

Approved

May 5, 1990 Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:47 ~~xxx~~ p.m. on March 26, 1990 in room 526-S of the Capitol.

All members were present except:

Representatives Peterson
Roy - Excused

Committee staff present:

Mary Galligan, Kansas Department of Legislative Research
Lynne Holt, Kansas Department of Legislative Research
Mary Torrence, Revisor of Statutes Office
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Representative Joan Wagnon
Forrest Swall, Lawrence, Kansas
Representative George Gomez
Robert Barnum, Commissioner of Youth Services, Social & Rehabilitative Services (SRS)
Roger Werholtz, Department of Corrections (DOC)
Mark Matese, Kansas Community Corrections Association
Liz Oesterlin, Executive Director, Topeka Family Shelter

Subcommittee report - HB 2782

Representative Sprague presented the subcommittee report, Attachment No. 1 which recommended the bill be amended to include private schools. Attachment No. 1A is the balloon amendment to the bill. Representative Sprague moved to adopt the subcommittee report and that the amendment be incorporated into HB 2782, seconded by Representative Jenkins. Representative Aylward made a substitute motion that the subcommittee report and the amendment be adopted and the bill recommended favorably, seconded by Representative Denville.

Committee discussion:

1. The first offense is Class B, the second offense is a Class A penalty.
2. The bill does not refer to liquor which is not part of the Controlled Substances Act.
3. Staff will investigate whether home schools would be covered in the definition.
4. A Class B penalty is 5-15 years minimum, life as maximum with a fine not to exceed \$15,000. The motion carried.

Chairman Barr announced the hearing on HB 3091 was cancelled.

HB 2703

Representative Wagnon explained the bill requires any county qualified to receive grants under the act, cannot receive them until a comprehensive plan is approved by the Secretary of Corrections (current law). The new language is that a sub-plan be included that specifies the treatment in handling the juvenile offenders in the county or group of counties, Attachment No. 2.

Committee discussion:

1. At the request of the chairman, Representative Wagnon explained that due to what the county felt was inadequate state funds, overflow adult prisoners were moved from the county jail into the HARTS building where juvenile offenders are housed.
2. Chairman Barr read from the fiscal note which stated there would be no fiscal impact.
3. The constituent requesting the bill works for the Shawnee County Department of Corrections.

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MINUTES OF THE House COMMITTEE ON Federal and State Affairs,
room 526-S, Statehouse, at 1:47 ~~pm~~/p.m. on March 26, 1990.

4. "heavy users" - page two, would be defined as the counties with active community correction programs receiving grant money.
5. The reference to a board within a board (page 4) - is intended to direct attention to juvenile offender programming from various perspectives.
6. A mandate would encourage those counties not currently providing services for juvenile offenders to consider same.

Forrest Swall presented eight points he considered paramount in community corrections as applied to juvenile offenders, Attachment No. 3. He stated that Kansas is third in the nation for incarcerated youth.

Representative Gomez cited a link between problems in the adult system and mental health. He advocated comprehensive planning and stated the juvenile system is being "crowded out" due to the problems within the adult system.

Commissioner Barnum supported the bill and requested a statewide continuum of services for juvenile offenders, Attachment No. 4.

Roger Werholtz supported the concept of the bill but opposed implementation based on current budget constraints and limited staff, Attachment No. 5.

Mark Matese also supported the concept of the bill but cited funding as being critical to implementation of the program, Attachment No. 6.

Committee discussion:

1. In response to a member, Mr. Werholtz gave his interpretation to be that planning implies implementation. He said the DOC was somewhat confused by the fiscal note's notation of no fiscal impact as board action would generate need for funds. Budgets for existing counties for FY 1992 are due May 1, 1990; for FY 1991 new counties April 1, 1990 and for 1992 the plan is due July 1, 1990.
2. Clarification that the implementation date would be 1992 would be beneficial to the DOC. Mr. Werholtz requested a clarification of intent of expectations concerning the juvenile programs. He noted most of the discussion had centered on diverting adults from youth centers and would be beneficial to DOC to know if that was the committee's intent versus diversion for juveniles not at risk, prevention programs etc.
3. DOC is not limited to juvenile offenders convicted of a crime. Mr. Werholtz explained that "charge backs" clearly focused community corrections. He stated that current community corrections programs are eligible for funding. if they are doing anything related to criminal justice.
4. 1989 SB 49 put a "floor" in all existing community corrections programs and provided that as long as they provided the same type of service at the same level, they must be funded at the same level. DOC does not have the capability to redirect the money.
5. More effort toward juvenile offender programs would be purely voluntary on the existing programs unless there was a change in statutory language.

Sub. HB 2679

Liz Oesterlin explained the bill allows units of local government to establish Housing Trust Funds for the rehabilitation and repair of various housing units, Attachment No. 7. Attachment No. 7A is a Housing Trust Fund Summary. Attachment No. 7B give benefits of a Housing Trust Fund.

Letters of support for the bill were submitted by:

- Shawnee County Community Assistance and Action, Inc., Attachment No. 8
- Kansas National Association of Housing and Redevelopment Officials (KNAHRO), Attachment No. 9
- Housing and Credit Counseling, Inc., Attachment No. 10
- Kansas Manufactured Housing Association, Attachment No. 11
- Don Karr, TILRC Independent Living Specialist, Attachment No. 12
- Topeka Capital-Journal article, "Apartment Vacancy Rates Surveyed", Attachment No. 12A

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs,
room 526-S, Statehouse, at 1:47 ~~a.m.~~/p.m. on March 26, 1990.

Chairman Barr explained that Janet Stubbs was unable to be present to testify due to a family emergency. She submitted testimony in opposition to the bill which asserted cities and counties currently have the authority to establish housing trust funds and it would result in increased fees on anyone purchasing and/or constructing a home, Attachment No. 13.

Committee discussion:

Highlighted were reasons for the bill coming to the committee (it had been in the Local Government Committee) after having been on general orders; the potential for an added fee on registration of mortgage building permits; the and the source of trust funds.

Representative Douville moved to approve minutes of the March 12 and March 19, 1990 meetings of the committee, seconded by Representative Sughrue. The motion carried.

Chairman Barr reminded the committee that the March 28, 1990 meeting of the committee would be at 1:00 p.m.

The meeting adjourned at 3:02 p.m.

The next meeting of the committee is scheduled for March 27, 1990, 1:30 p.m. in Room 526-S.

**HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
Subcommittee on H.B. 2782**

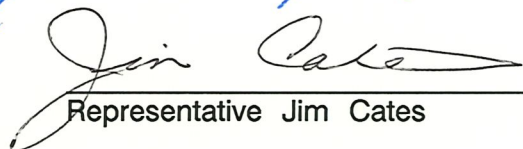
The Subcommittee composed of Representatives Cates and Sebelius and chaired by Representative Sprague met on February 19. The meeting was attended by representatives of the Governor's office, the Kansas Association of School Boards, and the Kansas Association of County and District Attorneys.

The Subcommittee discussed the fact that the bill as introduced would not provide for a "drug free zone" around private schools, but only addresses public schools. The Subcommittee recommends that the bill be amended to include private as well as public schools.

Respectfully Submitted:



Representative Dale Sprague



Representative Jim Cates



Representative Kathleen Sebelius

HOUSE BILL No. 2782

By Committee on Federal and State Affairs

2-1

9 AN ACT concerning controlled substances; relating to selling con-
10 trolled substances near school property; amending K.S.A. 1989
11 Supp. 65-4127a and 65-4127b and repealing the existing sections.
12

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

14 Section 1. K.S.A. 1989 Supp. 65-4127a is hereby amended to
15 read as follows: 65-4127a. (a) Except as authorized by the uniform
16 controlled substances act, it shall be unlawful for any person to
17 manufacture, possess, have under such person's control, possess with
18 intent to sell, offer for sale, sell, prescribe, administer, deliver,
19 distribute, dispense or compound any opiates, opium or narcotic
20 drugs. Any person who violates this section shall be guilty of a class
21 C felony, except that, upon conviction for the second offense, such
22 person shall be guilty of a class B felony, and upon conviction for
23 a third or subsequent offense, such person shall be guilty of a class
24 A felony, and the punishment shall be life imprisonment.

25 (b) Upon conviction of any person pursuant to subsection (a) in
26 which (1) the substances involved were equal to or greater than the
27 amounts for such substances as specified in K.S.A. 1988 1989 Supp.
28 65-4127e, and amendments thereto, or (2) the substances involved,
29 regardless of amounts, were possessed with intent to sell, sold or
30 offered for sale to a child under 18 years of age, there shall be at
31 sentencing a presumption that the defendant be sentenced to im-
32 prisonment and not granted probation, assignment to a community
33 correctional services program or suspension of sentence.

34 (c) Notwithstanding any other provision of law, upon conviction
35 of any person pursuant to subsection (a) in which the substances
36 involved were possessed with intent to sell, sold or offered for sale
37 in or on, or within 1,000 feet of any school property upon which
38 is located a structure used by a unified school district for student
39 instruction or extracurricular activities, or both, such person shall
40 be guilty of a class B felony.

41 Sec. 2. K.S.A. 1989 Supp. 65-4127b is hereby amended to read
42 as follows: 65-4127b. (a) Except as authorized by the uniform con-
43 trolled substances act, it shall be unlawful for any person to possess

for a first offense pursuant to subsection (a), such person shall be guilty of a class B felony if

used for attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12

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Attachment No. 1A

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1 K.S.A. 65-4113 and amendments thereto. Any person who violates
2 this subsection shall be guilty of a class A misdemeanor, except that
3 such person shall be guilty of a class D felony if the substance was
4 prescribed for or administered, delivered, distributed, dispensed,
5 sold, offered for sale or possessed with intent to sell to a child under
6 18 years of age.

7 (d) Upon conviction of any person pursuant to subsection (a), (b)
8 or (c) in which (1) the substances involved were equal to or greater
9 than the amounts for such substance as specified in K.S.A. 1988
10 1989 Supp. 65-4127e and amendments thereto, or (2) the substances
11 involved, regardless of amounts, were possessed with intent to sell,
12 sold or offered for sale to a child under 18 years of age, there shall
13 be at sentencing a presumption that the defendant be sentenced to
14 imprisonment and not granted probation, assignment to a community
15 correctional services program or suspension of sentence.

16 (e) ~~Notwithstanding any other provision of law, upon conviction~~
17 ~~of any person pursuant to subsection (b) in which the substances~~
18 ~~involved were possessed with intent to sell, sold or offered for sale~~
19 ~~in or on, or within 1,000 feet of any school property upon which~~
20 ~~is located a structure used by a unified school district for student~~
21 ~~instruction or extracurricular activities, or both, such person shall~~
22 ~~be guilty of a class B felony.~~

for an offense

used for attendance or extracurricular activities of
pupils enrolled in kindergarten or any of the grades
1 through 12

23 Sec. 3. K.S.A. 1989 Supp. 65-4127a and 65-4127b are hereby
24 repealed.

25 Sec. 4. This act shall take effect and be in force from and after
26 its publication in the statute book.

JOAN WAGNON

REPRESENTATIVE, FIFTY-FIFTH DISTRICT
1606 BOSWELL
TOPEKA, KANSAS 66604
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TOPEKA

HOUSE OF
REPRESENTATIVES

March 26, 1990

DEMOCRAT AGENDA CHAIR

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: TAXATION
MEMBER: FEDERAL AND STATE AFFAIRS

Testimony to House Federal & State Affairs Committee
Re: HB 2703

HB 2703 asks that those communities which place a burden on the state, by placing incorrigible and delinquent youth in the state youth centers in moderate to large volume, advise the state as to their programming and policy development regarding the treatment and handling of such youth at the local level, as part of their requests for state community corrections grants.

Kansas is faced with several major trends which will impact on future corrections funding. One is the much-touted war on drugs. Another is the impact of determinate sentencing. If the Minnesota experience holds true, such sentencing will place even more strain on the overburdened corrections system and after a three-year lag time in start up, will force more demands downward to local communities in providing the custody and treatment of offenders.

Concurrently, there is general recognition that there are major difficulties in SRS in the delivery of care. While solutions are not yet clear, forces are generating for major changes in that organization. All of these events will impact on the development of juvenile offender policy, and in turn affect the volume of clientele entering the adult correction system.

In short, juvenile offender policy is much too important to the state to trust to the "good will" and private deliberations of a few individuals. Nor should we adopt the "fox guarding the chicken coop" stance of asking a heavily adult corrections oriented body, to report on the needs of juvenile corrections at the local level.

My constituent and I who asked for this bill, would recommend a more rational approach, of structurally requiring participation of juvenile programming advocates, with timely public input on major policy shifts in focus or direction. If a major county is

to abandon a group home programming effort of many years, such a major shift should require some public discussion, instead of a mere announcement after the fact, as has been recent history.

We do not speak of burdening communities which only occasionally make a referral to a state youth center. But for those communities which are regular and heavy users of these state resources, the state should ask what plans are you providing to utilize the state community correction funds we send you to address these issues, and what major program and policy shifts do you plan in collateral areas? We must recognize the complexity and interplay among the various level of government programming.

