

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at  
Chairperson

1:30 ~~am~~/p.m. on MARCH 21, 1985 in room 521-S of the Capitol.

All members were present except: Rep. Clyde Graeber, excused  
Rep. Robert D. Miller, excused  
Rep. Samuel Sifers, excused

Committee staff present: Mike Heim, Legislative Research Department  
Mary Hack, Revisor of Statutes Office  
Gloria Leonhard, Secretary to the Committee

Conferees appearing before the committee:

- Mr. Joseph M. Furjanic, Staff Legal Counsel, KASB -- SB 48
- Mr. Ernest Mosher, League of Kansas Municipalities -- SB 75
- Mr. Chris McKenzie, League of Kansas Municipalities -- SB 76
- Mr. Paul Sasse, City of Independence -- SB 76
- Mr. Duane West, City Commissioner, Garden City, KS. -- SB 76

Chairman Ivan Sand called for testimony on SB 48 from Mr. Joseph M. Furjanic, Staff Legal Counsel, Kansas Association of School Boards, who urged the Committee to support the bill. (See Attachment I.) When questioned, Mr. Furjanic noted that KASB had suggested approaching the matter as a super fund but the delegation voted against the idea; that the problem regarding asbestos surfaced in 1973.

Mr. Ernest Mosher, League of Kansas Municipalities, noted that the asbestos problem is not considered a critical problem to cities and counties.

Mr. John Irwin, representing the Department of Health and Environment, pointed out that they are very concerned because young people are exposed.

The hearing on SB 48 was closed.

Chairman Sand called for hearings on the following bills:

SB 75, relating to cities; authorizing the establishment of a special capital improvements fund.

Mr. Ernest Mosher, League of Kansas Municipalities, testified in support of SB 75. (See Attachment II.)

The hearing on SB 75 was closed.

Substitute for SB 76, concerning cities; relating to the abatement of nuisances, removal of weeds and removal of certain structures; providing a method to collect the costs thereof.

Mr. Chris McKenzie, League of Kansas Municipalities, testified in support of Sub. SB 76. (See Attachment III.)

Mr. Paul Sasse, representing the City of Independence, Kansas, testified in support of Sub. SB 76. (See Attachment IV.)

Mr. Duane West, City Commissioner, Garden City, Kansas, appeared to testify in support of Sub. SB 76.

The hearing on Sub. SB 76 was closed.

Chairman Sand called for possible action on the following bills.

SB 48, concerning municipalities; authorizing governing bodies thereof to issue bonds for payment of the costs of removal or encapsulation of friable asbestos-containing material in public buildings; conditions.

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A7

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,  
room 521-S, Statehouse, at 1:30 ~~am~~/p.m. on MARCH 21, 19 85

Rep. Phil Kline made a motion that SB 48 be amended as proposed in amendment to SB 48 provided by Staff. Rep. Clinton Acheson seconded the motion. The motion carried. (See Attachment V.)

Rep. Arthur Douville made a motion that SB 48 be passed as amended. Rep. Carl Holmes seconded the motion. The motion carried.

SB 59, relating to cities; authorizing the establishment of an equipment reserve fund.

Rep. Elizabeth Baker made a motion that SB 59 be passed. Rep. Dorothy Nichols seconded the motion. The motion carried.

The minutes for the meeting of March 19, 1985 were approved as presented.

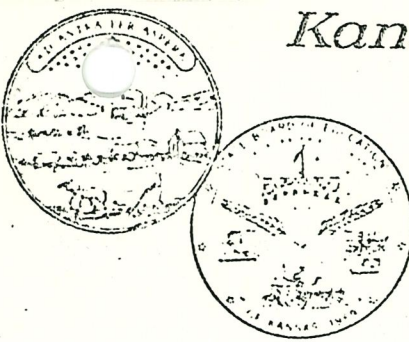
The meeting was adjourned.



# Kansas State Department of Education

Kansas State Education Building

120 East 10th Street Topeka, Kansas 66612



September 19, 1984

(ATTACHMENT I)

3-21-85

TO: John Myers, Governor's Office  
Barbara Sabol, Secretary of Health and Environment  
John Koepke, Executive Director, KASB

FROM: Dale M. Dennis, Asst. Commissioner  
Division of Financial and Support Services

SUBJECT: Asbestos in Schools

Listed below are the preliminary results of a survey conducted on asbestos in schools. Responses have been received from (293) of the (304) unified school districts. When the remaining (11) districts respond, the final survey results will be forwarded to you.

