

Approved April 6, 1988  
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Phil Kline at  
Chairperson

3:37 ~~xxx~~ a.m./p.m. on Monday, March 28, 1988 in room 423-S of the Capitol.

All members were present except: Representatives Mainey, Love and Barkis. - Excused.

Committee staff present:

Jim Wilson, Revisor  
Lynn Holt, Research  
Elaine Johnson, Secretary

Conferees appearing before the committee:

Allen Bell, President, Kansas Development Finance Authority  
Harland Priddle, Secretary, Department of Commerce  
Don Gragg, Director, Community Development Division, Dept. of Commerce  
Dan Ramlow, Assistant Manager, Kansas Contractors Association, Inc.  
Bernie Koch, Wichita Area Chamber of Commerce  
E. A. Mosher, Executive Director, League of Kansas Municipalities

Chairman Phil Kline called the meeting to order and opened the hearing on S.B. 574. The first conferee recognized was Allen Bell.

Mr. Bell testified that the Kansas Development Finance Authority supports S.B. 574 as amended by the Senate Committee. KDFA also supports the amendments being proposed to this committee which concern the issuance of bonds as an optional source of capital for the Kansas Partnership Fund. These latter amendments are very similar to those that the House Committee of the Whole attached to S.B. 472. They provide authorization for the Secretary of Commerce to obtain revenue bond financing for the Partnership Fund from KDFA. Issuing bonds for the purpose of providing loan capital to the Partnership Fund will have the effect of leveraging the funds appropriated from the economic development initiative fund by a ratio of as much as 10 to 1. (Attachment 1).

Jim Wilson of the Revisor's Office distributed a balloon of S.B. 574 to the committee containing technical revisions. (Attachment 2).

The next conferee recognized was Secretary Harland Priddle. Secretary Priddle gave a brief explanation of S.B. 574. The Kansas Partnership Fund was basically developed to allow communities that have a prospect for a business or an expansion of a business, but needed infrastructure extension. There is rarely enough time to go through the normal mechanics of financing. Secretary Priddle recognized Don Gragg who will be administering the fund.

Mr. Gragg testified that S.B. 574 will establish a broadly based fund allowing the Department to join in partnership with local units of government to finance infrastructure improvements necessary for business development. Mr. Gragg provided the background (Attachment 3) on why this program is needed, and the elements of how the Department might administer this fund. He also addressed three basic needs which this program addresses. (Attachment 4).

Discussion followed about the restriction to basic industry. Secretary Priddle stated that the Department of Commerce had concerns about limiting this bill to basic industries and suggested that it not be limited. The Department is trying to keep as much flexibility as it can. It would be in Kansas' best interest not to limit it to basic industries at this time. If the Senate Committee amendment is removed it would make it broader.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

room 423-S, Statehouse, at 3:37 ~~xxx~~ p.m. on Monday, March 28, 1988.

An objection was made to the amendment on page 3 of the balloon referring to "levying a tax annually on taxable tangible property" and "shall be exempt from the aggregate levy limitation imposed."

Chairman Kline recalled Allen Bell to clarify the mechanisms of funding. Mr. Bell said that this is not a bonding type program and he did not mean to give that impression. There is language in the bill that make it available to the Secretary as an alternative method of providing loan capital by the issuance of bonds.

The next conferee was Dan Ramlow. Mr. Ramlow on behalf of the Kansas Contractors Association, Inc. testified in support of S.B. 574. Their organization recognizes that Kansas' infrastructure is in dire need of repair. The Kansas Infrastructure executive summary referred to in Mr. Ramlow's testimony is on file in the Legislative Research Department, Room 545-N. (Attachment 5).

Bernie Koch testified in support of S.B. 574. He feels that this program is one of the highest priorities of Kansas Inc. It provides loans for local governments so they can pay for infrastructure improvements to attract industry. Businesses are asking for more from local governments in return for locating in an area. If local government in Kansas can't provide, the industries may locate in another state more willing to provide the infrastructure needs. The Wichita Chamber of Commerce particularly supports one change made in the bill by the House -- that property taxes levied by local governments to repay these loans are not subject to the tax lid. (Attachment 6).

The last conferee on S.B. 574 was Ernie Mosher. Mr. Mosher testified on behalf of the League of Kansas Municipalities and gave their concerns with the bill and expressed a great deal of concern with the multiple bills amending the new tax lid law. (Attachment 7).

Discussion followed.

Dr. Anthony Redwood, Executive Director, The Institute for Public Policy and Business Research, University of Kansas was unable to appear before the committee but did submit written testimony which was handed out to the committee members. (Attachment 8).

In response to Representative Aylward's request of March 25, 1988, Commissioner Duncan submitted amendments to S.B. 478 which were handed out to the committee. (Attachment 9).

The meeting adjourned at 4:31 p.m.





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Suite 113  
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900 S.W. Jackson  
TOPEKA, KANSAS 66612

(913) 296-6747  
KANS-A-N 561-6747

MARTY BLOOMQUIST, ASSISTANT

March 28, 1988

M E M O R A N D U M

TO: House Economic Development Committee  
FROM: Allen Bell, President  
SUBJECT: Testimony in support of Senate Bill No. 574

KDFA supports Senate Bill 574 as amended by the Senate committee. KDFA also supports the amendments being proposed to this committee which concern the issuance of bonds as an optional source of capital for the Kansas Partnership Fund. These latter amendments are very similar to those that the House Committee of the Whole attached to Senate Bill 472. They provide authorization for the Secretary of Commerce to obtain revenue bond financing for the Partnership Fund from KDFA.

Issuing bonds for the purpose of providing loan capital to the Partnership Fund will have the effect of leveraging the funds appropriated from the economic development initiative fund by a ratio of as much as 10 to 1. If \$5.5 million is appropriated to the Partnership Fund, up to \$50 million in bonds could be issued. The appropriated EDIF moneys would be held in escrow as security for the bondholders, who would be paid from the revenue stream resulting from the repayment of loans made by the Partnership Fund.

Financially, if bonds are used to capitalize this loan fund, the interest rates on the loans will be determined by the interest rates on the bonds. These interest rates will be generally lower than the rates municipalities could expect on their own bond issues because of economies of scale and

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because larger bond issues attract more buyers. The interest rates will not be enough lower to be considered as subsidized rates, however. If the state wishes to provide a certain amount of loans with subsidized rates, it could withhold that amount of appropriated EDIF moneys from the funds to be leveraged, and make these loans directly from appropriated funds. The more appropriated funds withheld in this way, the fewer the bond dollars that can be raised through leveraging.

Bonds issued by KDFA for this program could be issued on a "stand alone" basis for larger projects or on a "pooled bond" basis for several smaller projects. With pooled bonds, there is the possibility that the timing of the pooled bond issue will create problems with respect to timing of the projects being financed. The Tax Reform Act of 1986 eliminated the issuance of tax-exempt "blind pool" bonds, meaning issuing bonds without knowing the exact purpose for which the bond proceeds would be used. In the present context, this means that individual loans made from the Partnership Fund would need to be identified prior to issuing bonds to provide the capital for those loans.

Senate Bill 513, now pending final action in the House, will help alleviate this problem. It would allow municipalities to issue temporary notes or no-fund warrants in anticipation of receiving a state loan or grant. Projects approved by the Secretary of Commerce for Partnership Fund loans could thus be implemented before the actual issuance of bonds for the projects. The temporary financings on several different projects could be refunded from the proceeds of one pooled bond issue.

Thank you for your time. I'll be glad to answer any questions.

