

M I N U T E S

SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

October 7 and 8, 1975

Members Present

Senator Neil Arasmith, Chairman
Representative Lloyd Buzzi
Senator Ed Reilly
Senator Charles Wilson
Representative Eugene Anderson
Representative Paul Feleciano
Representative Eugene Gastl
Representative Bill Morris
Representative James Ungerer

Staff Present

Don Jacka, Legislative Research Department
Mary Torrence, Revisor of Statutes Office

Others Present

Alvin Knatt, Department of Social and Rehabilitation Services
Jim Turner, Kansas Savings and Loan League
Bud Grant, KACI
Jim Holt, Kansas Credit Union League
Marilyn Bradt, League of Women Voters
Rueben Corona, El Centro
Harold Shoaf, KEC
Ruth Wilkin, State Representative, Topeka
Mary Ellen Long, Kansas Association of Regional Planning
Councils, Virgil
Sue Martinie, Nickerson
Earlene Neuway, Chairman, Housing Authority, Burrton
Dean Kackley, Governor's Office
Vincent DeCoursey, Kansas Catholic Conference, Kansas City
Charles Nicolay, Kansas Builders, Scranton
Chris McKenzie, Division of Planning and Research

October 7, 1975

Morning Session

The meeting was called to order by the Chairman who explained that Mr. Lynn Hellebust had agreed to appear and discuss the new lobbying regulations. The Chairman stated that the Committee was invited to attend a meeting of Kansas Society of Association Executives at 3:00 p.m., at which time Mr. Hellebust will again discuss the lobbying regulations with KSAE members.

Mr. Hellebust distributed materials to the Committee as follows: Attachment I, Lobbying Fact Sheet; Attachment II, Expenditure Report; Attachment III, Lobbyist Reporting Regulations; and Attachment IV, Registration Statement. He explained that there would be a more detailed discussion at the afternoon session when members of KSAE would be present.

A member suggested it was sometimes a problem to determine when a lobbyist must register and that he hoped there might be a provision added so that one could register when they happened to be in Topeka and not have to wait until after the first of the year. Mr. Hellebust pointed out that it is possible to register by mail.

There was discussion concerning the Emergency Rules and Regulations (Attachment III), and it was established that these have not had legislative review. Members discussed the matter of honoriums and reimbursement of actual expenses in the case of an individual who is engaged for a speaking occasion. Mr. Hellebust stated that any payment in excess of \$10.00 must be reported. He pointed out that if the person in question is a state employee there would also be the question of conflict of interest. The Chairman inquired if a check is being made of those who do not report. Mr. Hellebust stated that he hopes in the next six months to develop some kind of mechanism, but that it may be difficult. A member expressed concern about the separation of expenses, and mentioned, for example a newsletter which might include some legislative information, and it was agreed that bookkeeping sometimes becomes a problem.

Mr. Hellebust called attention to the reporting form (Attachment II) and explained the procedure for filling out the form. It was agreed that there may be considerable problems in determining just what amount may have been spent on an individual because of bookkeeping procedures. Mr. Hellebust did explain that there is a rule which allows leeway in case the information is not "ascertainable". There was additional specific questions concerning "reimbursement for expenses", "registration for a meeting", "mileage", etc. Mr. Hellebust stated that these detailed questions should be addressed to the Commission for a formal opinion.

The Chairman called attention to a rough draft of the final report concerning Proposal No. 20 - Governmental Ethics Commission. (Attachment V). He explained that the Committee had been charged to look into the activities, operation, and procedures of the Commission and determine if they were implementing the law.

Mr. Don Jacka explained that Mr. Russell Mills was attending another meeting and that Mr. Mills had the major role in drafting the report. Mr. Jacka called attention to Attachment V and explained that it discusses the background of the legislation which established the Commission, as well as a condensation of testimony heard by the Committee.

Under conclusions and recommendations, Representative Morris agreed that the Committee has recognized that the Commission is fulfilling its statutory responsibilities, but he moved that the words "efficient and" be deleted for the reason that no review had been made of the financial status of the agency and, therefore, no determination had been made regarding efficiency. Motion was seconded by Senator Wilson and carried without dissent. The Chairman stated that on the fifth line of the same paragraph (page 5) that he would like to see the words "some of" inserted between "of" and "the". There was no objection and staff was instructed to make this change. In the last paragraph, it was agreed that the word "presently" should be inserted at the end of the first line; and on the third line, the words "and enforced" be inserted after the word "retained". In the next to the last line, the Committee asked that the words "majority of" be inserted after the word "the".

The Chairman inquired about the previous discussion concerning the individuals who file by petition, and the possible problem where the canvassing board meets after the filing deadline. Mr. Jacka stated that he felt there was little which could be done without additional legislation, and it was agreed this is outside the realm of the Committee charge but the Chairman suggested that something might be said about a recommendation that "such legislation be introduced" and that some members of the Senate might join him in the introduction of such a bill.

In line with previous instructions, staff distributed a proposed bill (Attachment VI) and Miss Torrence discussed the changes which had been included. Representative Gastl stated that he felt that (a) (1) should be retained. There was no objection and the staff was instructed to reinstate this provision.

Miss Torrence inquired if it was the intent of the Committee that the \$25.00 figure mentioned apply only to expenditures or also to contributions. The Chairman stated that the \$25.00 would apply only to expenditures while any contributions would be included.

The Chairman pointed out that the title would need to be changed to indicate that the bill is "at the request of the interim committee on Federal and State Affairs" and that the authors would need to be ascertained later.

Afternoon Session

The meeting was reconvened with staff distributing a rough draft of the final report concerning Proposals 17 and 19 -- Sex Based Inequities and Treatment of Minority Employees. (Attachment VII).

Mr. Jacka explained that, according to Committee instructions, the two reports had been combined since they are interrelated. He reminded members that after lengthy testimony it was determined that inequities existed between male and female employees in educational requirements in the classified service. The Committee had previously expressed concern about certain practices and procedures in the Personnel Division, and the still broader problems which relate to the "rule of five". The report reflects the attitude of the Committee regarding the Affirmative Action Plan that not enough time had elapsed to determine how effective the plan will be.

Mr. Jacka reminded members that they had asked for two special committees -- one to study the affirmative action plan after some time had elapsed, and another to review the Division of Personnel. Some feeling was expressed that the Affirmative Action Plan should be look at late in the 1976 Legislative Session, perhaps in March. Others felt that with the heavy pressure existing at the end of the session there would be inadequate time to give the matter proper consideration.

It was moved by Senator Wilson and seconded by Representative Anderson that the Legislative Coordinating Council be requested to appoint a Joint Committee of the House and Senate to look into both the Affirmative Action Plan and the Personnel Division no later than June 1, 1976. After extensive discussion, the motion carried without dissent.

The Vice-Chairman suggested that the report reflect that the Department of Administration realized there were inequities when they adopted the Plan and is taking steps to cure the problem and that these inequities have been ignored in the past. The Vice-Chairman asked that the report acknowledge the cooperation received from the Department of Administration.

It was moved by Senator Wilson and seconded by Representative Feleciano that the minutes of the September meeting be approved. Motion carried. The meeting was recessed to join the meeting of the Ethics Commission and members of KSAE.

October 8, 1975

Morning Session

The meeting was reconvened, and the Chairman announced that consideration would be given to the draft of the final report concerning Proposal No. 18 - The Kansas Housing Finance Authority. (Attachment VIII). Mr. Jacka explained that while the proposed report covers background, committee discussion, and testimony by various individuals, no attempt was made to include conclusions and recommendations since the Committee had not made final decisions concerning Proposal No. 18. The report notes that there was a bill introduced at the last session (H.B. 2612), recommended by the House Federal and State Affairs Committee, and subsequently re-referred to Committee. It was this bill which prompted the study by the interim committee, and various changes have been suggested and numerous drafts of a proposed bill have been developed. One of the decisions previously made by the Committee is that the program should be self-sustaining.

Mr. Feleciano inquired if on page five of the report, the figures are something different than indicated; he felt 60 to 75% of the population is already being served by an existing market, and inquired if it should not say that three-fourths will be served by conventional financing.

Mr. Chris McKenzie of the Division of Planning and Research explained that on the basis of projected figures, approximately 40% of the 15,000 units would be serviced by the present market. Staff was instructed to insert language to this effect in the report.

A member inquired about defining "low and moderate" as mentioned on page 3, and the Chairman explained it is a HUD definition that must be followed and this changes from locale to locale. Staff was instructed to amplify on this in the Committee's recommendations and conclusions section of the report.

A member noted that a great many of the states which have Housing Authorities have not implemented various programs. The Chairman pointed out that a number of these agencies are very new and have not yet become fully operational. In drafting the final report, the Chairman asked staff to review the previous Committee minutes as they are quite clear as to the attitude and desires of the Committee.

The Chairman asked Miss Torrence to explain the present draft of the proposed bill (Attachment IX). He suggested that instead of going through the entire bill, she discuss only the changes which were authorized at the last meeting.

A member inquired if the tax exemption had been researched. The Chairman stated that the draft bill incorporates some language from a Connecticut statute to allow "payment in lieu of taxes". The member further inquired about the matter of developers moving into local areas without any particular authorization. Miss Torrence explained that there is a provision dealing with this.

Miss Torrence explained that the first change is on page 1, Section 3(c) where construction loan is defined. Since the Committee had felt some confusion about the definition of construction loan notes and bond anticipation notes, she had made these changes. This provision allows for interim financing for construction costs on a short-term basis until permanent financing is arranged.

On page 7, (1) is new, and allows the Authority to purchase construction loan notes held by lending institutions. A member suggested that this was almost like direct lending which the Committee had objected to. The Chairman stated this is a way to collateralize the loans to the lending institutions and also assist in the flow of cash. He pointed out that the Authority sets guidelines for their own protection. Miss Torrence pointed out that "developmental costs" were deleted at the request of the Committee.

On page 3, portions of the definition in (k) were deleted as requested by the Committee. On page 6 (i) the list of employees was deleted. On page 8, Section 6(a) (1) construction loans was inserted and allows the Authority to purchase these loans from lending institutions. On page 9, (3) (b) (1) and (2) relate to the purchase of construction loan notes and allow the institutions to use the proceeds to issue new construction loans. Section 7(b) on page 9 also refers to construction loans.

On page 11, Section 8(d) provides that any proposed financing by the Authority must be requested by the governing body or land use planning agency. Miss Torrence asked the Committee for direction as to whether the local body should request the financing, or simply approve it. A member felt that the local body should request it. The Chairman expressed the opinion that if they request it, they have approved it in effect. It was the Committee's desire that this provision not apply to an individual who requests a mortgage for a residential dwelling unit to be occupied by the individual.

Miss Torrence inquired about cases where there are regional planning agencies as well as local governing bodies. It was agreed that the local unit should have the power of final approval.

On page 12, (b) is new and deals with bond anticipation notes. Miss Torrence noted this is standard language in bond law. Subsection (c) inserts the word "temporary" which allows the Authority to repay previously issued temporary bonds. The wording

was changed from notes to bonds. On page 21, Section 16, the annual report of the Authority is to be made available to members of the legislature upon request.

Page 22(b) requires 25% of the total housing units to be occupied or made available to low income families. Miss Torrence explained it means the Authority must assure that 25% of the houses are made available to low income persons.

Section 18 requires the Authority to make payments in lieu of taxes in the event it acquires property.

Page 24, Section 23 deals with the effective date as discussed at the last meeting.

The Chairman inquired if the changes as outlined are in agreement with what members directed at the last meeting. A member asked for assurance that the state will not be making direct loans. Miss Torrence explained that direct loans are not provided for in this proposal.

The Chairman was authorized by the Committee to request a final draft. He then inquired if the Committee wished to introduce the final draft as a House or Senate Bill. After lengthy discussion, it was moved by Representative Anderson and seconded by Representative Gastl to introduce the bill in the House. Motion carried 4 to 2.

Representative Feleciano asked to be recorded as voting yes on the bill, but asked permission to file a "minority report" concerning the Housing Finance Authority proposal. Permission was granted.

The Chairman announced that the next Committee meeting is scheduled for November 4 and 5, and expressed the hope that Committee business might be completed in one day.

The meeting was adjourned.

Prepared by J. Russell Mills, Jr.

Approved by Committee on:

11-4-75

(Date)

Attachment I

STATE OF KANSAS



GOVERNMENTAL ETHICS COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

LOBBYING FACT SHEET*

WHO MUST REGISTER AS A LOBBYIST?

Any person to whom any one of the following applies must register as a lobbyist:

1. Any person employed in considerable degree to lobby;
2. any person formally appointed to a specific position as the primary representative of an organization or other person to lobby in person on state property; or
3. any person who spends more than \$100 in a year for lobbying, exclusive of personal travel and subsistence expenses.

In addition, any other person may register if they wish.

WHEN MUST A LOBBYIST REGISTER?

