

Approved July 8, 1991  
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at  
Chairperson

1:00 ~~xxx~~/p.m. on Tuesday, April 9, 1991 in room 526 - S of the Capitol.

All members were present except:

- Representative Rand Rock - Excused
- Representative J.C. Long - Excused

Committee staff present:

- Mary Torrence - Office of the Revisor, Kansas
- Mary Gillgan - Kansas Legislative Research Department
- Lynne Holt - Kansas Legislative Research Department
- Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

- SB 194 - Proponents
  - Gene Yockers, Director, Kansas Real Estate Commission
  - Karen France, Director, Govt. Affairs, Kansas Association of Realtors

- SB 232 - Proponents
  - R.E. "Tuck" Duncan, Kansas Retail Liquor Dealers Assoc.
  - Kansas Beer Wholesalers Assoc.
  - Kansas Wine and Spirits Wholesalers Assoc.
  - Anheuser-Busch
  - Wine Institute
  - Kansas Outdoor

- HB 2517 - Proponents
  - Representative Tom Bishop, Sedgwick County, Kansas
  - Carol Morgan, Deputy Secretary, Kansas Department of Commerce

- SB 5 and SB 427 - Proponent
  - Ramon Powers, Executive Director, Kansas State Historical Society

Chair Sebelius called the meeting to order.

SB 194  
Gene Yockers, as a proponent of SB 194, explained the different aspects of the bill by reading from his written testimony, Attachment #1.

Karen France appeared as a proponent of SB 194, and read from her written testimony, Attachment #2.

Committee Discussion:

- In response to a question from one Committee member, Karen France explained that in existing law there is a prohibition against offering prizes, gifts, and gratuities for the purpose of inducing a person to purchase property, and everything is contingent on that. She pointed out that what this amendment does is clarify that in regards to buyers' agencies, you cannot authorize gifts or gratuities that are contingent on taking on any kind of agency representation, which is not any major policy change. It just extends the law to buyers' agencies.

SB 232  
Attachment #3, is written testimony from Jim Conant, Alcoholic Beverage Control, in support of SB 232, which clarifies the right of all law enforcement officials to have immediate access to club & drinking establishment premises. His testimony stated that it also gives the local governing bodies an opportunity other than through licensing and zoning laws to express the communities concern over location and/or conduct of premises without compromising the applicants right to a fair hearing.

Attachment #4, is written testimony from Mayor Shirley Martin-Smith, City of Lawrence, in support of SB 232.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:00 ~~xxx~~/p.m. on Tuesday, April 9, 1991

R.E. "Tuck" Duncan appeared in support of SB 232 with the exception of an amendment that he offered in balloon form, Attachment #5. He explained that the amendment would allow the continuation of outdoor advertising by supplier while prohibiting handbills and retail liquor dealers, and provides a definition of billboard.

HB 2517

Representative Tom Bishop appeared before the Committee to explain that HB 2517 would create a Kansas State Housing Trust Fund in anticipation of new federal monies for the creation of private partnerships in housing. He read from his written testimony, Attachment #6, in support of the bill. He also handed out a copy of Substitute HB 2517, which establishes the fund to receive gifts, grants, donations and fees from the federal program, Attachment #7.

Committee Discussion:

1. There are distribution formulas for the state to meet in the federal requirements, so whatever will be funded with the state housing trust fund would be truly a statewide program. It will not go only to the urban areas. This will help smaller cities and rural areas, which do not already have components like entitlement cities to set up a trust fund to receive monies and dedicated revenue for this type of federal program.
2. Matching funds provided by the State can be deferred revenue, gifts, grants, or a variety of things. There is no plan to ask for state general fund money at this time, but it is possible that in the future those funds may be requested to be used as the match. The federal government does allow the sell of bonds to qualify as match, but there is nothing in this bill that authorizes KDFFA to do anything beyond what they are presently enabled to do.

Carole Morgan appeared before the Committee in support of HB 2517. She handed out written testimony to this effect, Attachment #8.

