsibilities.

For this reason, the Commission is asking the 1967 Legislature to amend Chapter 44, Sections 1004, 1005 and 1011 of the Kansas Statutes Annotated, 1965 Supplement. The proposed amendments would strengthen the Commission's authority, streamline its operation and make it more effective in dealing with employment and public accommodations discrimination.

First, it may be important to review the Commission's complaint procedure:

1. Receive complaint from aggrieved party or Attorney General.
2. Assign complaint to a Commissioner for investigation.
(Respondent must receive copy of complaint within 72 hours.)
3. Report is made after investigation and the determination is made. (Case is dropped if the determination is no discrimination.)
4. Conference and conciliation, if elements of discrimination are prevalent.

5. Public Hearing before a panel of three Commissioners if complaint cannot be resolved through a conference and conciliation. (Of approximately 255 employment cases, 2 have gone to Hearing. Of approximately 30 public accommodations cases, one has gone to Hearing.) After Hearing, Commission can issue a Cease and Desist Order if allegations of discrimination are upheld.
6. Court review. Commission must apply to the Judge of the District Court for enforcement of Order or respondent may appeal to District Court for review of Commission's Order.

Proposed Amendments:

Section 1. 44-1004 Powers and Duties of Commission,
Subsection (4), Page 1, Line 11.

The word initiate would give the Commission the authority to initiate complaints where there is substantial evidence to believe a violation of the law has occurred.

Reason:

Presently, only the aggrieved party or the Attorney General can file a complaint. There are incidents of discrimination which are constantly reported to the Commission but the aggrieved party often is fearful of filing a complaint, particularly in small towns, because of reprisal action to him or his relatives. As a rule, the Attorney General will file a complaint only if the matter is of general nature affecting a substantial number of people.

The Federal Equal Employment Opportunity Commission has initiated at least 21 complaints in the State of Kansas. Under Federal law, the Federal Commission is to defer the complaints to the state commission for a period of 60 days, to allow the state commission to handle the complaints. However, our Commission could not investigate the complaints because there was no aggrieved party. Therefore, the Federal commission assumes jurisdiction.

Subsection (5), Page 1 and 2, Lines 14 through 21,

Subpoena Powers

The proposed amendment would put the power of subpoena in the hands of the Commission. Presently, the Commission has the power of subpoena available to it by applying to the Judge of the District Court through an affidavit, showing sufficient grounds to constitute a violation of the Act, and "the judge, may, in his discretion, issue the subpoena."

(2) ✓
Reason:

This is an unusually slow, cumbersome and drawn-out procedure to secure the desired information in a complaint. Some employers are uncooperative because they are aware of this procedure and tend to stall on complaints. They are also aware that an aggrieved party who is without a job cannot afford to play a waiting game. While the Commission does not anticipate having to use the power of subpoena often, it should have such powers immediately available, and this would be an inducement for the respondent to cooperate with the Commission at the initial investigative stage.

Under the present provisions, there is a serious question as to whether the Commission has subpoena authority available to it at the initial stages of the investigation because the Commission has to show reasonable grounds that a violation has occurred. The Commission at this early stage would have no idea as to whether there is reasonable grounds for the complaint until it had secured the information from respondent. The Commission has often had to seek other less effective methods of securing this information when respondents have been uncooperative.

Recently, the Research Department of the Legislative Council was asked to research the state regulatory and investigatory agencies which had the authority to issue subpoenas. The results showed that at least 36 state agencies in Kansas have this authority within their own agencies — none have to apply to the Judge of the District Court. Some of the language in the proposed amendments was taken from the provisions of another state agency.

Section 2. 44-1005, Page 4, Lines 24 through 25,

Language included to give Commission authority to initiate complaints.

Pages 4 and 5, Lines 30, 31, 1, 2, 3, 4, and 5,

Notice to respondent of complaint.

Prior to 1965, the Commission was required to serve a complaint on respondent after the investigation and the determination of Probable Cause had been made. The 1965 Legislature amended the Act to provide that notice of the complaint be given to

respondent within 72 hours after the complaint had been filed.