- (A) There are those who argue that the presence of a local corrections department should preclude the need for such an oversight committee. Yet this overlooks the fact that a local administration is preoccupied with the immediate day-to-day expedient operation of a program, rather than the long-term grand sweep of policy at a local community. Such expedient short-term "defacto" policy making allows politicians to tuck policy questions safely away from public discussion, and allows the abandonment of major program directions, with no public input. Group home programs such as the Shawnee County HARTS program can be abandoned as a simple administrative cost-cutting mechanism with no need for public input, or acknowledgment of the domino effect of interdependent communities. Perhaps counties should abandon all youth care projects, and force such care up to the level of the state SRS funded and organized projects. But if so, shouldn't such a major policy shift not have a public hearing, rather than masquerading as a simple administrative task? No, a bureaucrat cannot be used to safeguard community oversight in major policy direction.
- (B) There are those who would argue that the standing advisory committee is adequate to address the needs of youth served by community corrections. This argument missed the point that the programming for the adult and juvenile population is dramatically different. As such, the two populations are in competition with each other for scarce resources. Intrinsic in this arrangement, is a conflict of interest. Frequently there are not crumbs left on the table to throw juvenile programs after the adult correction biased committee divides up the pie. In Shawnee County, the advisory committee was strongly suggesting that the local commission back out of agreements with the Kansas Children's Service League, since the adult correction system had new need for the resources being passed to youth as emergency shelters. There are no youth service advocates built into the Community Corrections Advisory

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Board. A youth planning advocacy arm is needed, if the state wishes to have the best local juvenile justice policy, rather than the short-term, expedient policy, or absence of policy. Foxes should not guard chicken coops.

- (C) There are those who would argue that there is an overall comprehensive plan developing for the treatment of all children and youth in the state of Kansas, and shouldn't such advocacy be consolidated there. Such a well-intentioned plea, misses the reality of the incremental nature of policy and program change. Such a plan is years down the road, and is subject to much study and recommendation. It would perhaps be imprudent to exercise such an undertaking before gaining a sense of what the judiciary might order SRS to do with current programming. And besides, current revenues are being expended NOW in community corrections programs, and living, breathing youth are being transferred back and forth between local jurisdictions and the state youth centers NOW. Advocacy is needed now for the best state offender policy.

But wouldn't such an expansion of an advisory committee include a fiscal note. Perhaps we need look at the statutory authority to use state "gaming money" for "juvenile corrections," and then "corrections," instead of the current "reverse" utilization of these revenues.

A STATEMENT REGARDING HB 2703

Presented to the State and Federal Affairs Committee
The House of Representatives

March 26, 1990

Forrest L. Swael, Lawrence

The emphasis on comprehensive planning for juvenile offenders is important. The absence of such planning and consequent programming is a major factor in the increase in residential placements. We are well past the age of excusing ourselves for ignoring the fundamental principles of planning at the local as well as at the state level in matters such as this.

The fact that a bill of this nature is introduced is an indication that previous actions by the legislature have not been implemented as intended. The Community Corrections act calls for comprehensive planning, and programming. Where is the accountability in our community corrections process that allows for a de-emphasize on the juvenile part of local planning and programming?

If it takes another action of this nature to do what was so clearly intended in the initial community corrections act, I'm strongly supportive of another action. However I firmly believe that the administrative structure set in place with the local community corrections policy should be utilized, and the legislature should be insisting on implementation of the juvenile part of local planning and programming.

Relative to the matter of community corrections as applied to juvenile offenders the following considerations are paramount:

1. The essence of community corrections is it's emphasis on community. We continue to view and respond to our youth who commit acts of delinquency, criminal acts, as the responsibility of the state. If we are to respond to both the needs of the community and the needs of the youth and their families we must find ways to assist communities to be a more active part of the process.
2. The failure of the active community partnership is evident in the numbers of youth confined in the youth centers and other residential programs. Where active, informed study, planning and programming are not taking place youth are being committed to the more expensive residential alternatives.
3. Residential programs, the youth centers and others, are seldom able to serve young persons as well as they can be served in the community where effective planning and programming has taken place. Maintaining young persons in the community, usually in their own homes makes possible the use of the strengths of the youth, the family, the community resources such as the schools, and other vital community agencies.
4. The focus on community planning makes possible a greater awareness of gaps in services that can often be closed, or at least assessed, when viewed

in relation to the needs of a community's youth.

5. The state is in a position to continuously encourage, support and stimulate local planning and development. Failure to encourage and assist, passively ignoring what is well known, is to encourage local jurisdictions to send problems to the state.

6. The planning and programming responsibilities of the existing community corrections agencies should not be separated. They need to be integrated because of the related nature of the functions. Whether adult or juvenile the concerns address the problems and needs largely of young persons. In addition the conditions of the community which contribute to problems of crime overlap, and the resources needed to respond to offenders also overlap.

7. My concern is that the agency designated to provide the leadership, assistance and oversight is allowing the juvenile part of community corrections to slide. The legislature may need to make more clear the intent of the community corrections policy.

8. A second concern is that the resources for community corrections is being diverted to institutions, and adult community programs leaving little incentive for local leaders and agency staff to take seriously the juvenile part of community correctness.

Conclusion

I strongly favor the expressed intent of HB 2703:

1. that there be comprehensive local community planning for juvenile offenders.

2. that planning for juvenile offenders remain, or be made, an integral part of the local community corrections programs.

3. that funding resources be mandated to include comprehensive juvenile planning and services, as well as adult planning and services.

1990 is the 200th anniversary of the great prison experiment in Philadelphia, Pennsylvania. Over these two centuries the experiment has been judged a colossal failure. The prison established with the influence of the Quakers failed to achieve the purposes for which it was created.

An overwhelming conclusion of studies of the prison failures over these two centuries points to the potential of creative alternatives for responding to the needs of young people and communities at the local level. This is what I think HB 2703 is really all about. Comprehensive planning and correctional services at the local level will do far more good, and far less damage than will the continued trend to emphasize traditional institutional programs.

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Department of Social and Rehabilitation Services

Testimony before

House Federal & State Affairs Committee

Regarding

House Bill 2703

March 26, 1990

Robert C. Barnum
Commissioner of Youth Services
Kansas Department of Social and Rehabilitation Services
(913) 296-3284

HOUSE FEDERAL & STATE AFFAIRS
March 26, 1990
Attachment No. 4

Department of Social and Rehabilitation Services

Winston Barton, Secretary

Testimony in Support of House Bill 2703

AN ACT CONCERNING COMPREHENSIVE
PLANS FOR COMMUNITY CORRECTIONS
AND ADVISORY BOARDS WITH REGARD
TO JUVENILE OFFENDERS

(Mr. Chairman), Members of the Committee, I appear today in support of House Bill 2703 which amends comprehensive plans for community corrections to include a subplan regarding juvenile offenders as well as the establishment of Juvenile Offender Advisory Boards.

