

Approved 5-1-87
Date

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

12:35 a.m./p.m. on April 1, 1987 in room 529-S of the Capitol.

All members were present except: Senator Vidricksen - Excused

Committee staff present:

Arden Ensley, Revisor of Statutes
Lynne Holt, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Allen, Secretary to the Committee

Conferees appearing before the committee:

Jack Ranson, Ranson and Company, Wichita
E. A. Mosher, League of Kansas Municipalities
Gerry Ray, Johnson County
David Barclay, Department of Commerce
Allen Bell, Department of Administration

The meeting was called to order at 12:35 p.m. by the Chairman, Senator Wint Winter, Jr..

Senate Bill 73 - An Act enacting the Kansas development finance authority act.

The Chairman reminded the Committee that there had been two days of testimony on SB 73, the bond authority bill. He stated that the bill generally received some support from the League of Kansas Municipalities and some support from business interests. He noted that there was a considerable degree of concern and opposition to the bill by some in the bond industry because it includes the ability to issue utility revenue bonds for cities. There was also opposition from some savings associations who expressed concerns about the ability in the bill to issue bonds for moderate income housing projects. The Department of Administration and conferees on the bill were asked to suggest changes, deletions or additions to the bill in an attempt to make it a workable piece of legislation. He said that the cities and bonding experts indicated that some changes to existing bond law were needed to enable them to have more flexibility in the finance of infrastructure improvements. He reminded the Committee that this is the subject of a recommendation in the Redwood-Krider report which has not been addressed in any other bill.

The Chairman said that some changes to SB 73 are contained in a balloon version of the bill and will be addressed later. Those changes include elimination of the ability to issue municipal utility revenue bonds, elimination of moderate income housing bonds and changes with respect to the governing body which is provided for in the bill. He noted that SB 73 and SB 407 are companion measures and are intended to address the lack of ability of local governments to finance infrastructure improvements and the lack of ability for some private venture businesses for fixed rate long term financing.

Senate Bill 407 - An Act concerning municipalities; relating to the issuance of bonds thereby and to the finances thereof.

Mike Heim, Legislative Research Department, explained each section of SB 407 and answered questions by Committee members.

Jack Ranson, Ranson and Company in Wichita, spoke to the Committee in support of SB 407. He said that this bill is a reasonable companion to SB 73 in that SB 407 deals with the future financing of infrastructure problems at a local level as opposed to the state agency level which SB 73 addresses. He observed that local government problems have become more severe in recent years, the bond financing which they do has become extremely difficult, and considering the difficult problems which arise with the federal tax code, the local governments need the Legislature's attention in authorizing and granting authority to them to do things at a local level which may address some of their problems. He said

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENTroom 529-S, Statehouse, at 12:35 ~~a.m.~~/p.m. on April 1, 1987

that Section 7, the sales tax revenue bonds section, and Section 10, the strengthening and broadening of the interlocal agreement act section, are the key provisions in SB 407 as far as granting basic new authority to the municipalities. He told the Committee that he is a proponent of the bill, but is neutral on Section 8 which concerns Johnson County U.S.D. 512.

E. A. Mosher, Executive Director of the League of Kansas Municipalities, appeared in general support of SB 407. He said that he uses the word "general" because he is not familiar with the Johnson County school district provisions in the bill and because he has some amendments to the bill to suggest.

Mr. Mosher discussed Section 7 of SB 407, which contains the sales tax authorization. He said that he appears in strong support of the authority of cities and counties to issue bonds pledging the existing sales tax receipts. He emphasized that this bill does not authorize the levying of sales tax for that continues to be subject to a mandatory referendum. He said that the bill provides a legitimate method of financing certain kinds of public improvements and that local units ought to have that option.

Mr. Mosher suggested that all of New Section 9 be deleted from SB 407 because this section, although it contains a good proposal, will probably "pick up a lot of flack" in the House and could therefore jeopardize passage of the remainder of the bill. He suggested making the provisions of New Section 9 a separate bill which could be introduced and held over for later consideration.

Mr. Mosher suggested amendments to New Section 10 of SB 407. He called the attention of the Committee to page 15 of SB 73, lines 529 to 532 which state "nothing in this act shall be construed to authorize the authority to issue or sell revenue bonds or use the proceeds thereof to purchase, condemn, or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility". He suggested that these words be placed at the end of line 544 in SB 407. He said that this could head off the opposition to the bill from some of the private utilities.

Mr. Mosher suggested that it be made clear in SB 407 that the joint entity bonds are not going to be used for some purpose not authorized by statute. He called the attention of the Committee to page 6 of the bill in line 204 and noted that the sales tax bonds would be restricted to use by a public agency which is authorized pursuant to the Constitution or laws of this state to issue bonds for "such purposes". He suggested inserting a similar provision on line 534 of SB 407 to make it clear that you cannot issue joint entity bonds unless each of the participating agencies has its own separate legal authority to do that. He wants to make this a collective mechanism, not an authorizing mechanism in the bill.

Mr. Mosher emphasized that some mechanism must be found in Kansas for more collective action by local units. He said that Kansas needs more local area financing authority and noted that SB 73 would accomplish this through a state bond pooling agency.

Mr. Mosher suggested that subsection (d) of New Section 10 on page 15 of SB 407 is unnecessary and should be stricken from the bill for it may cause some serious problems. He also suggested that SB 407 be amended in New Section 11, line 568, by adding the word "or" after the word "insurance".

Gerry Ray, Johnson County, told the Committee that she will get information concerning Section 8 of SB 407 which deals with U.S.D. #512 and will report later to the Committee.

A letter from Marla J. Howard, Public Affairs Officer for the City of Wichita, in support of SB 407 was given to the Committee. (Attachment I)

David Barclay, Department of Commerce, said that the issue being addressed in SB 73 and SB 407 is to try to lower the cost of financing both for the state for economic development projects, and for local levels of government for infrastructure. He observed that many states already have the kind of financing authority provided for in SB 73.

Senator Langworthy moved that SB 407 be amended by deleting Section 8 from the bill. Senator Feleciano seconded the motion. The motion carried.

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MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

room 529-S, Statehouse, at 12:35 ~~a.m.~~/p.m. on April 1, 1987

The Chairman asked Mr. Mosher to supply the Committee with a written list of the League of Kansas Municipalities' suggested amendments to SB 407 at the Committee's next meeting.

Chairman Winter called the attention of the Committee to a balloon version of SB 73. (Attachment II) He noted that it contains some suggested amendments as follows: (1.) Deletes the portions of the bill which allowed the authority to issue utility revenue bonds; (2.) Deletes the ability of the authority to issue bonds for moderate income housing; and (3.) Addresses some of the concerns of the Secretary of Administration. The Chairman called on Allen Bell, Special Assistant to the Secretary of Administration, to explain and discuss this balloon version of SB 73. (See Attachment III for his statement.) Mr. Bell told the Committee that the Secretary of Administration approves of SB 73 in this balloon version.

The meeting was adjourned by the Chairman at 1:35 p.m..

GUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>
<i>Bob</i> Jack Ranson	<i>League of KS Municipalities</i> Ranson & Company, Inc., Wichita
Don Case	Dept. of Admin. Topeka
Louie Stroup	KMU McPherson
David Barclay	DOL Topeka
<i>Kim</i> Surrey Sullivan	FPPBR-KV Lawrence
<i>Kim</i> Richard Lamb	<i>Case & Bell</i> Topeka KC
	KAIB

April 1, 1987

TO: Chairman Winter and Members of the Senate
Economic Development Committee

FROM: Marla J. Howard, Public Affairs Officer,
City of Wichita

RE: SB 407, MUNICIPAL BOND AUTHORITY

Mr. Chairman and Members of the Committee:

The City of Wichita wishes to express its support of Senate Bill 407 and I regret that I am unable to convey our support in person at today's hearing.