A lobbyist must register each year prior to lobbying in that year.

WHERE MUST A LOBBYIST REGISTER?

A lobbyist must register with the Secretary of State (State House, Topeka, Kansas 66612) by filling out a Lobbyist Registration Statement.

ARE PERIODIC REPORTS REQUIRED?

Yes, every lobbyist must file a Lobbyist Employment and Expenditure Report by the 10th of the month following each of seven reporting periods during the calendar year if a reportable expenditure was made. If no reportable expenditures were made, a report need not be filed. (The seven reporting periods are each of the months of January, February, March

(over)

*This is only a summary. For a full statement of the law, consult K.S.A. 1974 Supp. 46-215 et seq., as amended. If you have any questions, contact the Governmental Ethics Commission.

and April, as well as the periods from May 1 to June 30, inclusive, from July 1 to September 30, inclusive, and from October 1 to December 31, inclusive.)

EXAMPLES OF WHO NEED NOT REGISTER:

- A. Does an individual, acting as an individual, have to register if he or she talks to a legislator or testifies at a hearing about a bill of interest to him or her?

No, as long as he or she does not spend more than \$100 for lobbying, exclusive of personal travel and subsistence.

- B. Does a member of an organization or association have to register if he or she comes to the State House to talk to a legislator about a matter pending before the legislature?

No, as long as he or she does not spend more than \$100 for lobbying, exclusive of personal travel and subsistence. This would be true as long as such individual is not formally appointed or elected as the primary representative for the organization or association.

- C. Does the president of a bank or the owner of a small business have to register if he or she testifies at a legislative committee hearing on a matter concerning such bank or business?

No, as long as he or she does not spend more than \$100 for lobbying, exclusive of personal travel and subsistence. Normally, such individuals are not employed to lobby nor are they formally appointed to be the primary representative of such bank or business.

K A N S A S

G O V E R N M E N T A L E T H I C S C O M M I S S I O N

Lobbyist Employment and Expenditure Report

Instructions. This report must be completed and filed with the Secretary of State (State House, Topeka, Kansas 66612) by each lobbyist when required to do so by K.S.A. 1974 Supp. 46-268, as amended. This form is prescribed and provided under authority granted the Governmental Ethics Commission by K.S.A. 1974 Supp. 46-268, as amended. Detailed instructions are provided on the accompanying sheets. Please type or print.

A. Name of lobbyist _____
Address _____ Phone _____
City and State _____ Zip Code _____

B. Date report due and period covered (check one):

- _____ February 10 (January)
- _____ March 10 (February)
- _____ April 10 (March)
- _____ May 10 (April)
- _____ ~~June~~ 10 (May/June)
- _____ July 10 (July/August/September)
- _____ January 10 (October/November/December)

C. List each person who compensated you for lobbying or who paid for your lobbying expenses during the reporting period.

<u>Name</u>	<u>Address</u>

(over)

D. List all gifts, honoraria or payments made to each state officer or employee during the reporting period which in aggregate value exceed ten dollars (\$10) per officer or employee. Use a different section for each employer, organization or other person on whose behalf you are registered.

1. Employer, Organization or Other Person _____

Name and Address of State Officer or Employee	Description or Purpose	Amount

2. Employer, Organization or Other Person _____

Name and Address of State Officer or Employee	Description or Purpose	Amount

3. Employer, Organization or Other Person _____

Name and Address of State Officer or Employee	Description or Purpose	Amount

E. List the total amount of expenditures by category made during the reporting period. Use a different section for each employer, organization or other person on whose behalf you are registered.

1. Employer, Organization or Other Person _____

a. Food and beverage (provided as hospitality)..... \$ _____

b. Gifts, honoraria or payments..... _____

c. Mass media communications..... _____

d. Other reportable expenditures..... _____

TOTAL..... \$ _____

2. Employer, Organization or Other Person _____

a. Food and beverage (provided as hospitality)..... \$ _____

b. Gifts, honoraria or payments..... _____

c. Mass media communications..... _____

d. Other reportable expenditures..... _____

TOTAL..... \$ _____

3. Employer, Organization or Other Person _____

a. Food and beverage (provided as hospitality)..... \$ _____

b. Gifts, honoraria or payments..... _____

c. Mass media communications..... _____

d. Other reportable expenditures..... _____

TOTAL..... \$ _____

F. Signature of person filing report:

Signature

Date

Instructions
for
Lobbyist Employment and Expenditure Report

Who Must Report

Every lobbyist must file a report for any reporting period when either of the following occurs:

1. The lobbyist and/or the lobbyist's employer, organization or other person on whose behalf the lobbyist is registered, individually or collectively, makes expenditures in an aggregate amount or value in excess of \$50 to any one vendor or other person. If the employer, organization or other person has more than one lobbyist, only the portion of expenditures with which each lobbyist is most directly connected shall be attributable to each specific lobbyist.

2. The lobbyist and/or the lobbyist's employer, organization or other person on whose behalf the lobbyist is registered, makes gifts, honoraria or payments in an aggregate amount or value in excess of ten dollars (\$10) to any one state officer or employee. If the employer, organization or other person has more than one lobbyist, only the portion of the gifts, honoraria or payments with which each lobbyist is most directly connected shall be attributable to each specific lobbyist.

If neither of the tests set out above occurs during a reporting period, then the lobbyist need not file a report for that period.

When to Report

Reports, when required, must be filed by the tenth (10th) of the month immediately following the reporting period. Each of the months of January, February, March and April constitute a reporting period. In addition, the period from May 1 to June 30, inclusive, from July 1 to September 30, inclusive, and from October 1 to December 31, inclusive, constitute separate reporting periods.

Where to File

When completed, this report is to be filed with the Secretary of State at the following address:

Secretary of State
State House
Topeka, Kansas 66612

Additional Information

You may obtain information and forms by writing the Governmental Ethics Commission, 109 West 9th, Topeka, Kansas 66612, or by calling (913) 296-4219.

Additional Space or Attachments

If space provided is not sufficient, use back of second page or attach additional sheets making sure you indicate to which item the information pertains. Detach these instruction pages prior to filing report.

Reference to Items on Forms

Item A. Name and address of the lobbyist means the lobbyist's full name and preferred mailing address.

Item D. All gifts, honoraria and payments made by the lobbyist to any one state officer or employee during the reporting period in an aggregate value in excess of ten dollars (\$10) must be reported. Gifts, honoraria and payments made by the lobbyist's employer, organization or other person on whose behalf the lobbyist is registered, must be reported by the lobbyist if, by themselves or when cumulated with gifts, honoraria or payments made by the lobbyist, the ten dollars (\$10) aggregate value is exceeded and if the lobbyist is the lobbyist of the employer, organization or other person most directly connected therewith. A separate section is to be used for each employer, organization or other person, if there is more than one.

Item E. If a report is required by virtue of expenditures in excess of fifty dollars (\$50) being made to any one vendor, the aggregate amount of all individual expenditures of one dollar (\$1) and over made by the lobbyist and by the lobbyist's employer, organization or other person on whose behalf the lobbyist is registered, if the lobbyist is the lobbyist most directly connected therewith, must be reported according to the following categories: (1) Expenditures for hospitality provided in the form of food and beverage; (2) expenditures for gifts, honoraria and payments to state officers and employees; (3) expenditures for mass media communications; and (4) other reportable expenditures. A separate section is to be used for each employer, organization or other person, if there is more than one.

Definitions

Case means any matter before a state agency where the action or non-action of the state agency involves the exercise of substantial discretion. In addition, as a general rule, contractual relationships do not constitute "cases". (Commission Opinion No. 75-38)

Employer (for the purposes of this report only) means a person who employs another person in considerable degree for lobbying, or who formally appoints a person as the primary representative of an organization or other persons to lobby in person on state-owned or leased property, or on whose behalf a person otherwise registers or is required to register as a lobbyist. If a lobbyist has more than one employer, those provisions of this article which relate to employers shall apply independently to each of the lobbyist's employers. (K.A.R. 19-62-1(c))

Expenditure means a disbursement or contract therefor made for or in direct relation to lobbying. With regard to disbursements for entertainment or hospitality which is primarily food and beverage, only amounts expended on a state officer or employee or on such state officer or employee's spouse constitute expenditures. (K.A.R. 19-62-1(a))

Gift means the transfer of any loan, subscription, advance, property, money, services or anything of value unless legal consideration of reasonably equal or greater value is received in return. Where a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration shall be deemed a gift. (K.A.R. 19-62-1(b))

State officer or employee means (1) any individual who is an elected or appointed state officer, (2) any individual who is in the classified service, unclassified service or classified exempt service of the Kansas civil service act, (3) all officers and employees of the legislative branch and of the governor's office, irrespective of how compensated or period of employment, and (4) any individual who receives monthly or semimonthly compensation for services from the state or any state agency. State officer or employee does not include any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch. Also, state officer or employee does not include any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 1974 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board. (K.S.A. 1974 Supp. 46-224(b), as amended)

Statutory Excerpts

K.S.A. 1974 Supp. 46-268. Every lobbyist shall file with the secretary of state a report of employment and expenditures on a form prescribed and provided by the commission. Such reports shall be filed for each of the months of January, February, March and April and for each of the periods from May 1 to June 30, inclusive, from July 1 to September 30, inclusive, and from October 1 to December 31, inclusive. Such reports shall be filed by the tenth (10th) of the month immediately following the reporting period. Reports shall only be required for reporting periods during which expenditures are made or gifts, payments or honoraria are given which are required to be reported under K.S.A. 1974 Supp. 46-269, as amended.

K.S.A. 1974 Supp. 46-269. Each report under K.S.A. 1974 Supp. 46-268, as amended, shall disclose the following: (a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist. (b) The aggregate amount or value of all expenditures made (except for expenses of general office overhead) by the lobbyist or by his or her employer for or in direct relation to lobbying during the reporting period, if such expenditures to any one vendor exceed fifty dollars (\$50). Individual expenditures of less than one dollar (\$1) shall not be required to be reported under this subsection (b). Such expenditures shall be reported according to categories of expenditures established by rules and regulations of the governmental ethics commission. With regard to expenditures for entertainment or hospitality which is primarily food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (c), no lobbyist shall be responsible to report any expenditure by his or her employer or which he or she has no knowledge. (c) All gifts, honoraria or payments, of value in excess of ten dollars (\$10) by the lobbyist to any state officer or employee. Whenever more than one lobbyist is employed by a single employer, the reports required by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.

Legislative matter means any bill, resolution, nomination, or other issue or proposal pending before the legislature or any committee, subcommittee, or council thereof. (K.S.A. 1974 Supp. 46-219)

Lobbying means (a) promoting or opposing in any manner (1) action or non-action by the legislature on any legislative matter, or (2) the adoption or non-adoption of any rule and regulation by any state agency. (b) Lobbying also means entertaining any state officer or employee except that bona fide personal or business entertaining does not constitute lobbying, or giving any gift, honorarium or payment to a state officer or employee in an aggregate value of one hundred dollars (\$100) or more within any calendar year, if at any time during such year the person supplying the entertainment, gifts, honoraria or payments has a case before the state agency in which such state officer or employee serves, or if such person is the attorney for or representative of a person having such a case. (c) Lobbying does not include any expenditure from amounts appropriated by the legislature for official hospitality. (K.S.A. 1974 Supp. 46-225, as amended)

Lobbyist means (1) any person employed in considerable degree for lobbying; (2) any person formally appointed as the primary representative of an organization or other person to lobby in person on state-owned or leased property; or (3) any person who makes expenditures in an aggregate amount of one hundred dollars (\$100) or more, exclusive of personal travel and subsistence expenses, in any calendar year for lobbying. Lobbyist shall not include: (1) any state officer or employee engaged in carrying out the duties of his or her office; (2) the employer of a lobbyist, if such lobbyist has registered the name and address of such employer under K.S.A. 1974 Supp. 46-265; (3) any nonprofit organization which has qualified under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1954, as amended, which is interstate in its operations and of which a primary purpose is the non-partisan analysis, study of research of legislative procedures or practices and the dissemination of the results thereof to the public, irrespective of whether such organization may recommend a course of action as a result of such analysis, study of research; (4) any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or, any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch; or (5) any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 1974 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board. (K.S.A. 1974 Supp. 46-222, as amended)

Person means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency unit, or subdivision. (K.S.A. 1974 Supp. 46-223)

Rules and regulations means rules and regulations required by law to be filed with the revisor of statutes, and does not include rules adopted by the judicial branch or any court. (K.S.A. 1974 Supp. 46-224(b))

K.S.A. 1974 Supp. 46-274. Unlawful lobbying is (1) lobbying without being registered as provided by this act, or (2) lobbying when a current report under K.S.A. 1974 Supp. 46-268 and 46-269, both as amended, has not been filed and is past due. Unlawful lobbying is a class B misdemeanor.

