

M I N U T E S

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

July 2 and 3, 1975

Members Present

Senator Elwaine Pomeroy, Acting-Chairman  
Senator Arden Booth  
Senator William Mulich  
Senator John Vermillion  
Representative Robert Frey  
Representative Victor Kearns  
Representative Clarence Love  
Representative William Marshall  
Representative Max Mize  
Representative Pascal Roniger  
Representative Francis Smith  
Representative Joseph Wicinski

Staff Present

Mike Heim, Legislative Research Department  
Doug Crandall, Legislative Research Department  
Myrta Anderson, Legislative Research Department  
Alan Alderson, Revisor of Statutes Office

Others Present

Carl Nordstrom, Kansas Association of Commerce and Industry  
(KACI)  
Gary N. Zook, Kansas Association of Commerce and Industry (KACI)  
Bud Grant, Kansas Association of Commerce and Industry (KACI)  
Lee Rowe, League of Women Voters  
Sister M. Noel Walter, Kansas Catholic Conference  
Representative R. D. McCrum,  
Gary C. Stotts, Division of Budget, State Of Kansas  
Martha Maagelsdorf, UPI  
Fred Hollaman, House of Representatives Staff  
F. M. Stratton, Topeka Police Department  
S. R. Starr, Topeka Police Department  
Mary J. Wiersma, Kansas Farm Bureau  
Charles F. Bredahl, State Conservation Commission  
Jim Ploger, Kansas Farmers Union  
Representative Ralph Bussman

Others Present (Cont'd.)

Chris McKenzie, Division of Planning and Research  
Walt Plosila, Division of Planning and Research  
Representative Jim Slattery  
Edward Momola, 27 Hallock Street, Kansas City, Kansas  
Mary F. Nagel, 27 Hallock Street, Kansas City, Kansas  
E. A. Mosher, League of Kansas Municipalities  
Harold Shoaf, Kansas Electric Cooperative, Topeka  
Jim Davis, Wyandotte County Commission  
Ed Mayfield, Wyandotte County  
Arthur A. Heck, Douglas County Commission  
Bob Mariotte, Lawrence Journal-World, Lawrence, Kansas  
William B. Springer, Johnson County Commission  
Steve Carter, K.U. Student  
Bob Wellshear, Shawnee County Commission  
Fred Allen, League of Kansas Municipalities  
Bill Tschudy, Johnson County Charter Commission  
Harold Riehm, Johnson County Charter Commission

Morning Session

The meeting was called to order by Chairman Pomeroy, shortly after 10:00 a.m. He explained to the Committee that he would be acting chairman for the Local Government Committee meeting due to the fact of the illness and recent resignation of Representative Kermit Oakes.

A brief explanation was given of the four study proposals before the Committee by Mike Heim. It was pointed out that two of the proposals are somewhat related in that both deal with the issue of land use. One deals with urban land use problems, while the other deals with rural land use problems. The third topic deals with law enforcement and, specifically, two aspects of that general topic: 1) the adequacy of the law enforcement training center program at Hutchinson, and 2) the issue of consolidated law enforcement -- whether the law enforcement statutes should be combined into one statute and whether the coverage of the statutes should be expanded to include all counties. The fourth topic deals with county home rule and at least three aspects of that general topic. This includes problems with current law, optional forms of county government, and a four year term of office for county officials. A possible fourth issue deals with salary setting on the county level.

Doug Crandall explained the scope of the study for Proposal No. 38 dealing with local law enforcement. He reviewed three statutes dealing with consolidated law enforcement. The first statute is contained in K.S.A. 19-4401 through 19-4423. The second one is the Riley County Law Enforcement statute --

K.S.A. 19-4424 through 19-4445 and the third consolidated law enforcement act -- the Grant County Act passed in 1974, is contained in K.S.A. 19-4468 through 19-4486. It was pointed out that currently Riley County is the only county utilizing consolidated law enforcement act. Lyon County decisively rejected the concept when it was placed on the ballot and Grant County narrowly rejected the proposal.

Mr. Crandall noted that there were several hold-over bills that were introduced in the 1975 Session. The Committee may want to consider these in their study of the consolidated law enforcement issue as well as their study of the Law Enforcement Training Center. These bills include S.B. 123, S.B. 479, S.B. 496, H.B. 2192, H.B. 2420 and are in the Committee notebooks.

Alan Alderson of the Revisor of Statutes Office then gave some background information on Proposal No. 39 dealing with county home rule. He gave a brief explanation of S.B. 175 which was passed by the 1974 Legislature. He noted that counties were given powers of home rule to determine their local affairs of government and that these powers shall be liberally construed for the purpose of giving counties the largest measure of self government. He noted that some of the language contained in the county home rule statute is very similar to the language contained in the constitutional provision which provides for city home rule. He noted that the counties have eight restrictions on their home rule power. These include 1) that counties shall be subject to all acts of the legislature which apply uniformly; 2) they have no authority to consolidate or alter all their county boundaries; 3) counties have no power to affect the courts; 4) they shall be subject to the acts of the legislature concerning limits of indebtedness; 5) home rule powers conferred on cities shall not be superceded by that granted to counties; 6) counties shall have no powers to legislate on social welfare; 7) counties shall have no power to affect county elections, county election officers, or alter their duties; 8) they are subject to K.S.A. 1974 Supp. 12-172 et seq., concerning the retailers' sales tax

It was noted that H.B. 2551 passed by the 1975 Legislature dealt with county home rule. It was intended to clarify the home rule prohibitions dealing with elections. The situation arose in Shawnee County where the county attempted by charter resolution to put the county election commissioner under the direct control of the county commission. It was pointed out that the county election commissioner is a county official who is appointed by the Secretary of State. An Attorney General's Opinion held that this was not proper exercise in county home rule since filling the office of election commissioner is not merely a matter of local concern (Opinion No. 75-66). The Chairman noted that the legislature decided that in order to avoid litigation that the law should be changed.

Mr. Alderson pointed out that several problems or issues have developed concerning county home rule and that the interim committee may want to take a closer look at these items. He explained that the legislature in several instances had given counties

authority to perform a particular act on a monthly basis, and the attorney general has ruled that counties can act more frequently than on a monthly basis to accomplish some of these tasks.

Another item involved the investment of idle funds by the clerk of the district court. It was pointed that the clerk of the district court is an office which is not under the direct control of the county commissioners due to the home rule restriction regarding the courts. Another issue which has been raised concerns what constitutes a local affair. The test used to determine if an action is local in nature is if the action would affect any other county or political subdivision. The fourth issue deals with the jurisdiction in the courts for counties for enforcement of resolutions they pass under home rule. At the present time there is no court that has jurisdiction over the matters legislated on the county level under county home rule.

Mr. Alderson also gave a brief explanation of the provisions of S.B. 154 which provides for optional forms of county government; of H.B. 2252 which provides for four year term of office for various county officials; and S.B. 166 which provides that salary setting responsibility for most officials on the county level be placed with the county commissioners.

Mike Heim then explained some of the issues involved in Proposal No. 40 dealing with urban redevelopment. It was noted that the redevelopment of downtown areas is one of several major urban land use problems and is caused by a number of interrelated factors. Problems cited included deteriorating downtown areas, deteriorating residential areas; urban sprawl; the need for open spaces for recreation, industry; and logistics and mounting cost problems faced by cities that have to supply city services to spread-out residential areas as well as outlying shopping areas. Causes listed included the desire by some to get away from it all, racial motives, availability of housing is often limited to suburbs, high land costs in the downtown area, and the inability to obtain loan money from banks and savings and loan institutions to build or remodel houses in central city areas. Possible solutions for the problems have been suggested and/or tried in at least 11 other states. Some include tax increment financing procedures, downtown taxing districts, urban redevelopment corporations, expanded authority for issuance of revenue bonds, industrial revenue bonds, guest, food and entertainment taxes, or a combination of those listed above. It was pointed out that there were two bills introduced in 1974 and three bills that were introduced in the 1975 Session. Bills introduced in 1975 included H.B. 2285, authorizing the creation of urban redevelopment districts by cities. S.B. 526 and H.B. 2300 (almost identical) would authorize cities to issue revenue bonds and use the proceeds to purchase or acquire buildings and sites for business development purposes. See Attachment I for a more detailed discussion of the bills. Suggested amendments to S.B. 526 by Downtown Topeka, Inc. are in the Committee notebooks.

A brief introduction was also given to the fourth proposal before the Committee -- Proposal No. 41 dealing with agricultural municipalities. Several rural land use problems were cited. It was pointed out that the suggestion for agricultural municipalities is one of several possible solutions in the rural land use problem area. Other possible solutions include a statewide land use authority, a federal or nationwide land use authority, expanded land use controls or authority on the county level, or some type of local boundary commission.

Mvrta Anderson explained the concept originated with the Kansas Farmers Union and is discussed in the Farmers Union Land Policy Task Force Report for 1974. It was pointed out that this report called for agricultural municipalities to be formed and include all unincorporated land in the county. These municipalities would be given powers in matters of land classification, use and ownership equal to that of a first class city. The municipality would have the same power of eminent domain, as those exercised by public utilities, a city, highway commission, hospital association or whatever. A board of farmers would be elected to conduct the affairs of the agricultural municipality. Ms. Anderson explained to the Committee that there were several states which had implemented concepts somewhat related to that proposed. These included the State of California and the State of New York. After some further discussion, the Committee recessed for lunch.