Background: The Juvenile Offender Policy Conference held in September 1989 included much discussion regarding statewide accessibility of services to juvenile offenders on a continuum of care basis. The continuum represents a full range of services and programs matched to the youths needs for rehabilitation and the needs of the community for protection. Conference recommendations included expanding opportunities for juvenile offenders to remain in their communities and benefit from treatment and services developed locally to meet specific needs.

Discussion: The Department of Social and Rehabilitation Services is in favor of community correction programs addressing the needs of juvenile offenders as well as adult offenders. The benefit of counties addressing the needs of juvenile

offenders locally, utilizing their juvenile offender advisory boards would enhance meeting youth treatment needs as defined locally.

Action Requested: A statewide continuum of services for juvenile offenders is needed. With this goal in mind, I urge your support of this bill.

Winston Barton
Secretary
Department Of Social and
Rehabilitation Services
(913) 296-3271

TESTIMONY BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
ON HB 2703
ROGER WERHOLTZ, DEPUTY SECRETARY OF CORRECTIONS
COMMUNITY AND FIELD SERVICES DIVISION
MARCH 26, 1990

The Department of Corrections believes community corrections can play a significant role in the juvenile justice system and is supportive of the concept contained in House Bill 2703. However, we do not believe this is the year to implement such a mandate.

The Department of Corrections must oppose House Bill No. 2703 at this time because of the demands such a requirement might place on a very limited budget and staff. Because of the severe fiscal constraints confronting state government this year, we believe this sends a message to the counties to plan for programs we know cannot be funded. We do not see the value of creating such tension between a state agency and local units of government.

Currently, we believe we will be able to fund only core programs (primarily adult intensive supervision) for counties just now beginning community corrections programs. Maintaining all of the services currently offered in the existing programs will also be a challenge without seeing existing programs begin or expand their juvenile services.

We are pessimistic that resources can be found to fund an additional range of services or to provide staff to carry out technical assistance and proper monitoring to insure appropriate and timely implementation. The community corrections section is losing two staff members due to fiscal retrenching. Stretching the House's recommended appropriation of roughly \$10.2 million dollars combined with any potential funds in county budgets still will be insufficient to fund statewide programming for juveniles.

Finally, it would be extremely helpful if any legislation such as this, which in essence mandates new services, clearly define the

goals and outcomes those services are intended to achieve. Are they intended to keep kids out of youth centers? Are they intended to serve kids not at risk of immediate incarceration? Are they intended to prevent abuse and neglect? Which of these have the highest priority?

Clarifying the intent of community corrections legislation is now more critical than ever with every county in the state beginning participation.

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Douglas County

DEPARTMENT OF COMMUNITY CORRECTIONS

1100 Massachusetts Street, 3rd Floor
Lawrence, Kansas 66044-3095 • 913/842-8414 • FAX 913/842-8455

TESTIMONY ON HB2703

March 26, 1990

Mark A. Matese

CONCEPTUALLY, THE KANSAS COMMUNITY CORRECTIONS ASSOCIATION (KCCA) SUPPORTS THE INTENT OF HB2703 WHICH MANDATES JUVENILE OFFENDER PROGRAMS IN EXISTING AND NEW COMMUNITY CORRECTIONS ACT (CCA) PLANS AND PROGRAMS. THIS WAS ALSO A RECOMMENDATION OF THE JUVENILE OFFENDER POLICY CONFERENCE LAST FALL.

RESOURCES ARE CRITICAL IN THE ESTABLISHMENT OF NEW PROGRAMS IN EXISTING AND NEW CCA PROGRAMS AND PLANS. CURRENTLY, JUVENILE OFFENDER PROGRAMS ARE RANKED BELOW ADULT OFFENDER PROGRAMS. OF THE EXISTING 10 PROGRAMS, COVERING 16 COUNTIES, ONLY ONE DOES NOT HAVE JUVENILE OFFENDER PROGRAMS. IF THIS BILL IS PASSED, IT IS OUR RECOMMENDATION THAT RESOURCES BE ADEQUATELY APPROPRIATED IN ORDER TO AVOID EROSION OF EXISTING ADULT AND JUVENILE PROGRAMS.

ALSO, WE BELIEVE THAT THE CCA (KSA 75-220 ET.SEQ.) ADEQUATELY SERVES AS A VOICE FOR ALL OF CCA PROGRAMS. THE INTENT OF ESTABLISHING A SEPARATE JUVENILE OFFENDER ADVISORY BOARD COULD BE ACCOMPLISHED BY AMENDING THE CCA TO EMPHASIZE SUBCOMMITTEES OF THE FULL BOARD AS VEHICLES FOR JUVENILE PROGRAMS. THE MEMBERSHIP COULD ALSO BE EMPHASIZED TO INSURE THE REPRESENTATION IDENTIFIED IN HB2703.

HOUSE FEDERAL & STATE AFFAIRS

March 26, 1990

Attachment No. 6



A place of hope and new beginnings.

Representative Ginger Barr. Chairperson
Federal and State Affairs Committee
115-s State Capital Building
Topeka. Kansas 66612

Testimony Substitute Committee Bill 2679
March 26. 1990

Today we are considering Substitute Bill 2679 which authorizes units of local government to set up Housing Trust Funds for the rehabilitation and repair of housing units, rental subsidies or assistance to agencies working with the homeless. Let me clearly say that this bill is enabling legislation. It is "permissive" in nature and as such recognizes the growing crisis in affordable housing occurring here in the State as well as across the nation. At this point in time, it taps no state funds yet encourages municipalities to focus attention on the decreasing availability of affordable and safe housing.

The evaporation of federal low income housing subsidies, high mortgage interest rates, and other housing finance complexities, virtually eliminate opportunities to construct, rehabilitate or finance rental units or housing for low income citizens. The housing stock continues to decline by demolition to create parking lots, urban gentrification, lack of upkeep by fixed income owners or absentee landlords. Those who can least afford housing - the poor, the elderly, single parents, minorities - suffer the most from such market conditions. Most Americans are affected by this housing finance crisis. Innovative strategies, such as being developed by the Topeka Family Shelter, Inc., Habitat For Humanity, and TODAY, Inc., to produce affordable housing are not lacking. Finance capital is and the trust fund concept working in 18 other states is an innovative strategy that benefits a wide constituency. I have with me letters of support from a broad spectrum of people and organizations for this bill and we look for state leadership in this concern of many citizens.