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House Eco Devs  
Attachment 2  
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SENATE BILL No. 574

By Senators Burke, Allen, Arasmith, Bogina, Bond, Daniels, Doyen, Ehrlich, Feleciano, Francisco, Gaines, Gannon, Gordon, Harder, Hayden, Hoferer, Johnston, Karr, D. Kerr, F. Kerr, Langworthy, Martin, Montgomery, Morris, Mulich, Norvell, Parrish, Reilly, Salisbury, Strick, Talkington, Thiesen, Vidricksen, Werts, Winter and Yost

2-8

0022 AN ACT relating to economic development; establishing the  
0023 Kansas partnership fund; authorizing loans for certain local  
0024 government infrastructure projects; prescribing powers,  
0025 duties and functions relating thereto; *providing for sources of*  
0026 *revenue for repayment of such loans; amending K.S.A. 1987*  
0027 *Supp. [74-8905] and repealing the existing section.*

79-5028

0028 *Be it enacted by the Legislature of the State of Kansas:*

0029 *New Section 1. (a) There is hereby established the Kansas*  
0030 *partnership fund in the state treasury. All moneys in the Kansas*  
0031 *partnership fund shall be used for loans in accordance with*  
0032 *section 2 and the provisions of appropriations acts. Such fund*  
0033 *shall consist of:*

0034 (1) Amounts appropriated by the legislature for the purposes  
0035 of such fund;

0036 (2) the proceeds, if any, derived from the sale of bonds issued  
0037 by the Kansas development finance authority for the purposes of  
0038 such fund. ~~The provisions of subsection (a) of K.S.A. 1987 Supp.~~  
0039 ~~74-8905 and amendments thereto shall not prohibit the issuance~~  
0040 ~~of bonds for such purposes when so authorized but any such~~  
0041 ~~issuance of bonds is exempt from the provisions of subsection (a)~~  
0042 ~~of K.S.A. 1987 Supp. 74-8905 and amendments thereto;~~

0043 (3) amounts of repayments made by cities and counties of  
0044 loans received under this act together with payments of interest  
0045 thereon, in accordance with agreements entered into by such

sections 1 through 3

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0046 cities and counties and the secretary of commerce; and  
0047 (4) amounts contributed or otherwise made available by any  
0048 public or private entity for use in effectuating the purposes of  
0049 such fund.

0050 (b) All moneys received as principal and interest payments  
0051 under loan agreements entered into pursuant to section 2 shall  
0052 be remitted to the state treasurer at least monthly. Upon the  
0053 receipt of each such remittance, the state treasurer shall deposit  
0054 the entire amount thereof in the state treasury to the credit of the  
0055 Kansas partnership fund.

0056 (c) All expenditures from the Kansas partnership fund shall  
0057 be made in accordance with this ~~section~~ *act* and the provisions of  
0058 appropriations acts upon warrants of the director of accounts and  
0059 reports issued pursuant to vouchers approved by the secretary of  
0060 commerce or by a person designated by the secretary.

0061 *New Sec. 2.* (a) In accordance with the provisions of this  
0062 section, the secretary of commerce is hereby authorized to enter  
0063 into loan agreements with cities and counties located in Kansas  
0064 to provide assistance in financing public infrastructure improve-  
0065 ment projects to aid the expansion, relocation and attraction of  
0066 ~~business~~ *Kansas basic enterprises* and to loan moneys in the  
0067 ~~infrastructure loan program fund~~ in accordance with such agree-  
0068 ments.

0069 (b) To be eligible for a loan under ~~this section~~ *act*, a public  
0070 infrastructure improvement project must be determined by the  
0071 secretary of commerce to be a project that will directly result in  
0072 the creation of private sector jobs *in Kansas basic enterprises*.

0073 Eligible projects may include the construction, reconstruction,  
0074 rehabilitation, alteration, expansion or improvement of public  
0075 facilities that support ~~industrial or commercial activity~~ *Kansas*  
0076 *basic enterprises* including, but not limited to roads, streets,  
0077 highways, storm drains, ~~waste water supply~~ treatment facilities  
0078 and distribution lines, wastewater ~~treatment facilities~~ and col-  
0079 lection lines and any related improvements. The secretary of  
0080 commerce shall review and analyze all applications for loans  
0081 under this section and shall develop criteria for the review and  
0082 analysis of loan applications under this section.

(d) The activities of the secretary of commerce in administering and performing the powers, duties and functions prescribed by the provisions of sections 1 through 3 and providing moneys for the purposes of the Kansas partnership fund from the proceeds of revenue bonds issued for such purpose by the Kansas development finance authority are hereby approved for the purposes of subsection (b) of K.S.A. 1987 Supp. 74-8905 and amendments thereto and the authorization of the issuance of such bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 1987 Supp. 74-8905 and amendments thereto shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 1987 Supp. 74-8905 and amendments thereto.

Kansas partnership fund

sections 1 through 3

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0083 (c) Each loan agreement entered into under this section shall  
0084 fix the terms of repayment and may provide for interest payable  
0085 on the loan. Such interest, if any, may be at fixed or variable  
0086 rates. *Such terms of repayment shall be fixed to require equal*  
0087 *annual repayments of principal and interest, if any, to the extent*  
0088 *practicable over the term of the loan, which term shall be fixed*  
0089 *for a period of not to exceed the anticipated life of the improve-*  
0090 *ment project. All such agreements shall require the city or*  
0091 *county to establish a dedicated source of revenue for repayment*  
0092 *of the loans, and any interest thereon, as provided in section 3.*

(d)

0093 The secretary of commerce may utilize the collection procedures  
0094 provided in K.S.A. 75-6201 *et seq.*, and amendments thereto, to  
0095 collect delinquent loan payments by deducting the delinquent  
0096 amount from payments from state agencies to the local govern-  
0097 mental entity that is delinquent in its loan repayment.

(e)

0098 ~~(d)~~ The secretary of commerce is authorized to adopt any  
0099 rules and regulations the secretary deems necessary for the  
0100 proper administration of this act.

(f) As used in sections 1 through 3,

0101 ~~(e)~~ "Kansas basic enterprise" shall have the meaning  
0102 ascribed thereto by section 1 of 1988 Senate Bill No. 470.

infrastructure loans under section 2

0103 *New Sec. 3. (a) The dedicated source of revenue for repay-*  
0104 *ment of the loans, and any interest thereon, may include service*  
0105 *charges, benefit fees, special assessments, property taxes, grants*  
0106 *and donations or any other source of revenue lawfully available*  
0107 *to the city or county for such purpose.*

Any city or county which has entered into an infrastructure loan agreement under section 2, may finance all or part of the repayment obligations under such loan agreement by levying a tax annually on taxable tangible property for such purpose, which tax shall be in addition to all other levies authorized or limited by law.

section 2

0108 (b) Any city or county which has entered into an infrastruc-  
0109 ture loan agreement pursuant to ~~this act~~ may pay the principal  
0110 and interest on such loan from the fund or funds to which its  
0111 dedicated sources of revenue ~~is~~ deposited, or may transfer such  
0112 moneys to its bond and interest fund for payment of the loan,  
0113 but any property taxes levied exclusively for such purposes shall  
0114 be deposited in its bond and interest fund. Any property taxes  
0115 levied exclusively for repayment of ~~the loan~~ shall be levied in the  
0116 same manner as taxes are levied for the payment of general  
0117 obligations of the city or county and shall ~~not be subject to any~~  
0118 ~~levy limit nor to any aggregate levy limit established under the~~  
0119 ~~provisions of K.S.A. 79-5001 to 79-5020 and~~ K.S.A. 1987 Supp.

are

any infrastructure loan under section 2, and any interest thereon,

be exempt from the limitation imposed

79-5016, inclusive, and amendments thereto and shall be exempt from the aggregate levy limitation imposed under the provisions of



0120 79-5021 to 79-5037, and amendments thereto.