SB 407 provides for a number of changes in municipal bond authority and interlocal cooperation agreements that we feel will be of benefit to local communities. The bill broadens our reinvestment authority, broadens our refunding ability to include interest on bonds, authorizes local sales tax revenue bonds, and broadens the interlocal cooperation agreement statute to allow us to work with other local governments to issue bonds. The City of Wichita believes that these clarifications and the broadening of current law will allow municipalities to make more effective use of their bonding authority and ability to join with other communities for the benefit of all.

The City of Wichita respectfully requests your consideration and support of Senate Bill 407. Thank you.



Marla J. Howard
Public Affairs Officer
City of Wichita

Senate Committee on Economic Development
4-1-87
attachment I

SENATE BILL No. 73

By Legislative Commission on Kansas Economic Development

1-23

0017 AN ACT enacting the Kansas development finance authority act;
0018 amending K.S.A. 1986 Supp. 9-1402 and repealing the existing
0019 section.

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

0021 New Section 1. The provisions of this act shall be cited as
0022 the Kansas development finance authority act.

0023 New Sec. 2. The legislature hereby finds:

0024 ~~(a) That there exists severe economic instability in traditional~~
0025 national and international markets for goods and services pro-
0026 duced by the citizens of the state of Kansas. This instability has
0027 caused serious economic distress among the citizens of our state
0028 and is manifest in the increasing number of business failures and
0029 bankruptcies, both personal and corporate, and the extraordi-
0030 narily high levels of unemployment in agricultural business and
0031 industrial enterprises and in the rapidly rising costs of housing
0032 for elderly persons and families of low and moderate income.
0033 The continued existence of these conditions is inimical to the
0034 public health, welfare, safety, morals and economic security of
0035 the citizens and inhabitants of the state.

0036 (b) That the economic well-being of the citizens of the state
0037 of Kansas will be enhanced by the providing of economical
0038 health care facilities for the benefit of its citizens, by the provid-
0039 ing of educational facilities of every nature and kind, by the
0040 providing of capital improvement facilities for its citizens and by
0041 the providing of financial assistance to political subdivisions of
0042 the state.

0043 For these reasons, the legislature hereby finds that there exists
0044 in the state an immediate and urgent need to provide the means
0045 ~~and methods for providing financing to~~

Senate Committee on Economic Development
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Attachment II

- 0046 ~~(1) Complement Kansas' private financial institutions to bet~~
0047 ~~ter serve their customers in ways which contribute to a~~
0048 ~~strengthened and diversified Kansas economy and which do not~~
0049 ~~compete with Kansas private financial institutions;~~
0050 (2) restore and revitalize existing agricultural business and
0051 industrial enterprises for the purpose of retaining existing em-
0052 ployment within the state;
- 0053 (3) promote and develop the expansion of existing and the
0054 establishment of new agricultural business and industrial enter-
0055 prises for the purpose of further alleviating unemployment
0056 within the state and for providing additional employment;
- 0057 (4) promote and target resources of the state to further the
0058 development of export trade of Kansas products for the purpose
0059 of the economic development of the state and for providing
0060 additional employment therefrom;
- 0061 (5) eliminate the shortage of decent, safe, sanitary and af-
0062 fordable residential housing for elderly persons and families of
0063 low and moderate income in the state;
- 0064 (6) assure the development of reliable, affordable, efficient
0065 and environmentally compatible sources of energy for all types
0066 of public and private consumption;
- 0067 (7) provide health care facilities for the citizens and inhabi-
0068 tants of the state;
- 0069 (8) provide capital improvement facilities for the benefit of
0070 the citizens and inhabitants of the state;
- 0071 (9) provide educational facilities for educational institutions
0072 within the state;
- 0073 (10) provide for short-term advance funding of the obliga-
0074 tions of local governments throughout the state; and
- 0075 (11) assist minority business in obtaining loans or other
0076 means of financial assistance.
- 0077 It is hereby declared to be the public policy and responsibility
0078 of this state to promote the health, welfare, safety and economic
0079 security of its inhabitants through the retention of existing em-
0080 ployment and alleviation of unemployment in all phases of
0081 agricultural business and industrial enterprises, the elimination
0082 of the shortage of decent, safe, sanitary and affordable residential

0083 ~~housing for elderly persons and persons of low and moderate~~
 0084 ~~income, for the development of reliable, affordable, efficient and~~
 0085 ~~environmentally compatible sources of energy for all types of~~
 0086 ~~public and private consumption, for health care facilities, for~~
 0087 ~~capital improvement facilities and for educational facilities for~~
 0088 ~~the benefit of educational institutions within the state.~~

0089 The legislature finds that the public policies and responsibili-
 0090 ties of the state ~~as set forth in this section~~ cannot be fully attained
 0091 without the use of public financing and that such public financ-
 0092 ing can best be provided by the creation of a state development
 0093 finance authority with comprehensive and extensive powers
 0094 therein, which authority shall have the power to issue revenue
 0095 bonds to provide financing for qualified agricultural business,
 0096 industrial enterprises, residential housing, energy enterprises
 0097 and facilities and health care, capital improvement and educa-
 0098 tional facilities, and that all of the foregoing are public purposes
 0099 and uses for which public moneys may be borrowed, expended,
 0100 advanced, loaned and granted.

0101 New Sec. 3. The following words or terms used in this act
 0102 shall have the following meanings unless a different meaning
 0103 clearly appears from the context:

0104 (a) "Act" means the Kansas development finance authority
 0105 act.

0106 (b) "Authority" means the Kansas development finance au-
 0107 thority created by section 4.

0108 (c) "Agricultural business enterprises" means facilities sup-
 0109 porting farms, ranches and other agricultural or silvicultural
 0110 commodity producers, ~~such as aquaculture, fish hatchery opera-~~
 0111 ~~tions and fish farms, and related business and industries, in-~~
 0112 ~~cluding, but not limited to, grain elevators, shipping heads,~~
 0113 ~~livestock pens, warehouses and other storage facilities, related~~
 0114 ~~transportation facilities, drainage facilities and any facilities re-~~
 0115 ~~lated thereto.~~

0116 (d) "Board of directors" means the board of directors of the
 0117 authority created in section 4.

0118 (e) "Bonds" means any bonds, notes, debentures, interim
 0119 certificates, grant and revenue anticipation notes, interest in a

 low income

0120 lease, lease certificate of participation or other evidences of
0121 indebtedness, whether or not the interest on which is subject to
0122 federal income taxation, issued by the authority pursuant to this
0123 act, ~~except that bonds shall not mean bonds issued by a municipi-~~
0124 ~~ality which constitute a general obligation of the municipality.~~
0125 (f) "Capital improvements" means, ~~whether obtained by~~
0126 ~~purchase, lease, construction, reconstruction, restoration, im-~~
0127 ~~provement, alteration, repair or other means,~~ any physical public
0128 betterment or improvement or any preliminary plans, studies or
0129 surveys relative thereto; land or rights in land, including, with-
0130 out limitations, leases, air rights, easements, rights-of-way or
0131 licenses; and any furnishings, machinery, vehicles, apparatus or
0132 equipment for any public betterment or improvement ~~which~~
0133 ~~shall include, without limiting the generality of the foregoing~~
0134 definition, the following: Any and all facilities for state agen-
0135 cies, city or town halls, courthouses and other administrative,
0136 executive or other public offices, court facilities, jails, firefight-
0137 ing facilities and apparatus, parking garages or other facilities,
0138 educational and training facilities for public employees, audito-
0139 riums, stadiums, convention halls and similar public meeting or
0140 entertainment facilities, civil defense facilities, air and water
0141 pollution control facilities, drainage and flood control facilities,
0142 storm sewers, arts and crafts centers, museums, libraries, public
0143 parks, playgrounds or other public open space, marinas, swim-
0144 ming pools, tennis courts, golf courses, camping facilities, gym-
0145 nasiums and other recreational facilities, tourist information and
0146 assistance centers, historical, cultural, natural or folklore sites,
0147 fair and exhibition facilities, streets and street lighting, alleys,
0148 sidewalks, roads, bridges and viaducts, airports, passenger or
0149 freight terminals, hangars and related facilities, barge terminals,
0150 ports, harbors, ferries, wharves, docks and similar marine ser-
0151 vices, slack water harbors, water resource facilities, waterfront
0152 development and navigation facilities, public transportation fa-
0153 cilities, public water systems and related transmission and dis-
0154 tribution facilities, storage facilities, wells, impounding reser-
0155 voirs, treatment plants, lakes, dams, watercourses and water
0156 ~~rights, sewage collection systems and treatment plants, mainde-~~

0157 ~~nause and storage buildings and facilities, police and sheriff~~
0158 ~~stations, apparatus and training facilities, incinerators, garbage~~
0159 ~~and solid waste disposal, compacting and recycling facilities of~~
0160 ~~every kind and social and rehabilitative facilities.~~

0161 (g) "Construct" means to acquire or build, in whole or in
0162 part, in such manner and by such method, including contracting
0163 therefor, and if the latter, by negotiation or bidding upon such
0164 terms and pursuant to such advertising as the authority shall
0165 determine to be in the public interest and necessary, under the
0166 circumstances existing at the time, to accomplish the purposes of
0167 and authority set forth in this act.