K.S.A. 1974 Supp. 46-275. Giving false lobbying information is intentionally (1) making a false or incomplete statement on any registration paper under K.S.A. 1974 Supp. 46-265, as amended, or (2) making a false or incomplete report under K.S.A. 1974 Supp. 46-268 and 46-269, both as amended. Giving false lobbying information is a class B misdemeanor.

GOVERNMENTAL ETHICS COMMISSION

(AGENCY 19)

August 20, 1975

EMERGENCY RULES AND REGULATIONS

- ARTICLE 19-62 Lobbyist Reporting Provisions
- 19-62-1 Definitions
 - (a) Expenditure
 - (1) Defined
 - (2) Exceptions
 - (b) Gift
 - (1) Defined
 - (2) Exceptions
 - (3) Valuation
 - (c) Employer
 - 19-62-2 Who Must Report
 - (a) General
 - (b) Connection with expenditures, gifts, honoraria and payments
 - 19-62-3 When to Report
 - (a) Reporting Periods
 - (b) Allocation of Expenditures, Gifts, Honoraria and Payments
 - 19-62-4 What to Report
 - (a) General
 - (b) Expenditures
 - (c) Gifts, Honoraria and Payments

These rules and regulations were adopted by the Commission and filed with the Revisor of Statutes on September 4, 1975, having previously been approved by the Attorney General as to form and legality.

GOVERNMENTAL ETHICS COMMISSION

(AGENCY 19)

August 20, 1975

EMERGENCY RULES AND REGULATIONS

ARTICLES:

19-62. LOBBYIST REPORTING PROVISIONS (NEW)

19-62-1. Definitions. For the purpose of this article, the following words mean:

(a) Expenditure.

(1) Defined. "Expenditure" means a disbursement or contract therefor made for or in direct relation to lobbying. With regard to disbursements for entertainment or hospitality which is primarily food and beverage, only amounts expended on a state officer or employee or on such state officer or employee's spouse constitute expenditures.

Example: Lobbyist A and his spouse take state officer B and his spouse to dinner as part of A's lobbying program. Only that portion of the total bill for the food and beverage which is associated with the meals of B and his spouse constitute expenditures. In other words, the costs of A's meal and that of his spouse do not constitute expenditures.

(2) Exceptions. (i) Monthly dues payments to a private club are not deemed to be expended on a state officer or employee and therefore do not constitute expenditures. (ii) Expenses for general office overhead are also excluded from the definition of expenditure. General office overhead includes internal production and distribution costs of bulletins, newsletters and similar publications as well as telephone expenses. In addition, salaries or fees paid to lobbyists constitute general office overhead and are excluded from the definition of expenditure.

(b) Gift.

(1) Defined. "Gift" means the transfer of any loan, subscription, advance, property, money, services or anything of value unless legal consideration of reasonably equal or greater value is received in return. Where a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration shall be deemed a gift.

Example: Lobbyist A transfers to state officer B property with a fair market value of \$90 for a service fee of \$10. A has made a gift in the amount of \$80.

(2) Exceptions. (i) A gift does not include the provision of hospitality in the form of food and beverage. Food and beverage are provided as hospitality by a person only when they are provided and consumed in the company of the person or the person's authorized agent. The provision of food and beverage in any other manner constitutes a gift. (ii) Gift does not include any transfer which is totally unrelated to the recipient's position as a state officer or employee and the donor's position as a lobbyist or person with a special interest. Transfers between relatives are presumed to fall within this exception.

Example: Lobbyist A takes state officer B to dinner as part of A's lobbying program. After the dinner, A gives B several frozen steaks for B's own use. The costs associated with the meal do not constitute a gift. (Such costs do, however, constitute expenditures under K.A.R. 19-62-1(a)(1).) Conversely, the donation of the frozen steaks constitutes a gift since they are not provided as hospitality as defined above.

(3) Valuation. The value of a gift shall be the fair market value or a reasonable estimate thereof.

(c) Employer. "Employer" means a person who employs another person in considerable degree for lobbying, or who formally appoints a person as the primary representative of an organization or other persons to lobby in person on state-owned or leased property, or on whose behalf a person otherwise registers or is required to register as a lobbyist. If a lobbyist has more than one employer those provisions of this article which relate to employers shall apply independently to each of the lobbyist's employers.

(Authorized by K.S.A. 1974 Supp. 46-253, as amended by L. 1975, chapter 272, section 16; K.S.A. 1974 Supp. 46-268, as amended by L. 1975, chapter 272, section 19; K.S.A. 1974 Supp. 46-269, as amended by L. 1975, chapter 272, section 20; effective September 4, 1975.)

19-62-2. Who Must Report.

(a) General. Each lobbyist shall file a report with the Secretary of State on forms prescribed and provided by the Commission for any reporting period when either of the following occurs:

(1) The lobbyist and/or the lobbyist's employer, individually or collectively, makes expenditures in an aggregate amount or value in excess of \$50 to any one vendor or other person. If the employer has more than one lobbyist, only the portion of that employer's expenditures with which each lobbyist is most directly connected shall be attributable to each specific lobbyist.

Example: Employer A makes expenditures of \$30 during a reporting period to a vendor. Lobbyist B, who is A's only lobbyist, makes expenditures of \$30 during the same reporting period to the same vendor. B is required to report during the reporting period since the aggregate amount of expenditures collectively made to one vendor exceed \$50.

(2) The lobbyist and/or the lobbyist's employer, individually or collectively, makes gifts, honoraria or payments in an aggregate amount or value in excess of ten dollars (\$10) to any one state officer or employee. If the employer has more than one lobbyist, only the portion of that employer's gifts, honoraria or payments with which each lobbyist is most directly connected shall be attributable to each specific lobbyist.

Example: Employer A makes a gift valued at \$5 to state officer B during the reporting period. Lobbyist C, who is A's only lobbyist and knew of the initial gift, makes separate gifts of \$3 and \$4 to B during the reporting period. C is required to report during the reporting period since the aggregate value of gifts made collectively by A and C exceed \$10.

If neither of the tests set out above in this subsection occur during a reporting period, then the lobbyist need not file a report for that period.

(b) Connection with expenditures, gifts, honoraria and payments. A lobbyist is most directly connected with an expenditure if the lobbyist incurs the debt regardless of how actual payment is made. A lobbyist is most directly connected with a gift, honoraria or payment if the lobbyist reaches the agreement for its acceptance regardless of how the underlying debt is paid.

Example: Employer A has two lobbyists, B and C. C incurs a debt for lobbying at one vendor of \$60 during the reporting period. The debt is paid from the employer's funds at the end of the month by a check drawn by B who is the employer's primary lobbyist. Lobbyist C is required to report during the reporting period since C is most directly connected with the employer's expenditure. Lobbyist B is not required to report in this situation.

(Authorized by K.S.A. 1974 Supp. 46-253, as amended by L. 1975, chapter 272, section 16; K.S.A. 1974 Supp. 46-268, as amended by L. 1975, chapter 272, section 19; K.S.A. 1974 Supp. 46-269, as amended by L. 1975, chapter 272, section 20; effective September 4, 1975.)

19-62-3. When to Report.

(a) Reporting periods. Each of the months of January, February, March and April constitute a reporting period. In addition, the period from May 1 to June 30, inclusive, from July 1 to September 30, inclusive, and from October 1 to December 31, inclusive, constitute separate reporting periods. Reports, when required by K.A.R. 19-62-2, shall be filed by the tenth (10th) of the month immediately following the reporting period.

(b) Allocation of Expenditures, Gifts, Honoraria and Payments. Expenditures are allocated (1) to the reporting period when the debt is incurred if the amount is then known or ascertainable, or (2) to the reporting period when the amount becomes known or ascertainable if the amount is not initially known or ascertainable, whichever occurs first. Gifts, honoraria and payments are allocated to the reporting period when accepted by the state officer or employee. When a gift, honoraria or payment is composed of separate transfers deferred over more than one reporting period, the total value thereof shall be allocated to the reporting period in which the state officer or employee accepts the initial transfer.

Example (1). Lobbyist A incurs a debt for lobbying with a vendor in the amount of \$75 in December. A pays the vendor in January of the next year. A allocates the expenditure to the October 1 to December 31 reporting period since the amount of the debt was incurred and known in December and reports it on or before January 10.

Example (2). Lobbyist A offers state officer B tickets to 10 basketball games which are valued at \$7 each. A states that he will give the tickets to each game to B on the day preceding game. B agrees to accept the tickets in September and the first ticket is received in December. A allocates the total value of the gift (\$70) to the reporting period of October 1 to December 31 and reports the gift on or before January 10.

(Authorized by K.S.A. 1974 Supp. 46-253, as amended by L. 1975, chapter 272, section 16; K.S.A. 1974 Supp. 46-268, as amended by L. 1975, chapter 272, section 19; K.S.A. 1974 Supp. 46-269, as amended by L. 1975, chapter 272, section 20; effective September 4, 1975.)

19-62-4. What to Report.

(a) General. Where applicable, each report shall include the full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist.

(b) Expenditures. If a report is required to be filed by K.A.R. 19-62-2(a)(1), the lobbyist shall report the aggregate amount of all individual expenditures of one dollar (\$1) and over made by the lobbyist and by the lobbyist's employer if the lobbyist is the lobbyist most directly connected therewith, according to the following categories:

- (1) Expenditures for hospitality provided in the form of food and beverage.
- (2) Expenditures for gifts, honoraria or payments to state officers and employees.
- (3) Expenditures for mass media communications.
- (4) Other reportable expenditures.

The name and address of the lobbyist's employer shall be listed for all reportable expenditures.

Example (1): Lobbyist A makes an expenditure at vendor B's for a gift to be given to state officer C. The cost of the gift is \$20 and the lobbyist makes no other expenditures during the month. Lobbyist A is not required to report the expenditure under this subsection since he has not made an expenditure to any one vendor in excess of \$50. (See the following subsection to determine whether the gift is reportable thereunder.)

Example (2): Lobbyist A makes an expenditure at vendor B's of \$60 for hospitality in the form of food and beverage during the reporting period and therefore is required to report. During the same reporting period, A's employer makes expenditures of \$10 to vendor C for gifts to state officers and of \$20 to vendor D for hospitality in the form of food and beverage. A reports a lump sum of \$80 as expenditures for hospitality in the form of food and beverage and a lump sum of \$10 as expenditures for gifts, honoraria or payments.

(c) Gifts, Honoraria and Payments. All gifts, honoraria and payments made by the lobbyist to any one state officer or employee during the reporting period in an aggregate value in excess of ten dollars (\$10) shall be reported. Gifts, honoraria and payments made by the lobbyist's employer shall be reported by the lobbyist if, by themselves or when cumulated with gifts, honoraria or payments made by the lobbyist, the ten dollars (\$10) aggregate value is exceeded and if the lobbyist is the lobbyist of the employer most directly connected therewith. The report shall include the name and address of the recipient as well as the type of gift, or purpose of the honoraria or payment, and the value thereof. The name and address of the lobbyist's employer shall be listed for each reportable gift, honoraria or payment.

Example: Lobbyist A gives state officer B a gift valued at \$9 during the reporting period. In addition, at a totally distinct and separate occasion during the same reporting period, A gives B an additional gift valued at \$9. A is required to report all gifts given to B since they aggregate to a value in excess of \$10 for the reporting period.

(Authorized by K.S.A. 1974 Supp. 46-253, as amended by L. 1975, chapter 272, section 16; K.S.A. 1974 Supp. 46-268, as amended by L. 1975, chapter 272, section 19; K.S.A. 1974 Supp. 46-269, as amended by L. 1975, chapter 272, section 20; effective September 4, 1975.)

Attachment IV

KANSAS
GOVERNMENTAL ETHICS COMMISSION

Lobbyist Registration Statement

Instructions. This statement must be completed and filed with the Secretary of State (State House, Topeka, Kansas 66612) by each person required to do so by K.S.A. 1974 Supp. 46-265, as amended by 1975 Kansas Session Laws, Chapter 272, prior to lobbying in any calendar year. A separate statement must be filed by each lobbyist for each person employing or appointing such lobbyist. Whenever a new lobbying employment or appointment is accepted during a calendar year, a separate statement must be filed. Registrations expire automatically on December 31 of each calendar year. A fee of \$10 is required only with the first registration statement of each calendar year. This form is prescribed and provided under authority granted the Governmental Ethics Commission by K.S.A. 1974 Supp. 46-265, as amended by 1975 Kansas Session Laws, Chapter 272. Detailed instructions are provided on the accompanying sheet. Please type or print.