, inclusive

0121 (c) The amount of any loans received by a city or county  
0122 under the provisions of ~~this act~~ shall not be included within any  
0123 limitation on the bonded indebtedness of the city or county.

sections 1 through 3

0124 ~~Sec. 4. K.S.A. 1987 Supp. 74-8905 is hereby amended to read~~  
0125 ~~as follows: 74-8905. (a) The authority is hereby authorized and~~  
0126 ~~empowered to issue bonds, either for a specific activity or on a~~  
0127 ~~pooled basis for a series of related or unrelated activities or~~  
0128 ~~projects duly authorized by a political subdivision or group of~~  
0129 ~~political subdivisions of the state in such amounts as shall be~~  
0130 ~~determined by the authority for the purpose of financing capital~~  
0131 ~~improvement facilities, educational facilities, health care facili-~~  
0132 ~~ties and housing developments. Nothing in this act shall be~~  
0133 ~~construed to authorize the authority to issue bonds or use the~~  
0134 ~~proceeds thereof to (1) purchase, condemn, or otherwise acquire~~  
0135 ~~a utility plant or distribution system owned or operated by a~~  
0136 ~~regulated public utility or (2) finance any capital improvement~~  
0137 ~~facilities, educational facilities, or health care facilities which~~  
0138 ~~are authorized under the laws of the state to be financed by the~~  
0139 ~~issuance of general obligation or utility revenue bonds of a~~  
0140 ~~political subdivision, except that the acquisition by the author-~~  
0141 ~~ity of general obligation or utility revenue bonds issued by~~  
0142 ~~political subdivisions with the proceeds of pooled bonds shall~~  
0143 ~~not violate the provisions of the foregoing. Nothing in this~~  
0144 ~~subsection (a) shall prohibit the issuance of bonds by the au-~~  
0145 ~~thority when any statute specifically authorizes the issuance of~~  
0146 ~~bonds by the authority or approves any activity or project of a~~  
0147 ~~state agency for purposes of authorizing any such issuance of~~  
0148 ~~bonds in accordance with this section and provides an exemp-~~  
0149 ~~tion from the provisions of this subsection (a).~~

0150 (b) The authority is hereby authorized and empowered to  
0151 issue bonds for activities and projects of state agencies as re-  
0152 quested by the secretary of administration. No bonds may be  
0153 issued pursuant to this act for any activity or project of a state  
0154 agency unless the activity or project either has been approved by  
0155 an appropriation or other act of the legislature or has been  
0156 approved by the state finance council acting on this matter.

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0157 which is hereby characterized as a matter of legislative delega-  
0158 tion and subject to the guidelines prescribed in subsection (c) of  
0159 K.S.A. 75-3711c and amendments thereto. When requested to do  
0160 so by the secretary of administration, the authority is further  
0161 authorized and empowered to issue bonds for the purpose of  
0162 refunding, whether at maturity or in advance of maturity, any  
0163 outstanding bonded indebtedness of any state agency. The reve-  
0164 nues of any state agency which are pledged as security for any  
0165 bonds of such state agency which are refunded by refunding  
0166 bonds of the authority may be pledged to the authority as  
0167 security for the refunding bonds.

0168 (c) The authority is hereby authorized and empowered to  
0169 issue bonds for the purpose of financing industrial enterprises,  
0170 agricultural business enterprises, educational facilities, health  
0171 care facilities and housing developments, or any combination of  
0172 such facilities, or any interest in facilities, including without  
0173 limitation leasehold interests in and mortgages on such facilities.  
0174 No less than 30 days prior to the issuance of any bonds autho-  
0175 rized under this act with respect to any project or activity which  
0176 is to be undertaken for the direct benefit of any person or entity  
0177 which is not a state agency or a political subdivision, written  
0178 notice of the intention of the authority to provide financing and  
0179 issue bonds therefor shall be given by the president of the  
0180 authority to the governing body of the city in which the project  
0181 or activity is to be located, or, if the project or activity is not  
0182 proposed to be located within a city, such notice shall be given to  
0183 the governing body of the county. No bonds for the financing of  
0184 the project or activity shall be issued by the authority for a  
0185 one-year period if, within 15 days after the giving of such notice,  
0186 the governing body of the political subdivision in which the  
0187 project or activity is proposed to be located shall have duly  
0188 enacted an ordinance or resolution stating express disapproval  
0189 of the project or activity and shall have notified the president of  
0190 the authority of such disapproval.

0191 (d) The authority is hereby authorized and empowered to  
0192 issue bonds for the purpose of establishing and funding one or  
0193 more series of venture capital funds in such principal amounts.

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0194  of such interest rates, in such maturities, with such security, and  
0195 upon such other terms and in such manner as is approved by  
0196 resolution of the authority. The proceeds of such bonds not  
0197 placed in a venture capital fund or used to pay or reimburse  
0198 organizational, offering and administrative expenses and fees  
0199 necessary to the issuance and sale of such bonds shall be invested  
0200 and reinvested in such securities and other instruments as shall  
0201 be provided in the resolution under which such bonds are issued.  
0202 Moneys in a venture capital fund shall be used to make venture  
0203 capital investments in new, expanding or developing businesses,  
0204 including, but not limited to, equity and debt securities, war-  
0205 rants, options and other rights to acquire such securities, subject  
0206 to the provisions of the resolution of the authority. The author-  
0207 ity shall establish an investment policy with respect to the  
0208 investment of the funds in a venture capital fund not inconsis-  
0209 tent with the purposes of this act. The authority shall enter into  
0210 an agreement with a management company experienced in ven-  
0211 ture capital investments to manage and administer each venture  
0212 capital fund upon terms not inconsistent with the purposes of  
0213 this act and such investment policy. The authority may establish  
0214 an advisory board to provide advice and consulting assistance to  
0215 the authority and the management company with respect to the  
0216 management and administration of each venture capital fund  
0217 and the establishment of its investment policy. All fees and  
0218 expenses incurred in the management and administration of a  
0219 venture capital fund not paid or reimbursed out of the proceeds  
0220 of the bonds issued by the authority shall be paid or reimbursed  
0221 out of such venture capital fund.

0222 (e) The authority is hereby authorized and empowered to use  
0223 the proceeds of any bond issues herein authorized, together with  
0224 any other available funds, for venture capital investments or for  
0225 purchasing, leasing, constructing, restoring, renovating, altering  
0226 or repairing facilities as herein authorized, for making loans,  
0227 purchasing mortgages or security interests in loan participations  
0228 and paying all incidental expenses therewith, paying expenses of  
0229 authorizing and issuing the bonds, paying interest on the bonds  
0230 until revenues thereof are available in sufficient amounts, pur-

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0231 ~~chasing bond insurance or other credit enhancements on the~~  
0232 ~~bonds, and funding such reserves as the authority deems neces-~~  
0233 ~~sary and desirable. All moneys received by the authority, other~~  
0234 ~~than moneys received by virtue of an appropriation, are hereby~~  
0235 ~~specifically declared to be cash funds, restricted in their use and~~  
0236 ~~to be used solely as provided herein. No moneys of the authority~~  
0237 ~~other than moneys received by appropriation shall be deposited~~  
0238 ~~with the state treasurer.~~

Insert attached Sec. 4

79-5028

0239 Sec. 5. K.S.A. 1987 Supp. [74-8905] is hereby repealed.  
0240 Sec. 3 6. This act shall take effect and be in force from and  
0241 after its publication in the statute book.

Sec. 4. K.S.A. 1987 Supp. 79-5028 is hereby amended to read as follows: 79-5028. The provisions of K.S.A. 1985 1987 Supp. 79-5021 to 79-5035, inclusive, and amendments thereto shall not apply to or limit the levy of taxes for the payment of:

(a) Principal and interest upon bonds and temporary notes;

(b) no-fund warrants authorized by the state board of tax appeals subject to the conditions and requirements of K.S.A. 79-2938, 79-2939, 79-2941 and 79-2951 and amendments thereto and where such board in addition specifically has found that an extreme emergency exists;

(c) judgments rendered against taxing subdivisions;

(d) expenses for legal counsel and defense of legal actions against officers or employees of taxing subdivisions or premiums on insurance providing such protection as authorized by article 61 of chapter 75 of the Kansas Statutes Annotated and amendments thereto;

(e) employer contributions for social security, workmen's compensation, unemployment insurance and employee retirement and pension programs; or

(f) added expenditures which are specifically mandated or required by state or federal law and which are initially incurred by the taxing subdivision after the effective date of this act, less any expenditures which were specifically mandated or required by state or federal law prior to the effective date of this act and are no longer mandated or required; or

(g) amounts payable under an infrastructure loan agreement entered into under section 2, and any interest thereon.