0168 (h) "Loans" means loans made for the purposes of financing
0169 any of the activities authorized within this act, including loans
0170 made to financial institutions for funding or as security for loans
0171 made for accomplishing any of the purposes of this act and
0172 reserves and expenses appropriate or incidental thereto.

0173 (i) "Educational facilities" means real, personal and mixed
0174 property of any and every kind intended by an educational
0175 institution in furtherance of its educational program, ~~including,~~
0176 ~~but not limited to, dormitories, classrooms, laboratories, athletic~~
0177 ~~fields, administrative buildings, equipment and other property~~
0178 ~~for use therein or thereon.~~

0179 (j) "Facilities" means any real property, personal property or
0180 mixed property of any and every kind ~~including, without limiting~~
0181 ~~the generality of the foregoing, rights of way, roads, streets,~~
0182 ~~pipes, pipelines, reservoirs, utilities, materials, equipment, fix-~~
0183 ~~tures, machinery, furniture, furnishings, instrumentalities, and~~
0184 ~~other real, personal or mixed property of every kind or any~~
0185 ~~preliminary studies and surveys relative thereto.~~

0186 (k) "Health care facilities" means facilities for furnishing
0187 physical or mental health care, ~~including, without limitation,~~
0188 ~~medical care facilities, other facilities for the diagnosis and~~
0189 ~~treatment of any illness or disease, offices and clinics of persons~~
0190 ~~licensed to practice medicine and surgery, dentists, optometrists,~~
0191 ~~podiatrists, chiropractors and related facilities, adult care homes~~
0192 ~~and related facilities, long term or life care facilities for the~~
0193 ~~elderly or disabled and shall include facilities used to furnish~~

0194 ~~emergency medical health care and emergency medical services,~~
 0195 ~~including, but not limited to, ambulances or vehicles specifically~~
 0196 ~~designed, equipped and licensed for transporting the sick or~~
 0197 ~~injured, emergency medical equipment and supplies, dispatch-~~
 0198 ~~ing other communication systems, computers for billing, collec-~~
 0199 ~~tions, system design and control and training and administrative~~
 0200 ~~facilities.~~

0201 (l) "Housing development" means any work or undertaking,
 0202 whether new construction or rehabilitation, which is designed
 0203 and financed pursuant to the provisions of this act for the primary
 0204 purpose of providing sanitary, decent and safe dwelling accom-
 0205 modations for elderly persons and families of low ~~or moderate~~
 0206 ~~income in need of housing. Such undertaking may include any~~
 0207 ~~buildings, land, equipment, facilities or other real or personal~~
 0208 ~~properties which are necessary, convenient or desirable appur-~~
 0209 ~~tenances such as, but not limited to, site preparation, landscap-~~
 0210 ~~ing and other nonhousing facilities, such as community and~~
 0211 ~~recreational facilities, as the authority determines to be neces-~~
 0212 ~~sary, convenient or desirable appurtenances, retirement homes,~~
 0213 ~~centers and related facilities, adult care homes and related facil-~~
 0214 ~~ities, and long term or life care facilities for the elderly or dis-~~
 0215 ~~abled.~~

0216 (m) "Industrial enterprise" means facilities for manufactur-
 0217 ing, producing, processing, assembling, repairing, extracting,
 0218 warehousing, distributing, communications, computer services,
 0219 transportation, corporate and management offices and services
 0220 provided in connection with any of the foregoing, in isolation or
 0221 in any combination, that involve the creation of new or addi-
 0222 tional employment or the retention of existing employment ~~and~~
 0223 ~~industrial parks, except that a shopping center, retail store or~~
 0224 ~~shop or other similar undertaking which is solely or predomina-~~
 0225 ~~antly of a commercial retail nature shall not be an industrial~~
 0226 ~~enterprise for the purposes of this act.~~

0227 (n) "Political subdivision" means political or taxing subdivi-
 0228 sions of the state, including boards, commissions, authorities,
 0229 councils, committees, subcommittees and other subordinate
 0230 groups or administrative units thereof, receiving or expending

municipal and quasi-municipal
 corporations,

(o) "Pooled bonds" means bonds of the authority, the interest on which is subject to federal income taxation, which are issued for the purpose of acquiring bonds issued by two or more political subdivisions.

0231 and supported, in whole or in part, by public funds.
0232 ~~(e)~~ "Short-term advance funding" means the financing of (p)
0233 temporary cash shortfalls of political subdivisions based on the
0234 political subdivision's projected monthly income and expendi-
0235 tures and its surplus at the beginning of each fiscal year, and
0236 such shortfall is the result of the political subdivision's projected
0237 income being insufficient to meet the needs of its estimated
0238 expenditures, even though the aggregate income will exceed the
0239 aggregate expenditures for the fiscal year.

0240 ~~(p)~~ "State" means the state of Kansas. (q)

0241 ~~(q)~~ "State agency" means any office, department, board, (r)
0242 commission, bureau, division, public corporation, agency or in-
0243 strumentality of this state.

0244 ~~(r)~~ "Intergovernmental agreement" means any service con-
0245 tract entered into by a contracting party which establishes a
0246 permanent or perpetual relationship thereby obligating the fi-
0247 nancial resources of the contracting party.

0248 (s) "Permanent or perpetual relationship" means any agree-
0249 ment exhibiting an effective duration greater than one year, 12
0250 calendar months or an agreement exhibiting no fixed duration
0251 but where the apparent intent to such agreement is to establish a
0252 permanent or perpetual relationship.

0253 New Sec. 4. (a) There is hereby created, with such duties
0254 and powers as are hereinafter set forth to carry out the provisions
0255 of this act, a public body politic and corporate, with corporate
0256 succession, to be an independent instrumentality/exercising _____ of this state
0257 essential public functions, and to be known as the Kansas de-
0258 velopment finance authority.

0259 (b) The board of directors of the authority shall consist of the _____ commerce
0260 secretary of the department of revenue and 10 public members to _____ four
0261 be appointed by the governor, with the advice and consent of the
0262 senate, except that the members appointed by the governor shall
0263 be residents of the state, shall have been qualified electors
0264 therein for at least one year preceding the time of appointment
0265 and shall be recognized by their peers as outstanding in the field
0266 of economic development or development finance. Each con-
0267 gressional district in the state shall be represented by at least one

0268 ~~public member of the board of directors of the authority. One~~
 0269 ~~public member of the board of directors shall be a representative~~
 0270 ~~of the agricultural business enterprise industry, and one public~~
 0271 ~~member shall be a representative of the state's elderly popula-~~
 0272 ~~tion.~~

Not less than three members of such board shall be representative of the general public and not more than three members so appointed shall be members of the same political party.

0273 The governor shall appoint two public members of the board
 0274 for a term of ~~one year, two for a term of two years, three for a term~~
 0275 ~~of three years, and three for a term of four years, and thereafter,~~
 0276 upon the expiration of such terms, public members shall be
 0277 appointed for a term of four years.

two

0278 Each board member shall hold office for the term of such
 0279 member's appointment and until such member's successor shall
 0280 have been appointed and qualified. Any vacancy in the board
 0281 occurring other than by expiration of term shall be filled by the
 0282 appointment of the governor, but for the unexpired term only.