HOUSE FEDERAL & STATE AFFAIRS
March 26, 1990
Attachment No. 7

Rev. Richard Etzel, Founder ● 507 Fillmore ● Topeka, Kansas 66606 ● 357-5300 (Pager)
Liz Oesterlin, Executive Director ● 507 Fillmore ● Topeka, Kansas 66606 ● (913) 232-1650

The Housing Trust Fund Summary

The Housing Trust Fund represents a unique public/private sector partnership among state and local housing officials, depository institutions, the real estate establishment, and the housing development industry including the private, non-profit organizations. Past housing programs have relied on tax revenues and housing appropriations. In contrast, the HTF constitutes a self-generating and renewable source of housing capital at annually predictable levels, one which is independent from legislative appropriations. The Fund benefits a wide variety of constituents with a vested interest in housing. It preserves traditional client/professional relations in real estate, protects housing consumers, and is simple in its administration.

A valuable partnership among the state, financial institutions, realtors, the construction and developer industries, and the escrow profession can be formed by creating a housing trust fund supported by:

- the interest income created from
- mortgage transfer fees
- lottery income
- demolition fees
- the surplus from reserves set aside when a revenue bond is issued
- cigarette and alcohol taxes
- levies on the sale price of rental units converted to condominiums
- lien fees
- percentage of clean-up fines
- hotel/motel taxes
- government programs loan repayments
- unclaimed bank and S and L accounts
- miscellaneous extraction fees
- and community donations.

Since the income in general would come from housing or building development, it is particularly appropriate that it will be reinvested in housing particularly for low income citizens. Given the critical shortage of rental housing affordable and adequate for people with a minimum of resources, and the need to create work in the construction industry, the revenue is most appropriately invested in the construction and rehabilitation of low income housing. Low and moderate income people, realtors, financial institutions, the construction industry and all those interested in the economic development of the state and its people will all reap the benefits.

Numerous jurisdictions have had HTFs for various lengths of time. A national HTF has been recommended to Congress but the current development of HTFs have been primarily in the cities. The American Institute of Architects has proposed a national HTF as well as other organizations such as the National Conference of State Legislatures, and the US Conference of Mayors. At least 15 states have established legal mechanisms for HTFs. The state of Kansas has no provision at this point in time for HTFs.

Benefits to Depository Institutions

Depository institutions will be able to charge for their administrative costs in servicing HTF accounts.

HTF revenues will be used to leverage additional housing finance capital through loans to lenders programs, tax-exempt multi-family bonds, or other mechanisms. Such leveraging will greatly increase the volume of housing loan capital available to lenders. It will expand a secure investment market for them, far beyond what would otherwise be available without the HTF.

Though federal low income housing subsidies have all but evaporated, federal low income housing requirements of lenders remain intact. These include the obligations made by the Community Reinvestment Act. The HTF will provide a stable source of revenue for these purposes.

It is an investment in the overall economic development of the state, securing the future and stability of our neighborhoods.

Private/Public Partnership

The HTF derives from a recognition of the mutual interest held by the private and public sectors in a healthy housing market. It will draw on the efficiency and expertise of those in housing finance and production combined with the interests and skills of the moderate and low income community.

Administrative Simplicity

Existing bank software programs are immediately capable of managing HTF accounts. HTF minimizes reporting and audit requirements. Electronic funds transfer capacity makes HTF accounts highly efficient to administer and productive in their investment earnings.

Benefits to Developers and Construction Workers

The capital generated by the HTF will stimulate significant remodeling and construction as well as generating new jobs.

Revenue to Local Governments

Income to the local governments is not limited to that generated directly by the HTF. The new jobs and income created by the program and housing saved from demolition to remain on the tax rolls will produce more new tax revenue.

Benefits to Local Housing Programs

Because the HTF will annually generate predictable revenues for housing production, the housing agencies will be able to plan well in advance for the efficient and productive use of the HTF resources. This is virtually impossible with the highly uncertain legislative appropriations process.

REFERENCES

"Analysis of Housing Trust Funds for Topeka, Kansas." Juanita Carlson, September, 1989.

"A Guide to Developing a Housing Trust Fund" Center for Community Change, Mary E. Brooks. Housing Trust Fund Project, January, 1989.

"Housing Trust Funds: How States Can Meet Low Income Housing Needs" Paul Rosen, Community Development Consultants, Ways and Means September/October 1983.



SHAWNEE COUNTY COMMUNITY ASSISTANCE AND ACTION, INC.

ADMINISTRATIVE OFFICES 605 TOPEKA AVENUE
TOPEKA, KANSAS 66603 • PHONE 913-235-9561

March 20, 1990

Representative Ginger Barr, Chairperson
House Committee on Federal and State Affairs
115-S State Capitol Building
Topeka, Kansas 66612

Dear Representative Barr:

Shawnee County Community Assistance and Action, Inc., fully supports and urges the passage of the substitute for House Bill No. 2679, an act authorizing cities and counties to establish housing trust funds for repair, rehabilitation and improvement of residential housing. Attention to this problem is sorely needed across our state as evidenced by the following:

- One in every five children in America is poor.
- Nearly 75 percent of all poor people over age 65 are women.
- Two of five poor people over age 14 work--representing the highest percentage of working poor since 1968.
- Although 1987 represented the fifth year of economic recovery, the poverty rate was higher than for any year in the 1970s and higher even than during the 1974-75 major recession.

The 1989 Survey of Buying Power conducted by the Greater Topeka Chamber of Commerce as reported in the 7/29/89 edition of the Topeka Capital-Journal showed 8,357 households in Shawnee County with annual incomes of \$10,000 or less. Of that number, 2,921 households had annual incomes of less than \$5,000. These figures are truly frightening! There is absolutely no way these families can afford a decent place to live--especially when you consider today's cost of living in decent housing in Topeka and Shawnee County! What are the alternatives? To be blunt, there are none.

Consider what happens every day right here in Topeka. A single mother with two or three young children begins house--or apartment--hunting. She's likely to be recently divorced; has a job paying at or near minimum wage (at the new minimum wage of \$3.80/hr that begins 4/1/90, that's \$658/month before taxes or \$7,904/year); and needs to pay security deposits, utilities and deposits; and she still needs to find a way to feed and clothe her family. Since she's employed, welfare is generally out of the question. If she's exceptionally lucky, she may receive child support--but statistics show that's not likely.

