

M I N U T E S

SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

November 4, 1975

Members Present

Senator Neil Arasmith, Chairman
Representative Lloyd Buzzi, Vice-Chairman
Senator Charles Wilson
Senator Ed Reilly
Senator Arden Booth
Representative Tom Slattery
Representative Bill Morris
Representative Carlos Cooper
Representative James Ungerer
Representative Eugene Anderson
Representative Paul Feleciano
Representatives Mikesic and Gastl were excused

Staff Present

J. Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes Office

Others Present

Reuben Corona, El Centro, Topeka
Jim Turner, Kansas Savings and Loan League, Topeka
Marilyn Bradt, League of Women Voters, Lawrence
Marjorie Cooper, Paola
Charles Nicolay, General Contractors, Scranton
Ruth Wilkin, State Representative, Topeka
Dean Kackley, Governor's Office
Charles Lusk, Planning Division, KDED, Topeka

Morning Session

The meeting was called to order by the Chairman, who distributed a report on the Committee proposals which he had prepared for his own information. (Attachment No. I).

It was moved by Representative Cooper and seconded by Representative Feleciano that the minutes be adopted after the correction of a typographical error on page 6. Morion carried without dissent.

Mr. Mills was asked to discuss the proposed Committee recommendations concerning Proposals No. 17 and 19 (Attachment No. II). He reminded the members that instructions to staff had been to combine these two proposals since they were closely related. Mr. Mills explained that the only change from the previously recommended report was on page 8. Mr. Mills was asked to briefly go through the entire Committee report, which he did. A member suggested that on page 7, second paragraph, the statistical information regarding minorities in state employment should be expanded to show the total state population and the percentage of whites, blacks, Mexican American, and Indian. He suggested just using employment figures does not give a true picture. Mr. Corona stated that there are 46,000 Mexican Americans in the State of Kansas. It was moved by Representative Ungerer and seconded by Senator Wilson that the appropriate language be developed by staff concerning the state population and a break-down as to percentages, and that such information be added at the bottom of the first paragraph on page 7. Members expressed the opinion that this would be meaningless insofar as inequities in opportunities are concerned; that there are numerous agencies and departments which have no minorities at all, and some which have no females at all; and that this would be getting back to quotas which some members felt was not proper.

The Chairman pointed out that this is not a part of the Committee recommendation but only a resume of the testimony which was presented. One member pointed out that these statistics merely condense the more complete statistics on the following page.

Representative Feleciano offered a substitute motion to strike all of the first paragraph on page 7, beginning with the word "As". Motion was seconded by Representative Anderson and lost 2 yes to 6 no.

Representative Ungerer and Senator Wilson agreed with Representative Feleciano that the previous motion could include language which would show statistics that indicate what percentage of the agencies have no minorities. Upon vote, the motion carried 6 yes to 1 no. Staff was instructed to compile the appropriate figures.

Representative Anderson moved that the information include some of the material from the EEO data which indicates that several departments do not hire females or minorities, and also include the percentages; and to also include something about the promotional practices. Motion was seconded by Senator Wilson and carried without opposition.

Continuing with the Committee report, Mr. Mills noted that under "Recommendations", it was the feeling of the Committee that the Affirmative Action Plan had not been in operation long

enough to evaluate and therefore, suggested reviewing its effectiveness at a later time.

Members asked to return to page 7 and discuss the statistics concerning female employees. It was moved by Representative Feleciano and seconded by Representative Anderson, that the report incorporate the fact that males dominate four categories in state employment (1) Administrative, (2) Technical; (3) Protective Services, and (4) Skilled-Craft, and that females dominate in clerical jobs. Motion carried 4 yes to 2 no.

Senator Booth expressed concern about the lack of upward mobility language in the recommendation, and moved that on page 10, last paragraph, there be added in line 7 of the last paragraph after the word "Plan" the following: "and the upward mobility of minorities and females". Motion was seconded by Representative Feleciano and carried without dissent.

It was moved by Representative Feleciano and seconded by Senator Booth that the report as amended be adopted. Motion carried without dissent.