0283 ~~(c) Each appointed public board member may be removed~~
 0284 ~~from office by the governor, for cause, after a public hearing, and~~
 0285 ~~may be suspended by the governor pending the completion of~~
 0286 ~~such hearing. Each board member, before entering upon such~~
 0287 ~~member's duties, shall take and subscribe an oath to perform the~~
 0288 ~~duties of office faithfully, impartially and justly to the best of~~
 0289 ~~such member's ability. A record of such oath shall be filed in the~~
 0290 ~~office of the secretary of state.~~

(c) The governor shall designate the chairperson and vice-chairperson of the board from the members of such board.

0291 (d) The authority shall have such rights, powers and privi-
 0292 leges and shall be subject to such duties as provided by this act.
 0293 ~~The board of directors, from the public members of the board~~
 0294 ~~appointed by the governor, annually and at such other times as~~
 0295 ~~may be deemed appropriate by the board of directors, shall elect~~
 0296 ~~one of their members as a chairperson and one of their members~~
 0297 ~~as a vice chairperson. The board of directors shall also employ a~~
 0298 president who shall serve at the will of the governor.

governor shall appoint

0299 The ~~board~~ shall appoint and employ such additional officers,
 0300 accountants, financial advisors or experts, bond counsel or other
 0301 attorneys, agents and employees as it may require and shall
 0302 determine their qualifications, duties and compensation. Peri-
 0303 ~~odically, the authority will review selection of bond counsel or~~
 0304 ~~other attorneys to insure that legal representatives are selected.~~

president

subject to the approval of the board of directors

0305 ~~in a manner that will provide the authority with competent,~~
 0306 ~~economical legal representation which furthers the best interest~~
 0307 ~~of the authority.~~ The president shall be an ex officio nonvoting
 0308 member of the board and may be elected secretary of the board.
 0309 The powers of the authority shall be vested in the members of
 0310 the board of directors and ~~six~~ members of the board shall consti-
 0311 tute a quorum at any meeting thereof. Action may be taken and
 0312 motions and resolutions adopted by the board at any meeting
 0313 thereof by the affirmative vote of a majority of present and voting
 0314 board members. Any motion and resolution to authorize an issue
 0315 of bonds, to approve a loan application, to authorize a lease
 0316 transaction or to approve a bond guaranty shall have the affirma-
 0317 tive vote of at least ~~six~~ board members. ~~No vacancy in the~~
 0318 ~~membership of the board shall impair the right of a quorum of~~
 0319 ~~the members to exercise all the powers and perform all duties of~~
 0320 ~~the board.~~

three

three

0321 (e) Before the issuance of any bonds, each member of the
 0322 board of directors of the authority shall execute a surety bond in
 0323 the penal sum of \$250,000 and the president of the authority
 0324 shall execute a surety bond in the penal sum of \$250,000, each
 0325 surety bond to be conditioned upon the faithful performance of
 0326 the duties of the office by such board member or president, as
 0327 the case may be, to be executed by a surety company authorized
 0328 to transact business in the state of Kansas, as surety, and to be
 0329 approved by the attorney general. At all times after the issuance
 0330 of any bonds by the authority, each member of the board of
 0331 directors of the authority shall maintain such surety bonds in full
 0332 force and effect. All costs of such surety bonds shall be borne by
 0333 the authority.

0334 (f) The members of the board of directors of the authority
 0335 shall serve without compensation, but the authority may reim-
 0336 burse its board members for actual expenses necessarily in-
 curred in the discharge of their official duties.

0339 (g) No part of the funds of the authority shall inure to the
 0340 benefit of, or be distributed to, its employees, officers or board of
 0341 directors, except that the authority shall be authorized and em-
 powered to pay its employees reasonable compensation.

0342 (h) The authority may be dissolved by act of the legislature
0343 on condition that the authority has no debts or obligations out-
0344 standing or provision has been made for the payment or retire-
0345 ment of such debts or obligations. Upon any such dissolution of
0346 the authority, all property, funds and assets thereof shall be
0347 vested in the state.

0348 New Sec. 5. Except as otherwise limited by this act, the
0349 authority shall have the following powers to:

0350 (a) Sue and be sued;

0351 (b) have a seal and alter the same at its pleasure;

0352 (c) make and alter bylaws for its organization and internal
0353 management;

0354 (d) make and issue such rules and regulations as may be
0355 necessary to carry out the purposes of this act;

0356 (e) acquire, hold and dispose of real and personal property
0357 for its corporate purposes;

0358 (f) appoint officers, agents and employees, prescribe their
0359 duties and qualifications and fix their compensation;

0360 (g) borrow money and to issue notes, bonds and other obli-
0361 gations, whether or not the interest on which is subject to federal
0362 income taxation, and to provide for the rights of the lenders or
0363 holders thereof;

0364 ~~(h) issue bonds on behalf of state agencies and political
0365 subdivisions;~~

0366 (i) issue bonds to provide financing for a specific activity or
0367 particular project authorized herein or to provide, on a pooled or
0368 consolidated basis, financing for a group of state agencies or
0369 political subdivisions of the state for activities or projects autho-
0370 rized hereunder which shall be secured by and payable solely
0371 from the bonds, lease payments or other obligations issued by or
0372 payable to the state agencies or political subdivisions of the state
0373 and the security and sources of payments thereof. Prior to the
engagement of a financial institution to serve as trustee, paying
agent or in any fiduciary capacity in connection with any pro-
0376 gram, indenture or general resolution of the authority, the au-
0377 thority shall request proposals for such services and the selection
0378 of such financial institution shall be made on the basis of the

pursuant to section 6

0379 ~~response to such request which is the most economical and in~~
0380 ~~the best interest of the authority;~~

(h)

0381 ~~(g) purchase notes or participations in notes evidencing loans~~
0382 ~~which are secured by mortgages or security interests and to enter~~
0383 ~~into contracts in that regard;~~

(i)

0384 ~~(h) make secured or unsecured loans, including loans made~~
0385 ~~to financial institutions to secure loans made by the financial~~
0386 ~~institutions to qualifying agricultural business enterprises, capi-~~
0387 ~~tal improvements, educational facilities, energy enterprises,~~
0388 ~~health care facilities, housing developments, industrial enter-~~
0389 ~~prises and short-term advance funding of local government obli-~~
0390 ~~gations. Prior to the making of any loan for qualifying agricultural~~
0391 ~~business enterprises or industrial enterprises, such loan transac-~~
0392 ~~tion shall be recommended to the authority by a financial insti-~~
0393 ~~tution or investment bank;~~

except that nothing in this act shall
be construed to authorize the authority
to make loans directly to individuals
to finance housing developments

0394 ~~(i) sell mortgages and security interests at public or private~~
0395 ~~sale, to negotiate modifications or alterations in mortgage and~~
0396 ~~security interests, to foreclose on any mortgage or security inter-~~
0397 ~~est in default or commence any action to protect or enforce any~~
0398 ~~right conferred upon it by any law, mortgage, security agree-~~
0399 ~~ment, contract or other agreement, and to bid for and purchase~~
0400 ~~property which was the subject of such mortgage or security~~
0401 ~~interest at any foreclosure or at any other sale, to acquire or take~~
0402 ~~possession of any such property, and to exercise any and all~~
0403 ~~rights as provided by law for the benefit or protection of the~~
0404 ~~authority or mortgage holders;~~

(j)

0405 ~~(m) collect fees and charges in connection with its loans,~~
0406 ~~bond guarantees, commitments and servicing, including, but not~~
0407 ~~limited to, reimbursement of costs of financing as the authority~~
0408 ~~shall determine to be reasonable and as shall be approved by the~~
0409 ~~authority;~~

(k)

0410 ~~(n) make and execute contracts for the servicing of mortgages~~
0411 ~~acquired by the authority pursuant to this act, and to pay the~~
0412 ~~reasonable value of services rendered to the authority pursuant~~
0413 ~~to those contracts;~~

(l)