Next, our mother checks the Residences for Rent column in the Topeka Capital-Journal classifieds. Have you even glanced at that section of the newspaper lately? If so, you know that rents for the vast majority of accessible and available houses or apartments start somewhere in excess of \$300. Granted, there are some residences available at lesser cost, but they are few and far between. The Homes for Sale column is an even bigger shock! Of course, there are homes priced in the teens, \$20s, and \$30s. If one is to believe the most descriptive advertisements, these are all paragons of desirability! The various states of disrepair of the lower priced housing units are virtually beyond comprehension. Select some addresses in the price ranges mentioned above and drive by them. You'll understand without further explanation why our mother would not consider such a dwelling--IF SHE HAD AN ALTERNATIVE!!!!

HOUSE FEDERAL & STATE AFFAIRS
March 26, 1990
Attachment No. 8

An Equal Opportunity Employer

Page 2

Statistics prepared in 1989 by the Center for Community Futures show that in 1969 a full-time worker, at minimum wage, earned 109 percent of poverty level. In 1985, that same worker earned only 78 percent of poverty level. Since 1970, median rents have increased 137 percent while the median income has increased only 79 percent. Further statistics show that in 1988, 78 percent of all poor people spent more than 30 percent of their incomes for rent, and half of ALL poor families pay 60 percent or more of their incomes for rent. Purchasing a home is totally out of the question when you consider the median cost of new homes on today's market coupled with the fact that most lending institutions will not allow a prospective homeowner to pay more than 30 percent of his income in mortgage payments.

With federal housing funds cut from \$32 billion to \$9 billion since 1981, these statistics take on new meaning. In 1978, nine million families, nationwide, needed the 11 million available, affordable housing units. In 1985, eight million families vied for the remaining 4.2 million affordable housing units. It stands to reason that somewhere, someone will be homeless. Estimates predict 19 million homeless persons nationwide by the year 2000. The 1989 Community Housing Assistance Plan shows 500 to 700 homeless persons in Shawnee County alone at any given time.

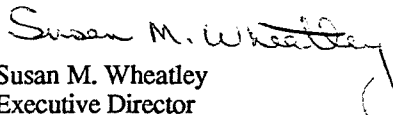
In 1988-89, SCCAA's Homeless Program identified 635 homeless persons; assisted 103 homeless persons in obtaining emergency shelter; made 277 referrals to outside resources; assisted 275 clients in meeting security and utility deposit requirements; made 328 follow-ups to 40 referral sources to ensure clients received services; returned 166 individuals to home areas who would, otherwise, have become homeless; and transitioned 40 families to permanent housing. The SCCAA Emergency Services Center receives an average of 5-7 requests for mortgage/rent assistance each week. These requests must routinely be denied due to unavailability of funding.

These statistics alone should be sufficient to underscore the great and growing need for affordable, accessible, available, and decent housing. But if these numbers are not sufficiently convincing, please remember the plight of our single mother trying to provide a decent home for her children. Put yourself . . . or your daughter . . . or your elderly parent . . . or even a not-so-young family man who has just been laid off from his job . . . into the scenario we describe. Kansas desperately needs more affordable, accessible, available, and decent housing. Without it, many more of Kansas' citizens may be numbered among the state's and nation's homeless population.

Shawnee County Community Assistance and Action, Inc., strongly urges the ultimate passage of the substitute for House Bill No. 2679.

Thank you for your consideration.

Sincerely,


Susan M. Wheatley
Executive Director

SMW:mlr

HF 45A
3/20/90
8-2



kansas
national association of housing
and redevelopment officials

TESTIMONY

TO

FEDERAL AND STATE AFFAIRS COMMITTEE

ON

HOUSE BILL 2679

BY

NOELLE ST. CLAIR

KANSAS ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS
(NAHRO)

MARCH 26, 1990

HOUSE FEDERAL & STATE AFFAIRS
March 26, 1990
Attachment No. 9

Madame Chairman and Members of the Committee,

Thank You for taking time to hold hearings on House Bill 2679. I represent the Kansas Chapter Of Housing And Redevelopment Officials commonly known as NAHRO.

Safe and affordable housing allows people to take advantage of opportunities in education, health and employment. Stable housing helps our children to succeed in school, helps people find and keep jobs, and helps families stay together. A home is a more cost-effective alternative to high cost institutional care, and far better than living on the streets.

In order to supply and maintain an adequate supply of affordable housing Kansas needs a new source of money. Kansas NAHRO supports House bill 2679 because it can provide a flexible pot of money that can continue to grow and be leveraged with private sector and federal funds to produce and preserve affordable housing for Kansans.

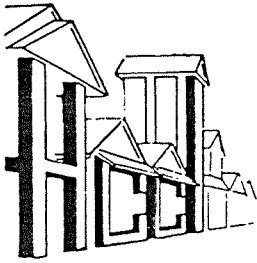
Federal resources for housing have been drastically reduced in recent years. State and local communities, as a result of these cuts, need to become more involved in finding creative ways to utilize the resources that are available in order to meet their communities housing needs in the context of addressing neighborhood blight, homelessness, special needs programs, economic and community betterment.

Secretary Priddle recently took administrative action and created a identifiable housing office and hired a Director who has the task of completing a Housing Assistance Plan for Kansas. When that plan is complete it might be necessary to have a flexible pot of local money that can be leveraged with other monies to fund housing programs. Areas of the country that have used trust funds as a leverage have been able to attract even more federal dollars.

In doing research about housing funding I have learned that trust funds are most generally created at a state level. The approach of HB 2679 is unique in that it focuses in on local initiatives and addresses the local need for affordable housing. There is currently some concern that this piece of legislation is not needed because communities currently have home rule powers and can establish this already. Even though this is true, Ks NAHRO sees this bill as enabling legislation that will help communities that want to address the affordable housing issue to know they can do so and that they can create a funding source.

In conclusion Kansas NAHRO thinks communication followed with good utilization of our resources is the key to economic success in Kansas. We support House Bill 2679 and thank you for the opportunity to share our views and concerns.

HF 5A
3/20/98
9-2



Housing & Credit Counseling Inc

1195 SW Buchanan Suite 203
Topeka, Kansas 66604-1183
(913) 234-0217

TESTIMONY RE: HB 2679

MARCH 26, 1990

FEDERAL AND STATE AFFAIRS COMMITTEE

KAREN A. HILLER, EXECUTIVE DIRECTOR

Housing and Credit Counseling, Inc. strongly supports HB 2679 and urges your committee to move it forward for passage.

In order to maintain an adequate supply of affordable housing Kansas communities need to develop new financial resources. HB 2679 is enabling legislation and can provide a flexible pot of money that can grow and be leveraged with private sector and/or federal dollars to preserve existing housing, make accessibility modifications, and provide rental subsidies .

Communities and states that have trust funds have been able to attract additional federal dollars as a result of leveraging. With these funds Kansas communities can begin to resolve their citizens housing needs.

In conclusion we encourage your immediate "yes" votes on HB 2679, and thank you for this opportunity to share our view points.