## ASBESTOS IN SCHOOLS

1. Do you have asbestos in any of your school facilities?  $\frac{217}{\text{YES}}$   $\frac{76}{\text{NO}}$

2. How much would you estimate that your school district has spent on the removal and/or encapsulation of asbestos materials during the past five years?

Removal	<u>\$ 1,679,098</u>
Encapsulation	<u>\$ 1,275,521</u>
TOTAL	<u>\$ 2,954,619</u>

3. How much would you estimate that it would cost to remove all the asbestos in your school facilities and replace with other material (including what has been encapsulated)?

\$ 25,736,871

Attachment 1

Asbestos

Sept. 1984

Worksheets

	Yes	No	Removal	Incup	Total	100% Removal
101	✓		0	0	0	10000-
102	✓		0	3000-	3000-	75000
103	✓		0	0	0	7500
104	✓		12000-	1000-	13000-	50000
200	✓		100-	1000-	1100-	3000
202			✓ 12000-	0	12000-	0
203	✓		0	40000-	40000-	100000
204	✓		0	0	0	35000
205			✓ 0	0	0	0
206	✓		0	1000-	1000-	5000
207	✓		0	200-	200-	25000
208	✓		0	1000-	1000-	10000
209	✓		0	0	0	5000
210	✓		0	4500-	4500-	40000
211	✓		0	100-	100-	2000-
212	✓		0	500-	500-	5000
213	✓		500-	0	500-	2000-
214	✓		0	0	0	112500
215			✓ 0	0	0	0
216			✓ 0	0	0	0
217			✓ 0	0	0	0
218	✓		5000-	0	5000-	9000-
219	✓		0	600-	600-	10000-
220			✓ 0	0	0	0
221	✓		0	0	0	7000
222	✓		0	0	0	3500-
223	✓		0	5000-	5000-	9000-
224	✓		0	0	0	1000-
225	✓		0	500-	500-	4000-
226	✓		0	0	0	45000-
227	✓		0	0	0	500000-
228	✓		0	0	0	15000-
229			✓ 0	0	0	0
230			✓ 11700-	2900-	14600-	0
231	✓		0	1580-	1580-	32259-
232	✓		0	0	0	40000-
233	✓		0	56647-	56647-	150000-
234			✓ 0	0	0	0
235 - held for removal						
237	✓		0	0	0	15000-
238	✓		0	0	0	1000-
239	✓		0	2500-	2500-	10000-
240	✓		0	250-	250-	1500-
241	✓		0	50-	50-	20000-
242			✓ 0	0	0	0
243			✓ 450	0	450-	0
34			11 41750-	122327-	164077-	1360259-

	Yes	No	Removal	Encap	Total	100% Rem.
244	✓		0	15000-	15000-	10000-
245		✓	500-	0	500-	0
246		✓	0	0	0	0
247	✓		0	0	0	30000-
- 248 - Hold for resp						
249-	✓		27	0	27	250-
250-		✓	0	0	0	0
251	✓		0	3628-	36280	17560
252	✓		0	1000-	1000-	15000-
253	✓		0	10000-	10000-	200000-
254	✓		0	8500-	8500-	50000-
255	✓		0	5000-	5000-	10000-
256	✓		0	0	0	10000-
257	✓		2000-	500-	2500-	7000-
258	✓		970	260	1230-	800-
259	✓		85000-	315000-	400000-	12,500,000-
260		✓	170000-	30000-	200000-	0
261	✓		0	115000-	115000-	500000-
262	✓		5000-	500-	5500-	150000-
263		✓	65000-	10000-	75000-	0
264		✓	0	0	0	0
265	✓		8000-	2000-	10000-	10000-
266	✓		0	2653-	2653-	10000-
267	✓		0	250-	250-	10000-
268	✓		0	400-	400-	2000-
269	✓		0	0	0	25000-
270	✓		0	300-	300-	10000-
271	✓		0	0	0	18000-
272	✓		0	500-	500-	5000-
273		✓	0	0	0	0
274	✓		5600-	0	5600-	40000-
275		✓	0	0	0	0
278	✓		0	3500-	3500-	200000-
279	✓		0	0	0	3000-
280	✓		0	0	0	8000-
281	✓		100-	0	100-	10000-
282	✓		0	500-	500-	5000-
283	✓		0	0	0	500-
284	✓		0	1911-	1911-	30000-
285		✓	0	0	0	0
286	✓		0	14000-	14000-	100000-
287	✓		0	500-	500-	4000-
288	✓		0	0	0	250000-
289	✓		3000-	0	3000-	10000-
290	✓		0	0	0	5000-
291	✓		0	500-	500-	5000-
	36		9 345197-	541,402-	886,599-	14,250,806-