0414 ~~(o) accept gifts, grants, loans and other aid from the federal~~
0415 ~~government, the state, any state agency, any political subdivision~~

(m)

of the state, or any person or corporation, foundation or legal entity, and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this act;

~~(p)~~ invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such manner as the board shall determine, subject to any agreement with bondholders stated in the authorizing resolution providing for the issuance of bonds;

(n)

~~(q)~~ procure insurance against any loss in connection with its programs, property and other assets;

(o)

~~(r)~~ provide technical assistance and advice to the state or political subdivisions of the state and to enter into contracts with the state or political subdivisions of the state to provide such services. The state or political subdivisions of the state are hereby authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(p)

ities

~~(c) (1) contract, cooperate or join any one or more other governments or public agencies, any political subdivisions of the state or the United States to perform any administrative service, activity or undertaking which any such contracting party is authorized by law to perform, including the issuance of bonds. Such intergovernmental agreements shall be authorized by ordinance or resolution of the contracting party. Any intergovernmental agreement enacted may provide for the contracting party to:~~

~~(A) Cooperate in the exercise of any function, power or responsibility;~~

~~(B) share the services of any officer, department, board, employee or facility; and~~

~~(C) transfer or delegate any function, power, responsibility or duty.~~

~~(2) An intergovernmental agreement shall be authorized and approved by the governing body of each party to the agreement, shall set forth fully the purposes, powers, rights, obligations and responsibilities of the contracting parties, and shall specify the~~

ater
ute

0453 ~~following:~~

0454 (A) Its duration;

0455 (B) the precise organization, composition and nature of any
0456 separate legal entity created;

0457 (C) the purpose or purposes of the intergovernmental agree-
0458 ment;

0459 (D) the manner of financing the joint or cooperative under-
0460 taking and establishing and maintaining a budget;

0461 (E) the permissible method or methods to be employed in
0462 accomplishing the partial or complete termination of an agree-
0463 ment and for disposing of property upon partial or complete
0464 termination. The method or methods for termination shall in-
0465 clude a requirement of six months' written notification of the
0466 intent to withdraw by the governing body of the public agency
0467 wishing to withdraw;

0468 (F) provision for an administrator or a joint board responsible
0469 for administering the joint or cooperative undertaking, including
0470 representation of the contracting parties on the joint board;

0471 (G) the manner of acquiring, holding and disposing of real
0472 and personal property used in the joint or cooperative undertak-
0473 ing; and

0474 (H) any other necessary and proper matters.

0475 (3) Every agreement, prior to and as a condition precedent to
0476 its final adoption and performance, shall be submitted to the
0477 attorney general who shall determine whether the agreement is
0478 in proper form and compatible with the laws of the state of
0479 Kansas. The attorney general shall approve any agreement sub-
0480 mitted unless the attorney general finds it does not meet the
0481 conditions set forth in this section and shall detail in writing
0482 addressed to the governing bodies of the public agencies con-
0483 cerned the specific respects in which the proposed agreement
0484 fails to meet the requirements of law. Failure to disapprove an
0485 agreement within 30 days of its submission shall constitute
0486 approval;

0487 (I) undertake and carry out studies and analyses of agricul-
0488 tural business, industrial, health care, housing, energy, educa-
0489 tional, capital improvement and local governments' short-term

~~advance funding needs within the state and ways of meeting~~

0491 ~~such needs;~~

0492 ~~(+)~~ establish accounts in one or more depositories;

0493 ~~(+)~~ lease, acquire, construct, sell and otherwise deal in and

(q)

0494 contract concerning any facilities, ~~and to accept funds for and~~

(r)

0495 ~~participate in federal and other governmental programs estab-~~

0496 ~~lished for the purpose of the promotion and development of~~

0497 ~~agricultural business, industry, the provision of decent, safe and~~

0498 ~~sanitary housing, health care, education, tourism and capital~~

0499 ~~improvements and related matters;~~

0500 ~~(+)~~ have and exercise all of the powers granted to the public

(s)

0501 housing authorities by the state, except that the authority shall

0502 not have the power of eminent domain;

0503 ~~(+)~~ do any and all things necessary or convenient to carry out

(t)

0504 its purposes and exercise the powers given and granted in this

0505 act;

0506 ~~(+)~~ assist minority businesses in obtaining loans or other

(u)

0507 means of financial assistance. The terms and conditions of such

0508 loans or financial assistance, including the charges for interest

0509 and other services, will be consistent with the provisions of this

0510 act. In order to comply with this requirement, efforts must be

0511 made to solicit for review and analysis proposed minority busi-

0512 ness ventures. Basic loan underwriting standards will not be

0513 waived to inconsistently favor minority persons or businesses

0514 from the intent of the authority's lending practices.

0515 New Sec. 6. ~~(+)~~ The authority is hereby authorized and em-

0516 ~~powered to issue bonds from time to time, whether or not the~~

0517 ~~interest on which is subject to federal income taxation, either for~~

0518 ~~a specific activity or for a particular project or on a pooled or~~

0519 ~~consolidated basis for a series of related or unrelated activities or~~

0520 ~~projects authorized by a group of state agencies or political~~

0521 ~~subdivisions of the state in such amounts as shall be determined~~

0522 ~~by the authority for the purpose of financing qualified agricul-~~

0523 ~~tural business enterprises, capital improvement facilities, edu-~~

0524 ~~cational facilities, health care facilities, housing developments,~~

0525 ~~industrial enterprises and short-term advance funding of politi-~~

0526 ~~cal subdivision obligations, or any combination of such facilities.~~

New Sec. 6. (a) The authority is hereby authorized and empowered to issue bonds, either for a specific activity or on a pooled basis for a series of related or unrelated activities or projects duly authorized by a political subdivision or group of political subdivisions of the state in such amounts as shall be determined by the authority for the purpose of financing capital improvement facilities, educational facilities, health care facilities, housing developments and short-term advance funding of political subdivision obligations. Nothing in this act shall be construed to authorize the authority to issue bonds or use the proceeds thereof to (1) purchase, condemn, or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility or (2) finance any capital improvement facilities, educational facilities, or health care facilities which are authorized under the laws of the state to be financed by the issuance of general obligation or utility revenue bonds of a political subdivision.

~~or any interest in facilities, including without limitation lease-~~
 0528 hold interests in and mortgages on such facilities, except that
 0529 nothing in this act shall be construed to authorize the authority to
 0530 issue or sell revenue bonds or use the proceeds thereof to
 0531 purchase, condemn, or otherwise acquire a utility plant or dis-
 0532 tribution system owned or operated by a regulated public utility.
 0533 The authority is authorized and empowered to use the proceeds
 0534 of any bond issues, together with any other available funds, for
 0535 making loans, purchasing mortgages or security interests in loan
 0536 participations as herein authorized and paying all incidental
 0537 expenses in connection therewith, paying expenses of authoriz-
 0538 ing and issuing the bonds, paying interest on the bonds until
 0539 revenues thereof are available in sufficient amounts, and funding
 0540 such reserves as the authority deems necessary and desirable.
 0541 All moneys received by the authority, other than moneys re-
 0542 ceived by virtue of an appropriation, are hereby specifically
 0543 declared to be cash funds, restricted in their use and to be used
 00 0544 solely as provided herein. No moneys of the authority other than
 0545 moneys received by appropriation shall be deposited with the
 0546 state treasurer.

0547 (b) The authority, when requested to do so by a state agency
 0548 or a political subdivision, is hereby authorized and empowered
 0549 to engage an underwriter or underwriters to facilitate the is-
 0550 suance and sale of bonds to accomplish the financing of a specific
 0551 activity or a particular project of such state agency or political
 0552 subdivision permitted to be financed hereunder or other activi-
 0553 ties and projects for which no state agency or political subdivi-
 0554 sion is authorized by law to obtain such financing which the
 0555 authority determines to be consistent with the purposes of this
 0556 act. In the furtherance thereof, the authority is also authorized
 0557 and empowered to engage in connection therewith such legal
 0558 counsel and other experts as may be recommended by such
 0559 underwriter or underwriters.