#### Afternoon Session

The meeting was called to order by Chairman Pomeroy at 1:30 p.m. He explained that several persons had been invited to testify on the issue of agricultural municipalities. Representative Ralph Bussman from District No. 2 explained that his concept of agricultural municipalities would give the municipality authority over all incorporated land in a county. It would be governed by a board of farmers elected by residents in the municipalities. The agricultural municipalities would have similar powers to a first class city. He explained that he felt something was needed now to give land an identity. The only consideration land gets now is its dollar value. He said the food and fiber issue should be considered also when it comes to land. He said he did not feel the agricultural municipalities should be full fledged taxing units but that maybe they should be run like an extension council and possibly given the authority to levy a half-mill. He noted that all land in these areas would be zoned for agricultural purposes. Any change in use would require the approval of the board.

A question was asked if the municipality would actually need the power of eminent domain and whether it would be more proper

for the municipality to have the power to check the power of eminent domain exercised by other governing bodies or groups. He said he felt this may be a better solution to the problem. A question was asked concerning composition of the governing body whether the members of the board should be owners of the land as well as residents of the municipality. He said he would lean towards persons serving on the board being actual owners of the land. A question was asked if the board would have the power to direct the "agricultural use" the land was used for. He said no. He suggested that there might have to be some type of state appeal system for individuals and groups to appeal to. He said that often county commissioners are from cities and this is why this type of new local government is needed. A question was asked if he was aware of any abuses by cities of their annexation powers since the passage of the 1974 annexation law. He replied no. A question was asked if the agricultural municipalities would take away all of the zoning powers from the county commission. He said yes. A question was asked if zoning by these agricultural municipalities should be mandatory or permissive. He replied mandatory. A question was asked how committed he was to the idea of a new governmental unit. Representative Bussman responded that he was committed to the idea that agricultural land have an identity. He said he could go some other way but that something should be done. It was pointed out that just freezing city boundaries would not necessarily stop the outgrowth of people.

Testimony for the Kansas Farmers Union was presented by Mr. Jim Ploger, Executive Secretary for the Union. He explained that the statement he read was one that he had been asked to read by Dale Lyon, President of the Kansas Farmers Union. A copy of that statement is attached to the minutes. In addition, Mr. Ploger passed out a letter to each Committee member from Dale Lyon, which explained his absence from the Committee due to the wheat harvest. More questions were raised after Mr. Ploger presented his comments. A question was asked concerning the statement that counties do not have the power to zone. Upon further explanation Mr. Ploger stated that they may have the power but do not always use that power. Upon answering a question involving the exercise of eminent domain by agricultural municipalities, Mr. Ploger stated that cities have city attorneys to go to bat for them against a power company. It was pointed out that city attorneys will not represent an individual person. A Committee member noted that the statement read contained the concept that agricultural municipalities would have full taxing powers and that this was unlike what Representative Bussman had proposed. The Chairman pointed out that KPL did get the necessary zoning changes contrary to what was said in the prepared statement delivered by Mr. Ploger.

Mr. Richard Cunningham, Associate Director of the Kansas League of Municipalities, explained that his purpose in attending the meeting was to learn more about what an agricultural municipality was. He noted that people from cities often think that county commissioners do not listen to anyone in the city. He

pointed out that the 1974 Legislature passed somewhat of a restrictive annexation law and that most annexations since the passage of this law had been annexations that had been petitioned for by the people in outlying areas. He explained that Kansas had the fourth highest number of local governments in the United States and it seemed that we already had enough units of government without creating an additional unit of local government. He noted that he had asked the Federal Regional Council in a recent meeting if any of them had heard of the concept of agricultural municipalities before. He said that of the Department of Agriculture, the Department of Interior, the Department of Housing and Urban Development, none had heard of this concept before. A question was asked if the League could provide information as to the total area of land annexed into the city since passage of the 1974 annexation law and compare this to the number of acres annexed by cities prior to the passage of the law. Mr. Cunningham pointed out that this information was not readily available but perhaps the League could obtain it. In answer to a question, he said that the League of Municipalities was opposed to the concept of a county boundary commission or a statewide boundary authority. In response to another question he said he was unsure about the League's stance on mandatory zoning by counties. Mr. Cunningham mentioned a recent publication by the League of Municipalities on subdivision regulations for cities and said this may be helpful for the Committee to look at.

Staff was asked to provide the Committee with information on the procedures involving condemnation of land through the use of eminent domain. Mr. Cunningham pointed out that an issue that is being faced in some areas of the country is what population centers should grow and where the population should not grow. The Chairman pointed out that a recent KU law review article dealt with a case involving a city's effort to restrict the number of building permits. The court said cities cannot stop growth within their limits.

Mary Wiersma, representing the Kansas Farm Bureau, said she had also come to learn more about the issue. She said the Farm Bureau favored land use planning as close to the people as possible. She stated that the Farm Bureau was in favor of more powerful plant siting legislation and the Farm Bureau thought that the plant siting bill introduced in the 1975 Session was a step in the right direction. She stated that she was familiar with agricultural districting concepts used in the states of New York and California. She pointed out that Illinois recently implemented the concept of agricultural districting also. She said that the Farm Bureau may at a later time express a more concrete opinion on this issue.

Dr. Walt Plosila, Assistant Director of Research, for the Planning and Research Division, said that the state needs to develop land resource data. He pointed out that special districts had been created to fill voids where cities or counties did not have the power to act. He noted that certain counties have been

somewhat less than active in land use areas. About 50 counties have completed a comprehensive plan and approximately 35 have implemented zoning regulations. It was pointed out that counties do not have the powers of eminent domain. He suggested that an adequate land use inventory system should be established and that a review be conducted of the eminent domain laws, that incentives under home rule be given for counties to plan and zone and that counties become involved in growth policy planning. A question was asked concerning what counties currently have zoning, Dr. Plosila said that he did not have the information immediately but that he could supply this information to the Committee. A copy of Dr. Plosila's statement is attached to the minutes.

Mr. Ploger was asked a question who would vote for this governing body of the agricultural municipality. He said that it should be limited to the residents within the district. The Chairman pointed out that there may be constitutional problems if the board membership were restricted only to land owners.

July 3, 1975  
Morning Session

The Chairman called the meeting to order shortly after 9:00 a.m. Lavina McDonald, Assistant Secretary of State for the Elections, appeared before the Committee and outlined some of the problems she was having dealing with protest petition provisions of various laws. She said that there should be some type of uniform provisions for protest petitions. Specifically, she said that uniformity was needed in the petitions that are circulated. She stated that people should sign petitions the same way that they sign the registration lists. Many of these protest petitions state that the election procedures should be the same as they are for general bond law. She stated that the printing of ballots, etc., require more time than the 30 days that are provided in the bond law and suggested that at least 45 days be given.

Representative James Slattery from District No. 53, presented a statement to the Committee on Proposal No. 40 - dealing with Urban Redevelopment. A question was asked -- why not require the developer to come up with the money at the beginning of the project rather than hold the property in lease purchase agreement for five years. Another question was as to the desirability of the city picking up a portion of the cost. Additional concern was expressed concerning the constitutionality of taking land from private development. Representative Slattery replied that all of these questions were legitimate but that something needed to be done to stop the decay of downtown areas of our cities. Representative Slattery said the question involved the issue of whether we trust local officials.



The question was asked whether cities have the power of eminent domain outside the city limits. It was noted that cities do have these powers. Representative Slattery said he had no objection to providing for a definition in the bill of what a downtown blighted area is. A question was asked if the position of the city commission could be reviewed by the courts. He said he had no objection to this. Another question was asked if he would be in favor of separate hearings on the issue of whether an individual's property is blighted. He said he had no objection to this concept.

Mr. Leon Peterson, representing Downtown Topeka, Inc. explained that the Downtown Topeka, Inc., the Greater Topeka Chamber of Commerce, and the Kansas Association of Commerce and Industry (KACI) would be sponsoring a bus tour of Downtown Topeka and a luncheon for the Committee. He said that the tour would graphically show the Committee members blight and deterioration of the older communities near the downtown areas as well as the downtown area itself.

He pointed out that the Board of Education in Topeka just made a decision to close five schools in the downtown area. This is an example of the cost of urban sprawl he said. As cities expand their boundaries, more schools are required and additional streets, water lines, fire and police protection, etc., are needed. He said industry and business move out of the central areas also to follow the flight of the people. As a result then residential property has an increased burden for the cost of these city services. He stated that the average tax income from homes in the city is \$600 and that it takes \$700 to educate one child. He said he realized that revenue was gained from other sources than the property tax for education but this did point out the problem in this area. He said that downtowns historically have produced more income per area of space than any other part of a city. He said that the Topeka downtown area produces in excess of 10% of the total taxes of the city. He noted three factors that have created the problems in downtown areas. These include 1) the cost of land; 2) the cost of construction and meeting downtown building codes; and 3) trying to get a large enough project to interest a developer.

Mr. Peterson noted several cities in which downtown redevelopment had taken place including St. Louis where a \$350 million project is underway. In Missouri law, he noted, there is a tax abatement provision of 25 years which is more than what is being asked for in Kansas. He said that if we are ever going to salvage retailing we need to get people living back in the downtown areas. He also mentioned the redevelopment taking place in the downtown area of Minneapolis. It involves construction of a number of high-rise apartments as well as businesses in the downtown area. He pointed out that a Kansas State University class in architecture spent a semester developing plans for downtown Topeka and that these plans would be on display at the noon luncheon. He said that there are at the present time no vacant

apartments in the downtown area that there needs to be more apartment space provided for young married couples and groups of people 45 years and older. He said that J. C. Nichols, the developer of the Plaza area in Kansas City, Missouri, had used profound wisdom in surrounding that project with apartments which house more than 80,000 people and provide the base for retailing in that area.