Amounts produced from any levy specified in this section shall not be used in computing any aggregate limitation under the provisions of this act.

**"KANSAS PARTNERSHIP FUND"  
REVOLVING LOAN FUND**

IMPLEMENTATION PROPOSAL  
FEBRUARY, 1988

Budget Request

\$5,500,000 has been recommended by the Governor in the C level of the Community Development Division 1989 budget for this program.

Background

An essential indicator of a community's economic development potential is its ability to support the physical requirements of growth on infrastructure. Increased employment opportunities result in increased demands on water, sewer, street and other facilities. There has been a growing realization that there is a gap between the needs of Kansas communities to improve local infrastructure and their ability to shoulder the costs for these improvements.

With this realization has come support for the initiation of a program to provide state assistance for local infrastructure. The state's recent economic development plan by Drs. Redwood and Krider recommended implementation of a infrastructure loan pool for economic development at the community level. The citizens of Kansas recently passed a constitutional amendment allowing the state to make this and other types of investments. Kansas Inc.'s "Proposal for Expenditure of Gaming Fund Revenues" gives infrastructure programs the highest funding priority. Minutes of the Kansas Inc. Board meeting shows support for this concept from the board members. At a November 3, 1987 meeting of the Joint Committee on Economic Development the committee "agreed that a significant portion of Gaming revenues should be expended for infrastructure purposes".

Senate Bill No. 574 proposes to make this solution a reality by creating the Kansas Partnership Fund. The following information is a brief outline of how the Community Development Division of the Kansas Department of Commerce might administer this program.



### Program Objective

The primary purpose of the "Kansas Partnership" program is to encourage economic development by providing financing for public infrastructure improvements that are necessary to accommodate the expansion, relocation, and attraction of businesses in Kansas. This will result in the creation of permanent, private sector jobs throughout the state.

In the proposed "Kansas Partnership" program the state will invest in the future of her communities. Set up as a revolving, low-interest loan fund, the state will also maximize the use of every dollar by reinvesting in new projects as earlier project loans are paid off.

### Eligible Projects

Eligible infrastructure projects will include the new construction, reconstruction, rehabilitation, alteration, expansion, or improvement of public facilities that comprise the physical foundation for industrial and commercial activity such as:

Roads, streets, highways, and related improvements;

Storm drains;

Water treatment plants and distribution lines;

Wastewater treatment plants and collection lines;

Projects must directly result in the creation of permanent, private sector jobs. Proposed improvements to infrastructure must be necessary to serve a specific business on a specific site.

### Ineligible Projects

Projects which result in an adverse economic impact to the applicant as a result of increased production and availability of goods to be sold or used in the community, or result in the increased provision of services where adequate capacity for such production or provision already exists shall be ineligible.

Applicants must explore all other federal or state infrastructure programs and document that they are ineligible for

those programs, or cannot receive the needed amount on a timely basis to be eligible for this program, or indicate that the resources of both programs will be required to complete the improvement project.

Those who have received previous loan awards must complete those projects within eighteen months to be eligible to reapply for this program.

### Applicants

Eligible applicants are any city or county governing the site of the necessary improvements. Other units of government may ask their county government to make an application on their behalf.

### Project Financing

"Kansas Partnership Fund" is a revolving loan fund program, offering the following funding amounts, interest rates, loan terms and repayment schedules, based on the borrower's ability to repay.

Maximum loan amount: Applicants may not have more than a total of \$2 million in program loans outstanding at any time. At least one job must be created or retained for each \$15,000 requested.

Loan Term: Not to exceed the life of the assets financed, to a maximum of 10 years.

Interest Rate: Not to exceed the most recent New York prime. Rate and term will be based on applicant's ability to repay.

Repayment: First payment will be due as coordinated with the local government's budget cycle. Payments will be made on at least a quarterly basis.

A loan review committee, appointed by the Secretary of the Department of Commerce, for this program will have the authority to set specific financing requirements for projects, and shall in extraordinary circumstances have the authority to waive current program loan term, interest rate, and repayment requirements. Repayment should not be subject to the tax lid law of the state (KSA 79-1946, 79-1947 for counties, KSA 79-5001 Et seq, 79-5021 for cities and counties).

Principal and interest repayments of loans will be deposited

in the Kansas Partnership Fund. These proceeds will be expended for additional loans.

### Application Criteria

Applications must contain sufficient information to determine the following:

- Community need for economic development.
- Financial need for State assistance.
- Source of repayment of loan principal and interest.
- Applicant's existing and future debt commitments
- Community awareness of project application and absence of opposition (public hearings)
- Firm financial commitment on the part of the business benefitting from the public improvements.
- Number of jobs created by business.
- Impact of resulting business activity on the area, including anticipated new tax revenues to borrower, and availability of such revenues to repay debt.
- Control of site, including any leases, easements, covenants, or encumbrances which may affect the project.
- Ability to administer the project and to comply with State loan requirements.
- Ability to adequately fund and implement maintenance of improvements.
- Consistency with applicant's comprehensive plans.
- Compliance with applicable state laws, rules, regulations.
- Other financing options have been investigated and are not available or will not cover total project costs.

### Funding Priorities

Funding priorities will be based on the following factors:

- Areas experiencing high levels of economic distress (high unemployment, high poverty rate)
- Areas facing severe local government fiscal problems.
- Areas which exhibit an active commitment to diversifying and expanding their economic base.
- Significance of job creation on area economy.
- Projects for businesses which will not result in severe adverse competitive disadvantage to an existing firm.
- Projects for businesses which produce goods or services for out of state export markets.
- Projects for businesses which will increase the flow of capital from outside the local area.

### Program Administration and Implementation

Responsibilities for this program will be divided between the Kansas Department of Commerce and the Loan Review Committee. Duties of each are outlined below.

#### Department of Commerce

- Developing program regulations
- Developing application forms, RFPs, training manuals, loan agreement documents, and other program documents as necessary and appropriate.
- Developing additional program guidelines and projects evaluation criteria, as deemed necessary.
- Generating staff reports, including staff recommendations on projects submitted for Committee review.
- Providing eligible local agencies with technical assistance on program requirements and application preparation.
- Providing additional professional, technical, and clerical staff to the Committee as necessary to carry out the Committee's function.

- coordinating assistance from other State agencies, as required.
- Monitoring projects funded under the program
- Servicing the executed loan and grant agreements.
- Prepare and provide to the Governor and the Legislature and annual report of program activities.

#### Loan Review Committee

- Prepare and promulgate program regulations.
- Adopt by laws to govern the conduct of the Committee.
- Establish guidelines and rules to carry out the purposes of the program.
- Host public hearings on proposed program guidelines and regulations.
- Review applications for funding and render a final funding decision based on criteria specified in legislation and additional criteria as developed by the Committee.
- Request assistance and information from any department, division, board, commission, or other agency of the State, as needed by the Committee to carry out the purposes of the program.
- Establish firm guidelines on the Committee's ability to waive certain program requirements under "extraordinary" circumstances, if these guidelines have not been set by statute.

**TESTIMONY**  
**TO**  
**THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE**

**BY**  
**Don Gragg**  
**Director, Community Development Division**  
**Kansas Department of Commerce**

**March 28, 1988**

*House Eco Dev  
Attachment 4  
3/28/88*



## KANSAS PARTNERSHIP FUND

### TESTIMONY OFFERED BY THE KANSAS DEPARTMENT OF COMMERCE

The Kansas Department of Commerce strongly supports and endorses the Governor's recommendation for the Kansas Partnership Fund. This revolving loan program will fill a critical void to local units of government in creating an environment conducive to economic development.