0560 (c) No less than 30 days prior to the issuance of any bonds
 0561 authorized under this act with respect to any project or activity
 6 0562 which is to be undertaken for the direct benefit of any person or
 0563 ~~entity which is not a state agency or a political subdivision,~~

except that the acquisition by the authority of general obligation or utility revenue bonds issued by political subdivisions with the proceeds of pooled bonds shall not violate the provisions of the foregoing.

(b) The authority is hereby authorized and empowered to issue bonds for activities and projects of state agencies as requested by the secretary of administration. No bonds may be issued pursuant to this act for any activity or project of a state agency unless the activity or project either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto. When requested to do so by the secretary of administration, the authority is further authorized and empowered to issue bonds for the purpose of refunding, whether at maturity or in advance of maturity, any outstanding bonded indebtedness of any state agency. The revenues of any state agency which are pledged as security for any bonds of such state agency which are refunded by refunding bonds of the authority may be pledged to the authority as security for the refunding bonds.

(c) The authority is hereby authorized and empowered to issue bonds for the purpose of financing industrial enterprises, agricultural business enterprises, educational facilities, health care facilities and housing developments, or any combination of such facilities, or any interest in facilities, including without limitation leasehold interests in and mortgages on such facilities. No less than 30 days prior to the issuance of any bonds authorized under this act with respect to any project or activity which is to be undertaken for the direct benefit of any person or entity which is not a state agency or a political subdivision, written notice of the intention of the authority to provide

~~0565 written notice of the intention of the authority to provide fi-
 0566 nancing and issue bonds therefor shall be given by the president
 0567 of the authority to the municipality in which the project or
 0568 activity is to be located, or, if the project or activity is not
 0569 proposed to be located within a municipality, such notice shall
 0570 be given to the county judge of the county. No bonds for the
 0571 financing of the project or activity shall be issued by the author-
 0572 ity or any other political subdivision or instrumentality of the
 0573 state for a one-year period if, within 15 days after the giving of
 0574 such notice, the legislative body of the political subdivision in
 0575 which the project or activity is proposed to be located shall have
 0576 duly enacted an ordinance or resolution stating express disap-
 0577 proval by the legislative body of the project or activity and the
 0578 reasons therefor. Such disapproval shall not be effective unless a
 0579 certified copy of such ordinance or resolution shall have been
 0580 delivered to the president of the authority within 20 days of the
 0581 giving of notice by the president as herein required. Any notice
 0582 required by this section may be given by the mailing or actual
 0583 delivery thereof to the proper person, and it shall be conclu-
 0584 sively presumed that any notice given by mail, with proper
 0585 postage prepaid, has been timely received by the addressee,
 0586 except that, it shall not be necessary to give the notice provided
 0587 for herein if the project or activity is of such a nature that a public
 0588 hearing has been held in the affected political subdivision with
 0589 respect thereto and approval given in the manner required by
 0590 ~~section 103(k) of the internal revenue code of 1954, as amended.~~
 0591 New Sec. 7. (a) Bonds issued shall be authorized by resolu-
 0592 tion of the authority. The bonds may be issued as registered
 0593 bonds or coupon bonds, payable to bearer, and, if coupon bonds,
 0594 may be registrable as to principal only or as to principal and
 0595 interest, and may be made exchangeable for bonds of another
 0596 denomination or in another form. The bonds may be in such form
 7 to mature at such time or times, may bear interest payable at such
 .38 times and at such rate or rates, may be payable at such places
 0599 within or without the state, may be subject to such terms of
 0600 redemption in advance of maturity at such prices, and may~~

financing and issue bonds therefor shall be given by the president of the authority to the governing body of the city in which the project or activity is to be located, or, if the project or activity is not proposed to be located within a city, such notice shall be given to the governing body of the county. No bonds for the financing of the project or activity shall be issued by the authority for a one-year period if, within 15 days after the giving of such notice, the governing body of the political subdivision in which the project or activity is proposed to be located shall have duly enacted an ordinance or resolution stating express disapproval of the project or activity and shall have notified the president of the authority of such disapproval.

(d) The authority is hereby authorized and empowered to use the proceeds of any bond issues herein authorized, together with any other available funds, for purchasing, leasing, constructing, restoring, renovating, altering or repairing facilities as herein authorized, for making loans, purchasing mortgages or security interests in loan participations and paying all incidental expenses therewith, paying expenses of authorizing and issuing the bonds, paying interest on the bonds until revenues thereof are available in sufficient amounts, purchasing bond insurance or other credit enhancements on the bonds, and funding such reserves as the authority deems necessary and desirable. All moneys received by the authority, other than moneys received by virtue of an appropriation, are hereby specifically declared to be cash funds, restricted in their use and to be used solely as provided herein. No moneys of the authority other than moneys received by appropriation shall be deposited with the state treasurer.

0601 contain such terms and conditions, all as the authority shall
0602 determine. The bonds shall have all the qualities of and shall be
0603 deemed to be negotiable instruments under the laws of the state
0604 of Kansas, subject to provisions as to registration as set forth
0605 above. The authorizing resolution may contain any other terms,
0606 covenants and conditions that the authority deems reasonable
0607 and desirable, including without limitation those pertaining to
0608 the maintenance of various funds and reserves, the nature and
0609 extent of any security for payment of the bonds, the custody and
0610 application of the proceeds of the bonds, the collection and
0611 disposition of revenues, the investing for authorized purposes,
0612 and the rights, duties and obligations of the authority and the
0613 holders and registered owners of the bonds.

0614 (b) The authorizing resolution may provide for the execution
0615 of a trust indenture between the authority and any financial
0616 institution within or without the state of Kansas. The trust in-
0617 denture may contain any terms, covenants and conditions that
0618 are deemed desirable by the authority, including without limi-
0619 tation those pertaining to the maintenance of various funds and
0620 reserves, the nature and extent of any security for the payment of
0621 the bonds, the custody and application of the proceeds of the
0622 bonds, the collection and disposition of revenues, the investing
0623 and reinvesting of any moneys during periods not needed for
0624 authorized purposes, and the rights, duties and obligations of the
0625 authority and the holders and registered owners of the bonds.

0626 (c) Any authorizing resolution and trust indenture relating to
0627 the issuance and security of the bonds shall constitute a contract
0628 between the authority and holders and registered owners of the
0629 bonds, which contract, and all covenants, agreements and obli-
0630 gations therein, shall be promptly performed in strict compliance
0631 with the terms and provisions of such contract, and the cove-
0632 nants, agreements and obligations of the authority may be en-
3 forced by mandamus or other appropriate proceeding at law or in
0634 equity.

0635 New Sec. 8. (a) The bonds may be sold in such manner,
0636 either at public or private sale, and upon such terms as the
0637 authority shall determine to be reasonable and expedient for

0638 effectuating the purposes for which the authority was created.
0639 The bonds may be sold at such price as the authority may accept,
0640 including sale at discount.

0641 (b) The bonds shall be executed by manual or facsimile
0642 signatures of the chairperson of the board of directors and the
0643 president of the authority or of any other director or officer of the
0644 authority authorized to make such signature by resolution of the
0645 board of directors. In case any of the officers whose signatures
0646 appear on the bonds or coupons shall cease to be such officers
0647 before delivery of such bonds or coupons, their signatures,
0648 nevertheless, shall be valid and sufficient for all purposes. The
0649 authority shall adopt and use a seal in the execution and issuance
0650 of the bonds, and each bond shall be impressed or imprinted
0651 with the seal of the authority.

0652 (c) It shall be plainly stated on the face of each bond that it
0653 has been issued under this act, that the bonds shall be obliga-
0654 tions only of the authority, and that, in no event, shall the bonds
0655 constitute an indebtedness of the state of Kansas or an indebt-
0656 edness for which the faith and credit of the state of Kansas ~~or any~~
0657 ~~of its revenues~~ are pledged ~~or an indebtedness secured by lien~~
0658 ~~on or a security interest in any property of the state.~~ The payment
0659 of the principal of, redemption premium, if any, or interest on the
0660 trustee's and paying agent's fees in connection with the bonds
0661 may be secured by a lien on and security interest in facilities
0662 financed by bonds issued hereunder, by lien or pledge of loans
0663 made or mortgages purchased by the authority and any collateral
0664 security received by the authority, including without limitation
0665 the authority's interest in and any revenue derived from any loan
0666 agreements. It shall not be necessary to the perfection of the lien
0667 and pledge for such purposes that the trustee in connection with
0668 such bond issue or the holders of the bonds take possession of
0669 the loans, mortgages and collateral security.