Committee Discussion:

1. The Comprehensive Housing Finance Strategy must be submitted to H.U.D. by October 31, 1991 from the Kansas Department of Commerce.
2. In regards to the new Section 1 on substitute HB 2517, the definition of develop and operate housing finance programs from other housing programs simply allows the Department of Commerce to operate directly the Mortgage Credit Certificate Program, which the new Section 1 makes possible. Also, the new Section 1 will give Department of Commerce the authority to do bonding.
3. When asked by a Committee member, Carol Morgan explained that she did not feel that a trust fund needed to be set up for expenditures, but there is a possibility that it is needed for receipts. She explained that if her department was to do the mortgage credit certificate program, there will be proceeds from that activity which would need to be deposited.
4. It was added by Carol Morgan that even though the funding for this bill had yet to be appropriated, she felt that because this is a big housing effort it has support among urban people.
5. Carol Morgan pointed out that without having talked with the Revisor, she felt that if the new Section 1 were taken out, her department would still be able to go ahead with the Mortgage Credit Certificate Program.
6. Chair Sebelius explained the the Mortgage Credit Certificate Program is in place, and is now done through private contract. This language would enable the Department of Commerce to do this in house and collect fees in house as opposed to paying a private contractor to do that.
7. Representative Bishop explained that Jim Wilson is the Revisor of this bill, and that Mr. Wilson felt that the new Section 1 was needed to give authorization to change the method of running the Mortgage Credit Certificate Program. He added that this is the only difference between HB 2517 and the Substitute HB 2517. Representative Bishop added that it is possible to still do this in house without the substitute bill.

SB 5

Ramon Powers, Executive Director, Kansas State Historical Society, appeared before the Committee as a proponent of SB 5. He explained that SB 5 would eliminate the option of transferring records of the governor's office to an academic institution and would require that they be deposited in the custody of the State Historical Society. He added that the goal is to eliminate the dispersion of papers. He read from his written testimony, Attachment #9.

CONTINUATION SHEET

MINUTES OF THE \_\_\_\_\_ HOUSE COMMITTEE ON \_\_\_\_\_ FEDERAL AND STATE AFFAIRS \_\_\_\_\_,  
room 526-S, Statehouse, at \_\_\_\_\_ 1:00 ~~xxx~~/p.m. on Tuesday, April 9, 1991

SB 427

Ramon Powers appeared before the Committee as a proponent of SB 427. He explained that in the 1990 Legislative Session, HB 3097 was passed by the Legislature allowing the Historical Society to create what is called 3rd-party use of the Kansas Museum of History allowing for special events at the museum. He read from his written testimony, Attachment #10, which explained that SB 427 would make it easier to administer the operation of this program.

Representative Graeber moved to pass SB 427 favorably. Representative Smith made a second to the motion, which passed on a voice vote.

SB 5

Chair Sebelius turned the Committee's attention to SB 5 for action.

Representative Wagnon moved to report SB 5 favorable for passage. Representative Graeber made a second to the motion.

Committee Discussion:

1. One Representative commented that he liked leaving to the Governor's the discretion as to where they may want to send their papers.
2. Representative Wagnon closed on her motion by saying that these are records of the State that appropriately belong in the State Historical Society, and that when researchers from all over the country come to our State, the Historical Society is where they look.

The motion passed on a voice vote.

SB 194

Chair Sebelius turned the Committee's attention to SB 194, the Real Estate Broker and License Act, for action.

Representative Graeber moved to report SB 194 favorable for passage. Representative Smith made a second to the motion, which passed on a voice vote.

SB 232

Chair Sebelius turned the Committee's attention to SB 232, the sign bill with the amendment.

Representative Gjerstad moved to amend SB 232 to include the balloon, page 2 of Attachment #5. Representative Hamilton made a second to the motion, which passed on a voice vote.

Representative Gjerstad moved to report SB 232 as amended favorable for passage. Representative Hamilton made a second to the motion, which passed on a voice vote.

HB 2517

Chair Sebelius turned the Committee's attention back to HB 2517, regarding the Housing Trust Fund.

Representative Wagnon moved to report the original HB 2517 favorable for passage. Representative Krehbiel made a second to the motion.

Committee Discussion:

1. One Committee member shared that he remained uncomfortable with this bill, but that he did not understand why the bill had been introduced February 27th, and has been sitting this long. He added that he also was uncomfortable with the testimony from the Department of Commerce. He felt that two sentences did not tell him much, Attachment #8. He added that for the Committee to discuss intelligently and tell people what is happening, should be able to have the testimony to back it up. He added that he would appreciate more information from the Department of Commerce on this subject.
2. Another Committee member also expressed that the Department of Commerce needed better information for the Committee than what was presented.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:00 ~~xxx~~/p.m. on Tuesday, April 9, 1991

3. Chair Sebelius pointed out that even though written testimony was not lengthy, she felt that because the Deputy Secretary did show up in person and did give testimony and answer questions, that it is unfair to say whether her department supports this bill.
4. Upon request from Committee members, Chair Sebelius said she would be happy to defer Committee action on the bill, to allow Carol Morgan, Department of Commerce, to present a written copy of what she said in Committee today.