A. Name of lobbyist _____
Address _____ Phone _____
City and State _____ Zip Code _____

B. Check whether:
 Employed to lobby.
 Appointed to lobby.
 Spent \$100 for lobbying.
 Other.

C. If employed or appointed, provide the following information about the employing or appointing person:
Name _____
Address _____ Phone _____
City and State _____ Zip Code _____

D. Purpose of lobbying:
1. Check one or more in which you are interested (see definition of "lobbying"):
 Action or non-action by the legislature on any legislative matter.
 Adoption or non-adoption of any rules and regulations of a state agency.
 Other matter involving a case before a state agency.

(over)

2. Describe subject matter area(s) in which interested, and if employed to lobby, describe the exact purpose of the employment:

E. If employed, give method of determining and computing compensation for lobbying: _____

F. Verification by person filing statement:

State of Kansas)
County of _____) ss

I, _____, do swear
(or affirm) that this Lobbyist Registration Statement and any
accompanying attachments are complete, true and correct.

Signature

Subscribed and sworn to (affirmed) before me this _____ day of
_____, A.D., 19____.

Notary Public

(Seal) My Commission Expires _____, 19____.

Instructions
for
Lobbyist Registration Statement

Who Must Register

Any person to whom any one of the following applies must register as a lobbyist:

1. Any person employed in considerable degree for lobbying;
2. Any person formally appointed as the primary representative of an organization or other person to lobby in person on state-owned or leased property; or
3. Any person who makes expenditures of more than \$100 in a year for lobbying, exclusive of personal travel and subsistence expenses.

In addition, any other person may register if they wish.

When Must a Lobbyist Register

A lobbyist must register each year prior to lobbying in that year.

Guide to Items on Form

Item A. Name and address of the lobbyist means the lobbyist's full name and preferred mailing address.

Item C. If employed or appointed to lobby, provide the full name and address of the employing or appointing person.

Item D(1). These three provisions relate to the three aspects of the definition of lobbying. See subsections (a)(1), (a)(2) and (b) of the definition below.

Item D(2). If space provided is insufficient, use extra page.

Item E. Indicate whether paid a monthly salary (all or a portion of which is for lobbying), an hourly rate, a fixed amount, or by another method. If space provided is insufficient, use extra page. Note that K.S.A. 1974 Supp. 46-267 prohibits the paying or accepting of compensation for lobbying which is contingent upon the result.

Definitions

Case means any matter before a state agency where the action or non-action of the state agency involves the exercise of substantial discretion. In addition, as a general rule, contractual relationships do not constitute "cases". (Commission Opinion No. 75-38)

Legislative matter means any bill, resolution, nomination, or other issue or proposal pending before the legislature or any committee, subcommittee, or council thereof. (K.S.A. 1974 Supp. 46-219)

Lobbying means (a) promoting or opposing in any manner (1) action or non-action by the legislature on any legislative matter, or (2) the adoption or non-adoption of any rule and regulation by any state agency. (b) Lobbying also means entertaining any state officer or employee except that bona fide personal or business entertaining does not constitute lobbying, or giving any gift, honorarium or payment to a state officer or employee in an aggregate value of one hundred dollars (\$100) or more within any calendar year, if at any time during such year the person supplying the entertainment, gifts, honoraria or payments has a case before the state agency in which such state officer or employee serves, or if such person is the attorney for or representative of a person having such a case. (c) Lobbying does not include any expenditure from amounts appropriated by the legislature for official hospitality. (K.S.A. 1974 Supp. 46-225, as amended by 1975 Kansas Session Laws, Chapter 272)

Lobbyist means (1) any person employed in considerable degree for lobbying; (2) any person formally appointed as the primary representative of an organization or other person to lobby in person on state-owned or leased property; or (3) any person who makes expenditures in an aggregate amount of one hundred dollars (\$100) or more, exclusive of personal travel and subsistence expenses, in any calendar year for lobbying. Lobbyist shall not include: (1) any state officer or employee engaged in carrying out the duties of his or her office; (2) the employer of a lobbyist, if such lobbyist has registered the name and address of such employer under K.S.A. 1974 Supp. 46-265; (3) any nonprofit organization which has qualified under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1954, as amended, which is interstate in its operations and of which a primary purpose is the non-partisan analysis, study or research of legislative procedures or practices and the dissemination of the results thereof to the public, irrespective of whether such organization may recommend a course of action as a result of such analysis, study or research; (4) any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or, any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch; or (5) any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 1974 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board. (K.S.A. 1974 Supp. 46-222, as amended by 1975 Kansas Session Laws, Chapter 272)

Person means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency unit, or subdivision. (K.S.A. 1974 Supp. 46-223)

Rules and regulations means rules and regulations required by law to be filed with the revisor of statutes, and does not include rules adopted by the judicial branch or any court. (K.S.A. 1974 Supp. 46-224(b))

State officer or employee means (1) any individual who is an elected or appointed state officer, (2) any individual who is in the classified service, unclassified service or classified exempt service of the Kansas civil service act, (3) all officers and employees of the legislative branch and of the governor's office, irrespective of how compensated or period of employment, and (4) any individual who receives monthly or semimonthly compensation for services from the state or any state agency. State officer or employee does not include any

justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch. Also, state officer or employee does not include any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 1974 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board. (K.S.A. 1974 Supp. 46-224(b), as amended by 1975 Kansas Session Laws, Chapter 272)

Penalties

K.S.A. 1974 Supp. 46-274, as amended by 1975 Kansas Session Laws, Chapter 272, provides, in part, that "Unlawful lobbying is (1) lobbying without being registered as provided by this act Unlawful lobbying is class B misdemeanor."

K.S.A. 1974 Supp. 46-275, as amended by 1975 Kansas Session Laws, Chapter 272, provides, in part, that "Giving false lobbying information is intentionally (1) making a false or incomplete statement on any registration paper Giving false lobbying information is a class B misdemeanor."

FINAL REPORT

Proposal No. 20 - Governmental
Ethics Commission

Proposal No. 20 directed the Special Committee on Federal and State Affairs to conduct "a review of the activities, operation, and procedures of the Governmental Ethics Commission including activities relating to both campaign finance and state governmental ethics."

Background

The Kansas Governmental Ethics Commission was established by the 1974 Legislature to administer and enforce the 1974 Campaign Finance Act (K.S.A. 1974 Supp. 25-4101 et seq.), and another 1974 enactment relating to the ethical conduct of state officers and the regulation of lobbyists (K.S.A. 1974 Supp. 46-215 et seq.). The Ethics Commission is also empowered to render advisory opinions under the general (local) conflict of interest law (K.S.A. 1974 Supp. 75-4301 et seq.). The 1974 Campaign Finance Act provides for full disclosure of campaign contributions and expenditures in elections for state office by most candidates, political parties, and political committees. The 1974 enactment pertaining to state governmental ethics regulates the ethical conduct of state officers and employees and certain other persons, provides for the disclosure of substantial interest of certain state officers and employees, and provides for the registration and regulation of lobbyists.

The Governmental Ethics Commission administers both these acts, including the investigation and hearing of complaints. The intentional violation of various provisions of these acts is either a

class A or class B misdemeanor and also subjects a state officer or employee to possible removal from office. The Ethics Commission is authorized to promulgate rules and regulations concerning both acts and also renders opinions in writing on various questions concerning the interpretation of these enactments.

Committee Activity

During the course of this study, the Committee heard testimony from the Chairman and Executive Director of the Governmental Ethics Commission. The Commission submitted a lengthy statement outlining the agency goals, objectives, and program activities. The Chairman of the Commission noted that this agency allocates its time among six program activities. These are: (1) an informational program; (2) the advisory opinion process; (3) the review and audit program; (4) investigation; (5) the enforcement program, which entails the handling of complaints and conducting of hearings; and (6) general administration activities. He also noted that, during the Commission's first year of operation, the advisory opinion process has occupied a considerable amount of time as well as having attracted the most attention. To date the Commission has issued 156 advisory opinions. Of these, 48 concern campaign finance, 28 relate to the regulation of lobbying, 46 have to do with the conflict of interest provisions governing state officers or employees, and 34 concern conflict of interest provisions which apply to local officials and employees. Of the total 156 opinions, 145 or 93% have been issued as a result of requests by various individuals rather than through Commission initiative. The Chairman also noted that the Commission is now heavily involved in the drafting and consideration of rules and regulations

dealing with the legislative enactment for which the Commission is responsible.

The Executive Director of the Governmental Ethics Commission provided a detailed statement of the agency goals, objectives, and program activities. He noted that the overriding goal of the Governmental Ethics Commission is to assure the integrity of (1) the electoral process and (2) governmental decisions. He stated that the major objectives of the Commission are to assure compliance with the Campaign Finance Act, to assure compliance with the conflict of interest provisions and to assure compliance with provisions governing the conduct of lobbyists. The Executive Director also discussed in detail the six major program activities listed above.

In regard to the workload of the Commission, the Executive Director stated that, to date, 370 candidates for office have filed a total of 2,600 documents with the Commission; 210 party committees have filed 1,470 documents; and 192 political committees have filed approximately 1,300 documents. He also noted that 1,500 substantial interest statements have been filed by state officers and employees, 265 representation case statements have been filed, and 546 documents have been filed by registered lobbyists. The Executive Director also noted that 82% of the candidate reports filed in connection with the 1974 general election have checked out satisfactorily, and that most problems have been errors and not intentional omissions or misstatements. It was also noted that the Ethics Commission has held 28 meetings in the first 15-months of its existence and that attendance normally runs about nine out of the eleven members. It was noted that the Ethics Commission is composed of eleven appointed members and at present employs a staff of four. In addition, the

Commission is authorized to hire some part-time personnel.

The Executive Director stated that the efforts of the Commission had been directed toward assisting individuals in complying with the law and were not intended as harrassment. It was also stated that cooperation between the Commission, its staff, and those individuals subject to these laws had been good, although a few individuals apparently view the required reports as an invasion of privacy.

During the course of this study, several problem areas were brought to the Committee's attention. It was noted that many candidates experience great difficulty with regard to "in-kind" contributions, because it is very difficult to determine the actual value of the "in-kind" contribution. On the basis of the definition of "contribution" which is found in K.S.A. 1974 Supp. 25-4102(d), the Ethics Commission has ruled several times that a "thing of value" is a "in-kind" contribution having a dollar value which should be determined by the contributor. The Commission holds that the dollar value is the fair-market value of the item contributed, that is, the price of the item if it were to be purchased, sold, or leased. The Commission suggests that the treasurer receiving an "in-kind" contribution should question the value placed on the item if it appears unreasonable. (See Commission Opinions No. 74-2, 74-10, 74-12). The Executive Director of the Commission agreed that this is a problem area. He also noted that the Commission hopes to clarify the entire matter of "in-kind" contributions in their rules and regulations.

It was also brought to the Committee's attention that the existing statutes require a candidate who has no opposition to continue to file the required reports. Several of the members

of the Committee felt that these individuals should be exempt from filing the numerous reports. The Ethics Commission responded that they were planning to take this matter under consideration in the near future.

Finally, several Committee members expressed the opinion that the definition of "candidate" as presently found in K.S.A. 1974 Supp. 25-4102(a) causes problems and should be modified to clarify the exact point at which a person becomes a candidate for the purposes of the Campaign Finance Act.

Conclusions and Recommendations

The Committee concludes that the Governmental Ethics Commission is fulfilling its statutory responsibilities in an ~~efficient~~ and impartial manner. This conclusion was reached both on the basis of testimony presented to the Committee and on the basis of personal experiences of ^{some of} the Committee membership, which is subject to those statutes administered and enforced by the Governmental Ethics Commission. The Committee also feels that the members and staff of the Ethics Commission are highly qualified individuals who are sincerely attempting to implement their statutory responsibilities.

~~at this time~~ In the larger sense, the majority of the Committee feels presently that the Campaign Finance Act, conflict of interest, and other ethics legislation must be retained ^{and enforced} if confidence is to be restored in the governmental process. Events of the past few years have severely eroded confidence in government and faith in the integrity of public officials. Even though the accounting and reporting requirements of these acts are time-consuming and burdensome, the ^{majority of} Committee feels that this is the best method by which the peoples' faith in government can be restored.

Notwithstanding the above comments, the Committee does make three recommendations for possible further studies and legislative action: (1) The Committee recommends that the Governmental Ethics Commission give speedy consideration to possible changes in the existing reporting requirements for a candidate who runs without opposition. Several members of the Committee feel that these candidates should perhaps be exempt from the various reporting requirements.

(2) During the course of this study the Committee became aware of a problem which exists for those candidates who file by petition. K.S.A. 25-209 provides that the State Board of Canvassers shall meet on the third day following the filing deadline to rule upon the validity of such petitions. Thus, an individual who files by petition cannot get a ruling upon the petition's validity until after the filing deadline. The Committee recommends that the appropriate Election's Committee take this matter under consideration.