At the noon luncheon, Mr. Peterson said that the classic example of the tax increment financing method occurred in the City of Pasadena, California. The square block in the downtown area had been producing approximately \$40,000 in taxes before a redevelopment project was instituted. After redevelopment the area produces in excess of \$700,000 a year. Mr. Lou Ascough, Topeka attorney and Mr. John Brown, Topeka architect explained some of the proposals for the redevelopment of the downtown Topeka area and specifically the redevelopment of a square block in downtown Topeka. It was explained that this area now produces approximately \$40,000 in taxes and that if it was developed as proposed it would produce in excess of \$1 million dollars a year. The concept included construction of a bank, savings and loan institution, a hotel and an apartment complex, as well as an area for a number of shops and retail business establishments. It was pointed out that 11 states now have some form of tax increment financing or other types of incentive to encourage the redevelopment of downtown areas.

Mr. Gary Zook of the Retail Sales Council and the Kansas Association of Commerce and Industry, read a statement for Mr. Bill Martin, President of Kansas Association of Commerce and Industry on this subject. A copy of that statement is attached. It was pointed out by Mr. Peterson that the Topeka City Commission had passed a unanimous resolution supporting the concept of tax increment financing. Mr. Charles Clinkenbeard, President of the Topeka Chamber of Commerce said the Chamber enthusiastically endorses this concept. Mr. Anderson Chandler, Vice-President of Downtown Topeka Inc., said that Downtown Topeka Inc. enthusiastically endorsed this concept also.

#### Afternoon Session

The Chairman explained the afternoon would be devoted to hearings on Proposal No. 39 dealing with county home rule and government. Mr. Art Heck, Douglas County Commissioner, said the interim Committee may want to take a look at the 2% protest petition provisions in the county home rule statutes. He said this figure is too low and that the percentage should be increased to insure that the protest petition concept is not abused. On the issue of altering the forms of county government he said he felt that the three commissioners were sufficient, but, that if additional commissioners were elected some type of administrative head or county manager would be needed. He said that the Committee should consider whether the County Commission should continue to be elected on the basis of party affiliation. He said that he would

favor a four-year term of office for county officials and that counties should be taking steps in making various county offices appointive rather than elected. He pointed out that Douglas County has used charter resolutions three times -- 1) to levy a tax for bi-centennial purposes; 2) to place authority for salary setting with the county commission; and 3) to transfer certain Douglas County records to the Kansas University Library. On the issue of agricultural municipalities, Commissioner Heck stated that he felt that counties had the capability to handle zoning problems on the county level.

Mr. Bob Wellshear, Chairman of the Shawnee County Commission, noted that Shawnee County had used home rule to place salary setting authority with the county. On the issue of alternate forms of government, he said that he was in favor of a three member board of commissioners. He said that if more people are elected they would get less done because it is hard now to get a quorum with only three. He said that he was in favor of a four-year term of office for county officials. He pointed out that there might be legislation needed to deal with the problem of enforcement of county resolutions and that he was definitely in favor of this concept. He said that he feared that if an agricultural municipality would take over zoning then government might become a hodge-podge.

Mr. Jim Davis, Wyandotte County Commissioner Chairman, said that his county had used home rule powers one time for setting the county salaries. On the issue of other forms of county government he said that he is not in favor of a large number of county commissioners and three was sufficient. He supported a four-year term of office for county officials but said that this might create some problems with countywide elections. He noted that elections held in 1972 cost the county in excess of \$113,000 and that elections in 1974 cost the county in excess of \$139,000. He said that a four-year term of office would still not solve the problem for holding elections every two years since the Congressional delegation and the Kansas House were examples of the need for elections to continue on a two-year basis. He stated that he did feel that the zoning board did protect farmers in Wyandotte County and that agricultural municipalities were not needed.

Mr. Bill Springer, Johnson County Commission Chairman stated that Johnson County has no authority over zoning matters. He said that there was currently a charter commission established and they were in the process of making recommendations for the improvement of Johnson County government. He said Johnson County did little in the area of home rule thus far. He said that he was in favor of less government and that he would in no way be in favor of more than five county commissioners. He supported a four-year term of office and he said that he was in favor of salary setting by the county commissioners. He expressed concern about the issue of checks and balances on the county level. He said that nobody could veto the action taken by the county commission other than the people.

Mr. Bill Tschudy, Olathe City Manager and Chairman of the Johnson County Charter Commission passed out a statement to the Committee which is attached to the minutes. He noted that there is a 24 member charter commission that is studying many questions for improvement of county government in Johnson County. He pointed out that Johnson County is the only county in Kansas with partisan local elections in several cities. He said the Charter Commission was investigating feasibility or desirability of a county manager, elective county executive, short ballot, whether partisan elections should continue on the county level and the size of the county commission, to name a few. He said he did not think that cities are within the scope of the charter commission's study.

Mr. Fred Allen, representing the League of Kansas Municipalities, stated that there were currently 35 to 45 county charter resolutions that had been received by his office that have been adopted by counties. He said that he would like to see consideration be given to S.B. 3 which would establish jurisdiction for the enforcement of county home rule resolutions in the courts. He said that the four-year term of office for county officials had been part of the county platform for a number of years. He said that S.B. 154 which provides for optional forms of county government is a good one in his personal opinion. He suggested that perhaps another alternative could be for the three-member county commission to continue, but the election of these commissioners be held at large. Although candidates would have to be nominated from each of the three districts. He said that the League was opposed to establishment of agricultural municipalities.

The next meeting has been scheduled for Hutchinson on July 31 and August 1. The Chairman said that staff would be contacting Committee members to see if they would be staying one or two nights in the City of Hutchinson for this meeting.

Meeting adjourned.

Prepared by Mike Heim

Approved by Committee on:

Sept. 4 1975  
(Date)

RECENT KANSAS LEGISLATIVE PROPOSALS

1974 Session

H.B. 1745 would amend the Kansas Urban Renewal Law concerning the issuance of bonds to finance urban renewal projects. Specifically the bill would provide for a "tax increment financing plan" to encourage development. Taxing agencies (county, city, school district) would continue to receive taxes based on the assessed value of property in effect prior to redevelopment. The increase in taxes generated by new development above this base amount would be used to pay or amortize the bonds issued to pay for the project.

H.B. 1945 would authorize cities over 40,000 to impose a tax on businesses within a designated parking and business improvements area. The proceeds of the tax would be used for the acquiring, construction and maintenance of parking facilities, decoration of public places and promotion of public events and retail trade in the area.

1975 Session

H.B. 2285 would authorize the creation of urban redevelopment districts by cities. The districts would have eminent domain powers, the authority to levy up to 10 mills additional tax in the district for redevelopment purposes and the authority to issue revenue bonds. In addition the districts would have the powers to construct shopping malls, parking lots, plazas, sidewalks, sculptures, restrooms, information booths, to landscape, operate buses, mini buses, other modes of transportation, etc.

S.B. 526 and H.B. 2300. Both bills (almost identical) would authorize cities to issue revenue bonds the proceeds of which would be used to purchase or acquire buildings or sites (by eminent domain if necessary) for urban redevelopment. The bills authorize cities to enter into lease-purchase agreements with developers for projects. The agreement may provide for 1) annual payments to the city equal to the ad valorem taxes that would have been levied 2) payments equal to ad valorem taxes that would have been levied for other taxing subdivisions. (Certain amendment suggested by Downtown Topeka, Inc.)

TESTIMONY

before the

SPECIAL COMMITTEE OF LOCAL GOVERNMENT

July 2, 1975, at the Statehouse, Room 510-S

and

Presented by Jim Ploger, Executive Secretary

KANSAS FARMERS UNION

Mr. Chairman and Members of the Committee:

We are pleased with this opportunity to appear before you today to explore with you the feasibility of establishing an Agricultural Municipality in each county of the state. The Kansas Farmers Union proposes such municipal government for the unincorporated agricultural areas of each county in its Policy Statement for 1975. It did so as a result of a report to the Kansas Farmers Union Convention at Wichita in November, 1974, by a special Land Policy Task Force of the Farmers Union which had studied land policy and its many ramifications for nearly a year.

The Task Force while looking into the farmers lack of influence in land use, zoning and other land policy matters found that the reason for this lack of influence was obvious when you get down to cases. It is simply that the farmer has no real access to a municipal level government in Kansas. Most powers in such matters have collected, either by default or design, to the city. This leaves the surrounding agricultural areas up for grabs. Therefore, a comparable local government for farmers is the only realistic obtainable balance of power for them.

It is obvious by reading history that the original plan of settlement of the State of Kansas intended that farmers have equal municipal powers with towns and cities. This government to which farmers had access independently of cities was the township. The township, however, has declined in power and relevance to the point where the township trustee is no longer even the assessor or the election commissioner in the township. The biggest job most townships have is to be custodian of the prairie dog fund and mow the weeds in a few semi-abandoned cemeteries.

Even the influence and power of county governments has declined rapidly during the last decade. Boards of County Commissioners now are largely administrators of state and federal programs. Their lack of power in zoning and land use matters is painfully obvious in many forms.

(More)

Take for example: Did the Kansas Power and Light Company go before the Board of County Commissioners in Pottawatomie County and request that the proposed site for the huge power generating complex be zoned for that use? If you check the record, I think you will find that no one from KP&L even considered the county or the township's concern to be power factors of any sort. These were legally constituted governments that were ignored by a private power company. This shows the total impotence of county and township government in Kansas and the total arrogance of the private power utilities. This was a situation involving the entire nature of that government territory and economy.