	Yes	No	Removal	Encap.	Detail	106% Removal
292	✓		0	0	0	3500-
293	✓		0	3000-	3000-	20000-
294	✓		0	0	0	10000-
295	✓		0	0	0	2000-
297		✓	0	0	0	0
298	✓		0	100-	100-	25000-
299		✓	0	0	0	0
300	✓		0	1600-	1600-	9000-
301	✓		0	0	0	40000-
302	✓		0	0	0	115000-
303		✓	0	0	0	0
304		✓	0	0	0	0
305	✓		1000	25000-	26000-	1,250,000-
306		✓	0	0	0	0
307		✓	0	0	0	0
308	✓		500-	0	500-	3000-
309 ? not in						
310	✓		4000-	3000-	7000-	20000-
311		✓	0	0	0	0
312	✓		0	5000-	5000-	25000-
313	✓		10000-	9000-	19000-	25000-
314	✓		0	100-	100-	25000-
315	✓		0	3-	3-	90000-
316	✓		0	0	0	20-
317		✓	0	0	0	0
318	✓		0	0	0	5000-
320	✓		0	0	0	500-
321	✓		0	2000-	2000-	10000-
322		✓	0	0	0	0
323	✓		2000-	0	2000-	2500-
324		✓	0	0	0	0
325	✓		0	0	0	25000-
326	✓		500-	0	500-	3000-
327	✓		4000-	5000-	9000-	60000-
328	✓		0	2000-	2000-	16500-
329		✓	0	0	0	0
330	✓		0	0	0	20000-
331	✓		0	25484	25484	200000-
332	✓		0	0	0	10000-
333	✓		0	2500-	2500-	80000-
334		✓	0	0	0	0
335		✓	0	0	0	0
336	✓		0	0	0	32750-
337		✓	0	0	0	0
338		✓	0	0	0	0
339		✓	0	0	0	0
30		10	2,2000-	93,787-	105,787-	2,123,970-

	Yes	No	Removed	Enclp.	Total	100% Rem.	
340	✓			0	27-	27-	150-
341	✓			0	100-	100-	7500-
342			✓	0	0	0	0
343	✓			0	3500-	3500-	10000-
344	✓			0	760-	760-	1000-
345	✓			50-	450-	500-	30000-
346	✓			0	0	0	10000-
347	✓			1853-	1517-	3370-	3370-
348			✓	0	0	0	0
349			✓	0	0	0	0
350	✓			0	500-	500-	10000-
351	✓			0	1800-	1800-	2500-
352	✓			0	8000-	8000-	24000-
353	✓			49364-	0	49364-	49364-
354	✓			25000-	2000-	27000-	3000-
355	✓			200-	200-	400-	2000-
356	✓			8000-	0	8000-	2000-
357	✓			0	0	0	5000-
358	✓			0	0	0	3000-
359			✓	0	0	0	0
360	✓			0	5000-	5000-	25000-
361	✓			0	3357-	3357-	15000-
362	✓			0	5000-	5000-	15000-
363	✓			0	0	0	5000-
364	✓			0	0	0	15000-
365	✓			0	250-	250-	25000-
366	✓			0	18000-	18000-	175000-
367	✓			0	13100-	13100-	180000-
368			✓	1200-	750-	1950-	0
369			✓	0	0	0	0
371	✓			0	0	0	10000-
372	✓			0	4000-	4000-	20000-
373	✓			0	1300-	1300-	40000-
374			✓	0	0	0	0
375	✓			0	10000-	10000-	140000-
376	✓			2000-	3500-	5500-	4000-
377			✓	0	0	0	0
378	✓			0	0	0	10000-
379	✓			4935-	4350-	9285-	45000-
380	✓			0	0	0	30000-
381			✓	0	0	0	0
382	✓			0	13000-	13000-	25000-
383	✓			99270-	36000-	129270-	160000-
384	✓			0	150-	150-	3000-
385	✓			13000-	20000-	33000-	195000-
386	✓			0	0	0	50000-
37	✓		✓	204972-	150,611-	355,483-	1,375,884-