(3) The Committee recommends that the definition of "candidate" presently found in the Campaign Finance Act (K.S.A. 1974 Supp. 25-4102a) be amended. The existing statute defines a candidate as an individual who: "(1) appoints a treasurer or candidate committee, (2) makes a public announcement of his intention to seek nomination or election to any state office, (3) makes any expenditure or accepts any contribution for the purpose of influencing his nomination or election to any state office, or (4) files a declaration or petition to become a candidate for

any state office." The Committee recommends that the definition of "candidate" be amended to define candidate as an individual who: (1) files a declaration or petition to become a candidate for any state office, (2) accepts any contribution for the purpose of influencing his nomination or election ^{to} any state office, or (3) makes or contracts to make any expenditures in excess of \$25 for the purpose of influencing his nomination or election to any state office. The Committee feels that this modification will eliminate any problems which might arise because of the difficulty of determining when an individual actually becomes a candidate for office. The Committee recommends, therefore, that ~~the 1976 Legislature take favorable action on~~ Bill.

Attachment VI

PROPOSED BILL NO. _____

By Special Committee on Federal and State Affairs

AN ACT concerning the campaign finance act; amending K. S. A. 1975 Supp. 25-4102 and repealing the existing section.

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

Section 1. K. S. A. 1975 Supp. 25-4102 is hereby amended to read as follows: 25-4102. As used in this act, unless the context otherwise requires:

(retain)

(a) "Candidate" means an individual who: (1) ~~Appoints--a treasurer or a candidate committee,~~

~~(2) makes a public announcement of his or her intention to seek nomination or election to state office,~~

(3) Accepts any contribution for the purpose of influencing his or her nomination or election to any state office;

(2) makes any expenditure or accepts any contribution or contracts to make expenditures of twenty-five dollars (\$25) or more for the purpose of influencing his or her nomination or election to any state office, or

~~(4)~~ (3) files a declaration or petition to become a candidate for state office.

(b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

(c) "Commission" means the governmental ethics commission created by K. S. A. ~~1974-Supp. 25-4119~~ 1975 Supp. 25-4119a.

(d) (1) "Contribution" means: (A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state office;

(B) a transfer of funds between any two or more candidate committees, party committees or political committees;

(C) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;

(D) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events.

(2) "Contribution" does not include: (A) The value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of fifty dollars (\$50) during an allocable election period as provided in K. S. A. 1975 Supp. 25-4109 --as-amended;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of ten dollars (\$10) per event.

(e) "Election" means: (1) A primary or general election for state office and (2) a convention or caucus of a political party held to nominate a candidate for state office.

(f) (1) "Expenditure" means: (A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state office;

(B) any contract to make an expenditure;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) payment of a candidate's filing fees.

(2) "Expenditure" does not include:

(A) the value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of

volunteer services not exceeding a fair market value of fifty dollars (\$50) during an allocable election period as provided in K. S. A. 1975 Supp. 25-4109~~7~~~~as-amended~~;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of ten dollars (\$10) per event; or

(E) any communication by an incumbent elected state officer with one or more of such incumbent's constituents unless the primary purpose thereof is to influence the nomination or election of a candidate.

(g) "Party committee" means the state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, or the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated or the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated.

(h) "Person" means any individual, committee, corporation, partnership, trust, organization or association.

(i) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to support or oppose any candidate for state office, but not including any candidate committee or party committee.

(j) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in his or her official capacity.

(k) "State office" means any state office as defined in

K. S. A. 1975 Supp. 25-2505.

(l) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise funds for such candidate's campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.

(m) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under this act or a treasurer of a combination of individuals or a person other than an individual which is subject to paragraph (2) of subsection (a) of ~~section 6~~ K. S. A. 1975 Supp. 25-4135.

Sec. 2. K. S. A. 1975 Supp. 25-4102 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

ROUGH DRAFT

FINAL REPORT

Proposals No. 17 and 19

- Proposal No. 17 - Sex-Based Inequities in the State Classified Civil Service and Pay Scale
- Proposal No. 19 - Treatment of Minority Employees in State Government

Proposal No. 17 directed the Special Committee on Federal and State Affairs to conduct "an examination of alleged inequities in the State Classified Civil Service and pay scale for classified employees which result from greater experience and education requirements for those classifications traditionally held by women." Proposal No. 19 directed the Committee to conduct "an examination of the treatment of minority employees in state government, including areas such as testing, recruitment, hiring, promotions, dismissals, salary differentials, handling of grievances and complaints, and such other personnel and civil service procedures as may be deemed pertinent." Since both these proposals cover very similar subject areas, the Committee decided to draft one report combining both studies.

Proposal No. 17 - Sex-Based Inequities.

Under Proposal No. 17, the Committee examined allegations that female employees in the Kansas State Classified Civil Service were forced to meet higher experience and education requirements than were male employees who received the same pay. In order to examine these allegations, the Committee heard testimony from representatives of the Commission on the Status of Women at Kansas State University, the Affirmative Action Office at Kansas University,

the Office of Employee Relations at Wichita State University, the Kansas Commission on Civil Rights, the Kansas Commission on the Status of Women, the State Director of Personnel, the Secretary of Administration, and other interested individuals. The statistical data submitted by the representatives from Kansas State University indicated, for example, that the salary classifications of Addressograph Operator, Bookkeeping Machine Operator and Clerk II, positions predominantly held by women, require a high school diploma and one to three years prior experience; while the classification of Security Officer I, a classification predominantly held by men, requires no experience and no educational requirements, even though these positions are all on the same salary range. Similarly, the predominantly female classifications of Clerk Steno II and Lab Technician II both require a high school diploma and one to three years experience, while the predominantly male classifications of Automotive Driver and Laborer II require no experience and no educational background; all of these positions are on salary range 8. Similar comparisons were made for nearly all of the state classified salary ranges.

Similar statistical information was submitted by the representatives from Kansas University and Wichita State University. Several conferees stated their belief that the state's recruitment efforts and promotion policies have worked to place female employees in service, secretarial and clerical positions. It was also stated that female employees' opportunities for upward mobility have been severely limited. It was stated, for example, that at Kansas State University women virtually disappear from the upper salary ranges.

The State Director of Personnel informed the Committee that the current pay plan of the State of Kansas was adopted in November 1970, following an extensive study of job classification and pay plan structure of the state previously in effect. The pay plan adopted in 1970 has continued in effect to the current time and the relative ranking and grading of jobs in the classified service has remained essentially as adopted in 1970. There have been some job classes that have been reassigned from one grade level to another, but overall the changes have not been numerous. The state's pay plan consists of a series of pay ranges numbered one through forty-four. Each range has six steps, A through F, and there is approximately a 5% difference between each step and about a 5% difference between each range, the width of each range from lowest level to the highest is approximately 25%. This particular type of pay plan has been installed by the Public Administration Service in a large number of public jurisdictions in this country during the last 20 to 25 years.

In 1975, several changes in the pay scale for the classified service were adopted. These changes included (1) a general increase in the amount of pay of 5% plus \$25 per month, (2) a special one grade adjustment (approximately 5%) for 112 job classes in the pay plan, and (3) the use of clipped ranges for labor and trades job classes in the state classified service (a range is clipped by deleting the A and B steps on the salary plan and using the C step as the entry rate). The Director of Personnel stated that the state pay plan does contain several deficiencies and that perhaps a mix of pay plans rather than a single, universal schedule might be a more advantageous method. For example, the state could

have two or three separate pay plans, one for labor and trades classes, one for professional and managerial classes, and one general service schedule for the balance of the job classes.

The Committee also reviewed specific procedures currently being used by the Division of Personnel and received a statement from the Secretary of Administration detailing seven steps currently being undertaken to eliminate some of these problem areas. The statement by the Secretary of Administration will be discussed further below.

Proposal No. 19 - Minority Employees

Under Proposal No. 19, the Committee was directed to conduct a review of the treatment of minority employees in State government. This study was largely prompted by the statement of a State Representative which included allegations of specific discriminatory acts in several state agencies. The Committee heard testimony from the State Representative who requested the study, many of the individuals listed above who testified concerning Proposal No. 17, representatives of the State Equal Employment Opportunity Office, State Highway Department, Department of Social and Rehabilitation Services, and other interested individuals.

With regard to the specific allegations of discriminatory acts concerning the Highway Department and the Department of Social and Rehabilitation Services, the Committee reviewed both these personnel problems at length and concludes that the matters were handled properly by the respective departments. Since a complaint of racial discrimination has been filed with the U.S. Equal Employment Opportunity in at least one of these instances, the Committee does not wish to comment further.

However, during its examination of the specific allegations, the Committee became aware of several broader problem areas with regard to the operation of the Division of Personnel and the treatment of minority employees in particular. Several conferees felt that the "rule of five", by which only the top five scorers on the Civil Service register are eligible to compete for the job, was particularly discriminatory in that it did not give minorities the opportunity to compete for the job opening. The Committee discussed the "rule of five" at length, noting both that, while it does limit an employer's flexibility, deletion of this rule could, perhaps, lead to even further discrimination and increase political patronage.

The Committee also considered the problem of test validation, i.e., that the test actually relates to the job in question and is indicative of the most competent and productive prospective employee.

It was noted that very few of the state's tests have actually been validated. Testimony indicated that test validation is an extremely time-consuming and expensive process.

One conferee stated that several minority employees had come to him with complaints because they were told that no grievance procedure exists within the State Civil Service. This same conferee, who is the Director of a minority service agency, stated that the job offerings issued by the Division of Personnel quite often reach his agency after the time limit has expired for application. Other conferees made the same complaint.

Other problem areas noted by conferees were that the Civil Service testing system may not be geared to many of the classified job categories; that the state Civil Service referral system ("rule of five") should be revised; that there is a problem of identifying

minorities on state Civil Service registers (this, however, is prohibited by federal law); that the state lacked a concerted effort to place minorities in communities with limited minority populations; that many employers were opposed to the affirmative action concept; that there are inadequate in-service training programs for state minority employees and that no mechanism exists to properly identify racial minorities in a state-wide recruitment pool which could assist local state agencies and institutions to utilize minority employees. It was stated that, while minorities are overutilized in entry level jobs such as service workers, it was felt that on a state-wide basis there exists a definite underutilization of minority employees.

Data was presented by both the Division of Personnel and the State Office of Economic Opportunity concerning the number of minority employees in the state Civil Service. This statistical information is summarized in Table 1. As of April 1975, the total state work force was 37,886. These figures include both classified and unclassified state employees. Of this total, 5.8% were black, 1.33% were Spanish-surnamed, .17% were American Indian, and 1.54% were other minorities. The total state work force was 91.6% white. In 1975, the total work force was 46.72% female.

At the request of the Committee, the Secretary of Administration issued a statement to the Committee detailing the steps taken by the Department of Administration towards the elimination of discrimination in the state work force. The Secretary of Administration stated that the following steps have been initiated:

- (1) An affirmative action program is being drafted.
- (2) Job specifications for all positions are being reviewed.
- (3) Civil

TABLE I
ALL CLASSIFIED AND UNCLASSIFIED EMPLOYEES PAID JUNE 30, 1975

JOB CATEGORIES	WHITES	BLACKS	MEXICAN-AMERICAN	AMERICAN-INDIAN	OTHER	TOTAL	Grand Total Male & Female
Officials, Administrators	3,254	37	11	2	96	3,400	3,968
Professionals	3,650	86	68	8	71	3,883	7,216
Technicals	2,109	38	27	6	5	2,185	3,093
Protective Services	1,030	31	14	-	2	1,077	1,137
Para-Professionals	1,315	252	43	5	23	1,638	4,799
Office-Clericals	2,710	132	31	9	217	3,099	11,223
Skilled Crafted	2,650	63	65	8	7	2,793	2,848
Service Maintenance	1,733	224	32	3	6	1,998	3,475
Other	68	2	1	-	-	71	255
TOTALS	18,519	865	292	41	427	20,144	38,014
Officials, Administrators	541	14	1	-	12	568	S
Professionals	3,109	157	19	6	42	3,333	A
Technicals	713	174	16	2	3	908	M
Protective Services	49	11	-	-	-	60	E
Para-Professionals	2,570	503	57	4	27	3,161	A
Office-Clericals	7,562	363	92	16	91	8,124	S
Skilled Crafted	53	1	-	1	-	55	A
Service Maintenance	1,040	366	59	4	8	1,477	B
Other	157	17	9	1	-	184	O
TOTALS	15,794	1,606	253	34	183	17,870	E

ETHNIC GROUP TOTALS

<u>White</u>	<u>Black</u>	<u>Mexican-American</u>	<u>American-Indian</u>	<u>Other</u>	<u>Total</u>
34,313	2,471	545	75	610	38,014

Missing Valid Ethnic Code - 1,235
**Individuals that were not coded male or female = 744

Service tests are being reviewed to insure that the tests do not discriminate. (4) An improved recruiting program is being designed in an effort to reach all women and minority groups.

(5) Efforts are being made to insure that both males and females have an equal opportunity to qualify at all levels of state

employment. (6) The State Equal Employment Opportunity Office will be increased in staff and the office will be transferred from the Personnel Division to the Office of Secretary of Administration.