Frankly, it also shows the lack of will or the impotence of the Kansas Legislature, whichever you please, for not intervening in behalf of the people, the township and the county.

The only political subdivision in Kansas that does have the power to require consent from a private utility to take land is a city government.

Had the county had such power, however, it is highly questionable whether the commissioners would have forced the issue to the extent that KP&L would have had to prove "the public interest" in their undertaking. For that matter the same situation is true of every county in Kansas since a majority of the people in each of the 105 counties of this state are non-farm people. Farmers are a minority in every government subdivision in Kansas where any substantial power to govern or the authority to raise revenue is involved.

There is no government in Kansas that is designed to serve and protect the farmer's interest where those interests may differ from that of the towns and cities of the county. In fact, there is quite probably a constitutional point involved here. The equal protection provision of the federal constitution appears to apply. Where cities have power in eminent domain matters, the city government can pursue justice for its citizens in the court. The farmer must do his own fighting with a record of no chance of winning for he neither has the government to pursue his cause nor is his property protected or served by the municipal powers granted incorporated cities.

The reason for the decline in county and township governments and the resultant transfer of those powers to cities, directly to the state, to the school district and various other areas of taxing districts are many and varied.

A few reasons stand out, however. (1) Depopulation of farm areas. (2) The need for more uniform property valuations. (3) Unification of school districts in Kansas which ignored existing political boundaries for the most part, thereby requiring in effect a state-wide property valuation. (4)

The establishment of other special districts and boards for specific purposes by both the state and federal government such as the soil conservation district board, the ASCS Community Committees, the elimination of local involvement in social welfare, the FAS road system, etc. (5) Regionalism. The list goes on and on.

This effort, it seems to us, was and is a broad and subtle attempt by numerous interests, each is going their own way, to depoliticize the rural United States and to establish, literally, a maze of separate bureaucracies. Each of these bureaucracies then play their own politics and build their own empires, both at the monetary and political expense of rural people. Further, each bureaucracy while not being answerable to the rural public in any realistic sense nevertheless, builds, spreads and propagandizes the people preyed upon concerning its indispensibility to the point that rural Kansans are effectively disenfranchised when it comes to matters directly affecting their own vital interests. To point out just one tiny phase of this bureaucratic growth and the resulting failure to respond to people's actual needs -- This is July 2 -- Kansas has been harvesting wheat on the 2nd of July for the past 100 years. Yet, here we are in Topeka -- farmers -- because of the "scheduling problems for those responsible for setting these various hearings.

It is time to stop this avalanche of bureaucratism and re-establish local political control for the people. This then is the purpose of the Agricultural Municipalities. To re-establish farmer control over farmer affairs. Agricultural Municipalities should be true governments. That is they should have (1) territory. The unincorporated areas of each county. (2) Power to carry out the functions assigned to them. (3) Independence and equality with city or every municipal government in the state. (4) The power to raise revenue for the functions assigned to them. (5) Eminent Domain powers equal to first class cities and domestic power utilities. (6) A governing board or commission with an executive type chairman.

The simple existance of the Agricultural Municipality could and would solve many of the seemingly unsolvable problems of our time.

These are examples which come to mind: (1) Land in an Agricultural Municipality would be classified Agricultural for assessment purposes automatically because the question of development territory would be settled between the city, the municipality, the parties involved (owners) and whatever land use laws applied on a state-wide basis. The assessor would not be involved in classification of land around cities. He would rather value it according to whether it



was in an agricultural jurisdiction, the city, or an industrial development area. (2) The uncontrolled urban sprawl would suddenly become orderly. The best farm land would stay in agriculture. (3) Industrial growth would also be orderly and in controlled areas. (4) Utilities would no longer ride rough shod through the countryside without proof of a real "public interest." (5) Water so vital to agricultural development would not be siphoned away from agricultural use as farmers watched helplessly. The water priority for agriculture in each community would have a legal advocate with real power. (6) Surface rights of property owners would get some protection where they now have almost none in relation to mineral rights. (7) Water and soil sedimentation or what was known as soil and water conservation prior to the Environmental Protection Agency would have a board in charge which was elected by the people affected. (8) Most important of all an elected local government would be re-established at a level, both reachable by the individual and powerful enough to be worth having.

The foregoing are some of the functions, powers and results that could come from the effective establishment of Agricultural Municipalities throughout the state. More will appear and there will be criticism of these ideas. There would be, as there always is, problems of jurisdiction, but all such things can be resolved by law and arbitration. As far as procedure for establishing an Agricultural Municipality in each county, we believe that they should be constructed by law and be mandatory since the situation warranting the municipalities exists in each county of the state.

Also we considered that what other states are doing in most cases is irrelevant and inadequate in this general area. The re-establishment of true local government is the key to the solution to many of our current problems. Finally, those who curse big government ought to support small government with appropriate power to function in the public interest. A minimum amount of government is required to maintain the rights, the peace, the tranquility and the prosperity of the people. It can all come from the banks of the Potomac or a reasonable and appropriate portion of government can originate and be carried out at the community level. We prefer local government -- of the people -- by the people -- and for the people. That is what we propose when we support an Agricultural Municipality.

We would be glad to appear at a future time and explore this matter further.

Thank you.

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Attachment III

TESTIMONY TO THE SPECIAL COMMITTEE ON LOCAL GOVERNMENT  
CONCERNING PROPOSAL #41 AGRICULTURAL MUNICIPALITIES

Dr. Walter H. Plosila  
Division of State Planning & Research

Local interest in the creation of agricultural municipalities appears to have developed in response to a number of issues and problems which face Kansans in rural, unincorporated areas.

The agricultural municipalities proposal reflects a need to effectively deal with with important issues concerning the future quality of rural life. There is a question as to whether the establishment of yet another tier of local government in Kansas will completely resolve land-related issues such as eminent domain, annexation, the rate of conversion of farmland to urban use and the extent of county home rule authority. These issues and our Division's evaluations of the opportunities and problems offered by the agricultural municipalities concept will be the basis of my testimony this afternoon.

The following issues will be discussed:

- 1) The Preservation of Agricultural Lands
- 2) Local Government and Rural Needs
- 3) Eminent Domain
- 4) The Shortcomings of Agricultural Municipalities
- 5) Recommended Alternatives

The Preservation of Agricultural Lands

The preservation of agricultural lands ranks high as a concern among not only the proponents of agricultural municipalities, but also among most Kansans. Present trends in other states which are experiencing greater urban growth pressures than Kansas are indicative of the rapid rate at which prime agricultural land on the fringes of urban areas can be converted to urban uses. Since 1964, roughly five percent of the nation's farmland has been taken out of production and converted to other uses, most commonly for urban development. In comparison, about one percent of Kansas farmland was taken out of crop production in the period from 1955-1975 according to data from the Kansas Crop and Livestock Reporting Service. However, the loss of farmland has had little apparent effect on agricultural production, because of increased crop yields per acre due to agricultural advances.

While the loss of agricultural lands to other uses might be a lesser cause for concern in Kansas than in more rapidly urbanizing states, the Division of State Planning and Research feels it should continue to receive priority in future legislative sessions, especially since urban growth pressures are projected to increase along the Manhattan to Kansas City corridor in future decades as well as several other growth areas in the state. The 1975 Kansas legislature indicated its concern for the loss of agricultural lands by passing House Concurrent Resolution 2005 which authorizes the submission of an amendment to the Kansas constitution to the voters of Kansas in regard to the assessment of agricultural

lands for ad valorem tax purposes on the basis of its agricultural income or productivity.

Although the passage of this amendment, and its pending approval by the voters, is an indication of the support that currently exists for preserving agricultural lands, the availability of land resource data is critical to the success of this and future efforts. The state's ability to influence the preservation of agricultural lands in Kansas is integrally dependent upon the development of a consolidated land resource inventory. Initial steps are being taken by our division this year to develop a state land classification system which will be sensitive to the agricultural environment.

#### Local Government and Its Responsiveness to Rural Needs

Local government in Kansas has come under significant criticism in past years for several reasons. Many claim there are too many special districts some with overlapping and confusing jurisdiction, numerous townships with limited powers, inadequate legal authority, inadequate tax bases for the support of public service expenditures, a lack of trained administrative personnel, and duplications in the performance of functions.

Kansas townships originally performed many vital government functions in rural Kansas, but with increases in mobility and communication they have diminished in importance as larger units of government or special districts have absorbed what were once township functions. Since county government had limited powers special districts were commonly created to fill very particular needs. The number of special districts now numbers in excess of 1,400, making Kansas fifth in the nation in the number of special districts.

Until recently county government performed little more than the limited and often outdated or inadequate functions it was designed for in the nineteenth century. If, by some stroke of luck, county governments have escaped total stagnation in the past decade, recent action taken by the 1974 and 1975 Kansas Legislatures granting certain home rule powers to counties may actually revive the concept of strong county government.

This development in local Kansas government is probably most significant in regard to this hearing on the prospects for agricultural municipalities. In past years county governments have been caught in the squeeze between special district and municipal government functions. Ironically, the level of government best suited in many cases to meeting rural needs was unable to act in many situations because of constitutional limitations on its powers to act without first seeking legislative permission. It's expected that the granting of county home rule powers will significantly alter this condition. The awarding of powers equivalent to those held by first-class cities to agricultural municipalities may not only be inconsistent with recent legislative interest in county government reform, but severely hinder county governments in any future efforts to fill the void which has existed for so long at the local level. This issue is particularly pertinent in light of the recent initiative taken by counties in supporting the establishment of regional planning commissions to effectively deal with issues which have wide regional implications such as health, manpower, land, criminal justice, housing and economic development. The establishment of agricultural municipalities would only serve to fragment the working relationships counties have built in regions.