HOUSE FEDERAL & STATE AFFAIRS
March 26, 1990
Attachment No. 10



HUD Comprehensive
Counseling Agency



Consumer Credit
Counseling Service



United Way
of Greater Topeka

KANSAS MANUFACTURED HOUSING ASSOCIATION

TESTIMONY BEFORE THE HOUSE

COMMITTEE ON FEDERAL AND STATE AFFAIRS

TO: Representative Ginger Barr, Chairman and
Members of the Committee

FROM: Terry Humphrey, Executive Director
Kansas Manufactured Housing Association

DATE: March 26, 1990

RE: House Bill 2679

Mrs. Chairman and members of the Committee I am Terry Humphrey, Executive Director of the Kansas Manufactured Housing Association and I appreciate the opportunity to comment on House Bill 2679.

KMHA supports the provisions of HB 2679 which gives local governments the authority to establish Housing Trust Funds for the propose of providing affordable housing opportunities for individuals and families in need.

Nationally, the lack of affordable housing has been termed "critical" and the United States Congress is deliberating on a National Affordable Housing Act. At some point it is likely that this Act will produce some funds for Kansas. But it is also likely that these funds will fall far short of the actual need. As a result, local governments, community groups and the private sector will need to address this problem on a continual basis.

In Kansas, housing is a serious problem for many. In fact, manufactured home dealers meet families on a regular basis in need of quality, affordable housing with little or no means to attain it. Even though manufactured housing is one of the most affordable housing products, at an average cost of \$21.36 per square foot, it is still out of reach for some.

In conclusion, KMHA respectfully requests your support for HB 2679 and we thank you for your attention to this matter.

HOUSE FEDERAL & STATE AFFAIRS
March 26, 1990
Attachment No. 11

TESTIMONY: SUBSTITUTE BILL 2679

Submitted by Don Karr, TILRC Independent Living Specialist

AN ACT concerning municipalities; relating to the establishment of housing trust funds for repair, rehabilitation and improvement of residential housing; prescribing powers, duties and functions in relation thereto.

1. The lack of affordable housing is the foremost cause of homelessness in Topeka, Kansas and, indeed, the entire nation. Many Kansans lack affordable housing.
2. The fact that economic conditions, federal housing policies, and declining resources on the federal and state level have adversely affected the ability of low-income and moderate-income families to obtain adequate and affordable housing points to a need for the expansion of rehabilitation programs and rental rehabilitation programs at the municipal level(s) of government, including state tax credits and support vouchers for persons who are elderly and persons with disabilities. This will impact state funding by forestalling or eliminating the high costs of institutionalization.
3. A housing trust fund will provide a reliable and readily available supple of mortgage finance at the lowest possible interest rate, e.g. Topeka Habitate for Humanity investing in East Topeka; extending to families *no-interest* home financing.
4. Rental housing costs in Topeka, KS restrict persons of low income and moderate income to economically and commercially depressed areas of the community, where housing costs are more affordable; primarily Central and East Topeka (see: Topeka Capital-Journal, Sunday, March 18, 1990: p. 1-F; "Apartment Vacancy Rates Surveyed"). These areas are the City's low-income housing reservoirs. Meanwhile, the majority of entry level jobs and commerce generally are located in Southwest Topeka. This is cause of hardship and economic stagnation for low-income to moderate-income families. A shortfall in reliable and accessible transportation might be overcome through increased access to decent and affordable housing in more robust economies.
5. The Housing Trust Fund legislation now before you will enable counties to authorize the establishment of a trust of renewable resources for remodeling old and building new affordable housing for low-income families. The availability of a funding mechanism as this can enable municipalities, property management companies, private non-profit organizations and private landlords to provide necessary upkeep, modernization or new

construction of rental housing units through the leveraging of low interest loans or by whatever other means available. This is not a property tax issue, as funding will come from mortgage registration fees and building permit and demolition fees, etc.

6. The affordable housing gap is widening. According to U.S. Census Bureau *Annual Housing Surveys*, there exists an enormous gap in affordable housing - that is, houses affordable at 35 percent or less of a family's gross income. Since 1970, governmental subsidies for housing starts have been drastically reduced. This has created an enormous need for new and innovative funding approaches to resolve the state's growing affordable housing gap.

Affordable Housing Gap Widens, Subsidies Strained

According to U.S. Census Bureau *Annual Housing Surveys*, there exists an enormous gap in affordable housing units—that is, houses affordable at 35 percent or less of a family's gross income. Since 1970, government subsidies for housing starts have been drastically reduced. The U.S. Conference of Mayors, 1989, notes the following cities' situations in government assisted housing:

city / households rcvng. assistance / wait (mos.)			
Boston	43 %	12-72	Nashville, TN * 41 % ---
Charleston, SC *	40 %	3 6	New York --- 12
Cleveland, OH	25 %	12 +	Philadelphia * 10 % 3 6
Los Angeles *	---	60 +	Portland, OR 26 % 6-24
Minneapolis *	21 %	3	St. Paul, MN * 38 % ---
			San Antonio, TX * 15 % 12-36

* -- currently not accepting applications for some or all housing programs

H & FSA
3/26/90
12-2

Apartment vacancy rates surveyed

Citywide there is a 6.6 percent vacancy rate out of 12,725 units

A recent survey of multi-family complexes in the Topeka area showed a 6.6 percent vacancy rate — or 834 vacant units out of 12,725 units identified in the city.



Anita Miller
It's your business

The survey is based on a housing vacancy survey conducted in September by the U.S. Postal Service and the Federal Home Loan Bank Board. The survey includes totals by zip code.

The lowest vacancy rates were in the west and southwest portions of the city, the areas which have experienced the most growth in new residential and commercial construction for the past few years. Those areas had 40 percent of the total units

surveyed. The west area had a vacancy rate of 4.7 percent and the southwest had a vacancy rate of 2.3 percent.

The two zip code areas in downtown Topeka, where there has been little new construction recently, had 20 percent of the units surveyed, but had 37 percent of the vacancies combined. They had an average vacancy rate of 12 percent.

Apartments in the northeastern part of the city, including east Topeka, had the highest single vacancy rate of 19 percent.

The survey says that Topeka has avoided the typical "boom and bust" cycle of economic activity since the late 1970s. Residential construction increased following a national recession in 1982. As a result, no serious overbuilding has occurred in the area, and overall multi-family vacancy rates are reasonable.

Rinner said that a factor limiting the growth of the Topeka apartment market was the 1986 tax reform act, which curtailed the acquisition of real estate, especially apartments, for tax shelter purposes.

"As a result, developers and investors have become more concerned with the potential cash flow that can be generated, and marginal projects

have become less likely to be built," Rinner's report said.