It was moved by Representative Morris and seconded by Representative Slattery that the Chairman request staff to mail the revised report to members and if there has been no dissent from members within seven (7) days, the Chairman be authorized to sign the report. Motion carried unanimously.

Copies of the proposed Committee report concerning Proposal No. 20 were distributed (Attachment No. III). Mr. Mills explained that the report had been tentatively approved at the last meeting and there were a few minor changes to which he called attention. The first change appears on page 5, under Conclusions and Recommendations where the language was changed to indicate that the Commission is carrying out its duties in an impartial manner. There was some change in the language in the first paragraph of page 6, and after lengthy discussion regarding this new wording, it was moved by Senator Booth and seconded by Representative Feleciano, that the first sentence be ended with the word "enforced" and that the second sentence be stricken. Motion carried.

There was additional discussion about the last sentence of the first paragraph on page 6, and it was moved by Senator Booth and seconded by Representative Ungerer that all of the sentence be stricken after the word "is" in the 9th line, and the following inserted: supportive of the concept of the public's right to know. Motion carried.

The Chairman urged that members not let their personal feelings overshadow what was discussed when the Ethics Commission appeared before the Committee.

Mr. Mills mentioned that a technical change had been authorized on the last page, and the bill which has been drafted agrees with this report.

It was moved by Senator Wilson and seconded by Representative Morris that the report be adopted as amended; that it be mailed to members and if there is no disagreement within seven (7) days, that the Chairman be authorized to sign the report. Motion carried unanimously.

The meeting was recessed for lunch.

Afternoon Session

The Chairman explained that, at the last meeting, some changes had been authorized in the proposed Housing Finance Act bill (Attachment No. IV), and asked Miss Torrence to explain those changes before the Committee proceeded to consider the Committee report regarding Proposal No. 18 (Attachment No. V).

Miss Torrence explained that the first change occurs on page 7(m) and is a clean-up change which includes construction loans, and is needed to make the bill consistent. Also, there is a similar change in (q) on the same page, and is simply a modification of the terms. She suggested that there should be another change made in subsection (p) and should read "bond holders or lending institutions".

On page 8(s) "construction loans" was inserted to provide for insurance. On page 10(d) in the last line, although it is not in the draft of the bill, the last line should have clarification. This is because at the top of that page, the power of the Authority is referred to, and this would make it consistent.

On page 11, Section 8(d) there is a provision that the Authority must find that the request has been made by the local unit, and the Committee had requested that there be a requirement in the case of individual requests which is provided for in the last line. Miss Torrence inquired if the Committee wishes to restrict it to a single unit, and the Committee agreed it would not wish to go beyond a single unit.

The next requested change appears at the bottom of page 22 and the top of page 23, where Miss Torrence explained she had left out the bond tax exemption and had reinserted it in subsection (a) on page 22. On page 23(b) the term "political subdivision" is new language. It had previously been stated as "municipality" which she felt was too narrow in view of previous Committee instructions. This will allow the Authority to negotiate payments in lieu of taxes.

There was extensive discussion concerning "payments in lieu of taxes" and once again concern was expressed about the state owning property. The matter was eventually clarified to the satisfaction of the Committee when they were reminded that this would occur only in cases of foreclosure and only for a short period of time, but that the payment in lieu of taxes which is negotiable, might be quite important to the community in which the foreclosure occurred.

A member inquired if the Attorney General had rendered an opinion on this bill, and it was established that he has not but that the Chairman will again make a formal request for such opinion.

Miss Torrence stated that it was her recollection that the Committee had voted to introduce the bill as a House bill, but that this year the Legislative Coordinating Council will decide where the bill will originate, but that they will probably give consideration to the wishes of the Committee.

Mr. Mills proceeded to review the proposed Committee report concerning Proposal No. 18. He stated that the material on page 6 is not really a change from the last draft because until the Committee had acted on the proposed bill, he had been unable to draft the Conclusions and Recommendations which now appear. He explained that he had summarized what he considered to be the most important issues in the bill. Members once again raised the issue of "moral obligation" and there was considerable discussion regarding this matter. The Chairman again agreed to request the opinion of the Attorney General on this specific issue.