The era of extensive federal aid opportunities for local units of governments is now over, less than 20 years after it began. Since the termination of general revenue sharing in 1986, and with the elimination or sharp decline of other grant and loan programs (such as Farmer's Home Administration Grants and loans, EPA Construction Grants, etc), the great majority of local governments now receive no fiscal assistance whatsoever from Washington. For example, funding in Kansas for the Community Development Block Grant program has declined by about 25% between 1983 and 1988, from nearly \$18 million to approximately \$13 million. In Kansas the problem of declining federal resources has been compounded by a rapid decline in assessed property valuation, affecting revenue resources of these local governments.

The Federal Government's New Federalism program is resulting in states across the nation developing and implementing revolving loan programs to assist local units of government. Missouri has established a \$46.8 million fund to provide low interest loans to local governments for infrastructure projects. Last fall South Dakota established a \$40 million revolving loan fund to assist local units of governments in securing new or expanding businesses.

Senate Bill No. 574 would establish a broadly based fund allowing the Department to join in partnership with local units of government to finance infrastructure improvements necessary for business development. This testimony will provide background on why this program is needed, and discuss some elements of how the Department might administer this fund.

The department would like to note three basic needs which this program addresses:

- 1) The Kansas Partnership Fund will enhance our competitive position by providing Kansas with an economic development tool already used by other states. According to early 1986 data from NASDA, at least 14 States have already implemented different types of grant and loan programs to enhance their economic development efforts. Included in these programs is funding for infrastructure as well as loan and grant

programs directly to businesses. Most of these program funding levels are over \$10 million.

2) The Fund will help to fill financing gaps of federal programs. There are several federal programs which still provide some financing assistance for infrastructure improvements. The Kansas Partnership Fund will provide financing in areas which federal programs cannot cover. The following brief listing identifies federal programs and their gaps.

Community Development Block Grant Funds: Under this state administered program grants may be made to local units of government for infrastructure improvements. This funding may or may not be directly linked to job creation. Also, these funds must be used to primarily benefit low-to-moderate income persons. As a result, this program cannot be used to assist in the development of businesses creating high technology or skilled jobs. The availability of such skilled jobs, which reap more economic benefits, should be a priority for the state of Kansas.

Farmer's Home Administration: There are two FmHA programs which provide limited funding for infrastructure improvements; Community Facility Loans, and Water and Waste Disposal Loans and Grants. Neither of these are linked to job creation. Both of these programs are limited to rural areas. In FmHA's primary infrastructure funding source, the water and waste disposal program, interest rates for loans are set on a three tier system. Applicants qualify for interest rate levels according to income levels and need to meet health standards. The lowest interest rates are difficult to qualify for, while the higher rate is to close to current bond rates to provide relief.

Economic Development Administration: EDA manages a grant program for public works that ties in with job creation. These grants are available only to the 30 counties which are designated "redevelopment areas" or areas which are part of an Economic Development District (only if benefit to entire district can be shown).

3) The Fund could be used to compliment federal program funds, leveraging the impact of Kansas' investment into her communities. All of the programs mentioned above require some form or amount of local match. Kansas Partnership Fund monies could be used as part of that local match. In some cases, this would enable the local applicant to receive

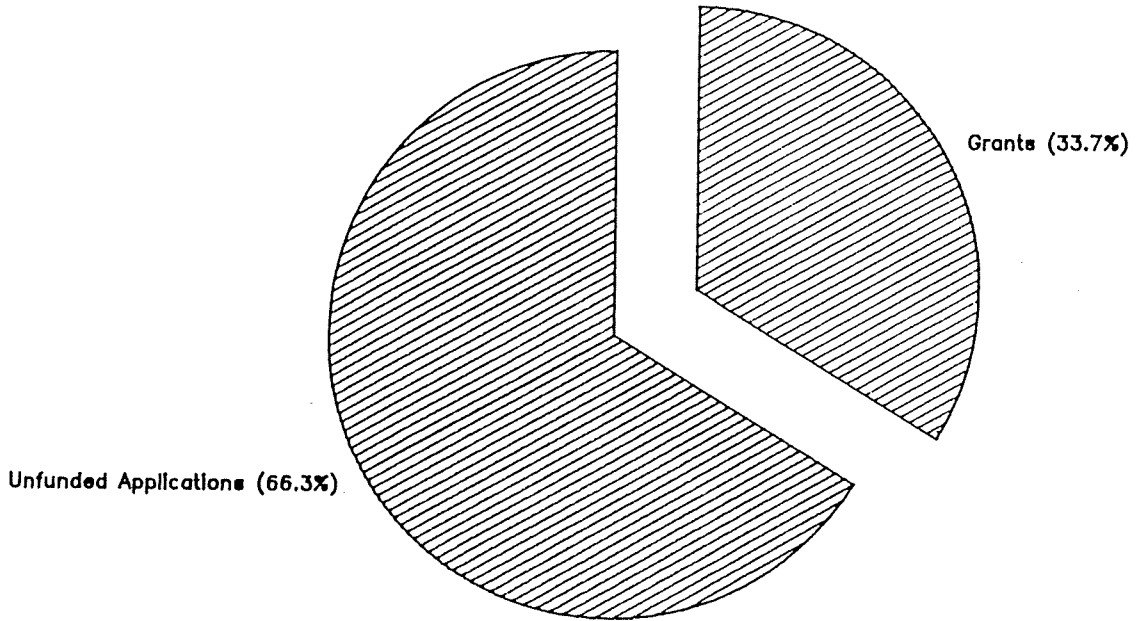
additional points in the federal rating process.

John Zender, regional EDA representative, has indicated that many potential applicants for the EDA program find it difficult to provide the minimum local match. He commented that the proposed Kansas Partnership Fund could result in more EDA funding flowing into distressed areas of the state.

There are no estimates of the volume of demand for a program of this particular type. The closest information available is from the Community Development Block Grant Program. This program provides: community improvement grants which are not directly related to job creation; and economic development grants, usually used as loans directly to businesses, and also for infrastructure improvements related to job creation and retention. The diagrams show the level of demand for this program in relation to available funding.

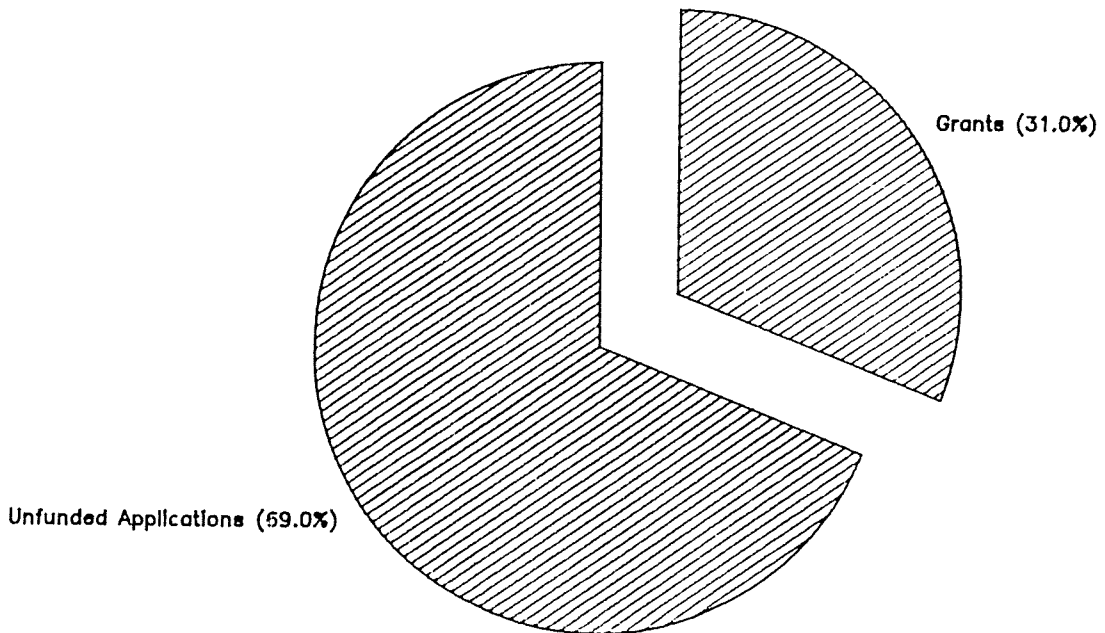
1987 Community Development Block Grants

Funding Requests of \$45,697,149



1987 Community Development Block Grants

255 Applications



# The Kansas Contractors Association, Inc.

## OFFICERS

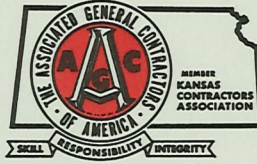
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Wichita, Kansas

STAN SCUDDER, Vice President  
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316 WEST 33rd STREET P.O. BOX 5061

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Phone 913-266-4152

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## TESTIMONY BEFORE THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

March 28, 1988

Senate Bill 574

Dan Ramlow

Kansas Contractors Association

Thank you, Madam Chairperson and members of the committee. My name is Dan Ramlow and I am Assistant Manager of the Kansas Contractors Association, an organization representing more than 330 heavy/highway/utility contractors and suppliers throughout Kansas.