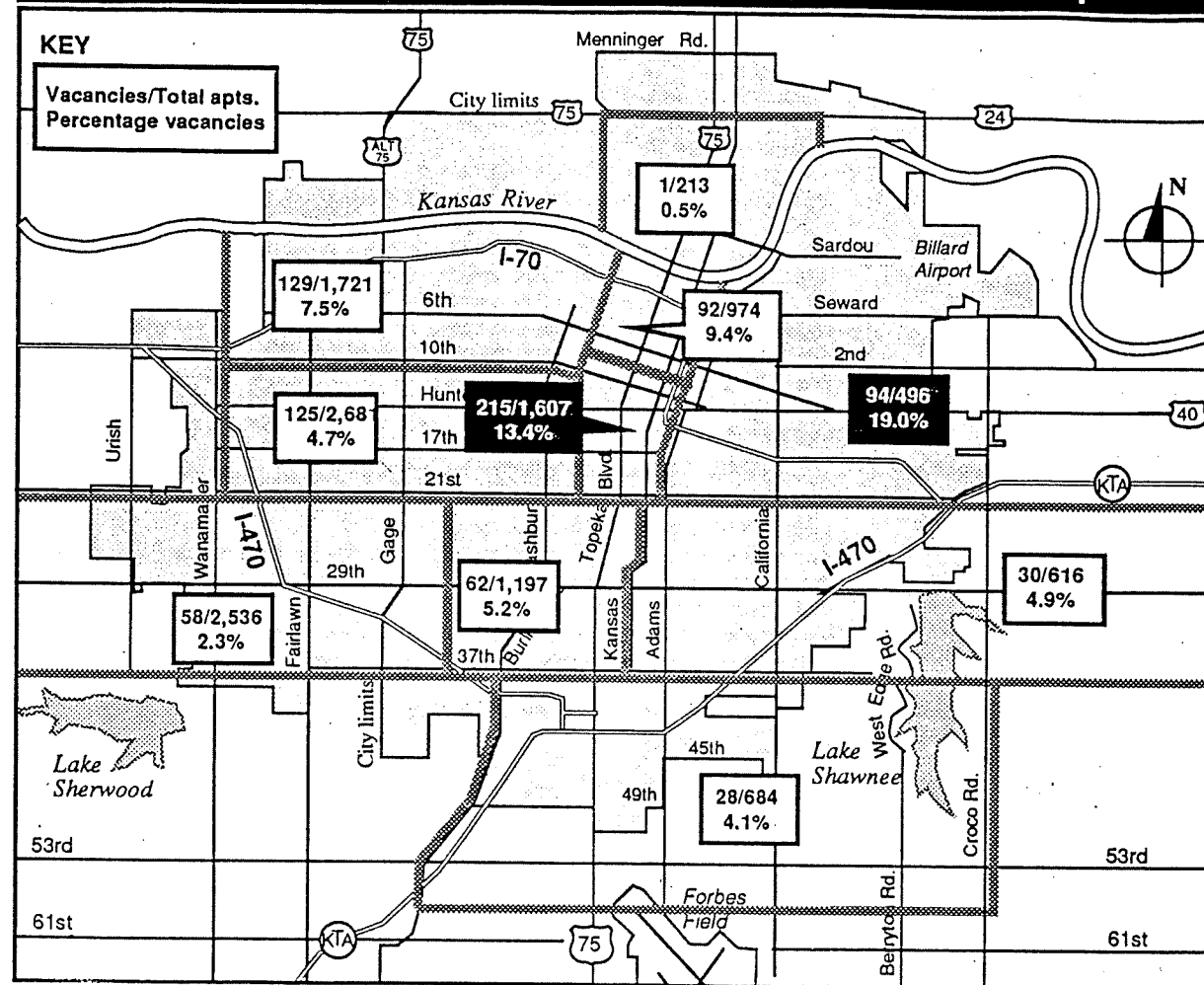
The survey noted that statewide reappraisal and classification have not adversely affected Topeka apartments. Under the new state rules, apartments are classified as residential property at a 12 percent assessment rate, so many projects experienced a net decline in taxes in 1989. Most other commercial property, assessed at 30 percent, had major increases in taxation. The 1990 Kansas Legislature is considering proposals that could alter the classification of apartment projects.

Rinner said in his survey that several of the new apartment properties have been sold by the original developers who retained interests. He said owners of older properties appear "to be struggling to keep them in good physical condition to maintain good occupancy, and/or believe that this is the wrong time to sell. Potential buyers, meanwhile, have little or no tax incentives to invest, and perceive the downside risk of owning apartments as one that should be compensated by a higher return.

"History has shown that the Topeka economy, perhaps because of its

Continued on next page

Apartment vacancy rates highest in central and east Topeka



Survey based on postal service study of vacant apartments.

—Staff/Pat Marrin

Continued from preceding page

central geographic location as well as its diverse economy, typically reflects that of the U.S. as a whole. While Topeka has not historically benefited from 'booms' such as resulted from rapidly increasing energy prices or defense contracts, neither has it suffered from the subsequent 'busts' as these sectors declined.

"Although the state economy suffered when oil drilling activity dropped and military aircraft production declined, Topeka's economy was affected much less.

"Even the agricultural recession of the mid 1980s was much less of a factor for Topeka than most Kansas communities. Therefore, the Topeka economy and the local apartment market are expected to perform in line with national economic trends."

Rinner said the recent survey couldn't be compared with past apartment surveys because data on those came from a different source. He said earlier surveys only included larger apartment projects. He said the recent survey included all multiple-family housing units, from homes converted into apartment houses to duplexes and large apartment complexes.

"It's supposed to be very inclusive," Rinner said.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

SUBSTITUTE HB 2679

MARCH 26, 1990

Madam Chairperson and Members of the Committee:

My name is Janet Stubbs, Executive Director, for the Home Builders Association of Kansas.

We are in opposition to this legislation based upon the authority given to local units of government in lines 27 and 28.

We believe cities and counties currently have the authority to establish a housing trust fund without this legislation. We do not believe they have the authority to increase building permits over the amount necessary for providing this service.

Therefore, this legislation would authorize increasing fees on anyone purchasing and/or constructing a home to provide funding for the Housing Trust Fund.

It is our position that if a governing body determines it to be good public policy to establish a Housing Trust Fund then it should be structured to ensure that all members of the public bear the financial responsibility. The individuals who have worked and saved to purchase a home should not be singled out.

We ask the Committee to strike all the language in lines 27 and 28 beginning with the word "mortgage".

HOUSE FEDERAL & STATE AFFAIRS
March 26, 1990
Attachment No. 13