	Yes	No	Remove	Incap	Total	100%	General
435	✓		0	0	0		5000-
436	✓		0	200-	200-		1800-
437	✓		0	200-	200-		12000-
438?	✓		0	5-	5-		4000-
439	✓		0	3500-	3500-		75000-
440			✓	35000-	0	35000-	0
441	✓		0	100-	100-		5000-
442			✓	0	0	0	0
443	✓		0	1000-	1000-		55000-
444	✓		0	3000-	3000-		15000-
445	✓		4867-	0	4867-		150000-
446	✓		13643-	3718-	17361-		50000-
447	✓		4000-	0	4000-		1000-
448	✓		5000-	0	5000-		6000-
449	✓		0	100-	100-		500-
450	✓		30000-	0	30000-		55000-
451	✓		0	0	0		1000-
452			✓	0	0	0	0
453	✓		6081-	17362-	23443-	?	225000-
454	✓		500-	0	500-		500-
455			✓	0	0	0	0
456			✓	1700-	0	1700-	0
457-	✓		165000-	8000-	173000-		800000-
458	✓		0	1775-	1775-		37777-
459	✓		0	0	0		3000-
460	✓		0	5000-	5000-		30000-
461			✓	771-	0	771-	0
462			✓	0	0	0	0
463	✓		0	0	0		12000-
464	✓		0	1000-	1000-		20000-
465	✓		0	7500-	7500-		50000-
466	✓		0	0	0		5000-
467	✓		0	200-	200-		4000-
468	✓		0	300-	300-		1000-
469	✓		0	100-	100-		875-
470	✓		210000-	0	210000-		10000-
471-	✓		448-	57-	1015-		
473	✓		43000-	16000-	59000-		90000-
474	✓		0	0	0		3000-
475	✓		85000-	2000-	87000-		150000-
476	✓		0	0	0		8500-
477			✓	0	0	0	0
479	✓		0	6112-	6112-	?	9000-
480	✓		1000-	4000-	5000-		500000-
481	✓		3000-	500-	3500-		10000-
482			✓	0	0	0	0
39			9	609,010	82239-	691,249-	2,250,152-

	Yes	No	Removal	Excep	Total	100% Removal
483	✓		0	1200-	1200-	75000-
484		✓	0	0	0	0
486		✓	0	0	0	0
487	✓		0	12600-	12600-	390000-
488	✓		0	50-	50-	10000-
489	✓		0	800-	800-	10000-
490	✓		15000-	0	15000-	200000-
491	✓		3000-	3000-	6000-	50000-
492		✓	5000-	0	5000-	0
493-		✓	4000-	0	4000-	0
494-	✓		0	0	0	10000-
495 - not in						
496 - full for resp	✓		0	80000-	80000-	850000-
497-		✓	0	0	0	0
498		✓	0	0	0	0
499	✓		0	68000-	68000-	5500-
500	✓		75799-	2422-	78221-	1,000000-
501	✓		0	0	0	0
502	✓		6000-	0	6000-	87500-
503	✓		0	1200-	1200-	10000-
504	✓		0	0	0	0
505	✓		0	350-	350-	2500-
506	✓		0	0	0	0
507	✓		0	50-	50-	1400-
508	✓		0	0	0	2000-
509	✓		0	0	0	0
511	✓		293570-	3000-	296,570-	55000-
512	✓					
	16	10	402,369-	172672-	575,041-	2,759,500-

222      76  
 298      1,679,546    1,276,698    2,956,234    25,779,371

**SB 75—City Capital Improvements Fund**

(ATTACHMENT II)

3-21-85

**Purpose:** To authorize cities to establish a general capital improvements fund, from current, budgeted revenues. SB 75 passed the Senate on February 19 by a vote of 37 to 3.