(7) A directive is also being prepared to insure that handicapped persons, within their capabilities, are not discriminated against.

During the course of this study, the state Affirmative Action Plan was established and adopted by Executive Order No. 75-9.

Under this executive order, all state departments, agencies, and institutions are directed to participate and cooperate with the Secretary of Administration in the development and maintenance of a state Affirmative Action Program for equal employment opportunity to eliminate discrimination and discriminatory barriers to equal employment opportunity. The committee reviewed both the State Affirmative Action Plan and previously-existing plans which had been in operation in the Department of Social and Rehabilitation Services and the Highway Department. Since the State Affirmative Action Plan was not adopted until late July, the Committee feels that it would be premature to make any statements regarding the operation and implementation of the plan at this point.

Recommendations

As noted above, the Committee feels that the State Affirmative Plan has not been in effect long enough to make any determination upon its effectiveness. Time will be needed to gather the experience, statistics and other data necessary to make a valid assessment of the effectiveness of this plan. The Committee recommends that an appropriate legislative committee review this plan after it has been in implementation for several months.

The Committee was both concerned and disturbed by several operating procedures currently being utilized by the Division of Personnel. These problem areas include the "rule of five", provisional hiring, test validation, the late issuance of job announcements to minority agencies, and the apparent reluctance of the Division of Personnel to release information which was mentioned by several conferees. One conferee, a cabinet-level secretary, noted that, in his opinion, the Division of Personnel tends to view itself as a "second Budget Division", in that it is reluctant to allocate positions which have been approved by the Legislature, Budget Division, or State Finance Council. Therefore, the Committee recommends that the Legislative Coordinating Council appoint a Special Joint Legislative Committee in January 1976, to conduct an in-depth study of the procedures and practices of the Division of Personnel. This special joint committee should be charged to review the problem areas noted above, as well as to determine whether the doctrines of equal pay for equal work and equal employment opportunity are being implemented by the Division of Personnel.

ROUGH DRAFT

FINAL REPORT

Proposal No. 18 - Kansas Housing Finance Authority

Proposal No. 18 directed the Special Committee on Federal and State Affairs to conduct "a review of State Housing Authority legislation and operations in other states and the feasibility and necessity of establishing a Kansas Housing Finance Authority, including an examination of the methods by which such an authority could assist in the financing of residential housing for families of low to moderate income."

Background

The creation of a State Housing Authority to assist in the financing of residential housing for families of low and moderate income has been the subject of two recent interim studies by the Kansas Legislature. The 1970 study did not recommend the creation of a Housing Agency at that time, but did note that future developments could warrant such action (1970 Report and Recommendations of the Kansas Legislative Council, Part I, pages 254-259). The 1973 study committee recommended that the Legislature take favorable action on a bill to create a State Housing Corporation (Report on Kansas Legislative Interim Studies to the 1974 Legislature, Part II, 76-1). In addition, the creation of a Kansas Housing Authority was recommended in the Governor's Legislative Message and Budget Report to the 1975 Legislature (page 9a).

The initial focal point of this study was 1975 House Bill 2612 which would create a Kansas Housing Finance Authority to assist in the financing of residential housing for families of low and moderate income. House Bill 2612 was introduced during the 1975 Legislative session, amended and reported favorably by the House Federal and State Affairs Committee, and then re-referred to that Committee.

Committee Activity

In addition to a thorough study and review of House Bill 2612, the Committee heard testimony and received statements from representatives of the Kansas Department of Economic Development, the Division of State Planning and Research, the League of Kansas Municipalities, Urban Renewal agencies, the Kansas Office of Economic Opportunity, the Kansas Savings and Loan League, bond counsels and investment bankers, contractors, and other interested legislators and individuals.

At present, 38 states have enacted legislation creating some type of state housing agency. Most of these state housing authorities (SHAs) have generally been created as independent agencies responsible to the governor of the state. Nearly all have been structured to be financially self-supporting. Most have been granted the authority to issue tax-exempt revenue bonds to finance housing programs. These agencies normally engage in direct financing programs or indirect financing programs. Under direct financing programs, financing for the construction of housing projects is made by the state housing agency directly to the contractor. Under

indirect financing programs, the agencies make use of their tax-exempt borrowing power to increase the amount of mortgage capital in the market by working through existing financial institutions.

The two major indirect financing programs are mortgage purchase and loans to lenders programs. Under the mortgage purchase program, the state agency purchases residential mortgages from lending institutions. The lending institutions then re-loan the proceeds to low and moderate income borrowers. Under the loans to lenders program, the agencies provide low-interest loans to mortgage lending institutions which in turn make residential mortgage loans. The interest rates on these loans are set by the agencies to cover the cost incurred so that the agencies may be self-sustaining. In addition, the state housing agency is normally authorized to accept federal funds available under the 1974 Housing and Community Development Act and other federal programs.

A chart indicating the experience and activities of existing state housing agencies is included as Table I.

Testimony before the Committee was generally supportive of the state housing agency concept. Much of the testimony given before the Committee concerned specific approaches to the creation of a housing agency and detailed statements concerning specific provisions in House Bill 2612. It was stated that, should a state housing agency be created in Kansas with the authority to issue tax-exempt revenue bonds, the bonds would be marketable. It was also noted that a state housing agency in Kansas could (1) supply money when private sources are not available, (2) decide where the money will be spent, and (3) bring money into the state

STATE HOUSING AGENCIES

STATUS AND VOLUME OF HOUSING ACTIVITY OF MAJOR FINANCIAL PROGRAMS: JANUARY 1, 1968 - NOVEMBER 1, 1974

	Year Created	First Bond Issue	First Note Issue	Debt Authorized Nov. 1, 1974 (\$ Millions)	Debt Outstanding Nov. 1, 1974 (\$ Millions)	Mortgage Purchase		Loans to Lenders		Direct Mortgage or Construction Financing: Projects Completed or Under Construction	
						Dollar Volume (\$ Millions)	Units Financed	Dollar Volume (\$ Millions)	Units Financed	Project Cost (\$ Millions)	Units Financed
ALASKA HOUSING FINANCE CORP.	1971	1972	1972	No Limit	114.5	104.0	2,533	C	C	B	B
COLORADO HOUSING FINANCE AUTH.	1973	None	None	50.0	None	B	B	C	C	B	B
CONNECTICUT HOUSING FINANCE AUTH.	1971	1971	1973	100.0*	124.6	53.3	2,487	C	C	39.7	2,018
DELAWARE STATE HOUSING AUTH.	1968	None	None	20.0**	None**	B	B	B	B	14.0	1,092
GEORGIA RESIDENTIAL FINANCE AGCY.	1974	None	None	100.0	None	B	B	B	B	B	B
HAWAII HOUSING AUTH.	1970	D	D	No Limit	D	D	D	D	D	128.4	5,679
IDAHO HOUSING AGENCY	1972	None	1974	No Limit	3.8	B	B	B	B	3.3	164
ILLINOIS HOUSING DEVELOPMENT AUTH.	1967	1972	1970	500.0	229.0	B	B	17.2	860	208.9	9,792
KENTUCKY HOUSING CORP.	1972	1973	1973	200.0	72.1	93.0	4,700	C	C	.4	75
LOUISIANA DEVEL. AUTH. FOR HSG. FIN.	1972	None	None	30.0	None	D	D	D	D	D	D
MAINE STATE HOUSING AUTH.	1969	1972	1972	100.0**	48.8**	34.1	1,906	C	C	9.6	568
MARYLAND COMM. DEVEL. ADMIN.	1971	None	1974	8.6	4.0	C	C	B	B	4.0	160
MASSACHUSETTS HSG. FIN. AGCY.	1966	1972	1970	1,250.0	522.4	C	C	C	C	582.3	25,614
MICHIGAN STATE HSG. DEVEL. AUTH.	1966	1971	1970	600.0	396.5	C	C	C	C	341.0	14,971
MINNESOTA HSG. FIN. AGCY.	1971	1973	1973	600.0**	129.0**	80	3,460	C	C	47.1	2,708
MISSOURI HSG. DEVEL. COMM.	1969	1971	1972	200.0	50.9	C	C	C	C	44.8	2,643
NEW JERSEY HSG. FIN. AGCY.	1967	1970	1970	No Limit	407.6	C	C	C	C	425.5	14,915
NEW JERSEY MORTGAGE FIN. AGCY.	1970	1971	None	No Limit	408.4	C	C	413.3	20,000	C	C
NEW YORK CITY HSG. DEVEL. ADMIN.	1967	1963	1957	179.4	1,008.7	C	C	C	C	1,688.0	51,400
NEW YORK CITY HSG. DEVEL. CORP.	1971	1972	1974	800.0	289.8	C	C	C	C	310.6	6,756
NEW YORK STATE DHCR	1955	1962	D	150.0***	138.1	C	C	C	C	746.6	20,677
NEW YORK STATE HSG. FIN. AGCY.	1960	1961	D	2,100.0***	1,496.4	C	C	C	C	C	C
STATE OF NEW YORK MORT. AGCY.	1970	1970	None	750.0	263.5	253.6	13,249	C	C	C	C
NEW YORK STATE URBAN DEVEL. CORP.	1968	1971	1972	2,000.0	1,167.3	C	C	C	C	1,232.7	33,245
NORTH CAROLINA HSG. FIN. AGCY.	1974	None	None	200.0	None	B	B	C	C	B	B
OHIO HSG. DEVEL. BOARD	1970	D	D	D	D	B	B	B	B	B	B
OREGON STATE HSG. DIVISION	1973	None	None	200.0	None	B	B	B	B	B	B
PENNSYLVANIA HSG. FIN. AGCY.	1973	None	1973	No Limit	120.6	B	B	C	C	81.4	3,644
RHODE ISLAND HSG. & MORT. FIN. AGCY.	1973	1974	1974	No Limit	71.2	B	B	62.5	3,100	4.4	183
SOUTH CAROLINA STATE HSG. AUTH.	1971	None	None	No Limit	None	B	B	B	B	B	B
SOUTH DAKOTA HSG. DEVEL. AUTH.	1973	1974	1973	No Limit	42.6	9.3	464 est.	B	B	16.8	1,164
TENNESSEE HSG. DEVEL. AGCY.	1973	1974	None	150.0**	32.9**	25.5	986	C	C	B	B
VERMONT HSG. FIN. AGCY.	1974	1974	None	74.0	13.8	B	B	11.4	400	C	C
VIRGINIA HSG. DEVEL. AUTH.	1972	1973	1973	No Limit	155.6	73.9	3,927	B	B	72.2	3,072
WEST VIRGINIA HSG. DEVEL. FUND	1968	1971	1972	130.0	52.1	B	B	16.2	900	41.0	2,031
WISCONSIN HSG. FIN. AGCY.	1972	1974	1974	290.0	72.0	16.5	1,224	C	C	1.7	103
TOTAL					7,436.2	743.2	34,936	520.6	25,260	6,044.4	202,674

KEY

- A - Program implemented but production data was not obtained.
- B - Statutory authorization but program not implemented.
- C - Non statutory authorization.
- D - Information not obtained.

- * Unlimited for federally insured or guaranteed mortgages.
- ** Data as of December 1, 1974.
- *** Housing programs only.

Prepared by Council of State Housing Agencies
February, 1975

from the sale of bonds.

Data presented by the Division of State Planning and Research indicated that there is a shortage of housing in Kansas and that, according to the Future of Kansas Study and Kansas 2000, 15,375 new housing units will have to be built yearly or a total of 461,000 units will have to be built by the year 2000 for Kansas to meet its housing needs. These same conferees noted that (1) the housing problem is somewhat regionalized since the need for housing is accelerating in urbanized eastern Kansas with a modest increase in far southwest Kansas; (2) about 50% of the state's housing was built before 1940; (3) in the next generation, there will be proportionately more adults in Kansas who will create a need for inexpensive, yet standard, housing; (4) 6% of the existing housing in Kansas is substandard on the basis of certain physical characteristics.

Much of the Committee's deliberations were directed toward specific alternatives which would have to be included in any proposed legislation. These areas of concern included the membership and composition of the housing board; the balance between rural and urban construction; the balance between new construction and the rehabilitation of existing housing; the general authority and powers of the state agency; and the eligibility requirements for low and moderate income families. It was decided that House Bill 2612 was not a suitable vehicle with which to accomplish the creation of a state housing agency. Accordingly, a new bill, retaining certain portions of House Bill 2612, was drafted for Committee consideration. This bill was extensively reviewed, considered and amended by the Committee. This new bill contains portions of

House Bill 2612, specific approaches patterned after existing legislation in other states, and other suggestions made by Committee members.

Conclusions and Recommendations

(Specific conclusions, recommendations and a summary of the bill, should it be approved, will be included in this space.)