Reason:

The 72-hour requirement greatly hampers the Commission's efforts to secure background information on the complainant's past employment, education, training, etc. It also prevents the gathering of any preliminary information on respondent. Notice to respondent often will cause needless worry where complaint is insubstantial or groundless.

Notice before investigation makes it extremely difficult for the Commission to gather direct evidence of discrimination because the employer or proprietor has the opportunity to destroy or conceal records as well as caution his key subordinates in the proper response to the Commission's questions. While prior notice handicaps the Commission somewhat, its primary concern is having the 72-hour requirement removed from the Act.

Page 5, Lines 23 through 25, Notice of Hearing.

The present language was included by the 1965 Legislature.

The Commission requests that the old language, prior to 1965 be reinstated in the Act.

Reason:

Major objection is that when the Commission sends notice of hearing to respondent, "the specific relief requested" should not be a part of the notice. The Commission is required not to disclose what transpired during conciliation, yet the above provisions of the law require that the Commission spell out

what would normally be a part of the effort to conciliate. This, therefore, creates a conflict in the law.

Page 6, Lines 3 through 11, Subpoena for Complainant or Respondent.

This provision provides the right to subpoena at hearing for both the respondent and the complainant, if the proper request is made to the Commission. The Commission would not have the authority to deny a subpoena request.

Reason:

Both respondent and complainant should be given every opportunity to prove or disprove the allegations of discrimination. Having the power of subpoena available to each may assist their cases.

Page 6, Lines 27 through 30, Rules of Evidence.

This amendment provides that at hearing the Commission shall not be bound by the formal rules of evidence prevailing in courts of law or equity.

Reason:

Rules of evidence may be construed to bar certain types of evidence that may be crucial to the determination of discrimination, where proof is intangible and elusive and may be derived more from words and deeds than from overt acts. Evidence of patterns and former practices that are validly probative of the fact of discrimination in a given instance may be excluded. Under rules of evidence where strict rules of evidence are observed, the lawyers on both sides spend much of their time arguing over admissibility questions

rather than focusing on the more important question to be determined at the hearing.

The Commission, unlike the courts, exists to eliminate discrimination from broad areas of economic activity, not just to provide redress for individual injuries. It is true that its processes must be triggered by complaints, but the focus is on the general practices of the respondent as well as what he did at a particular time to a particular person.

One of the innovations of administrative law has been the relaxation of strict rules of evidence. In civil rights cases the respondent is not charged with a violation of a criminal statute, he is not in danger of going to jail, and there is no question of civil suit for damages. Applying rules of evidence for juries has few precedents in administrative law and makes little sense when compared with 36 other state agencies in the State of Kansas that are not similarly restricted.

Page 7, Lines 10 through 12, With or Without Backpay.

OK
After a hearing and the Commission issues a Cease and Desist Order, it can only ask for backpay in instances concerning the hiring or reinstatement of the complainant. The present language excludes backpay consideration in instances involving upgrading.

Proposed Amendment:

In Line 12, the comma was omitted after the word employees and before the word with. The Commission requests the comma

to be reinserted in the appropriate place.

Page 8, Lines 3 through 5, Statute of Limitation on
Filing Complaints

OK
The 1965 Legislature reduced the time for filing complaints from six (6) months to ninety (90) days after the occurrence of an alleged discriminatory act. The Commission asks that the six months provision be reinstated.

Reason:

Often it takes close to ninety days before many aggrieved parties learn of the Commission and its complaint procedure.

Then too, many aggrieved parties send their complaints to the Federal Equal Employment Opportunity Commission in Washington, D. C.

It often takes from 35 to 55 days to receive the complaint from Washington. If the complainant had waited any length of time before filing the complaint, the 90-day statute of limitation would be approaching before the Commission receives information to contact the aggrieved party. This is complicated by the fact that some employers will simply throw applications away and never notify the applicant his application has been rejected. It would be unfair to the applicant to hold that the period starts running when the application is actually rejected, since he has no way of knowing of the rejection until a significant period of time has elapsed.