**Background:** There is no single state law that generally authorizes cities to establish a capital improvements fund, which could be used to finance a variety of public improvements. Several special statutes exist which can be used for specified purposes, such as for buildings. However, the basic thrust of Kansas laws has been to effectively require the financing of public improvements by the issuance of debt. Kansas cities will need to continue to rely on debt financing in the future, given the quantity of the existing infrastructure problem. However, legislation to facilitate meeting current capital improvement needs from current revenue, to the maximum extent possible, appears advisable, especially to meet deferred maintenance and repair.

It is possible that cities, under their constitutional home rule powers, may now accomplish this general objective, although charter ordinance amendments to some cash basis and budget laws would appear necessary, which has not been standard operating procedure to date. As a matter of state public policy, there is an advantage to specific legislation authorizing such capital improvement planning and financing:

**Explanation:** SB 75 is broadly written to permit maximum local discretion. It permits a city, by ordinance of the governing body, to establish a capital improvements fund to be used to finance current and future capital improvements, including the repair, restoration or rehabilitation of existing public facilities. Moneys credited to the fund, directly or by transfer, would have to be budgeted. To assure the use of the fund for planned purposes, an officially adopted capital improvement plan is required.

The bill does not authorize a property tax; however, a separate property tax could be levied for this fund by home rule ordinance. The tax could be within or outside the local tax lid, as locally determined. Any such tax would be subject to a voter petition for a referendum, under the Constitution or K.S.A. 12-137.

Under subsection (c), moneys could not be credited to the capital improvement fund unless budgeted, except for reimbursed expenses.

Receipts and expenditures of the reserve fund must be shown in the annual budget. (Lines 49-52).

Subsection (d) provides that any unneeded moneys in the reserve fund may be retransferred, subject to budget procedure requirements.

**Advantages.** SB 75 would assist cities in the orderly planning and financing of public infrastructure needs and could facilitate meeting current needs from current revenues.

It provides an incentive for cities to annually revise and adopt a capital improvements program.

Since budgeted transfers could be made, it would permit charging the cost of an improvement from a single fund, rather than two or more funds.

It provides a means for the advance financing of engineering and other public improvement studies.

It is likely that the fund will be used primarily for expensive repair and rehabilitation work, with major new improvements financed by bonds.

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Passage of this bill is supported by the League of Kansas Municipalities. It is a policy objective set forth in the League's convention-adopted Statement of Municipal Policy and has been approved by the League governing body.

Attachment 2

SENATE BILL No. 75

By Committee on Local Government

1-24

0018 AN ACT relating to cities; authorizing the establishment of a  
0019 special capital improvements fund.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. (a) The governing body of any city, which has  
0022 formally approved a multi-year capital improvement plan setting  
0023 forth the public improvement and infrastructure needs of the city  
0024 on a prioritized basis, may establish, by adoption of an ordi-  
0025 nance, a capital improvements fund. The ordinance establishing  
0026 such fund, and any amendments thereto, may provide for the  
0027 *budgeted* transfer of moneys from other city funds *lawfully*  
0028 available for improvement purposes to the capital improvements  
0029 fund, including moneys in the city's federal general revenue  
0030 sharing fund and general fund. Any general property tax specifi-  
0031 cally levied for the use of such fund shall be authorized by  
0032 ordinance adopted under the provisions of section 5 of article 12  
0033 of the Kansas constitution.

0034 (b) Moneys in such capital improvements fund may be used  
0035 to finance, in whole or in part, any public improvement need set  
0036 forth in the adopted capital improvement plan, including the  
0037 repair, restoration and rehabilitation of existing public facilities.  
0038 The ordinance may provide that disbursements from such fund  
0039 may be made for engineering and other advance public im-  
0040 provement plans and studies and that reimbursements ~~shall may~~  
0041 be made to the fund from ~~future revenue from~~ bond proceeds,  
0042 special assessments or state or federal aid available for the  
0043 completed project.

0044 (c) Except for such reimbursed expenses, no moneys shall be  
0045 credited to such special fund except as may be budgeted an-

SB 75—Am.

2

0046 nally, or transferred *by the annual budget* from other ~~budgeted~~  
0047 funds. Such fund shall not thereafter be subject to the provisions  
0048 of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto.  
0049 In making the budgets of such cities, the amounts credited to,  
0050 and the amount on hand in, such special fund and the amount  
0051 expended therefrom shall be shown thereon for the information  
0052 of the taxpayers of such cities. Moneys in such fund may be  
0053 invested in accordance with the provisions of K.S.A. 10-131, and  
0054 amendments thereto, with interest thereon credited to such  
0055 fund.