It was then moved by Senator Reilly and seconded by Senator Booth that the report be adopted. Motion carried by a majority vote, with Representative Ungerer requesting to be recorded as voting in the negative.

Representative Feleciano, who had previously been authorized to file a minority report, distributed copies of his report (Attachment No. VI). The Chairman agreed that this would appear as an addendum to the interim Committee report.

The Chairman stated that this completes the charge for the interim Committee, and thanked members for their participation and assistance. Members expressed appreciation to the Chairman and to the staff for the good manner in which the business had been conducted.

A motion was made by Senator Wilson that all revised reports and the minutes be submitted to members as soon as possible, and if there are no objections from members within seven (7) days, the Chairman be authorized to sign same. Motion was seconded by Representative Anderson and carried unanimously.

The meeting was adjourned.

Approved by Committee on:

Prepared by J. Russell Mills, Jr.

11-21-75

PROPOSALS Nos. 17 and 19

Short Title: 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

The Special Interim Committee on Federal and State Affairs, after due consideration, felt that Proposal No. 17, which deals with the supposed sex-based inequities in the state classified civil service and pay scale, and Proposal No. 19, which deals with the treatment of minority employees in state government, were very closely related so these two proposals were handled as one; and the committee report will combine these two proposals.

The committee, after considerable consideration and testimony, came to the conclusion that there were inequities in both these areas. Two specific cases that prompted these studies were examined in detail; and the state agencies were interviewed at great length regarding their handling of the situations regarding the employees who were being affected. The committee felt that the state agencies involved; namely, the Department of Social and Rehabilitation Services and the Department of Transportation, were not at fault in their handling of these particular situations.

During the interim, the Governor and his staff presented an affirmative action plan to all state agencies as well as to the committee. The committee felt that this was a step in the right direction and that adequate time should be given to see if the plan is properly implemented and if it does, in fact, help solve some of the problems that are in existence.

Of major importance, however, is the recommendation by the committee that the Coordinating Council appoint a special committee to investigate the practices and procedures of the State Department of Personnel. It was the feeling of the committee that using this as a starting point, the committee should work as long as need be to check out hiring practices and so forth as they affect all state agencies.

PROPOSAL No. 18

Short Title: Proposal No. 18 -- The Kansas Housing
Finance Authority

The Special Interim Committee on Federal and State Affairs voted to recommend the creation of a state housing authority and the issuance of one hundred million dollars in revenue bonds to finance the authority and make low-cost funds available to low-income families both in rural and metropolitan areas through existing lending institutions.

A great amount of concern was expressed by a number of members of the committee that they in no way wanted the State of Kansas to get in the business of direct lending to any individuals; and, consequently, a great amount of time was devoted to the drafting of a bill that would alleviate all of the concerns that were expressed by the different members of the committee. The recommendation (and the bill) is not a unanimous decision by the committee, but it does offer a better piece of legislation than HB 2612, which was held over for study. There is still concern among some committee members that a new bureaucracy might be created with this proposal even though it calls for it to be attached to the Department of Economic Development and is supposed to be self-supporting.

The committee is recommending that the new bill be introduced in the House of Representatives by the Special Committee on Federal and State Affairs.

PROPOSAL No. 20

Short Title: Proposal No. 20 -- Monitoring the
Activities of the Governmental Ethics
Commission

The Special Interim Committee on Federal and State Affairs has completed its charge on this proposal. It is the feeling of the committee that the Governmental Ethics Commission is in fact carrying out the charge that they were given in the Campaign Finance Act and the Lobbying Law. The committee felt that the Ethics Commission was making every attempt to be fair in their investigations; and even though practically every member of the interim committee expressed their dislike for the great inconvenience imposed on them by this legislation, they felt that it was in fact necessary to be done in order to restore or attempt to restore at least the faith of the public in their elected officials.