The Commission feels the 6-month provision is reasonable and fair to the complainant as well as the respondent.

Section 3. 44-1011, Page 8, Line 7, Provide Commission authority to secure enforcement of any final order.

Burden of securing information should not rest solely with an elective office.

Page 9, Lines 8 through 13, Court Review

After hearing and order of the Commission, an appeal can be made to the District Court. The respondent in 1965, was given the right to a trial de novo, with a jury if he demands it, to contest the order of the Commission.

Reason:

No thinking person would argue that a commission's action should be final and not appealed. A trial de novo, however, would redo the entire work of the Commission; its purpose can only be to find the facts anew and arrive at independent conclusions. In short, ordinary appeal procedure in administrative law determines whether the agency acted reasonably, whereas trial de novo decides the question whether the respondent is guilty and if so what should be done about it.

Allowing the respondent to retry the whole case in court effectively upsets the Commission's enforcement scheme.

A respondent who knows he can demand a retrial at the end of the road obviously need not cooperate at earlier stages with the Commission or its representative. He can deliberately withhold evidence at a hearing so as to demand a new trial.

Trial de novo is rare in the field of administrative law. Of the 36 state agencies mentioned before, none have trial

de novo provisions nor do they have provisions for a jury trial.

The appeal is in no sense an appeal from criminal proceedings, so there is not the same reason for giving the jury the ultimate "dispensing powers" that it has in criminal cases with its inscrutable guilty or not guilty verdict. Neither is it a civil proceeding for damages, where the jury is the primary decider of the measure of recovery. And speaking broadly, juries have never been empowered to decide questions of law, but are limited to answering some variations of the question, "what happened?"

Furthermore, the strongest order the Commission could issue would be to order a person back to work with backpay or ordering a respondent to serve complainant in a place of public accommodation. The respondent cannot be jailed or fined by the Commission.

It is obvious that other state administrative agencies in Kansas have not been limited and restricted to the extent of the Kansas Commission on Civil Rights. The Commission feels it should have the same authority and tools to administer the provisions of the Kansas Act Against Discrimination as other agencies have to administer their responsibilities.

Prepared by Homer C. Floyd, Executive Director
Kansas Commission on Civil Rights
March 13, 1967

STATE AGENCIES WITH SUBPOENA POWERS

Kansas Civil Service Board. K.S.A. 75-2932

The board, or the director when authorized by a majority vote of the board, may issue subpoenas to compel the attendance at such place as may be delegated in this state of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by this act; or may take depositions of witnesses. Subpoenas shall also be issued at the request of the parties to the proceedings other than the board and the director. (L.1941, Ch. 358, sec. 8).

Municipal Accounting Board. K.S.A. 75-1119

Chairman of said board is hereby authorized to administer oaths, issue subpoenas and take testimony of any persons or witnesses they may desire relative to any business, transaction, duty, or power given them in this act. (L.1935, Ch. 275, sec. 9).

Department of Post-Audit. K.S.A. 75-3807

In the discharge of any duty imposed by this act, the auditor shall have the power to administer oaths, issue subpoenas, compel the attendance of witnesses, the production of any books, papers, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. (L.1953, Ch. 375, sec. 84).

Kansas Legislative Council. K.S.A. 46-304

That in the discharge of any duty herein imposed the Council shall have the authority to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses. . . to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. (L. of 1933, Ch. 207, sec. 4).

State Board of Social Welfare. K.S.A. 75-3306

The state board shall have authority to order an investigation of the activities of any county board or private agency whenever it deems it necessary. The state department shall have authority, when hearing appeals or conducting investigations as provided for in this section, to subpoena witnesses, administer oaths, take testimony, and render decisions, copies of which decisions shall be delivered to the appellant and to the county board or private agency, as the case may be, and any county board shall comply with such decisions of the state department or be subject to the revocation of its license. (L.1939, Ch. 202, sec. 6; L.1947, Ch. 425, sec. 7; L. 1949, Ch. 447, sec. 1).