~~0670 New Sec. 9. When gubernatorial approval is required by the~~
~~0671 provisions of the tax equity and fiscal responsibility act of 1982,~~
0672 or any other federal or state law, the governor is hereby autho-
0673 rized to approve the issuance of bonds by the authority upon
0674 receipt of written request for approval from the board of direc-

0675 ~~Such written request shall state that the authority has~~
 0676 ~~conducted a public hearing, pursuant to appropriate public no-~~
 0677 ~~tice, concerning the purposes for which the bonds are to be~~
 0678 ~~issued, shall contain a description of the project or projects to be~~
 0679 ~~financed and shall describe the method of financing the project~~
 0680 ~~or projects. The written request shall also summarize the com-~~
 0681 ~~ments made and questions posed at the public hearing.~~

0682 New Sec. 10. Any bonds issued under the provisions of this
 0683 act and the interest paid thereon, unless specifically declared to
 0684 be taxable in the authorizing resolution, shall be exempt from all
 0685 state, county and municipal taxes, and the exemption shall in-
 0686 clude income, inheritance and property taxes.

0687 New Sec. 11. Any pledge of revenues, moneys, funds or
 0688 other property made by the authority shall be valid and binding
 0689 from the time when such pledge is made and the revenues,
 0690 moneys, funds or other property so pledged and thereafter re-
 0691 ceived by the authority shall immediately be subject to the lien
 0692 of such pledge without such physical delivery thereof or further
 0693 act on the part of the authority, and the lien of any such pledge
 0694 shall be valid and binding as against all parties having claims of
 0695 any kind in tort, contract or otherwise against the authority,
 0696 irrespective of whether such parties have notice thereof. Neither
 0697 the authorizing resolution nor any other instrument by which a
 0698 pledge is created need be filed or recorded except in the records
 0699 of the authority.

0700 New Sec. 12. No director or officer of the authority shall be
 0701 liable personally for any reason arising from the issuance of
 0702 bonds hereunder unless such person acted with a corrupt intent.

0703 New Sec. 13. The authority may create and establish one or
 0704 more special funds or accounts as appropriate to secure bonds
 0705 issued hereunder, as determined by the authority.

0706 ~~New Sec. 14. All revenues received by the authority, except~~
 0707 ~~revenues derived from appropriations, are hereby specifically~~
 0708 ~~declared to be cash funds restricted in their use, and dedicated~~
 0709 ~~and to be used solely as provided in this act. The pledged~~
 0710 ~~revenues shall not be deposited with the state treasurer, but,~~
~~shall be deposited with the authority in such~~

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~~0712 account or accounts in such depository or depositories as shall be
0713 specified by resolution of the authority and used by the authority
0714 solely for the purpose of carrying out the provisions of this act
0715 and in conformity with the provisions of any resolution or any
0716 indenture securing bonds of the authority or other agreement
0717 entered into by the authority pursuant to the provisions of this
0718 act. Any revenues at any time held by the authority in excess of
0719 the amount necessary to accomplish the purposes of this act and
0720 to comply with all covenants and agreements of the authority
0721 relating thereto may by resolution of the board of directors be
0722 declared to be surplus moneys and may be designated for de-
0723 posit to such other fund or funds as the legislature may deem
0724 appropriate.~~

0725 New Sec. 15. Bonds may be issued for the purpose of re-
0726 funding, either at maturity or in advance of maturity, any bonds
0727 issued under this act. Such refunding bonds may either be sold
0728 or delivered in exchange for the bonds being refunded. If sold,
0729 the proceeds may either be applied to the payment of the bonds
0730 being refunded or deposited in trust and there maintained in
0731 cash or investments for the retirement of the bonds being re-
0732 funded, as shall be specified by the authority and the authorizing
0733 resolution or trust indenture securing such refunding bonds. The
0734 authorizing resolution or trust indenture securing the refunding
0735 bonds may provide that the refunding bonds shall have the same
0736 security for their payment as provided for the bonds being
0737 refunded. Refunding bonds shall be sold and secured in accord-
0738 ance with the provisions of this act pertaining to the sale and
0739 security of the bonds.

~~0740 New Sec. 16. Bonds issued under the provisions of this act
0741 shall be eligible to secure the deposit of public funds under
0742 article 14 of chapter 9 of the Kansas Statutes Annotated.~~

~~0743 New Sec. 17. Any municipality, or any board, commission or
0744 other authority duly established by ordinance of any municipal-
0745 or the boards of trustees, respectively, of any local police or
0746 pension plan, as defined in K.S.A. 12-5001, and amendments
0747 thereto, or the board of trustees of any retirement system created
0748 by the legislature of the state of Kansas, in its discretion, may~~

0749 ~~invest any of its funds not immediately needed for its purposes,~~
 0750 ~~in bonds issued under the provisions of this act.~~

0751 New Sec. 18. On or before the last day of January in each
 0752 year, the authority shall make an annual report of its activities for
 0753 the preceding calendar year to the governor and to the legisla-
 0754 ture. Such report shall contain an audit of the preceding calendar
 0755 year, prepared by a firm of nationally recognized certified public
 0756 accountants.

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0757 New Sec. 19. All officers, departments, boards, agencies,
 0758 divisions and commissions of the state are hereby authorized and
 0759 empowered to render any and all of such services to the authority
 0760 as may be within the area of their respective governmental
 0761 functions as fixed or established by law, and as may be required
 0762 by the authority. The cost and expenses of any such services
 0763 shall be met and provided by the authority.

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0764 New Sec. 20. ~~(a)~~ No officer or employee of the authority for
 0765 purpose of personal gain shall have or attempt to have, directly or
 0766 indirectly, any interest in any contract or agreement of the
 0767 authority in connection with the sale or purchase of any bonds or
 0768 investments of the authority. ~~The legislature hereby finds and~~
 0769 ~~declares, in furtherance of the public purposes set forth in~~
 0770 section 4, that it shall not be deemed a violation of the provisions
 0771 of this section if any member of the board of directors, or any firm
 0772 owned by such member or by which such member is employed,
 0773 shall participate in any program of the authority provided that
 0774 such participation shall be on the same terms and subject to the
 0775 same conditions governing all other participants in such pro-
 0776 gram.

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0777 (b) Any member, officer, employee or agent of the authority
 0778 who shall be found guilty of violating the provisions of this
 0779 section shall be barred from public employment in the state in
 0780 any capacity whatsoever for a period of five years from the date
 0781 such person was adjudged guilty of such violation, in addition to
 0782 ~~such other penalties as may be provided by law.~~

0783 New Sec. 21. This act shall be liberally construed. Nothing
 0784 contained herein is or shall be construed as a restriction or
 0785 limitation upon any powers which the authority might otherwise

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0786 have under any other law of this state, and the provisions of this
0787 act are cumulative to such powers. The provisions hereof do and
0788 shall be construed to provide a complete, additional and alter-
0789 native method for the doing of the things authorized and shall be
0790 regarded as supplemental and additional to powers conferred by
0791 any other laws. The issuance of bonds under the provisions
0792 hereof need not comply with the requirements of any other state
0793 laws applicable to the issuance of bonds, notes and other obli-
0794 gations and it shall not be necessary to comply with general
0795 provisions of other laws dealing with public facilities, their
0796 acquisition, construction, leasing, encumbering or disposition.
0797 No proceedings, notice or approval shall be required for the
0798 issuance of any bonds or any instrument or the security therefor
0799 except as provided for herein.