Interestingly enough, the agricultural municipalities movement has probably been a response to some of the same inadequacies identified in past county home rule proposals. Agricultural interests in the state have felt that their interests, and the interests of Kansas agriculture, were not always well represented on county commissions. While some of the powers proposed for agricultural municipalities are presently beyond the scope of powers Kansas counties currently hold, the Division of State Planning and Research feels that the strengthening of county government through recent home rule provisions and future reorganizational efforts will assist in providing many of the governmental services previously denied rural Kansas counties.

#### Eminent Domain

Of particular concern in recent years has been the almost unlimited eminent domain powers of some public and private groups to acquire land in the name of the "public interest" and the subsequent loss of agricultural lands as a result of such actions. K.S.A. 26-201 authorizes cities to appropriate "private property for the use of the city," with few exceptions, and K.S.A. 26-208 empowers cities "to condemn land outside the city limits" for the use of the city or any public utility owned by the city. K.S.A. 17-618 specifies the broad range of corporations or partnerships which may use the power of eminent domain in acquiring land for expansion or development purposes.

Kansas legislative committees have dealt at length with the problems associated with the eminent domain powers of public utility companies and the loss of tens of thousands of acres resulting from the acquisition of private property for the construction of electrical generation facilities. While no action was taken on proposals in the last legislative session, continued evaluation of the eminent domain powers of corporations and local governments is still needed. The position of those favoring the establishment of agricultural municipalities may be only one approach, among many, for dealing with the inequities and hardships often caused by the exercise of powers under the present eminent domain laws.

#### Potential Problems With An Agricultural Municipalities Approach to Local Government

Since the supporters of agricultural municipalities have discussed many of the hoped for advantages resulting from legislation authorizing the creation of agricultural municipalities, the Division of State Planning and Research would like to discuss some of the concept's possible shortcomings:

##### 1) A new tier of local government:

The widespread proliferation of special districts and local school districts in the past few decades have led elected officials and voters alike to look very cautiously upon proposals to create new layers of government bureaucracy when reorganization of existing governmental entities can generally accomplish the same objectives (e.g., school district consolidation). And while Kansas has only recently begun to deal with the reduction of its many overlapping special districts (in fact, the Special Committee on Agriculture and Livestock

is currently dealing with the consolidation of special water districts this summer) the potential still exists for eliminating overlapping functions and realizing considerable savings through consolidation.

As currently envisioned by its supporters, at least one and possibly more agricultural municipalities would be authorized by such legislation in each of the 105 counties within the state. These units of government would enjoy many of the powers authorized to first class cities, allowing them significantly more power than county government in spite of recent legislative actions in regard to county home rule. In effect, agricultural municipalities have the potential for conceivably eliminating the need for county government in any form. While innovative approaches to dealing with problems in the public sector should always be given due consideration by policymakers, the complete elimination of county-level government or its return to a secondary status in the State of Kansas appears to be highly inconsistent with recent legislative commitments to county home rule.

2) Eminent Domain:

As they are presently defined, agricultural municipalities would have the same powers of eminent domain as any public utility or city, and review and consent authority in the determination of the extent and location of an eminent domain taking. While there may be present inequities in the eminent domain laws of the State of Kansas which give almost unlimited power to certain private corporations which provide public goods and services, the exercise of review and consent powers by numerous agricultural municipalities may in practice be no less arbitrary than current practices. Particularly in cases which have broad regional impact, highly localized decision-making may result in ill-taken actions.

3) Urban Growth Management:

One of the most extensive potential impacts of agricultural municipalities would be to halt urban growth for all practical purposes. While techniques for regulating unplanned urban growth actions are currently popular topics of discussion in more urbanized areas of the state and nation, few advocates of urban growth management would support a wholesale policy of eliminating the annexation and eminent domain powers of cities across the board. Such a remedy might conceivably cause as many complications as the problem it sought to correct. The consequences of such an action, just in terms of economic growth alone, might be disastrous for the state.

Suggested Alternatives to Agricultural Municipalities

1) Continued Efforts to Protect Prime Agricultural Land from Speculative Development Pressures

The practical effects of preferential tax assessment of agricultural lands, if approved, should undergo close scrutiny in upcoming years to avoid any unanticipated effects. Experience with similar efforts in California with the Williamson Act actually resulted in increased, rather than decreased, pressures for urban development on farmers with land located on the urban fringe. Continued support for and development of an adequate land use inventory system and an active growth policy planning process which takes into account the developmental pressures on agricultural land are important to the success of continued efforts to preserve agricultural land!

2) Review and Revision, Where Necessary, of Existing Eminent Domain Laws:

Continued efforts should be made to review existing eminent domain laws by the state legislature. Reforms may be possible in regard to property owner access to condemnation and appraisal information, compensation practices, and the development of state power plant siting guidelines. A coordinated role between the new State Energy Office and the Kansas Corporation Commission in monitoring the location and construction of new power plant facilities in addition to the use of suggested state legislation by the Council of State Governments in 1973 regarding power plant siting guidelines should also be considered.

Guidelines need to be developed and adopted concerning the determination of what constitutes a reasonable taking and to insure that the public interest is being served through eminent domain acquisitions. An initial step in this direction would be to require public hearings concerning power plant location and construction at which aggrieved landowners would be allowed to testify. In the long run, however, legal and procedural devices need to be developed for protecting the affected landowners.

3) Greater Utilization of Planning and Zoning at the County Level:

County planning and zoning can play a vital role in land use decision on the county level. As of this date, fifty Kansas counties have completed comprehensive plans and thirty-five have zoning ordinances. While comprehensive planning and zoning can be effective tools for regulating improper land use actions at the county level, few Kansas counties have the technical planning or enforcement capacities they need. With continued state support and increased capacities the state's regional planning commissions will soon be able to provide the kind of technical assistance which is needed at the local level for adequately evaluating the impacts of land use actions. In this regard, the legislature's continued support for regional planning, county-wide planning and zoning and the participation of Kansans with agricultural interests in these activities is recommended.

4) Growth Policy Planning:

The most important question to which the issues of agricultural preservation, eminent domain, and the representation of rural interests in rural government in Kansas are concerned with is: Will the uncontrolled forces which have caused many of the problems we are facing in rural Kansas today also be allowed to shape the future of rural Kansas? Basic to this question are the problems related to land and local government which have been addressed in this hearing, and in our Division's recently published report, Kansas 2000. Growth issues such as these must be continuously addressed within the framework of a comprehensive growth policy planning process, which the Division of Planning and Research is currently developing, where the growth implications of state and local resource allocation actions and policies can be evaluated and addressed as readily and immediately as possible.

INCREMENT FINANCING*Attached IV*An Alternative Method of Financing Urban  
Redevelopment

The 1955 session of the Kansas Legislature enacted legislation enabling Kansas communities to engage in urban renewal undertakings. The Kansas communities which have initiated urban renewal projects since 1955 have relied solely upon federal loans and grants. The reduction of federal funds, burdensome federal procedures, the alarming deterioration of the "downtown area" in many Kansas municipalities and a growing demand to control urban sprawl, illustrate the need to develop an alternative to federally funded urban renewal.

Other methods of urban redevelopment financing available under the Kansas Urban Renewal Law (K. S. A. 17-4742 et. seq.) are insufficient to meet the demand for funds. For example, the issuance of urban renewal general obligation bonds pursuant to K. S. A. 17-4754 (d) would bring about the undesirable result of increasing property taxes.

1974 Kansas House Bill 1745 proposed tax increment financing of urban renewal development. This method of financing has been utilized with great success in California, Oregon, Minnesota and Iowa. It derives its name from the fact that renewal costs are paid from the increase or increment in tax revenues produced from the project.

Such legislation would empower municipalities to secure cash needed to meet renewal costs by borrowing funds or by selling bonds. The loans or bonds are secured by the tax increment expected to be produced by the redevelopment project. The taxes in the redevelopment area are then allocated between the taxing bodies and a special urban renewal fund. The taxing agencies such as the school board, county and the city continue to receive taxes based on assessed valuation in effect prior to redevelopment and the balance, or increment, is deposited in a special fund to meet the project costs. Once the indebtedness is paid, all the taxes generated from the project area are allocated

to the taxing subdivisions.

In the opinion of Former Attorney General Miller, Section 1 (b) of 1974 HB 1745, was in violation of Article 11 Section 5 of the Kansas Constitution which provides,

"No tax shall be levied except in pursuance of law,  
which shall distinctly state the object of the same,  
to which object only such tax shall be applied."

Section 1 (b) referred to above, provides that portion of ad valorem taxes collected in excess of the amount distributable to the taxing subdivisions in behalf of which they were levied and collected, is not to be paid to and used by those taxing subdivisions, but, on the contrary is to be paid to the urban renewal agency for deposit in a "special fund" for the financing and repayment of the indebtedness of the urban renewal agency.