Board of Treasury Examiners. K.S.A. 75-613

. . . and such board or committee are hereby empowered to compel the attendance of witnesses, send for persons and papers, and punish for contempt, in the same manner as courts of record. (L.1879, Ch. 166, sec. 60; R.S.1923, 75-613).

The Director of Revenue. K.S.A. 79-3419

Motor Fuel Tax Law

The director (of revenue) or such auditor shall have authority to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of books, papers, accounts, documents and testimony. (L.1933, Ch. 317, sec. 19; L.1941, Ch. 380; L.1949, Ch. 484, sec. 5).

Income Tax Law - K.S.A. 79-3233

The director (of revenue) shall have power to examine, or cause to be examined by any agent or representative designated by him for that purpose, any books, papers, records or memoranda, bearing upon the matters required to be included in the return, and may require by subpoena the attendance of the taxpayer in the county where the taxpayer resides, or where the source of the major portion of his income in question is derived, or of any person having knowledge in the premises, and may take testimony and require proof, with power to administer oaths to such person or persons. (L.1933, Ch. 320, sec. 33).

Sales Tax Law - K.S.A. 79-3609, 79-3611

Every person engaged in the business of selling tangible personal property at retail or furnishing services taxable hereunder in this state, shall keep records and books of all such sales, together with invoices, bills of lading, sales records, copies of bills of sale and other pertinent papers and documents. Such books and records and other papers and documents shall, at all times during business hours of the day, be available for and subject to inspection by the director of revenue, or his duly authorized agents and employees, for a period of four years from the last day of the calendar year or of the fiscal year of the retailer, whichever comes later, to which the records pertain (L.1937, Ch. 374, sec 9; L.1947, Ch. 463). The director may require the attendance of such person, or any officer or employee (79-3611).

State Director of Penal Institutions. K.S.A. 76-2404

The director (of penal institutions) shall have power, and it shall be his duty from time to time, to examine and inquire into all matters connected with the government, discipline, and police of the penitentiary; the punishment and employment of the prisoners. . . It shall be his duty to inquire into any improper conduct. . . and for that purpose the director or any justice of the peace shall have power to issue subpoenas to compel the attendance of witnesses,

and the production of papers and writings before it in the same manner and with like effect as in cases of arbitration. The director may administer oaths to such witnesses as are brought before him for examination. (R.S.1923, 76-2404; L.1957, Ch. 472, sec. 19).

Corporation Commission. K.S.A. 66-112, 66-150, 55-605

The public utility or common carrier, or the complainant or complainants, if any, shall be entitled to be heard, and shall have process to enforce the attendance of witnesses and the production of books, papers, maps, contracts, reports and records. . .

The Corporation Commission may, without praecipe or demand therefore, require the production of any books, papers, contracts, records or other documents in the possession of or under the control of the common carrier, public utility, complainant or complainants, affecting the subject matter of the controversy. (L.1911, Ch. 238, sec. 15; R.S.1923, 66-112; L.1959, Ch. 257, sec. 1).

State Board of Health. K.S.A. 39-931

The State Board of Health shall prescribe by rule or regulation the procedure for hearing all appeals and may designate a member or members of the staff of the State Board of Health as an appeals referee or committee who shall have authority to subpoena witnesses, and administer oaths, take testimony, and render decisions (relating to licensing of nursing homes). (L.1961, Ch. 231, sec. 9).

Board of Tax Appeals. K.S.A. 74-2437a

The State Board of Tax Appeals shall have the power to summon witnesses . . . and to compel said witnesses to produce records, books, papers and documents relating to any subject matter before the said board of tax appeals, subject to the restrictions of sec. 79-1424, G.S.1949. Summons, subpoenas and subpoenas duces tecum may be directed to the sheriff of any county and may be made returnable at such time as the board of tax appeals shall determine (L.1959, Ch. 331, sec. 1).