PROPOSED BILL NO. _____

By Special Committee on Federal and State Affairs

AN ACT establishing a state housing finance authority; prescribing the powers, duties and authority of such authority; providing for the administration and operation of such authority and the financing of its operation and programs.

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

Section 1. Short title. This act shall be known and may be cited as the "Kansas housing finance authority act."

Sec. 2. Purpose of act. The purpose of this act is to provide financing for residential housing for sale or rental to persons or families of low or moderate income. In carrying out this purpose, the Kansas housing finance authority shall seek to attain a balance between rural and urban housing needs and between needs for family housing and housing for the elderly and handicapped, in general proportion to the needs identified in the statewide housing plan. The authority shall also give priority consideration to, and reserve funds for use in connection with, rural and urban housing rehabilitation programs.

Sec. 3. Definitions. The following words and terms shall have the meaning indicated unless the context shall clearly indicate a different meaning:

(a) "Authority" shall mean the Kansas housing finance authority created by this act;

(b) "Bonds" mean any bonds issued by the authority pursuant to this act;

(c) "Construction loan" means a short-term loan covering land and construction costs, current property taxes and other incidental expenses attributable to construction of residential housing;

(d) "Federally insured mortgage" means a mortgage loan for

residential housing insured or guaranteed by the United States of America or a governmental agency or instrumentality thereof, or a commitment by the United States of America or a governmental agency or instrumentality thereof to insure such a mortgage;

(e) "Governmental agency" means the United States of America, the state, any other state and any department, division, public corporation, public agency, political subdivision or other public instrumentality of any of the foregoing or of any two or more thereof;

(f) "Lending institution" means any bank or trust company, federal national mortgage association approved mortgage banker, credit union, national banking association, federal or state savings and loan association or federal credit union;

(g) "Low or moderate income families" means families of one or more persons, irrespective of age, marital status, race, creed, national origin or sex, determined by the authority to require such assistance as is made available pursuant to this act on account of insufficient personal or family income taking into consideration among other factors: (1) The amount of the total income of such family available for housing needs; (2) the size of the family; (3) the cost and condition of housing facilities available; (4) the ability of such persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise provides sanitary, and safe housing; and (5) standards established for various federal programs determining eligibility based on income of such person and families;

(h) "Mortgage" means a mortgage deed, deed of trust, or other instrument which shall constitute a lien on real property in fee simple or on a leasehold under a lease having a remaining term, at any time such mortgage is acquired, which does not expire for at least that number of years beyond the maturity date of the obligation secured by such mortgage as is established by the authority as necessary to protect its interest as mortgagee;

(i) "Mortgage loan" means an interest bearing obligation

secured by a mortgage on land and improvements in the state;

(j) "Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein including terms of years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens; and

(k) "Residential housing" means one or more new or existing residential dwelling units financed pursuant to the provisions of this act for the primary purpose of providing sanitary, decent and safe dwelling accommodations for low or moderate income families in need of housing, including streets, sewers, utilities, site preparation and landscaping.

Sec. 4. Creation of the Kansas housing finance authority. There is hereby created a body politic and corporate to be known as the "Kansas housing finance authority." The authority is hereby constituted a public instrumentality and the exercise by the authority of the powers conferred by this act in the financing of residential housing shall be deemed and held to be the performance of an essential governmental function.

The powers of the authority shall be vested in seven (7) members appointed for terms of four (4) years by the governor, with the advice and consent of the senate. Four (4) of such members, as determined by the governor in his or her sole discretion, shall have experience in home building, real estate, mortgage lending, commercial banking or architecture. The terms of four (4) of the first members appointed, shall end on the thirtieth day of June, 1977, and the terms of three (3) of the first members appointed, shall end on the thirtieth day of June, 1979. All members shall be residents of the state of Kansas and upon the removal or the residence of any member from the state a vacancy shall occur in the position of such member. Any vacancies in the membership of the authority shall be filled in the manner provided for original appointments but only for the remainder of the unexpired term. Each member shall hold office

for the term of such member's appointment and until a successor shall have been appointed and qualified. A member shall be removed from office upon conviction of a felony and may be removed from office at any time by the governor upon recommendation of the remaining members of the authority for continued neglect of duties required by law or for incompetency or misconduct. Each member of the authority before entering upon his or her duties shall take and subscribe an oath or affirmation as required by law.

The governor shall appoint a chairman from among the members for a term of one year, and the members shall annually elect from among their number a vice-chairman and such other officers as they may determine necessary. Meetings shall be held at the call of the chairman, or whenever two members so request. Four (4) members of the authority shall constitute a quorum, and any action taken by the authority under the provisions of this act shall receive the approval of a majority of the members present at any regular or special meeting but in no case shall such action be taken with the approval of less than four (4) members. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

The members shall receive no compensation for the performance of their duties hereunder, but each such member shall be reimbursed for his or her reasonable expenses incurred in carrying out such duties under this act in amounts provided in subsection (e) of K. S. A. 1975 Supp. 75-3222, and amendments thereto.

Notwithstanding the provisions of any other law, no officer or employee of this state shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of acceptance of membership on the authority or service thereto.

The director of the division of Housing of the department of economic development shall be the secretary of the authority and when acting in such capacity shall be subject to the direction and control of the members of the authority and shall administer,

manage and direct the affairs and business of the authority, subject to the policies, control and direction of the members thereof. The staff of the division of housing of the department of economic development shall serve as the staff of the authority and when acting in such capacity shall be subject to the direction and control of the members of the authority. The members may delegate to the director and members of the staff or any of the technical experts, advisors or consultants employed by the authority, such administrative duties as it may deem proper. All budgeting, purchasing and related management functions of the authority shall be administered under the direction and supervision of the director of housing as secretary of the authority. All vouchers for expenditures for operating expenses of the authority shall be approved by the chairman of the authority and the director of housing as secretary of the authority.

The director of housing as secretary shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority and of its minute books and seal. The director shall have authority to cause to be made copies of all minutes and other records and documents of the authority and to give certificates under seal of the authority to the effect that such copies are true copies and all persons dealing with the authority may rely upon such certificates.

Sec. 5. General powers. The authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act including, but without limiting the generality of the foregoing, the power to: (a) Sue and be sued in its own name;

(b) Have an official seal;

(c) Have perpetual succession;

(d) Maintain offices at such place or places within the state as it may designate;

(e) Adopt, and from time to time amend and repeal, bylaws and rules and regulations, not inconsistent with this act, to

carry into effect the powers and purposes of the authority and the conduct of its business;

(f) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act with any governmental agency, private corporation or other entity or individual, and all contracts made by the authority shall be exempt from the provisions and requirements of all laws of the state which provide for competitive bids in connection with contracts of any kind;

(g) Acquire or contract to acquire real or personal property, or any interest therein, on either a temporary or long term basis in its own name by gift, purchase, transfer, foreclosure, lease or otherwise, including rights or easements in property, but the authority shall dispose of any real property not more than eighteen (18) months following the acquisition of such property by the authority unless it is not possible to obtain fair market value, as determined by a licensed appraiser appointed by the authority, for such property; hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property or any interest therein; hold, sell, assign or otherwise dispose of any mortgage interest owned by it or under its control, custody or in its possession; and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

(h) Enter into agreements or other transactions with, and accept grants and the cooperation of, any governmental agency or other sources in furtherance of the purposes of this act;

(i) Employ, within the limitations of appropriations available for such purposes, advisors, technical experts and consultants, when necessary in its judgment to provide assistance or services which cannot be performed or provided by members of the staff and fix their compensation;

(j) Provide, within the limitations of appropriations available for such purposes, advice, technical information, training and educational services and conduct research and promote the development of residential housing, building technology and related fields;

(k) Make loans to lending institutions;

(l) Purchase construction loan notes and mortgages held by lending institutions on residential housing;

(m) Procure insurance against any loss in connection with its property and other assets, including mortgages and mortgage loans, in such amounts and from such insurers as it deems desirable;

(n) Issue bonds as hereinafter provided;

(o) Invest or deposit moneys of the authority, subject to any agreement with bondholders;

(p) Subject to any agreement with bondholders: renegotiate, refinance or foreclose, or contract for the foreclosure of, any mortgage in default; waive any default or consent to the modification of the terms of any mortgage; commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; operate, manage, lease, dispose of, and otherwise deal with such property, in such manner as may be necessary to protect the interest of the authority and the holders of its bonds;

(q) Consent, whenever it deems it necessary or desirable in the fulfillment of the purposes of this act, to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party, subject to any agreement with bondholders or lending institutions;

(r) Procure or agree to the procurement of insurance or

guarantees from the federal government or any governmental agency or instrumentality thereof, or from any private insurance company, of the payment of any bonds issued by the authority, including the power to pay premiums on such insurance;

(s) Provide insurance for long-term mortgage loans, or portions thereof, purchased by the authority in accordance with this act or made by lending institutions approved by the authority or participate with other public or private entities in the provision of such insurance;

(t) Purchase and make commitments for the purchase of securities or other obligations issued by lending institutions to finance residential housing, subject to any agreement with bondholders;

(u) Charge and collect such fees and charges as the authority may establish from time to time for lending and mortgage purchase programs;

(v) Create and establish such funds or accounts as may be necessary or desirable for furtherance of the purposes of this act; and

(w) Do any and all things necessary or convenient to carrying out its purposes and exercise the powers given and granted in this act.

Sec. 6. Purchase of mortgage loans. (a) The authority shall have, in addition to other powers herein granted, the power to:

(1) Invest in, purchase, make commitments to purchase and take assignments from lending institutions of construction loans and mortgage loans and promissory notes accompanying such mortgage loans, including federally insured mortgage loans or participations with lending institutions in such promissory notes and mortgage loans, for the construction, rehabilitation, purchase, leasing or refinancing of residential housing for low or moderate income families within the state;

(2) Sell, at public or private sale, with or without public bidding, any mortgage or other obligation held by the authority;

and

(3) Adopt, modify or repeal rules and regulations governing the purchase and sale of construction loans and mortgage loans and the application of proceeds thereof.

(b) At or before the time of purchase, the lending institution shall certify to the authority:

(1) That the construction loans and mortgage loans transferred to the authority are for residential housing for low or moderate income families within the state; or

(2) That the proceeds of sale or its equivalent shall be reinvested in construction loans and mortgage loans for residential housing for low or moderate income families within the state in an aggregate principal amount equal to the amount of such sale proceeds.

Sec. 7. Loans to lending institutions. The authority shall have, in addition to other powers herein granted, the power to: (a) Make loans to lending institutions under terms and conditions requiring the proceeds thereof to be used by such lending institutions for the making of construction loans and mortgage loans for residential housing for low and moderate income families;

(b) Purchase securities from lending institutions under terms and conditions requiring that such securities finance construction loans and mortgage loans for residential housing for low or moderate income families;

(c) Require that loans to or securities purchased from lending institutions shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts and consisting of such obligations, securities, and mortgage loans as the authority shall by resolution determine to be necessary to assure the payment of such loans or securities purchased and the interest thereon as the same become due. The authority may require in the case of any lending institution that any required collateral be lodged with a bank or trust company located in the state designated by the

authority as custodian therefor. In the absence of such requirement a lending institution shall, if collateral is to be provided for the loan or securities purchased, upon receipt of the proceeds from the authority, enter into an agreement with the authority containing such provisions as the authority shall deem necessary to adequately identify and maintain such collateral and service the same and shall provide that such lending institution shall hold such collateral as an agent for the authority and shall be held accountable as the trustee of an express trust for the application and disposition thereof and the income therefrom solely to the uses and purposes in accordance with the provisions of such agreement. A copy of each such agreement and any revisions or supplements thereto shall be filed with the secretary of state and no further filing or other action under the provisions of chapter 84 of the Kansas Statutes Annotated or any other law of the state shall be required to perfect the security interest of the authority in such collateral or any additions thereto or substitutions therefor, and the lien and trust for the benefit of the authority so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against such lending institution. The authority may also establish such additional requirements as it shall deem necessary with respect to the pledging, assigning, setting aside or holding of such collateral and the making of substitutions thereof or additions thereto and the disposition of income and receipts therefrom;

(d) Collect, enforce the collection of, and foreclose on any collateral securing its loan to or purchase of securities from lending institutions and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the authority therein, all subject to any agreement with bondholders; and

(e) Adopt, modify or repeal rules and regulations governing the making of loans to or purchasing of securities from lending

institutions and the application of the proceeds thereof.