The temporary regulations of the Ethics Commission were not drafted in time to meet the deadline of August, 1975, so that they could be examined by a standing committee of the legislature of the 1976 session. So, it appears that they will operate on the basis of temporary regulations and then re-issue temporary regulations in the Spring of 1976 so that the 1977 session of the legislature can review them as permanent regulations.

COMMITTEE REPORT

FROM: Special Committee on Federal and State Affairs
TO: Legislative Coordinating Council
RE: 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 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 the job classifications 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, and 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 the 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 Commission 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., whether 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.

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 statewide 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 statewide 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 I. As of April 1975, the total state workforce was 37,886. These figures include both classified and unclassified state employees. Of this total, 5.8% were black, 1.33% were Spanish-surnamed, 0.17% were American Indian, and 1.54% were other minorities. The total state workforce was 91.6% white. In 1975, the total workforce 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 workforce. 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 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

TABLE I

ALL CLASSIFIED AND UNCLASSIFIED EMPLOYEES PAID APRIL 1, 1975

Males

<u>Job Categories</u>	<u>Whites</u>	<u>Blacks</u>	<u>Mexican- American</u>	<u>American- Indian</u>	<u>Other</u>	<u>Total</u>
Officials, Admin- istrators	3,479	41	11	2	110	3,643
Professionals	3,688	81	70	7	78	3,924
Technicals	2,119	39	28	7	5	2,198
Protective Ser- vices	1,028	31	12	-	2	1,073
Para-Profes- sionals	1,186	226	42	4	21	1,479
Office - Cleri- cals	2,875	94	27	4	205	3,205
Skilled Crafted Service Mainte- nance	2,681	61	64	8	6	2,820
Other	1,516	236	33	3	7	1,795
	48	2	-	-	-	50
Total	18,620	811	287	35	434	20,187

Females

Officials, Admin- istrators	613	14	1	-	16	644
Professionals	3,184	25	4	7	45	3,265
Technicals	857	128	26	3	4	1,018
Protective Ser- vices	50	13	-	-	-	63
Para-Profes- sionals	2,472	500	47	6	26	3,051
Office-Cleri- cals	7,659	333	80	10	51	8,133
Skilled Crafted Service Mainte- nance	57	1	-	1	-	59
Other	1,009	373	59	4	8	1,453
	12	1	-	-	-	13
Total	15,913	1,388	217	31	150	17,699
Ethnic Group Totals	34,533	2,199	504	66	584	37,886

Missing Valid Ethnic Code - 5,673

Individuals that were not coded male or female - 1,051

be increased in staff and the office will be transferred from the Personnel Division to the Office of Secretary of Administration; and (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 Action 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 believes that, by adopting the State Affirmative Action Plan, the state has recognized that certain inequities do exist and is attempting to rectify those inequities which have too often been ignored in the past. Under the guidance of the Department of Administration, all state agencies are now directed to strive toward the goal of providing equal employment opportunity in the state service. The Committee wishes to acknowledge the cooperation received from the Department of Administration and note that this agency is apparently taking positive steps to realize equal employment opportunity. However, the Committee believes that legislative oversight of the implementation of the State Affirmative Action Plan will be necessary to determine whether the plan is actually being implemented and is achieving its stated purposes. The mechanism for this legislative oversight will be discussed further below.

The Committee feels that the problem of sex-based inequities examined under Proposal No. 19 is, in essence, only one facet of the larger problem of providing equal employment opportunity to all present and prospective state employees. The State Affirmative Action Plan, if properly implemented, should serve to eliminate those inequities relating to both females and other minorities.

It appears that the Division of Personnel will assume a central role in the implementation of this plan and the elimination of those inequities examined under Proposals No. 17 and 19. 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 to commence an in-depth study of the procedures and practices of the Division of Personnel no later than June 1, 1976. This Special Committee should be charged to review the problem areas described in Proposals No. 17 and 19, monitor the implementation of the State Affirmative Action Plan, ^{the upper mobility of minorities +} and determine whether the ^{females} doctrines of equal pay for equal work and equal employment opportunity are being implemented by the Division of Personnel.