We are very pleased to speak this afternoon in support of Senate Bill 574, a creative bill that would establish the Kansas partnership fund and authorize loans for local government infrastructure projects.

Our association will be one of the first to recognize that Kansas' infrastructure is in dire need of repair, and we appreciate the concern and action the sponsors of this bill have taken to remedy this critical situation. Kansas infrastructure needs were outlined for the first time in 1984 by the then Kansas Department of Economic Development in a statewide survey of needs, including highways, streets, roads, bridges, water systems, sewerage systems, dams, storm drainage, airports and railroads. I have

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included with my written testimony a copy of the executive summary of the KDED study for your information and perusal.

Economic development and the creation of private sector jobs benefit all Kansans. Our infrastructure repair needs were great in 1984 and they are even greater in 1988. Rehabilitation and expansion of these public facilities will benefit all Kansans. We applaud Senate Bill 574 which attempts to address both issues, the creation of jobs and the repair of our infrastructure, for the benefit of all Kansans.

We pledge to put all of our resources behind the passage of Senate Bill 574 and we respectfully request your favorable action on the bill during committee discussion.

This ends my testimony, Madam Chairperson, and I will be happy to respond to questions.



TESTIMONY - SENATE BILL 574

BERNIE KOCH  
WICHITA AREA CHAMBER OF COMMERCE

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE . . .

THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON SENATE BILL 574,  
WHICH ESTABLISHES THE INFRASTRUCTURE REVOLVING LOAN PROGRAM.

THIS PROGRAM WAS ONE OF THE HIGHEST PRIORITIES OF KANSAS  
INC. IN ITS REPORT ON USES FOR ECONOMIC DEVELOPMENT INITIATIVES  
FUND REVENUES. IT PROVIDES LOANS FOR LOCAL GOVERNMENTS SO THEY  
CAN PAY FOR INFRASTRUCTURE IMPROVEMENTS TO ATTRACT INDUSTRY.

THESE DAYS BUSINESSES ARE ASKING FOR MORE FROM LOCAL GOVERN-  
MENTS IN RETURN FOR LOCATING IN AN AREA. THEY'RE ASKING FOR THE  
ROADS, SEWERS AND UTILITIES IT TAKES TO SUPPORT A NEW BUSINESS OR  
INDUSTRY. IF LOCAL GOVERNMENT IN KANSAS CAN'T PROVIDE THESE  
THINGS, THE INDUSTRIES MAY LOCATE IN ANOTHER STATE MORE WILLING  
TO PROVIDE THESE INFRASTRUCTURE NEEDS.

THESE NEEDS CAN BE EXPENSIVE. FOR EXAMPLE, PAYING OFF THE  
SPECIAL ASSESSMENTS FOR A TYPICAL INDUSTRIAL SITE IN WICHITA'S  
BRIDGEPORT INDUSTRIAL AREA WOULD TAKE OVER \$400,000. SENATE  
BILL 574 PROVIDES LOCAL GOVERNMENTS WITH AN IMPORTANT FINANCING  
TOOL TO PAY FOR NEW INFRASTRUCTURE TO SUPPORT NEW INDUSTRIES.  
AND LET'S NOT LOSE SIGHT OF THE FACT THAT WHAT WE'RE REALLY  
TALKING ABOUT HERE IS JOBS. THIS IS A BILL DESIGNED TO HELP  
ATTRACT NEW FACILITIES THAT WILL GIVE KANSANS WORK.

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I ASK YOU TO SUPPORT THE BILL ON BEHALF OF THE WICHITA  
CHAMBER OF COMMERCE.

I WOULD EMPHASIZE THAT WE PARTICULARLY SUPPORT ONE CHANGE  
MADE IN THE BILL BY THE HOUSE -- THAT PROPERTY TAXES LEVIED BY  
LOCAL GOVERNMENTS TO REPAY THESE LOANS ARE NOT SUBJECT TO THE TAX  
LID. THIS MAKES SENSE TO US. IF WE WANT TO ENCOURAGE ECONOMIC  
DEVELOPMENT AND NEW JOBS, WE DON'T THINK MONEY TO REPAY THESE  
LOANS SHOULD BE COMPETING WITH MONEY FOR POLICE, FIRE AND OTHER  
CITY AND COUNTY SERVICES.

THANK YOU.



## League of Kansas Municipalities

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

RE: SB 574--State-Local Infrastructure Loan Program  
TO: House Committee on Economic Development  
FROM: E.A. Mosher, Executive Director  
DATE: March 28, 1988

By city convention action, and by action of the League Governing Body, the League is in support of SB 574, to establish a state infrastructure loan program to cities and counties for public improvements essential to the economic development of the state and its communities. It is one of the priority objectives of the League's 1988 legislative program.

We are aware of the provisions in HB 2808, now in the Senate Committee on Ways and Means, which would appropriate \$5.5 million to this fund for FY 1989, from the state economic development initiative fund. We are also aware of the provisions of SB 574 which would permit supplementing this amount by bonds issued by the Kansas Development Finance Authority.

As further background, we call to your attention the provisions of SB 513, now on the House consent calendar. This bill would provide for the temporary local financing of improvements to be later financed by state loans, such as provided in this bill or in SB 472, the pollution control loan fund bill.

The League would be supportive of a broader-based infrastructure loan program. However, at this time, we think restricting the program to public improvements which "aid the expansion, relocation and attraction" of industries (line 65) and which will "directly result in the creation of private sector jobs" (lines 71:72) is probably appropriate.

We do have some reservations about limiting the loans to improvements which create jobs only in "Kansas basic industries," as defined in SB 470. We think this requirement may unduly restrict cities and counties, and KDOC, in achieving major employment opportunities that do not meet the definition of "basic industries." Perhaps a resolution to this concern is a statement in the bill of legislative intent that the Secretary shall give first priority to loan requests affecting basic industries.

The Senate adopted several amendments proposed by the League, in order to make the loan program workable at the local level. This includes the provisions on lines 90:92 requiring the city or county to establish a dedicated source of revenue for repayment, and the provisions of new Section 3 beginning on line 103. These provisions, plus the enactment of SB 513 as to temporary financing, noted earlier, should make the system workable. New Section 3 is admittedly complicated, but is designed to cover a situation

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*House Eco Devs*

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where the improvements cover sanitary sewer lines, storm sewer lines, water main extensions and street improvements, with the repayments of the loan made from as many as three or four different funds of the city.

Finally, we have reviewed the amendments proposed for consideration by the Revisor's office, and are supportive of them. However, there are some possible problems with Section 4, to amend the new (reappraisal) property tax lid. SB 616, recently reported by House Taxation, incorporated the provisions of HB 2904, and amends the same section. Further, HB 2732 amends the same section. Sub. HB 2639, the emergency medical services bill, now in Conference Committee, makes a cross-reference to the new tax lid law. This matter is even further complicated by the fact that SB 472, the water pollution control revolving fund act, passed out of this Committee, authorizes local units to levy property taxes as one of the revenue sources to repay the state loan.