0800 Sec. ~~92~~ K.S.A. 1986 Supp. 9-1402 is hereby amended to read
0801 as follows: 9-1402. (a) Before any deposit of public moneys or
0802 funds shall be made by any municipal corporation or quasi-mu-
0803 nicipal corporation of the state of Kansas with any state or
0804 national bank, trust company, state or federally chartered savings
0805 and loan association or federally chartered savings bank, such
0806 municipal or quasi-municipal corporation shall obtain security
0807 for such deposit in one of the following manners prescribed by
0808 this section.

0809 (b) Such bank, trust company, state or federally chartered
0810 savings and loan association or federally chartered savings bank
0811 may give to the municipal corporation or quasi-municipal cor-
0812 poration a personal bond in double the amount which may be on
0813 deposit at any given time.

0814 (c) Such bank, trust company, state or federally chartered
0815 savings and loan association or federally chartered savings bank
0816 may give a corporate surety bond of some surety corporation
0817 authorized to do business in this state, which bond shall be in an
0818 amount equal to the public moneys or funds on deposit at any
0819 given time and such bond shall be conditioned that such deposit
0820 shall be paid promptly on the order of the municipal corporation
0821 or quasi-municipal corporation making such deposits.

0822 (d) Any state or national bank, trust company, state or feder-

0823 ally chartered savings and loan association or federally chartered
0824 savings bank may deposit, maintain, pledge and assign for the
0825 benefit of the governing body of the municipal corporation or
0826 quasi-municipal corporation in the manner provided in this act,
0827 securities the market value of which is equal to 100% of the total
0828 deposits at any given time, and such securities shall consist of:

0829 (1) Direct obligations of, or obligations that are insured as to
0830 principal and interest by, the United States of America or any
0831 agency thereof and obligations and securities of United States
0832 sponsored corporations which under federal law may be ac-
0833 cepted as security for public funds;

0834 (2) bonds of any municipal corporation or quasi-municipal
0835 corporation of the state of Kansas which have been refunded in
0836 advance of their maturity and are fully secured as to payment of
0837 principal and interest thereon by deposit in trust, under escrow
0838 agreement with a bank, of direct obligations of, or obligations the
0839 principal of and the interest on which are unconditionally
0840 guaranteed by, the United States of America;

0841 (3) bonds of the state of Kansas;

0842 (4) general obligation bonds of any municipal corporation or
0843 quasi-municipal corporation of the state of Kansas;

0844 (5) revenue bonds of any municipal corporation or quasi-
0845 municipal corporation of the state of Kansas if approved by the
0846 state bank commissioner in the case of banks and by the savings
0847 and loan commissioner in the case of savings and loan associa-
0848 tions or federally chartered savings banks;

0849 (6) temporary notes of any municipal corporation or quasi-
0850 municipal corporation of the state of Kansas which are general
0851 obligations of the municipal or quasi-municipal corporation is-
0852 suing the same;

0853 (7) warrants of any municipal corporation or quasi-municipal
0854 corporation of the state of Kansas the issuance of which is
0855 authorized by the state board of tax appeals and which are
0856 payable from the proceeds of a mandatory tax levy;

0857 (8) bonds of either a Kansas not-for-profit corporation or of a
0858 local housing authority that are rated at least Aa by Moody's
0859 Investors Service or AA by Standard & Poor's Corp.;

0860 (9) bonds issued pursuant to K.S.A. 12-1740 *et seq.*, and
 0861 amendments thereto, that are rated at least MIG-1 or Aa by
 0862 Moody's Investors Service or AA by Standard & Poor's Corp.; or
 0863 (10) notes of a Kansas not-for-profit corporation that are is-
 0864 sued to provide only the interim funds for a mortgage loan that is
 0865 insured by the federal housing administration; or

0866 (11) bonds issued pursuant to sections 1 through 21.

0867 (c) No state or national bank, trust company, state or federally
 0868 chartered savings and loan association or federally chartered
 0869 savings bank may deposit and maintain for the benefit of the
 0870 governing body of a municipal or quasi-municipal corporation of
 0871 the state of Kansas, any securities which consist of:

0872 (1) Bonds secured by revenues of a utility which has been in
 0873 operation for less than three years; or

0874 (2) bonds issued under K.S.A. 12-1740 *et seq.*, and amend-
 0875 ments thereto, unless such bonds have been refunded in ad-
 0876 vance of their maturity as provided in subsection (d) or such
 0877 bonds are rated at least Aa by Moody's Investors Service or AA
 0878 by Standard & Poor's Corp.

0879 (f) Whenever a bond is authorized to be pledged as a security
 0880 under this section, such bond shall be accepted as a security if:

0881 (1) In the case of a certificated bond, it is assigned, delivered or
 0882 pledged to the holder of the deposit for security; (2) in the case of
 0883 an uncertificated bond, registration of a pledge of the bond is
 0884 authorized by the system and the pledge of the uncertificated
 0885 bond is registered; or (3) in a form approved by the attorney
 0886 general, which assures the availability of the bond proceeds
 0887 pledged as a security for public deposits.

0888 (g) Any expense incurred in connection with granting ap-
 0889 proval of revenue bonds shall be paid by the applicant for
 0890 approval.

0891 ~~Sec. 23~~ K.S.A. 1986 Supp. 9-1402 is hereby repealed.

0892 ~~Sec. 24~~ This act shall take effect and be in force from and
 0893 its publication in the statute book.

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STATE OF KANSAS



DEPARTMENT OF ADMINISTRATION

State Capitol
Topeka 66612-1572
(913) 296-3011

H. Edward Flentje, *Secretary*

April 1, 1987

M E M O R A N D U M

TO: Senate Committee on Economic Development
FROM: Allen Bell, Special Assistant to the Secretary
SUBJECT: Statement on Senate Bill No. 73 Revision

The revised bill which you have before you represents the joint efforts of members of this committee, the Secretary of Administration and his staff, and the Revisor of Statutes to 1) simplify and streamline the structure and language of the original bill, 2) address the legitimate concerns raised in committee hearings by various groups, and 3) incorporate new provisions relating to the financing of state agency improvements. Aside from the removal of large portions of several sections which were judged to be removable without effecting the legislation, and the insertion of various amendments which had been proposed during hearings, the major changes reflected in the revised bill have to do with the structure and composition of the Authority's board of directors, and the way in which state agency projects are selected and approved for financing by the Authority.

*Senate Committee on Economic Development
4-1-87*

Attachment III

In its revised form, Senate Bill No. 73 creates a state finance authority with the power to issue bonds for the purpose of financing capital improvements for state agencies, and for the purpose of financing economic development projects in the private sector. It also creates a potential mechanism for future state involvement in providing improved access to capital markets for local political subdivisions, should the legislature determine a need to do so.

Providing access to capital markets where such access is presently nonexistent or seriously limited, is what this bill is all about. I agree with previous conferees that the access of political subdivisions in Kansas to capital markets is not seriously impaired. At the same time, I recognize that there are problems in capital formation for a class of economic enterprise whose debt capital needs are too small to justify the relatively fixed costs of traditional IRB financing and which cannot obtain any kind of long term fixed-rate financing from their local banks. New banking regulations and current economic conditions are making it increasingly difficult, especially in rural areas, for conventional lending institutions to meet the long term capital needs of small businesses. It may be possible, through pooled bond financing and innovative credit enhancement techniques, to rectify this situation for those projects whose credit is fundamentally strong. Marginal projects will not be helped by this legislation.

For state agencies, the capital finance problem is an administrative rather than market-related problem. For a variety of reasons, the state has traditionally eschewed the use of debt financing of its capital improvements in favor of a "pay-as-you-go" philosophy, rather than "pay-as-you-use". State government has not paid sufficient attention to the manner in which it plans, manages, and finances improvements to its capital infrastructure. We have become reactive rather than proactive in this area. It is time for state government to take charge of this function and manage it.

The Department of Administration is already taking steps to improve this situation in those areas in which we have the authority to do so, for example in improving the quality of information regarding capital assets, in managing capital improvement funds, and in developing expertise in capital planning and finance. Senate Bill No. 73 provides state government with the opportunity to make real progress toward effective management of the capital improvement function by providing access to innovative financing alternatives, and by designating one agency of state government to coordinate the use of this resource.