0056 (d) If the governing body of any city determines that money  
0057 which has been transferred to such special fund or any part  
0058 thereof is not needed for the purposes for which so transferred,  
0059 the governing body, by adoption of a resolution, may transfer  
0060 such amount not needed to the general or other fund from which  
0061 it was derived and such transfer and expenditure thereof shall be  
0062 subject to the budget requirement provisions of K.S.A. 79-2925 to  
0063 79-2937, inclusive, and amendments thereto.

0064 Sec. 2. This act shall take effect and be in force from and  
0065 after its publication in the statute book.



# League of Kansas Municipalities

(ATTACHMENT III)

3 - 21 - 85

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

## MEMORANDUM

TO: The House Committee on Local Government  
FROM: Chris McKenzie, Attorney/Director of Research  
DATE: March 21, 1985  
SUBJECT: Substitute for SB 76

SB 76 was introduced by the Senate Committee on Local Government at the request of the League of Kansas Municipalities. For a number of years, the League has received requests from its member cities to seek legislative authorization of an alternative procedure for recovering the city's expenses and costs as a result of undertaking the abatement of public nuisances, the removal of noxious weeds, and the removal of dangerous structures. Sub. for SB 76 is designed to authorize cities to recover such costs and expenses by bringing an action in District Court if a special assessment for the amount remains unpaid for a period of one year or more after their initial levy. Following is a further explanation of the need for the bill:

### 1. Background.

K.S.A. 12-1617(e), 12-1617(f) and 12-1755 presently authorize cities to abate public nuisances, remove noxious weeds and remove dangerous structures after giving personal notice to the owner of the property with the objectionable condition. In such cases, if the owner fails to respond and correct the problem, the city is authorized to step in and take corrective action. Each of the above statutes presently authorize the city to attempt to recover its costs by certifying the outstanding amount to the county clerk for collection as a special assessment at the time other taxes are collected. In many instances, however, the owners of such properties refuse to pay the special assessments and the city is required to wait for the county to foreclose on the property for the delinquent special assessments and other property taxes before it has any chance of recouping any of its expenses. Under current Kansas law, three years and ten months must pass before foreclosure action may be commenced for delinquent taxes and assessments. Further, as noted in the discussion yesterday of SB 212, many counties have delayed initiating the foreclosure process, thereby further delaying any opportunity for the city to make itself whole.

In the case of condemned dangerous structures, it is also common for the owner of such property to simply abandon it and refuse to pay the special assessments and taxes altogether. In such cases, the tax foreclosure sale price many times is less than the city's costs of removal. Since the proceeds of such sales must be apportioned among the various taxing jurisdictions, the city rarely recovers much of its costs.

### 2. Explanation.

K.S.A. 79-2015 presently authorizes the State of Kansas to collect any taxes, fees, interests and penalties which it levies by bringing an action in District Court just as the State would bring an action to collect a personal debt. That statute, a copy of which is attached, was enacted by the legislature in 1959.

Sub. for SB 76 would grant cities the right to bring similar actions in District Court for the collection of the outstanding amount due the city for the abatement of public nuisances, removal of noxious weeds or removal of dangerous structures. Such actions could only be brought, however, if special assessments levied to recoup the city's costs remain unpaid for a period of one year or more after their initial levy (see new section 4). Please note that this collection procedure could only be used to collect outstanding amounts owed for only these purposes. This procedure could not be used for the collection of special assessments levied for public improvements.

In the case of dangerous structures Sub. for SB 76 also contains amendments in lines 123-125 that would preclude the levy of any special assessments unless the proceeds of any insurance policy in which the city has created the lien (pursuant to K.S.A. 1984 Supp. 40-3901 et seq.) are insufficient to cover the city's expenses. In its current form, K.S.A. 12-1755 (see section 3) also requires the sale of all salvageable material from the structure before the city's expenses may be recovered through the special assessment procedure. This provision is unchanged. The amendment in lines 123-125 simply adds the additional requirement that the city exhaust all insurance proceeds before beginning such actions.