Article 11 Section 5 of the Kansas Constitution is unambiguous. The proceeds of an ad valorem tax may be applied only to the object for which the tax is authorized by law to be levied.\*

It is my opinion that this constitutional objection can be avoided if a municipality would acquire and retain title to the real estate being redeveloped. No taxes would be levied and any question as to distribution of tax revenue would be avoided. K. S. A. 79-201 should be amended to clarify that real property acquired by a municipality for the purposes of redevelopment would be exempt from taxation during the period of public ownership.

If the property was exempt from taxation under K. S. A. 79-201 there would be no problem with the "uniform and equal" clause of Article 11 Section 1 of the Kansas Constitution.

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\* An interim committee of the 1974 Kansas Legislature reported it agreed with the Attorney General's opinion that 1974 HB 1745 is unconstitutional. The committee apparently made little effort to draft legislation to overcome the constitutional objections raised by the Attorney General.



The municipality and local taxing subdivisions would continue to receive revenues by contractually obligating the developer to pay the city an amount equal to that which would be paid in taxes on the prevailing mill levy. In effect, a payment in lieu of taxes.

The municipality would probably not recoup the expense incurred in acquiring the property until the development had been completed. At that time the real estate and any structure located thereon would be reappraised and the payment in lieu of taxes would be raised to an amount equal to that which would normally be paid in taxes. The city should be encouraged to contract with the developer to reappraise the project every year and increase the payment in lieu of taxes accordingly. By so doing the time needed for repayment of acquisition and renewal costs could be shortened considerably.

When the municipality is reimbursed for all expenses, title to the property is transferred to the developer. At such time the property would pass from municipal to private ownership and would consequently be placed on the tax rolls at an assessed value far above the value prior to redevelopment.

House Bill 2300 was introduced during the 1975 session of the Kansas Legislature. It is an attempt to overcome the problem cited by the Attorney General with Article 11 Section 5 of the Kansas Constitution. House Bill 2300 and Senate Bill 526, which is virtually identical, have been held over for consideration by the 1976 legislature.

Section 1 of HB 2300 merely states the purpose of the act.

Section 2 (a) empowers any city to issue revenue bonds, the proceeds of which shall be used only to acquire development sites. Upon the unanimous vote of the city governing body a city may exercise the power of eminent domain in the manner provided in Article 5 of Chapter 26 of Kansas Statutes Annotated for the purpose of acquiring fee simple title in real property.

Section 2 (b) authorizes a city to enter into lease purchase agreements, by ordinance of the governing body, with a developer to clear the site and/or construct, repair or remodel a facility, providing the city governing body declares such improvement would promote the welfare of the city.

Section 3 provides that the lease purchase agreements shall fix a date on which such development shall be completed. The lease purchase agreement may provide that from the date of completion, the developer shall begin making payments to the city in an amount equal to ad valorem taxes which would be levied on such property if it was on the tax rolls. Such payments would be used to reimburse the city for all acquisition costs.

At such time as the city has been reimbursed for all expenses, title to the property shall vest in the developer and shall be assessed and taxed as other property.

Section 3 (b) provides that the lease-purchase agreement may require the developer to make an annual payment to the city in an amount equal to the sum of ad valorem taxes levied in the year preceding the municipal acquisition. Such payment shall be divided by the county treasurer among taxing subdivisions in the same manner as the prior operating tax rate mill levy. These payments shall continue until title to the property vests in the developer.

This section assures that existing taxing subdivisions will continue to receive the same amount of revenue during the time the property is being improved. It should be noted that without any development, tax revenue from the property would probably decline.

Section 4 requires that the bonds issued to acquire the property shall be payable solely from the revenues derived from the facility. The bonds issued under this act are also declared to be negotiable instruments.

Section 5 authorizes the governing body of the city to secure the bonds issued under this act by pledging the facility purchased or constructed and the cities net earnings therefrom.

Section 6 is included to prevent the issuance of revenue bonds in an amount in excess of the actual cost of the acquired property.

Section 7 exempts the bonds issued pursuant to this act from all state taxes except inheritance taxes.

Section 8 merely defines the term revenue bonds as used in this act. Such bonds shall recite the authority under which they are issued.

Section 9 states that the enumeration of any object, purpose, power, manner, method or thing in this act shall not be deemed to exclude like or similar objects, purposes, manners, methods or things.

Section 10 would amend K. S. A. 79-201, which defines property exempt from taxation, by clearly exempting property owned by cities under the provisions of this act.

Section 11 repeals K. S. A. 1974 Supp. 79-201.

While hopefully surmounting the constitutional problems raised by the Attorney General, 1975 HB 2300 needs additional amendments to increase the chances of it being enacted.

Some lawmakers have objected to the lack of a time limitation within which a project must be completed. A limitation of five years from the time of municipal acquisition until title is granted to the developer seems reasonable.

HB 2300 should also be amended to clarify that counties would continue to receive revenue, at least equal to that amount received prior to municipal acquisition. The current bill clearly states that during the development period payment in lieu of taxes would be distributed among taxing subdivisions but no mention is made of the county.

The main opposition to increment financing comes from those lawmakers who object to granting municipal governing bodies the power of eminent domain to acquire real

erty for the purpose of private development. They specifically object to the lack of any guidelines restricting the use of eminent domain to "blighted downtown areas." Apparently the unanimous vote of the city governing body provided for in Section 2 (a) of HB 2300 is not a sufficient safeguard. This attitude seems to reflect a general mistrust of local elected officials and flies in the face of a recent trend toward granting more home rule to cities and counties.

It should be noted that pursuant to K. S. A. 17-618 public utility corporations are given the power of eminent domain and can exercise same without the approval of any elected public official.

Regardless of merit this objection can be overcome by statutorily restricting the use of eminent domain under HB 2300 to "blighted downtown areas".

Historically the power to seize private property has been used only for public purposes.

Is it in the best interest of the general public to prevent further deterioration of the "downtown area" and encourage redevelopment? After all deterioration of the "downtown area" reduces the property tax base which has the effect of forcing other property taxes up.

Is not redevelopment of the "downtown areas" in Kansas Cities consistent with the growing need for a comprehensive land use plan?

Should not the State encourage "downtown" and "upward" redevelopment as an alternative to urban sprawl?

I believe the need to redevelop the "downtown areas" in Kansas Cities and control urban sprawl is indeed consistent with the growing demand for a comprehensive land use plan.

I believe this public need and purpose, would justify the use of eminent domain when approved by unanimous vote of the city governing body. ;

The following is a brief summary of what increment financing could mean to City of Topeka.

### I. PEOPLE OF TOPEKA

Redevelopment would expand the city tax base, improve the appearance of the city, encourage the expansion of existing business and industry and hopefully attract new business and industry. Redevelopment of the downtown area will also alleviate the problems resulting from "urban sprawl".

### II. TAX REVENUE

If a parcel of real estate had a fair market value of \$2 million the tax assessment would theoretically be \$56,485.00 (\$2 million F. M. V. apply 15% commercial reduction = \$1.7 mill x 30% = assessed value of \$510,000 to which 1974 mill levy of 110.75 is applied thereby arriving at tax liability of approximately \$56,485.00).

If a developer would construct a \$40 million dollar structure on the real estate the tax assessment would theoretically increase from \$56,485.00 to \$1,129,650.00. (the assessed value of the property would increase 20 times and so would the tax liability).

### III. DEVELOPER

A developer would be able to ultimately acquire property in the Downtown Topeka area for a price competitive with property on the urban fringe.

Comments for Bill Martin  
for the  
LEGISLATIVE INTERIM STUDY COMMITTEE  
ON LOCAL GOVERNMENT-

*made by  
Mrs. Darry Zook*

Mr. Chairman, members of the committee, ladies and gentlemen, my name is Bill Martin, President of the Kansas Association of Commerce and Industry. I am here today to encourage action by this Interim Study Committee on the subject generally known as increment financing for downtown redevelopment. The Kansas Retail Council and the Kansas Association of Commerce and Industry have adopted a formal policy statement in support of the concept of increment financing for cities. The policy reads as follows: "KACI and the Kansas Retail Council urges the passage of legislation authorizing cities to use the increment financing technique as a tool for redevelopment. It is imperative that the larger cities in Kansas have a redevelopment tool to assist in the reclamation of depressed downtown areas. In addition, the medium sized towns in Kansas need an effective tool

to prevent the deterioration of downtown areas as these cities grow. Increment financing would provide an incentive to redevelopers, provide city government a measure of control over planned development, encourage broadening of the tax base, and, at the same time, not deprive cities of existing tax revenues."

There are three major problems in attracting developers into downtown areas, and this is true regardless of the size of the city or the geographical location within the State of Kansas. The first, and perhaps the most important, is the cost of land. The relative cost of acquiring a site downtown, then clearing that site for a major improvement, as opposed to buying a site on the perimeter of town, has greatly restricted redevelopment of downtown areas.

The second factor is the effect of building codes on construction costs of erecting a building within the downtown area. I understand that this can increase costs by as much as 30%.

The third factor is the difficulty in assembling a number of small parcels of land into one that is large enough to be economically practical for redevelopment.

In order to overcome these valid problems, we in Kansas need some tools to work with in the form of incentives to developers. We need to be able to offset these costs factors to the builder-developer to such an extent that it becomes economically feasible to rebuild in downtown.

Other states that have enacted similar enabling legislation are: Arkansas, California, Florida, Iowa, Michigan, Minnesota, <sup>Missouri</sup> New Jersey, Oregon, Utah, and Washington.