_____, 1975

Respectfully submitted,

Senator Neil H. Arasmith, Chairman
Special Committee on Federal and
State Affairs

COMMITTEE REPORT

TO: Legislative Coordinating Council October 10, 1975
FROM: Special Committee on Federal and State Affairs
SUBJECT: 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 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 enactments 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 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 members, who have been 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.

In the larger sense, the majority of the Committee feels that, at present, 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 the 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 Elections 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, (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, or (4) appoints a treasurer or a candidate committee.

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. Therefore, the Committee recommends that legislation be introduced to effect these definitional changes.

Date

Respectfully submitted,

Senator Neil Arasmith, Chairman
Special Committee on Federal and
State Affairs

Attachment IV

_____ 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 persons 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 of 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. 75-3223, 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 construction loans, 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, 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; and 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, construction loan, 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 construction loans and 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 residential housing has been approved and the proposed financing requested by the governing body of the city or county in which such housing is to be located, except that such approval and request shall not be required for financing of construction or rehabilitation of a single-family unit by an individual if such unit is to be used as the place of residence of such individual.

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, estab-

lishment 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 authority 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 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 thereof may be applied, in addi-

tion 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. Tax exemption. Payment in lieu of taxes. (a) Any bonds issued under the provisions of this act, their transfer and

the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

(b) 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 provisions 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 political subdivision 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.

COMMITTEE REPORT

TO: Legislative Coordinating Council
FROM: Special Committee on Federal and State Affairs
RE: 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 and 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 committee did not recommend the creation of a State 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 H.B. 2612, which would create a Kansas Housing Finance Authority to assist in the financing of residential housing for families of low and moderate income. H.B. 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 H.B. 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 authority. Most of these state housing authorities (SHAs) have been created as independent agencies responsible to the governor. 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 either 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 developer. Under indirect financing programs, SHAs use their tax-exempt borrowing

power to increase the amount of mortgage capital in the market by working through existing financial institutions, such as banks, saving and loan associations, or credit unions.

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 authority 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 in this report.

Testimony before the Committee was generally supportive of the state housing agency concept. Much of the testimony concerned specific approaches to the creation of a housing agency and detailed statements concerning various provisions in H.B. 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 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 spend, and

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		
NEW YORK STATE HSG. FIN. AGCY.	1960	1961	D	2,100.0***	1,496.4	C	C	C	C	746.6	20,677
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

(3) bring money into the state through the sale of bonds.

Data presented by the Division of State Planning and Research indicated that a housing shortage exists in Kansas. According to the Future of Kansas Study and Kansas 2000, 15,375 new housing units will have to be built yearly for a total of 461,000 units which will have to be built by the year 2000 for Kansas to meet its housing needs. It was stated that about 40% of this housing need will be met through conventional financing mechanisms. These 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 sub-standard 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 or 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 H.B. 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 H.B. 2612, was drafted for Committee

consideration. This bill was extensively reviewed, considered, and amended by the Committee. It contains portions of H.B. 2612, specific approaches patterned after existing legislation in other states, and various suggestions made by Committee members.

Conclusions and Recommendations

A majority of the Committee believes that the establishment of a Kansas Housing Finance Authority is both feasible and necessary at this time. This authority will assist in the financing of residential housing for families of low and moderate income, serve as a central agency which can make use of available federal funds, and provide statewide coordination for the development of low and moderate income housing in Kansas. Therefore, a majority of the Committee recommends that the 1976 Legislature take favorable action on _____ Bill _____ which would create a "Kansas Housing Finance Authority" to assist in the financing of residential housing for families of low and moderate income. The major provisions of the bill are as follows:

1. A Kansas Housing Finance Authority, composed of seven members appointed by the Governor and confirmed by the Senate, would be created. The Director of the Division of Housing of the Kansas Department of Economic Development would serve as Secretary of the Authority and the staff of the KDED Division of Housing would serve as the staff of the Authority.
2. The Authority would be authorized to issue tax-exempt revenue bonds, in an aggregate amount not to exceed \$100,000,000, to provide funds for the financing of residential housing for low and moderate income families.
3. Bonds issued by the Authority would not be deemed to constitute a debt of the state or a pledge of the faith and credit of the state. The bonds would be secured only by the revenues and assets of the Authority. However, a "moral obligation" on the

state is established by the requirement that the chairman of the Authority annually submit to the Governor and the Legislative Coordinating Council a certificate stating the amount, if any, required to restore each bond reserve fund to the bond reserve fund requirement. The Governor would be required to 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.