Perhaps a Revisor's reconciliation bill will be necessary at the recessed session to deal with the multiple bills amending the new tax lid law. However, we would suggest that, as an alternative to new subsection (g), subsection (a) be amended. You will note that this provision exempts from the new property tax lid taxes levied to pay the principal and interest upon bonds and temporary notes. We would suggest this provision be amended to read, "Principal and interest upon bonds, temporary notes and loans received from any agency of this state." This wording, we think, is broad enough to cover infrastructure loans, pollution controls loans, and other state agency loans which may develop in the future.

Testimony on S.B. 574  
Infrastructure Loan Program

by

Anthony Redwood  
Professor of Business and Executive Director  
The Institute for Public Policy and Business Research  
University of Kansas  
March 28, 1988

Mr. Chairman, members of the committee, I appreciate the opportunity to provide written testimony on behalf of S.B. 574, establishing an infrastructure loan program for local governments. We strongly support the bill because of the importance of physical infrastructure to economic development. We particularly support section two of the bill which would target these loans to new or expanding Kansas basic industry. In keeping with our economic development objectives, loan awards should be restricted to community projects which enhance Kansas' economic base in order to make the most effective use of funds. If funds are allocated in support of basic industries, they will also, in turn, support all other industries.

An infrastructure loan program, such as the one suggested in S.B. 574, is vital to the economic development of Kansas. Public infrastructure improvements help facilitate the expansion of existing businesses and the attraction of new businesses, thus creating new jobs and stimulating investment in the community. Without an adequate system of physical infrastructure, establishments cannot carry out their business effectively.

In our Economic Development Study strategy and

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recommendations, we stressed: (1) the key importance of local community efforts for fostering economic development, and (2) the key importance of having the appropriate physical infrastructure in place at the community level. We specifically recommended that the state "establish a revolving loan pool for infrastructure development available for use by communities to promote economic development." (Recommendation #35) A key feature of S.B. 574 is that it creates the opportunity for any Kansas community to access loan support for infrastructure development.

Kansas Inc., in its "Proposal for the Expenditure of Gaming Fund Revenues" stated that :

One of the areas where local governments are least equipped to respond quickly to opportunities for new or expanding industries lies in infrastructure improvements required to support new industrial activity.

Since infrastructure improvements are required for new or expanding industry, and since the state profits from such new or expanding industry, Kansas Inc. believes the state should be a partner in financing the improvements. In its gaming fund revenue proposal, Kansas Inc. recommended an expenditure of \$2.708 million for infrastructure loans and \$1.703 million for infrastructure grants, given \$10.8 million in gaming fund revenues; and it recommended \$8.540 million for infrastructure loans and \$4.029 for infrastructure grants if \$20.0 million were available in gaming fund revenues.

The one area we disagree with in S.B. 574 is Sec. 2(b) which states that:

The secretary of commerce shall review and analyze all

applications for loans under this section and shall develop criteria for the review and analysis of loan applications under this section.

We are concerned that no specific criteria for the selection of loan participants are laid down; instead, the program is left to the discretion of the secretary of commerce.

In our view, the legislature should amend the bill to provide the secretary with broad criteria in order to remain consistent with Kansas economic development objectives. We suggest S.B. 574 be amended to incorporate the following economic development criteria: the likely number of jobs created; the amount of private sector investment and local government match; and whether or not the project meets the state's economic development goals.

In addition to these proposed amendments, Kansas Inc. has suggested that a cost/benefit analysis be performed on each loan to measure the length of time it will take the state to recover its investment. We fully support the idea of a cost/benefit analysis. Since resources for the fund are limited, they should be used according to the principle of the best return on the state's investment. Criteria should be established for evaluating projects (such as the criteria suggested above), each project should be evaluated and ranked, and funds should be allocated according to the ranking until funds are exhausted.

We support the concept of an infrastructure loan program as provided for in S.B. 574. Furthermore we believe that the program will be extremely successful if the above suggested criteria are added to ensure our limited resources are allocated

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in the most cost-effective manner. In addition to our support for an infrastructure loan program, we believe that the legislature should establish an infrastructure grant program. While we are not suggesting that such a grant program be incorporated in this particular bill, we do believe that the legislature should consider the desirability of such a program.

Some small, rural communities may have the potential, or a special opportunity, for economic development and hence the need for additional infrastructure loan to support the development, but have too small a tax base to handle a loan. An infrastructure grant program would enable such communities to make needed infrastructure improvements.

Such a grant program should be limited to small communities. Allocation of grant funds, as with the allocation of loan funds, should be based on the criteria of supporting basic industry, providing additional jobs or income in Kansas, and a cost/benefit analysis positive for the state.

In summary, we support the amended version of S.B. 574 which targets infrastructure loan availability to Kansas basic industry. In addition, we recommend that the suggested economic development criteria be added to the bill along with an evaluation based on the cost/benefit principle in order to allocate monies in the most cost-effective manner. We also suggest that the legislature consider future legislation that would provide much needed infrastructure loan grants to small rural communities.

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3/28/88



KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
Office of the Secretary

MEMORANDUM

TO: Committee on Economic Development

DATE: March 28, 1988

FROM: Sandy Duncan <sup>SD</sup>  
John Badger <sup>JB</sup>

SUBJECT: Amendments to SB 478

Attached are two amendments to SB 478 which were discussed in Committee last week. The first deals with the opportunity to have a public comment period for proposed changes in rules and regulations. The current language in section 35 does not provide a uniform opportunity for such comment since the period is determined by the agency on a case by case basis. In addition, the language "whenever possible" combined with the verb "shall" is confusing. The amendment will require specific notice that the 21 day notice period is also a public comment period and will give the address where such comments are to be mailed. The advantage of this version is that 1) the public comment period is required for all proposed regulation changes, 2) the length of the public comment period is uniform for all agencies, and 3) it does not add any time to the rule and regulation process since it incorporates the public comment period into the 21 day notice period

The second amendment deletes the language which might be construed as requiring a stenographer and transcription by some agencies and simply requires that minutes be kept. Since some agencies already use stenographers (usually those with more formal type hearings), the rest of the amendment clarifies that IF an agency does make transcripts, those must also be kept for the same period of time.

Finally, SRS continues to be concerned with the detailed requirements for economic impact statements since they do not seem well suited for a social service agency which operates most of its programs under strict federal regulations and guidelines which do not permit alternative methods of implementation. SRS would recommend that 1) the original statutory language be retained, or 2) the committee adopt the amendment proposed by the department of administration. Should you have need for additional information, please contact us at 3272.

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0232 (3) the attorney general finds that the making of such rule and  
0233 regulation is within the authority conferred by law on the state  
0234 agency submitting the same;

0235 (4) the rule and regulation has been formally adopted by the  
0236 state agency after it has been approved by the secretary of  
0237 administration and the attorney general and is accompanied by a  
0238 certified or other formal statement of adoption when adoption is  
0239 by an executive officer of a state agency, or by a certified copy of  
0240 the roll call vote required for its adoption by K.S.A. 77-421, and  
0241 ~~any~~ amendments thereto, when adoption is by a board, commis-  
0242 sion, authority, or other similar body;

0243 (5) the rule and regulation to be filed is accompanied by a  
0244 copy of the fiscal or financial impact statement as provided by  
0245 K.S.A. 77-416, and amendments thereto; and

0246 ~~(6) the rule and regulation, if a permanent rule and regula-~~  
0247 ~~tion, is submitted or received for filing in the office of the revisor~~  
0248 ~~of statutes not later than 5:00 p.m. on December 15 of any year;~~  
0249 ~~and~~

0250 ~~(7) (6) the rule and regulation is accompanied by a copy of~~  
0251 ~~any document which is adopted by reference by such rule and~~  
0252 ~~regulation unless specifically exempt by the state rules and~~  
0253 ~~regulations board pursuant to subsection (a) of K.S.A. 77-416, and~~  
0254 ~~amendments thereto.~~