Sec. 8. Procedures prior to financing of residential housing. Notwithstanding any other provision of this act, the authority is not empowered to finance any residential housing by the purchase of mortgage loans or the making of loans to lending institutions unless, prior to the financing thereof, the authority finds: (a) That there exists a shortage of decent, safe and sanitary housing at rentals or prices which low or moderate income families are able to afford within the applicable housing market area as determined by the authority; and

(b) Either that private enterprise and investment have been unable, without assistance, to provide an adequate supply of decent, safe and sanitary housing in such housing market area at rentals or prices which persons or families of low and moderate income are able to afford or that private enterprise and investment have been unable, without assistance, to provide sufficient mortgage financing for residential housing for occupancy by such persons or families;

(c) That the proposed financing is designed to alleviate the effect of the conditions determined pursuant to subsection (b) of this section on persons and families of low and moderate income; and

(d) That the proposed financing has been [requested] ~~[approved]~~ by the governing body or agency which has the authority to make final decisions regarding land-use planning within the applicable housing market area.

✓
check notes

Sec. 9. Bonds. (a) The authority shall have the power, and is hereby authorized to issue from time to time its bonds in an aggregate principal amount not exceeding one hundred million dollars (\$100,000,000) to provide funds for the financing of residential housing as authorized under the provisions of this act, the payment of interest on bonds of the authority, establishment of reserves to secure such bonds including the reserve funds created pursuant to section 10 hereof, and the payment of all other expenditures of the authority incident thereto. Not

less than twenty-five percent (25%) of the proceeds of all bonds issued under the provisions of this act shall be devoted to financing the rehabilitation of existing residential housing for low or moderate income families as authorized under the provisions of this act.

(b) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) The authority shall have the power from time to time to issue temporary renewal bonds to pay previously issued temporary bonds, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of the purposes authorized under the provisions of this act.

(d) Except as may otherwise be expressly provided by resolution of the authority, every issue of its bonds shall be payable solely out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys.

(e) The bonds shall be authorized by resolution or resolutions of the authority, shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide, except that no bond shall mature more than fifty (50) years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The bonds shall bear interest at such rate or rates, be in such denominations of five thousand dollars (\$5,000) or more, have such registration privileges, be executed in such manner and be payable in such medium of payment and at such terms of redemption as such resolution or resolutions may provide. The bonds of the authority may be sold by the authority at public or private sale, at such price or prices as the author-

ity shall determine.

(f) Any resolution or resolutions authorizing any bonds, or any issue thereof, may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

(1) Pledging all or any part of the revenues of the authority to secure the payment of the bonds, or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(2) Pledging all or any part of the assets of the authority, including mortgages and obligations securing the same, to secure the payment of the bonds, or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(3) The use and disposition of the gross income from mortgages owned by the authority and the payment of principal of mortgages owned by the authority;

(4) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(5) Limitations on the purpose to which the proceeds of sale of bonds may be applied and pledging such proceeds to secure the payment of the bonds or of any issue thereof;

(6) Limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; and the refunding of outstanding or other bonds;

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(8) Limitations on the amount of moneys to be expended by the authority for operating expenses of the authority;

(9) Vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers, duties of the trustee appointed by the bondholders pursuant to this act and limiting or abrogating the right of the bondholders to appoint a

trustee under this act or limiting the rights, powers and duties of such trustee;

(10) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the holders of the bonds and providing for the rights and remedies of the holders of the bonds in the event of such default, including as a matter of right the appointment of a receiver, except that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this act; and

(11) Any other matters of like or different character, which in any way affect the security or protection of the holders of the bonds.

(g) Any pledge of revenues or assets made by the authority shall be valid and binding from the time when the pledge is made; the revenues, or assets, so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act.

(h) Neither the members or the director of housing as secretary of the authority nor any other person executing such bonds shall be subject to any personal liability by reason of the issuance thereof.

(i) Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, body, bureau or agency of the state; and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things which are specifically required by this act and by the provisions of the resolution authorizing the issuance of such bonds or the trust agreement securing the same.

(j) The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power, out of any funds available therefor, to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding:

(1) The redemption price then applicable plus accrued interest to the next interest payment thereon, if the bonds are then redeemable; or

(2) The redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to such date, if the bonds are not redeemable.

(k) In the discretion of the authority, any obligations issued under this act may be secured by a trust indenture or trust indentures by and between the authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the state. Such trust indenture may contain such provisions for protection and enforcing the rights and remedies of the holders of such obligation as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as part of the operating expenses of the authority. Such trust indenture may limit or abrogate the right of the holders of any bonds or other obligations of the authority to appoint a trustee under this act or limit the rights, powers and duties of such trustee.

(l) Whether or not the bonds are of such form and character as to be negotiable instruments under the provisions of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, subject only to the provisions of the bonds for registration.

(m) In case any of the members, director of housing as secretary or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such members, director or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such members, director or officers had remained in office until such delivery.

Sec. 10. Reserve funds and appropriations. (a) The authority may create and establish one or more special funds, herein referred to as "bond reserve funds," and shall pay into each such bond reserve fund (1) any moneys appropriated and made available by the state for the purpose of such fund, (2) any proceeds of sale of bonds to the extent provided in the resolution or resolutions of the authority authorizing the issuance thereof and (3) any other moneys which may be available to the authority for the purpose of such fund from any other source or sources. All moneys held in any bond reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds secured in whole or in part by such fund or of the sinking fund payments with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. Moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the bond reserve fund requirement established for such fund, as hereinafter provided, except for the purpose of making, with respect to bonds secured in whole or in part by such fund, payment when due, of principal, interest, redemption premiums and any sinking fund payments with respect to such bonds. Any income or interest earned by, or incremental to, any bond reserve fund due to the investment thereof or by reason of any excess above the bond reserve fund requirement may be transferred by the authority to other funds or accounts of the authority to the extent such transfer does not reduce the amount of the applicable bond

reserve fund below the bond reserve fund requirement for such fund.

(b) The authority shall not at any time issue bonds, secured in whole or in part by a bond reserve fund if upon the issuance of such bonds the amount in such bond reserve fund will be less than the bond reserve fund requirement for such fund, unless the authority at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the bond reserve fund requirement for such fund. For the purposes of this section, the term "bond reserve fund requirement" shall mean, as of any particular date of computation, an amount, as determined in the resolution or resolutions of the authority authorizing the issuance of bonds with respect to which such fund is established, equal to not more than the greatest of the respective amounts, for the current or any single future fiscal year of the bonds of the authority, of annual debt service on the bonds of the authority secured in whole or in part by such fund, such annual debt service for any fiscal year being the amount of money equal to the aggregate of all interest and principal payable on such bonds during the fiscal year, calculated on the assumption that all such bonds are paid at maturity or if any amount of such bonds is required to be redeemed on any earlier date by operation of a sinking fund, then on the assumption that such amount of bonds is redeemed on such earlier date and that such amount is considered principal payable on such bonds during the year they are to be redeemed for purposes of this calculation.

(c) To assure the continued operation and solvency of the authority for the carrying out of its corporate purposes, provision is made in paragraph (a) of this section for the accumulation in each bond reserve fund provided for therein of an amount equal to the bond reserve fund requirement for such fund. In order to assure such maintenance of the bond reserve funds, the chairman of the authority shall annually, on or before September

15 make and deliver to the governor and to the legislative coordinating council such chairman's certificate stating the amount, if any, required to restore each bond reserve fund to the bond reserve fund requirement for such fund. The governor shall submit to the legislature in the next succeeding budget the amount, if any, required to restore each bond reserve fund to the bond reserve fund requirement for such fund. Any amounts appropriated by the legislature and paid to the authority pursuant to this section shall be deposited by the authority in the applicable bond reserve fund.

(d) All amounts paid over to the authority by the state pursuant to the provisions of this section shall constitute and be accounted for as advances by the state to the authority and, subject to the rights of the holders of any bonds of the authority theretofore or thereafter issued, shall be repaid to the state without interest from all available operating revenues of the authority in excess of amounts required for the payment of bonds or other obligations of the authority, the bond reserve fund and operating expenses.

Sec. 11. Refunding bonds. The authority may provide for the issuance of refunding obligations for the purpose of refunding any bonds then outstanding which have been issued under the provisions of this act, including the payment of any redemption premium thereon and interest accrued or to accrue to the date of redemption of such bonds. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect of the same shall be governed by the provisions of this act which relate to the issuance of bonds, insofar as such provisions may be appropriate therefor. Refunding bonds issued may be sold or exchanged for outstanding bonds issued under this act and, if sold, the proceeds thereon may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds.

Sec. 12. Remedies of bondholders. (a) In the event that

the authority shall default in the payment of principal of or interest on any bonds issued under this act after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the authority shall fail or refuse to comply with the provisions of this act, or shall default in any agreement made with the holders of twenty-five percent (25%) in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the secretary of state and proved or acknowledged in the same manner as a deed to be recorded, the holders of such bonds may appoint a trustee to represent them for the purposes herein provided.

(b) Such trustee may, and upon written request of the holders of twenty-five percent (25%) in principal amount of such bonds then outstanding shall, in such trustee's own name:

(1) Enforce all rights of the bondholders, including the right to require the authority to collect interest and amortization payments on the mortgages held by it adequate to carry out any agreement as to, or pledge of, such interest and amortization payments, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this act;

(2) Enforce all rights of the bondholders, including the right to collect and enforce the payment of principal of and interest due or becoming due on loans to lending institutions and collect and enforce any rights in respect to collateral securing such loans or sell such collateral, so as to carry out any contract as to, or pledge of revenues, and to require the authority to carry out and perform its duties under this act;

(3) Bring suit upon all or any part of such bonds;

(4) By action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(5) By action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such

bonds;

(6) Declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five percent (25%) of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

(c) Such trustee shall, in addition to the foregoing, have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

(d) Before declaring the principal of bonds due and payable, the trustee shall first give thirty (30) days' notice in writing to the governor, to the authority and to the attorney general of the state.

(e) The district court of Shawnee county shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders.

Sec. 13. Alteration of rights of bondholders. The state does hereby pledge to and agree with the holders of any bonds issued under this act that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the said holders thereof or in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds.

Sec. 14. Credit of state not pledged. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision thereof, but all such bonds shall be payable solely from the revenues and assets of the authority. All

such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the authority shall be obligated to pay the same or the interest thereon except from revenues and assets of the authority and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

Sec. 15. Bonds as legal investments. The bonds of the authority shall be legal investments in which all public officers and public bodies of the state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking institutions including savings and loan associations, building and loan associations, trust companies, savings banks and savings associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may properly and legally be deposited with and received by all public officers and public bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law and shall be eligible as collateral with respect to state moneys required to be collateralized.

Sec. 16. Annual reports. (a) The authority shall submit, promptly following the close of each fiscal year, an annual report of its activities for the preceding year to the governor, state treasurer and the legislative coordinating council and shall make such report available to any member of the legislature upon request. Each such report shall set forth: (1) a complete

operating and financing statement of the authority during such year, (2) an analysis of current housing needs in the state, (3) a statement of the authority's proposed and projected activities to meet such housing needs and (4) any recommendations that the authority deems necessary. The annual report shall identify performance goals of the authority and shall clearly indicate the extent of progress in attaining those goals during the preceding year.

(b) The authority shall assure that not less than twenty-five percent (25%) of the total housing units financed pursuant to this act during each fiscal year are occupied by or available to low income families. At the close of each fiscal year, the authority shall ascertain the percentage of such units financed during the preceding year which are occupied by or available to low income families. If such percentage is less than twenty-five percent (25%), the authority shall recommend, in its annual report, such legislation or other action as may be required to make at least twenty percent (20%) of such units available to low income families.

(c) The authority shall cause an audit of its books and accounts to be made at least once in each fiscal year by a certified public accountant.

Sec. 17. Authorization to accept appropriated moneys. The authority is authorized to accept such moneys as may be appropriated from time to time by the legislature for effectuating its purposes under the provisions of this act including, without limitation, the payment of the initial expenses of administration and operation and the establishment of reserves or contingency funds to be available for the payment of the principal of and the interest on any bonds of the authority.

Sec. 18. Payment in lieu of taxes. The real and personal property of the authority, and its income and operations, shall be exempt from taxation by the state and any political subdivision thereof, except that the authority shall make payments in lieu of taxes on real property acquired pursuant to the provi-

sions of this act, in an amount equal to the taxes that would be paid on such property were the same not exempt from taxation hereunder, unless agreement is reached with a municipality for payment of a lesser amount. The authority shall have the same right of appeal from any assessment made on real property as any person.

Sec. 19. Liberal construction. Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of the state, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. No proceedings, notice or approval shall be required for the issuance of any bonds and other obligations or any instrument or security therefor, except as is provided in this act.

Sec. 20. Inconsistent provisions in other laws superseded. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

Sec. 21. Separability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 22. Conflict of interest. Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for an officer or employee of any financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architectural firm, insurance company or any other firm, person or corporation to serve as a member of the authority. If any member of the authority shall be interested either directly

or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the authority, such interest shall be disclosed to the authority and shall be set forth in the minutes of the authority and the member having such interest therein shall not participate on behalf of the authority in the authorization of any such contract.

Sec. 23. Effective date. This act shall take effect and be in force from and after its publication in the statute book.