Director of Property Valuation. K.S.A. 79-1403

In making any investigation, the director of property valuation shall have power to require local officers whose duties pertain to the assessment and collection of taxes, or to the disbursement of public funds, to report to it in form as by him prescribed; to call upon individuals and corporations for information bearing upon the subject of taxation; to examine books and papers; to summon witnesses to appear and testify. . .

Section 79-1404. That it shall be the duty of the director of property valuation, and he shall have the power and authority: . . .

Seventh. To summon witnesses from any part of the state to appear and give testimony, and to compel said witnesses to produce records, books, papers and documents relating to any subject or matter which the director of property valuation shall have authority to investigate or determine, subject to the restrictions of section 31 (79-1424 (banks)) of this act.

Investigating Committee. K.S.A. 76-202

The committee (of 5 legislators) shall have power to send for persons and papers, and compel the attendance of and administer the usual oath to witnesses . . . (L. 1889, Ch. 239).

Governor's Special Attorneys and Investigators. K.S.A. 75-116

. . . and each such special attorney so employed is hereby authorized and empowered, as is now provided by law, to summon witnesses, take testimony and perform all acts as may be deemed necessary and advisable in order that a complete and thorough investigation and prosecution may be made. (L. 1929, Ch. 265, Sec. 1)

Commissioner of Insurance. K.S.A. 40-242

The Commissioner of Insurance shall have the right to revoke or suspend the license of any agent in the event that investigation by him discloses the fact that such license was obtained by fraud or misrepresentation or that the holder of such license had misrepresented the provisions, terms and conditons contained in any contract of insurance, or had rebated any insurance premium . . . Provided, however. . . reasonable notice of a hearing to be held by the Commissioner of Insurance . . . with full opportunity to present evidence as they deem pertinent to the issue involved.

Provided further, the Commissioner, upon such hearing, may administer oaths, examine or cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents relevant to the inquiry and in case of refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the district court of Shawnee County or the county where such party resides, on the application of the Commissioner, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished as a contempt thereof . . .

State Labor Commissioner. K.S.A. 44-714, 44-611, 44-635

It shall be the duty of the Commissioner to administer this act, and he shall have power and authority to adopt, amend or recend such rules and regulations . . . make such investigations, and take such other action as he deems necessary or suitable to that end.

(g) Oaths and witnesses. In the discharge of the duties imposed by this act, the chairman of an appeal tribunal or an appeals referee or any duly authorized representative of the Commissioner shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses, and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this act.

(h) In cases of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application of the commissioner or his duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the commissioner. . . fine of \$200 or imprisonment of not longer than 60 days, or both. . . (L. 1965, Ch. 506, Sec. 24; Ch. 322, sec. 1).

State Dairy Commissioner. K.S.A. 65-702

The state dairy commissioner and his deputies are hereby authorized and empowered. . .

(4) To issue subpoenas requiring the appearance of witnesses and the production of books, papers, reports and records, and to administer oaths with like effect as is done in courts of law in this state. (L.1927, Ch. 242, sec. 3).

Director of Workmen's Compensation. K.S.A. 44-549

All hearings upon all claims for compensation under this act shall be held by the director, or examiner. . . The director shall for the purpose of this act have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents and records to the same extent as is now conferred on district courts. . . (L.1927, Ch. 232; L.1955 Ch. 250, sec. 14).

Abstractors Board of Examiners. K.S.A. 74-3902

The board shall have authority to, and the district court may, upon application of such board, issue an order to compel the attendance of witnesses and the testimony of witnesses at any hearing before such board. . . (L.1941, Ch. 348, sec. 9).

State Board of Accountancy. K.S.A. 1-313

The board or any member thereof may issue subpoenas to compel the attendance of witnesses and the production of documents. . . (L.1951, Ch. 1, sec. 17).

Alcoholic Beverage Control Board of Review. K.S.A. 41-322

For the purpose of hearing or conducting any appeal, the board shall have power to examine, under oath any licensee, . . . and for any such purposes to issue subpoenas to require the attendance of witnesses. . . (L.1949, Ch. 242, sec. 38).