4. 25% of the proceeds of the bonds issued would be required to be used for the rehabilitation of existing residential housing.
5. The Authority would be empowered to purchase mortgage loans from and make loans to lending institutions, such as banks, savings and loan associations, and credit unions. However, the Authority could not make direct loans to developers, contractors, or individuals.
6. The Authority would attempt 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 would also give priority consideration to rural and urban housing rehabilitation programs.
7. The Authority would determine the eligibility criteria for low and moderate income families, irrespective of age, marital status, race, creed, national origin, or sex, taking into consideration among other factors: (1) the amount of total family income 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 family income.
8. Prior to the financing of any residential housing, the Authority would be required to determine that the proposed residential housing has been approved and the proposed financing requested by the governing body of the city or county in which the housing is to be located. This would not be required, however, for the construction or rehabilitation of a single-family unit by an individual if such unit is to be used as the place of residence of such individual.

9. The Authority would be required to assure that at least 25% of the total housing units financed during each fiscal year are occupied by or available to low income families.
10. The real and personal property of the Authority, and its income and operations, would be exempt from taxation by the state and any political subdivision, except that the Authority would make payments in lieu of taxes on any real property acquired in an amount equal to the taxes that would be paid on such property were the same not exempt from taxation, unless an agreement is reached with a political subdivision for payment of a lesser amount.

_____, 1975

Respectfully submitted,

Senator Neil Arasmith, Chairman
Special Committee on Federal
and State Affairs

Attachment I

MINORITY REPORT

It is anticipated that a Kansas Housing Finance Authority would provide the first real present and future hope of closing the widening gap between the supply of and demand for privately built modern housing for the long-neglected low and moderate income market. However, it is unfortunate that, traditionally, most state housing finance agencies have focused their greatest amount of efforts on suburban middle income housing. Thus, it is imperative, that the best way to ensure that low-income households -- both rural and urban -- are assisted is to specifically state that intent in the law. The bill should also stipulate that a balance be struck between metropolitan and nonmetropolitan assistance in proportion to the needs identified by the statewide housing plan.

Another step which could be taken to help ensure that rural, low income housing needs are met would be to require that at least one member of the board be rural based and that one member be either a low-income person or a representative of low-income housing interests. Legislative intent that those in need receive the highest priority must be made clear. The needs of rural Kansas cannot be overlooked since 15.9% of rural housing is substandard and over half of the state's substandard housing is in rural areas.

Other points which should be included in the bill include:

Specific instructions to work with other housing entities such as providing services to FmHA or concentrating efforts to expand a particular FmHA program. Specific language encouraging the HFA to seek means to cooperate with FmHA should be included.

Include additional provisions which will strengthen the commitment to meet low and moderate income housing needs.

Identify low and moderate income housing performance goals for the authority.

Identify a good sound management team once the project is completed and provide proper training, upkeep, etc.

Include provisions guaranteeing both a project's market feasibility and consistency with state and local housing assistance plans and goals for the distribution of low and moderate income units.

At this time, we do not have an adequate inventory of housing needs in Kansas. A current and complete catalog of housing for the state, its cities, and regions, is an essential step in dealing with housing problems. Of particular importance is a survey of rural housing as to adequacy and condition, since virtually no current data is available pertaining to rural areas and small communities. A concentrated evaluation of other state housing agencies should be conducted to assess the effect of their programs on providing housing to low and moderate income groups. Appropriate committees of the legislature should investigate the role of local codes and ordinances and their contribution to rising housing costs.

Representative Paul Feleciano