0255 Sec. 35. K.S.A. 1987 Supp. 77-421 is hereby amended to read  
0256 as follows: 77-421. ~~(a) Whenever possible, prior to formulating a~~  
0257 ~~modification to any existing rule and regulation, a state agency~~  
0258 ~~shall provide a period for written public comment on the con-~~  
0259 ~~templated modification. The agency shall give notice of the~~  
0260 ~~public comment period by mailing notice to the secretary of~~  
0261 ~~state, who shall publish such notice in the Kansas register. The~~  
0262 ~~notice shall contain a brief summary of the substance of the~~  
0263 ~~contemplated modification and shall state the period of time,~~  
0264 ~~established by the agency, during which the agency will receive~~  
0265 ~~written public comments on the contemplated modification and~~  
0266 ~~the address where such comments may be submitted to the~~  
0267 ~~agency.~~

0268 ~~(b)~~ Prior to the adoption of any permanent rule and regula-

(a)

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3/28/88

0269 tion or any temporary rule and regulation which is required to be  
 0270 adopted as a temporary rule and regulation in order to comply  
 0271 with the requirements of the statute authorizing the same and  
 0272 after any such rule and regulation has been approved by the  
 0273 secretary of administration and the attorney general, the adopt-  
 0274 ing state agency shall give at least ~~15~~ 21 days' notice of its  
 0275 intended action in the Kansas register and to the ~~revisor of~~  
 0276 ~~statutes~~ *secretary of state*. The notice shall be mailed to the  
 0277 ~~revisor of statutes~~ *secretary of state* and published in the Kansas  
 0278 register ~~and~~. The notice shall contain: (1) a summary of the  
 0279 substance of the proposed rules and regulations ~~and~~; (2) a  
 0280 *summary of the economic impact statement indicating the es-*  
 0281 *timated economic impact on governmental agencies or units,*  
 0282 *persons subject to the proposed rules and regulations and the*  
 0283 *general public; (3) the address where a complete copy of the*  
 0284 *proposed rules and regulations [and the complete economic*  
 0285 *impact statement required by K.S.A. 77-416 and amendments*  
 0286 *thereto] may be obtained. Such notice shall state; (4) the time*  
 0287 *and place of the public hearing to be held thereon and; and (5)]*  
 0288 *the manner in which interested parties may present their views*  
 0289 *thereon. The notice shall be accompanied by a copy of the fiscal*  
 0290 *or financial economic impact statement provided by K.S.A. 77-*  
 0291 *416, and amendments thereto, which is applicable to all pro-*  
 0292 *posed rules and regulations which will be considered at such*  
 0293 *public hearing; and. The notice shall state that a copy of the*  
 0294 *complete fiscal or financial include: (1) A brief description of the*  
 0295 *proposed rules and regulations and what will likely be accom-*  
 0296 *plished by adoption thereof; (2) an identification of the persons*  
 0297 *who will be subject to or otherwise affected by the proposed*  
 0298 *rules and regulations, including those who will directly or*  
 0299 *indirectly bear the costs thereof and those who will directly or*  
 0300 *indirectly benefit therefrom; (3) an identification of the proba-*  
 0301 *ble quantitative and qualitative impact of the proposed rules*  
 0302 *and regulations on the persons directly or indirectly affected*  
 0303 *thereby, including the agency proposing the rules and regula-*  
 0304 *tions, other governmental agencies or units, private citizens and*  
 0305 *consumers of the products or services which are the subject of*

; and (5) a specific statement that the 21 days notice shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the agency.

0306 *the rules and regulations or the enforcement thereof; (4) any*  
 0307 *consideration given to less costly methods, quantitative or*  
 0308 *qualitative, or less intrusive methods for achieving the stated*  
 0309 *purpose of the rules and regulations; (5) a description of any*  
 0310 *alternative methods that were considered by the state agency*  
 0311 *for achieving the stated purpose of the rules and regulations and*  
 0312 *the quantitative or qualitative reasons why such methods were*  
 0313 *rejected in favor of the proposed rules and regulations. The*  
 0314 *notice shall state that a copy of the complete economic impact*  
 0315 *statement may be obtained from the state agency and shall*  
 0316 *provide the address of the state agency from which such fiscal or*  
 0317 *financial impact statement may be obtained. A summary of such*  
 0318 *fiscal or financial impact statement, as required by K.S.A. 77-416,*  
 0319 *and amendments thereto, indicating the estimated monetary*  
 0320 *impact on governmental agencies or units, private businesses*  
 0321 *statement indicating the estimated economic impact on govern-*  
 0322 *mental agencies or units, persons subject to the proposed rules*  
 0323 *and regulations and the general public, shall be published in the*  
 0324 *Kansas register with the notice of hearing on the applicable rules*  
 0325 *and regulations. Publication of such notice in the Kansas register*  
 0326 *shall constitute notice to all parties affected by the rules and*  
 0327 *regulations.*

0328 ~~(b)(c)~~ On the date of the hearing, all interested parties shall  
 0329 be given reasonable opportunity to present their views or ar-  
 0330 guments on adoption of the rule and regulation, either orally or  
 0331 in writing. When requested to do so, the state agency shall  
 0332 prepare a concise statement of the principal reasons for adopting  
 0333 the rule and regulation or amendment thereto. Whenever a state  
 0334 agency is required by any other statute to give notice and hold a  
 0335 hearing before adopting, amending, reviving or revoking a rule  
 0336 and regulation, the state agency may, in lieu of following the  
 0337 requirements or statutory procedure set out in such other law,  
 0338 give notice and hold hearings on proposed rules and regulations  
 0339 in the manner prescribed by this act. Notwithstanding the other  
 0340 provisions of this section, the Kansas ~~adult authority parole~~  
 0341 *board* and the secretary of corrections ~~may~~, but shall not be  
 0342 required to, *may* give notice or an opportunity to be heard to any

(b)

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0343 inmate in the custody of the secretary of corrections with regard  
0344 to the adoption of any rule and regulation.

0345 (e) No public hearing required by this section shall be  
0346 scheduled or held by a state agency after December 1 of any  
0347 calendar year.

0348 ~~(d)~~ When, pursuant to this or any other statute, a state  
0349 agency holds a hearing on the adoption of a proposed rule and  
0350 regulation, the agency shall cause minutes ~~or a transcript~~ of the  
0351 hearing to be made. If the proposed rule and regulation is  
0352 adopted and becomes effective, the state agency shall maintain,  
0353 for not less than three years after its effective date, ~~such minutes~~  
0354 or transcript, together with a list of all persons who appeared at  
0355 the hearing and who they represented, any written testimony  
0356 presented at the hearing and any written comments submitted  
0357 during the public comment period, if any, provided by the  
0358 agency pursuant to subsection (a).

(c)

any

transcripts

0359 ~~(d)~~ ~~(e)~~ ~~(c)~~ No rule and regulation shall be adopted except at a  
0360 meeting which is open to the public and notwithstanding any  
0361 other provision of law to the contrary, no rule and regulation  
0362 shall be adopted by a board, commission, authority or other  
0363 similar body unless it receives approval by roll call vote of a  
0364 majority of the total membership thereof.

(d)

0365 Sec. 36. K.S.A. 1987 Supp. 77-422 is hereby amended to read  
0366 as follows: 77-422. (a) A rule and regulation may be adopted by a  
0367 state agency as a temporary rule and regulation if the state  
0368 agency and the state rules and regulations board finds that: (1)  
0369 The preservation of the public peace, health, safety or welfare  
0370 necessitates or makes desirable putting such rule and regulation  
0371 into effect prior to the time it could be put into effect if the  
0372 agency were to comply with the notice, hearing and publication  
0373 requirements of this act or prior to the effective date prescribed  
0374 by K.S.A. 77-426, and amendments thereto; ~~or~~ (2) it is necessary  
0375 for such rule and regulation to take effect prior to the effective  
0376 date prescribed by K.S.A. 77-426, and amendments thereto, in  
0377 order to comply with the requirements of the statute authorizing  
0378 the adoption of such rule and regulation or with any federal law  
0379 with which the state agency is required to comply or with rules

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