State Board of Barber Examiners. K.S.A. 65-1824

(3) to subpoena barbershop owners, managers or employees their books and accounts and other persons. (L.1941, Ch. 298, sec. 2).

Sec. 65-1826 investigations
Sec. 65-1821 revocation of licenses

Adjutant General. K.S.A. 48-912

Civil Defense. For the purpose of making surveys and investigations and obtaining information the adjutant general may compel by subpoena the attendance of witnesses and the production of books papers, records. . . (L.1951, Ch. 323, L.1955, Ch. 263, sec. 9).

Kansas Dental Board. K.S.A. 65-1452

The board shall have power to issue subpoenas. . . (L.1943, Ch. 221, sec. 36).

Motor Vehicle Department - Drivers Licenses. K.S.A. 8-255 , 8-186 , 8-723

Upon hearings for suspension or revocation of licenses, the superintendent or his agent may administer oaths and may issue subpoenas (L.1937, Ch. 73, L.1959, Ch. 49, sec. 24).

State Board of Engineering Examiners. K.S.A. 26a-108

The board. . . may subpoena witnesses and compel their attendance . . . (L.1947, Ch. 401, sec. 8).

State Fire Marshal K.S.A. 31-203

Investigation of fires. . . authorized to issue his subpoena. . . (L.1917, Ch. 198, sec. 8).

State Board of Embalming. K.S.A. 74-1704

State Board of Nursing. K.S.A. 65-1120

Hearings on revocation of license.

State Board of Healing Arts. K.S.A. 65-2844

Optometry Board. K.S.A. 74-1504

(g) to issue subpoenas

Board of Probation and Parole. K.S.A. 62-2249

The board shall have power to issue subpoenas. . .

Kansas Real Estate Commission. K.S.A. 58-3016(c)

Consumer Credit Commissioner. K.S.A. 16-506 (b)

Sales finance Act.

Securities Commissioner. K.S.A. 17-1265 (b)

Bank Commissioner. K.S.A. 17-2206

For that purpose (examine books) his agents shall have power to subpoena and examine personally witnesses on oath and documents pertaining to the business of the credit union.

RESEARCH DEPARTMENT, KANSAS LEGISLATIVE COUNCIL

Date February 16, 1967

TO: (Senator) ~~(Representative)~~ George W. Haley Desk No. _____

ENCLOSED IS THE MATERIAL YOU REQUESTED ON STATE AGENCIES HAVING
POWERS OF SUBPOENA

A rapid review of the statutes of the major state regulatory and investigatory agencies shows that 36 have the authority to issue subpoenas. The statutory reference, and a brief excerpt of the provisions is included in some, but not all, of the cases in the attached memorandum.

The agencies with subpoena powers are as follows:

Abstractors Board of Examiners
Alcoholic Beverage Control Board of Review
Adjutant General
Board of Tax Appeals
Board of Treasury Examiners
Commissioner of Insurance
Consumer Credit Commissioner
Corporation Commission
Dairy Commissioner
Securities Commissioner

Department of Post Audit
Director of Penal Institutions
Director of Property Valuation
Director of Revenue
Director of Workmens Compensation
Governor's Special Attorneys (liquor law)
Kansas Legislative Council
Kansas Civil Service Board
Kansas Dental Board

* Legislative Investigating Committee

State Board of Accountancy
State Board of Barber Examiners

If we may serve you further, please let us know.

Kenneth E. Beasley, Director

Encs.
CS

State Board of Engineering Examiners
State Board of Embalming
State Board of Nursing
State Board of Healing Arts
State Board of Probation and Parole
State Board of Health
State Board of Social Welfare
State Fire Marshal
State Labor Commissioner
Motor Vehicle Department
Municipal Accounting Board

Optometry Board

Real Estate Commission

Bank Commissioner

State Board of Psychologists (now pending Senate Bill 46)