We think there are several advantages to the increment financing approach: 1. Such legislation would empower municipalities to secure the cash needed to purchase and clear land for redevelopment by selling bonds, with the bonds being secured by the additional revenue to be produced by the redevelopment project. 2. The increment finance proposal would enable a city to negotiate with the developer for



a site to be redeveloped. If such redevelopment serves the best interest of the city, the city would then be authorized to acquire and clear the site and contract with the developer for its redevelopment. 3. Title to the property would remain with the city and thus become tax exempt. However, the developer would pay to the city annually an amount equal to the ad valorem taxes which would be levied on such property if it were on the tax rolls and assessed as other property of similar nature. This feature means that no taxing agent need be deprived of existing tax revenues during the redevelopment process. 4. After the redevelopment project is completed, the developer would pay an amount equal to the ad valorem taxes which would be levied on the redeveloped property if it were on the tax rolls. The city would allocate to the county treasurer an amount based on the assessed valuation prior to redevelopment and use the increment difference to pay off the indebtedness the city had incurred in

acquiring and clearing the site. When the city had reimbursed all of its costs, title to such property would transfer to the developer, and the redeveloped property would be assessed and taxed as other property within the city. The result is a greatly expanded tax base and greatly expanded revenue for local taxing units.

We in the business community feel this is a fair approach. You have heard about situations in the State of Missouri where redevelopers are granted free land and a tax-free status for as much as fifteen or twenty years. We don't feel this is necessary. On the other hand, the existing situation is such that there is no incentive to redevelopers to become active in downtown areas. The increment finance concept seems to be a middle ground of compromise between the two extremes which would provide an incentive on the one hand, and yet not jeopardize the existing tax base of Kansas communities. KACI encourages your favorable consideration of this approach to a very real pressing problem.

*attach VI*

To: Members, Kansas Legislative Interim Committee on Local Government  
From: Bill Tschudy, Chairman, Johnson County Charter Study Commission  
Subject: Organization and Progress of the Johnson County Charter Study Commission

Pursuant to provisions of S. B. 451, the Johnson County Charter Study Commission has begun its study of a recommended charter for Johnson County government. The Commission, with all members appointed, has organized, hired staff, conducted a public hearing, and commenced the process of conducting its study and analysis. I am pleased to report to you the activities and progress of the Commission, to date.

COMMISSION MEMBERSHIP - The 23 members of the Commission, as provided by law, have been appointed. A list of Commission members, their addresses and appointing authorities is attached.

COMMISSION MEETINGS - To date, the Commission has conducted three meeting in addition to a public hearing. By determination of the Commission, meetings will be held bi-monthly, at 4:00 p.m. on the second and fourth Mondays of each month, at the North-east Johnson County Courthouse, 6000 Lamar. Special meetings may be held on call of the Chairman or on request of a quorum of Commission members. All meetings are open to the public, and notice of all meetings will be public information.

COMMISSION ORGANIZATION - Commission officers have been elected by the Commission, as follows:

Commission Chairman:	Bill Tschudy, Olathe
Commission Vice-Chairman:	Milt Erickson, Overland Park
Commission Secretary:	Mildred Gersh, Leawood

Rules of Procedure have been adopted by the Commission (copy attached). These shall be the official rules of operation and organization throughout the life of the Commission

COMMISSION COMMITTEES - To date, the Commission has established the following committees:

Executive Committee	Publicity Committee
Rules and Regulations Committee	Research Committee
Judicial Committee	

Other Committees will be created, as determined by need.

COMMISSION STAFF - The Commission has employed the following staff:

Executive Director:	Harold E. Riehm
Clerical Secretary:	Vicki Kunkel
Legal Counsel:	James Bouska (hourly basis)

COMMISSION OFFICE - Commission offices are in the Johnson County Courthouse, Olathe (old wing). Telephone: (913) 782-5000 Ex. 523

COMMISSION MEETINGS - The Commission first met in session on May 28, followed by meetings on June 9 and June 23. These meetings dealt with organization matters and the initial determinations of how the Commission would proceed. Committees of the Commission have met and work is underway.

On June 25, the Commission conducted its first public hearing, required to be held within 30 days of organization by S. B. 451. At this meeting testimony was heard from all three Johnson County Commissioners, several mayors of cities in the county, and from representatives of the League of Women Voters of Johnson County. Several other written statements were received and entered into the records of the Commission, including several from officials of Johnson County. The entire proceedings of this meeting were transcribed and will be available for Commission use.

Other public meetings will follow as will many other efforts to keep the citizens of Johnson county informed of the deliberations of the Commission.

Respectfully submitted,  
Bill Tschudy, Chairman  
Johnson County Charter Study Commission

CHARTER COMMISSION

MEMBERS'  
NAMES

MEMBERS' ADDRESSES  
AND PHONE NUMBERS

APPOINTED BY

COUNTY COMMISSIONERS

Clarence L. Roeder	4412 W. 94th Street Prairie Village, Kansas 362-1660	Dist. 1 William B. Springer
Mrs. Patricia Heaven	Lake Quivira RFD, Kansas City, Kansas 631-7413	Dist. 2 John J. Franke, Jr.
J.S. Skaptason	12000 Mission Road Leawood, Kansas Home - 649-8521 Office - 342-8780	Dist. 3 Robert R. Davis

STATE SENATORS

Mrs. Barbara Brown	7540 Delmar Prairie Village, Kansas 341-9420	Dist. 7 Norman E. Gaar
Mrs. Kathy Champlin	7209 Hadley Overland Park, Kansas 722-0034	Dist. 8 Mrs. Jan Meyers
Richard L. Bond	4901 W. 97th Terrace Shawnee Mission, Kansas Home - 648-5201 Office - 621-0832	Dist. 9 Paul Burke, Jr.
John L. Hodges	Box 490 Gardner, Kansas 884-7055	Dist. 10 D. Wayne Zimmerman

REPRESENTATIVES

Orin F. Nolting	6601 Bluejacket Shawnee, Kansas 631-0562	Dist. 18 Eugene F. Gastl
Wilson E. Speer	9301 Mackey Drive Overland Park, Kansas Home - 648-1969 Office - 782-1000	Dist. 19 Wendell E. Lady

HARTER COMMISSION (Cont'd.)

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Robert Bacon	R. R. #3 Shawnee Mission, Kansas	Dist. 20 Arthur W. Douville
Vrem D. Levens	8601 Delmar Prairie Village, Kansas 648-2204	Dist. 21 Robert D. McCrum
Dr. Jack Chalender	7227 Hemlock Overland Park, Kansas Home - 432-3461 Office - 831-1900, Ext. 208	Dist. 22 Joseph J. Hoagland
Donald G. Brakhahn	6116 Hemlock Merriam, Kansas Home - 432-9619 Office - 276-1571	Dist. 23 Victor W. Kearns, Jr.
Walter Jacobs	3605 W. 50th Street Shawnee Mission, Kansas Home - 236-9274 Office - 262-2304	Dist. 24 Rex B. Hoy
C.Y. (Kit) Thomas	5519 E. Mission Drive Shawnee Mission, Kansas 362-8888	Dist. 25 Earl D. Ward
Lloyd Sleezer	707 Church Terrace Olathe, Kansas Home - 764-2790 Office - 764-1050	Dist. 26 W. Edgar Moore
James K. Logan	1082 Wyckford Olathe, Kansas Home - 782-4498 Office - 782-2500	Dist. 27 Francis E. Smith
Mrs. Mildred Gersh	2000 W. 92nd Street Leawood, Kansas 649-8785	Dist. 28 Ole Nesmith
Mrs. Barbara Neff	9947 Larsen Shawnee Mission, Kansas 888-4085	Dist. 29 James L. Yonally
Gunnard A. Nelson, Jr.	12345 West 95th Street Lenexa, Kansas Home - 888-5969 Office - 888-4040	Dist. 30 August Bogina, Jr.

CHARTER COMMISSION (Cont'd.)

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Milton E. Erickson

7006 West 66th Terrace  
Overland Park, Kansas  
432-2151

REPUBLICAN CENTRAL  
COMMITTEE

William A. Cleaver

9143 Somerset Drive  
Overland Park, Kansas  
Home - 649-1592  
Office - 262-0506

DEMOCRAT CENTRAL  
COMMITTEE

W.B. (Bill) Tschudy  
(Commission Chairman)

1411 Salem Lane  
Olathe, Kansas  
Home - 764-1803  
Office - 782-2600

COUNCIL OF MAYORS

THE RULES OF PROCEDURE  
for the  
JOHNSON COUNTY CHARTER COMMISSION

The Johnson County Charter Commission of 23 members was selected in accordance with the provisions of a law (S.B. 451) enacted by the state legislature effective April 15, 1975. The purpose of this official body is to draft and submit a proposed home rule charter to the electors of the county for approval or rejection. The duties of its officers and rules governing the conduct of its work are herein set forth.

ARTICLE I

PRINCIPAL OFFICE

Section 1. Location -- The Charter Commission shall have a principal office and telephone number, and the location and number shall be made available to the general public.

ARTICLE II

OFFICERS

Section 1. Election -- Officers of the Commission shall be Chairman, Vice-Chairman, Secretary, and such other officers as the Commission may deem necessary. They shall be elected by vote of the Commission from its membership and shall serve for the life of the Commission.

Section 2. Vacancies -- Vacancies shall be filled in the same manner.

Section 3. Removal of Officers -- Upon petition of five or more members, a motion may be introduced providing for the removal of such officer(s) as the petition may provide, and upon an affirmative vote of twelve (12) or more members such officer(s) shall be removed.