### 3. Senate Committee Amendments.

As originally introduced, SB 76 would have allowed a city to elect whether it wanted to pursue the collection of such outstanding costs through the special assessment process or by bringing a personal action in District Court. The Senate Committee amendments, with which the League concurs, require the city to wait a period of one year or more after the initial levy of the special assessments before it may collect the amount due by bringing an action in District Court. The Senate Committee amendments also make it clear that the city may pursue collection both by levying special assessment and by bringing a personal action (after one year has passed), but only until the full cost and any applicable interest has been paid in full.

Additional committee amendments were offered and adopted which improved the notice and billing provisions of sections 1, 2 and 3 of the bill. The League endorses these changes.

### 4. Conclusion.

In a recent Attorney General's Opinion (No. 85-5), the Attorney General concluded that K.S.A. 79-2015 does not authorize the city to collect special assessments in the same manner as a personal debt of the property owner since that statute only applies to the State of Kansas. In other words, in the absence of a specific statutory authorization, cities may only attempt to make themselves whole by recovering the expenses through the special assessment procedure. This procedure has proven to be extremely costly in the past and unworkable in certain instances. As a practical matter, the longer these costs go unpaid the longer the public-at-large is required to bear that expense.

The League believes that SB 76 will remove a significant financial burden from the shoulders of city taxpayers for the expense of abating nuisances, removing weeds and removing dangerous structures. At the same time, it preserves the existing special assessment procedure. We urge your favorable consideration of this legislation

Office of the City Manager

City Hall - 120 North Sixth Street  
Independence, Kansas 67301

(ATTACHMENT IV)

3-21-85

March 21, 1985

Representative Ivan Sand, Chairperson  
House Committee on Local Governments  
Statehouse  
Topeka, Ks

Re: S.B.76 as amended, Collection of Certain Debts by Cities

Dear Representative Sand:

S.B. 76, as amended, provides an alternative method for cities to recover their costs for abating public nuisances, removing noxious weeds, and removing unsafe structures. The alternative included in S.B. 76, as amended, would give cities the same authority the State of Kansas currently has under K.S.A. 79-2015 for collecting delinquent taxes and fees through bringing of action in district court.

Under current statutes, if such health and safety hazards are not improved by the property owner after notice and public hearing, then these nuisances must be corrected by the City. The cost of performing this work is paid by the City and is placed as a special assessment against the property. Many of these properties are vacant or have no residents living on the property and already have outstanding taxes owed, with the specials becoming one more delinquent tax. It might be added that many of these properties are owned by residents of our City or County.

By current statutes, if the City recovers any cost through tax sale, it is after over four (4) years from the date the cost is incurred by the City and more commonly the property is sold at tax sale below the value of the cost of four (4) years of weed mowing or the cost of removing such unsafe and dangerous structures.

The reason for our concern is the magnitude of the costs; i.e., 1982, 1983, and 1984 assessed cost for weed mowing alone was \$14,901.08. This does not include any cost of removing unsafe structures which have been funded in the last several years from federal Community Development Funds which are not anticipated to be as available in future years. The cost for removal of unsafe structures each year is estimated at \$15,000 per year.



The Honorable Ivan Sand  
Chairperson, Committee on Local Governments  
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The theme of this bill is simple, to require individuals to be responsible for maintenance and upkeep for their own property, and if this is not done allow the City an option in recovering its costs. It is our opinion that the general tax payer should not have to bear the burden for his neighbor not maintaining his property. Furthermore, the elected officials in our cities should have the option to either (1) bring an action through the courts, which in some cases provides the only remedy to recover such costs, or (2) to follow current statutes by placing special assessments on the property.

Sincerely yours,



Paul A. Sasse  
City Manager

PAS/sr

## REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your Committee on Local Government

Recommends that Senate Bill No. 48 (As Amended by Senate Committee of the Whole)

"AN ACT concerning municipalities; authorizing governing bodies thereof to issue bonds for payment of the costs of removal or encapsulation of friable asbestos-containing material in public buildings; conditions."

Be amended:

On page 1, in line 34, after "encapsulation" by inserting "and the costs of any remodeling, replacement or other restoration necessitated by such removal or encapsulation";

In the title, in line 26, after "buildings" by inserting "and any remodeling, replacement or restoration costs thereof";

And the bill be passed as amended.

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Chairperson