Section 4. Duties of the Chairman -- The Chairman shall:

- a. Preside at all regular and special meetings.
- b. Appoint such special committees he or the Commission believes necessary to carry out the function of the Commission.
- c. Work with the executive committee in developing proposals for consideration by the Commission.
- d. Participate in discussions and vote on all issues.
- e. Serve as chairman of the committee of the whole or at his discretion designate another member.
- f. Serve as the spokesman for the Commission.
- g. Prepare the agenda for all regular meetings of the Commission, mailing it to members not later than five days before the meeting.



- h. Appoint, with advice and consent of the Commission, the executive director, legal consultant, and such other personnel as may be found necessary.

Section 5. Duties of the Vice-Chairman -- The Vice-Chairman shall serve and act as chairman in the absence of the Chairman and perform such other duties as may be designated by the Chairman or the Commission.

Section 6. Duties of the Secretary -- The secretary shall:

- a. Keep a record of all committee memberships and copies of minutes of committee meetings.
- b. Receive papers and documents presented at all general and special meetings and public hearings.
- c. Send out notices of meetings.
- d. Keep a record of attendance of members at meetings and hearings.
- e. Mail copies of minutes of regular and special meetings to Commission members and the news media within one week following such meetings.
- f. Safeguard all records of the Commission.

### ARTICLE III

#### MEMBERSHIP

Section 1. Appointment -- Members of the Commission shall be appointed in the manner set forth in Kansas State Senate Bill 451.

Section 2. Vacancies -- Vacancies in the membership shall be filled in the same manner. Upon receipt of notice of vacancy, the Chairman shall notify the person or authority having appointed the member so vacating and request that a replacement be appointed forthwith. Such appointee shall not be seated until sworn in by the County Clerk.

Section 3. Resignations -- Members who become ineligible or persons desiring to withdraw as Commission members, shall submit their resignations to the Chairman and such shall be effective upon acceptance by the Commission. Members shall serve during good behavior and shall not be removed without cause. The Commission shall not have the authority to remove members without an order issued by a Court or appropriate jurisdiction finding that the member is ineligible to serve.

Section 4. Attendance -- Members are expected to attend all meetings of the committee and sub-committee upon which they serve. Any member who is unable to attend such meetings shall so notify the Chairman.

Section 5. Official Statements -- Only the Chairman is authorized to issue official statements. A member may speak only with the authorization of the Chairman or the executive committee.

## ARTICLE IV

### COMMISSION STAFF

Section 1. Personnel -- There shall be an executive director who shall serve as the principal aide to the Chairman and Commission; a legal counsel who is admitted to practice law in the State of Kansas as provided in Section 5, Senate Bill 451; and such other staff members as the Commission may deem necessary.

Section 2. Duties of the Executive Director -- The executive director shall:

- a. Direct and supervise the work of the Commission staff in accordance with a work program adopted by the Commission.
- b. Provide the Commission with information and ideas needed in making decisions, including an analysis and summary of evidence presented at public hearings.
- c. Attend all meetings of the Commission and such other meetings as directed by the Chairman.
- d. Prepare information needed by committees.
- e. Participate in discussions of the Commission and its committees and make recommendations for their consideration.
- f. Prepare a public information program for review by the executive committee and subsequent action by the Commission.
- g. Perform such other duties as may be assigned by the Chairman or the Commission.

Section 3. Duties of the Legal Counsel -- The duties of the legal counsel are:

- a. Advise the Commission on legal questions relating to charter provisions.
- b. Assist in drafting certain sections of the charter.
- c. Review the preliminary and final drafts of the charter prior to publication, and submit an opinion in writing that the proposed charter is not in conflict with the Constitution and the laws of Kansas.
- d. Attend Commission meetings and public hearings as directed.

## ARTICLE V

### MEETINGS

Section 1. Regular Meetings -- The Commission shall hold regular bi-monthly meetings at 4:00 p.m. on the second and fourth Mondays of the month at the Northeast Johnson County Courthouse, 6000 Lamar, Mission, Kansas 66202. The time and/or place may be changed by vote of the Commission with notice in writing to all members seven (7) days prior to meeting.

Section 2. Special Meetings -- Special meetings may be held on the call of Chairman or on request of a quorum of Commission members, provided seven (7) days notice is given.

Section 3. Quorum -- A majority (12) of the Commission members shall constitute a quorum for the transaction of business.

Section 4. Minutes -- Minutes of regular and special meetings shall be prepared by a secretary and reviewed and signed by the Chairman of the meeting. Sufficient copies shall be reproduced for the needs of the Commission.

Section 5. Public Meetings -- All meetings shall be open to the public.

## ARTICLE VI

### PUBLIC HEARINGS

Section 1. Time and Place -- Public hearings shall be held as directed by statute and at such times and locations as the Chairman or Commission shall designate.

Section 2. Public Notice -- The Secretary shall notify Commission members and the news media at least ten (10) days in advance. The Chairman shall invite by letter, if time permits, public officials, representatives of organizations, and citizens to appear at hearings in order to present information, materials, and comments which will aid the Commission in drafting the charter.

Section 3. Agenda -- Persons who wish to be heard shall notify the Commission not later than three (3) days before such hearings and their written testimony shall be submitted in duplicate. Their oral statements may summarize the content in the written document. Persons failing to submit such notice may be heard subject to the time limitations of the Commission.

## ARTICLE VII

### COMMITTEES

Section 1. Executive Committee -- The executive committee shall be composed of the Chairman of the Commission, the Vice-Chairman, Secretary, and two other Commission members appointed by the Chairman. It shall meet at the call of the Chairman or on request of three of its members. The executive committee shall:

- a. Receive reports of special committees and, after review, submit them for consideration at a regularly scheduled meeting of the Commission.
- b. Initiate policy and procedural matters for consideration by the Commission.
- c. Establish deadlines for receiving reports of special committees.
- d. Take the responsibility for the effective administration of the work of the Commission staff.

Section 2. Standing Committees -- The executive committee shall be considered as a standing committee of the Commission. If additional standing committees are deemed necessary, they must be approved by the majority of the Commission members.

Section 3. Special Committees -- Special committees shall be appointed by the Chairman or on request by a majority of the Commission members. The Commission Chairman shall appoint the committee members and shall designate the person to serve as chairman. The chairman of any such committee shall fix the time and place of its meetings which will be made known to all Commission members and included in the minutes of a regularly scheduled Commission meeting.

## ARTICLE VIII

### VOTING

Section 1. Election of Officers -- When electing officers, voting shall be by secret ballot when more than one candidate has been nominated. An affirmative vote of a majority of the members of the Commission will be necessary for election as an officer. If no candidate receives a majority (12) vote on the first ballot, voting shall continue until one member receives a clear majority vote of the members.

Section 2. Adoption of Articles and Sections of the Commission Report -- When considering both the preliminary and final reports of the Commission a record shall be kept of each individual vote. No part of the report shall be considered to be approved until a majority vote of the whole Commission has been achieved. The preliminary and final reports shall be adopted in their entirety by majority vote of the whole Commission.

Section 3. Business Items -- A simple majority vote of the members present shall be sufficient to approve ordinary business items, and voice voting is permissible provided, however, a roll call vote shall be required when requested by three (3) or more members.

Section 4. Proxy -- There shall be no voting by proxy.

## ARTICLE IX

### EXPENDITURES

Section 1. Authorization -- Members of the Commission and the executive director may make purchases or commitments to purchase for the benefit of the Commission and may make trips for the Commission's benefit when approved in advance by the Chairman or by the Vice-Chairman in the absence of the Chairman, or by either the executive committee or the Commission.

Section 2. Reimbursements -- As provided in Section 4, S.B. 451, members may be reimbursed for actual expenses incurred in the conduct of the Commission's business, provided the reimbursement procedures and instructions of the Johnson County Board of County Commissioners have been followed.

Section 3. Reporting. The Chairman shall make periodic reports to the Commission and the appropriate county officials regarding the finances of the Commission. The Chairman shall file a complete financial statement with the Board of County Commissioners within thirty (30) days after the submission of the Commission's final report.

## ARTICLE X

### COMMISSION REPORTS

Section 1. Preliminary Report -- The Commission shall submit a preliminary report to the Board of County Commissioners which shall include the text of the proposed charter no later than November 21, 1975.

Section 2. Final Report -- The Commission shall submit its final report to the Board of County Commissioners no later than July 1, 1976, in such form as provided in Section 5, S.B. 451.

## ARTICLE XI

### AMENDMENTS

Section 1. Amending Rules -- The rules may be amended by a majority vote of the Commission at a regular meeting provided that the proposed amendment is submitted in writing to each Commission member at least seven (7) days prior to the Commission meeting.

## ARTICLE XII

### BASIS FOR OTHER RULES

Section 1. Robert's Rules of Order, Newly Revised -- At all meetings of the Commission and its committees, Robert's Rules of Order, Newly Revised, shall govern all voting and parliamentary procedures when not inconsistent with these rules and with the statutes of Kansas.

## ARTICLE XIII

### STATE LAW

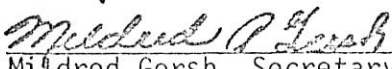
Section 1. Senate Bill #451 -- The Charter Commission hereby adopts by reference the language, rules and procedures as set forth in Senate Bill #451, as well as any subsequent amendments thereto. In the event of a conflict between these rules and the state law, the provisions of the state law shall control.

## ARTICLE IXX

### ADOPTION AND EFFECTIVE DATE

Section 1. These rules shall be considered effective upon approval by a majority of the Commission at a regular meeting.

Approved as amended June 23, 1975:

  
Mildred Gersh, Secretary *June 24, 1975*