Representative Wagon withdrew her motion, and Representative Krehbiel withdrew his second to the motion.

SB 134

Chair Sebelius called the Committee's attention to SB 134, regarding telephone calling.

Representative Baker moved to report SB 134 favorable for passage. Representative Lawrence made a second to the motion, which passed on a voice vote.

SB 246

Chair Sebelius turned the Committee's attention to SB 246, which amends the consumer protection act increasing the monetary penalties from \$2,000 to \$5,000.

One Committee member stated that he would like to see the part that makes the fine higher in crimes to those 60 years and older amended back into the bill.

Representative Baker moved to report SB 246 favorable for passage. Representative Gjerstad made a second to the motion, which passed on a voice vote.

HB 2296

Chair Sebelius turned the Committee's attention to HB 2296, the locksmith license bill.

Representative Charlton moved to report HB 2296 favorable for passage. Representative Hamilton made a second to the motion.

Committee Discussion:

1. Staff from the Revisor's office suggested that Committee to amend the bill on line 19, Section 2, where the bill talks about plumbing instead of locksmiths.

Representative Charlton and Representative Hamilton agreed to include this drafting change in their motion and second to report HB 2296 favorable for passage.

Chair Sebelius called for a voice vote. Division was called for. The motion passes by a show of hands.

Chair Sebelius announced that a revised agenda adding SB 375 to the hearing scheduled for Thursday, April 11.

Representative Smith moved to approve minutes for March 4, 1991. Representative Jones made a second to the motion, which passed on a voice vote.

Chair Sebelius adjourned the meeting.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 4-9-91

(PLEASE PRINT)

NAME

ADDRESS

WHO YOU REPRESENT

NAME	ADDRESS	WHO YOU REPRESENT
<del>Walt DUNN</del>	<del>Topeka</del>	<del>KWSWA</del>
PAT BARNES	Topeka	Kansas Outdoor
Ken Follen	Topeka	OJA
Gene Yockers	Top.	KREC
KAREN FRANCE	Topeka	KAR
Tom Bishop		
Linn H. ...	Topeka	Ch...
Robert ...	Topeka	KRLPA
Carol Morgan	Topeka	KDOC
Jan Squyres	Topeka	KDOC
John ...	Topeka	Arb...
JEFF SONNICH	TOPEKA	KNLSI

House Federal and State Affairs Committee  
April 9, 1991  
Senate Bill 194

Madame Chairperson and members of the committee:

My name is Gene Yockers, and I am the Director of the Kansas Real Estate Commission.

Lines 15-17, page 1; Lines 9-10, page 5; Lines 20-21, page 8  
These amendments clarify that licensees may not act on their own behalf in a manner forbidden if they were acting as licensees. Questions have been raised under the present law. Can a licensee make a substantial misrepresentation in selling his own property and avoid discipline by the commission because he was acting as a principal? The question is: Can he take off an "agent's hat" and put on a "principal's hat"? The amendments remove any doubt. Persons licensed under the act will be subject to the provisions of the act and not excluded when they sell or buy property for their own account.

Lines 18-19 and 24-26, page 2  
This provides that the pre-license education requirement for new salespersons must have been within 12 months prior to the examination. This is presently covered by regulation and is the same as provided for the broker's pre-license course in subsection (b) of the statute.

Beginning with line 41 on page 2  
The basic continuing education requirement for both brokers and salesperson is 12 hours during a two-year renewal period. This is covered under subsection (c). Much of the language which has been stricken in this bill refers to what the requirements *would* be if renewals were on an annual basis. Language which covered a period of time when the basic requirement was 4 hours (if on annual basis) and 8 hours (if biennial) has also been deleted.

Since July 1, 1988, the requirement for new salespersons has been 50 hours of education during the first renewal period; and after the 50 hours are obtained, they fall under the 12 hour requirement. Thirty of the 50 hours is a specific post-license course designed to give new licensees the type of education they need during this critical period. The commission believes that the 30 hour course is sufficient and that the additional 20 hours should not be required. This is the purpose of the amendment in subsection (e) and would be effective for licenses issued after July 1 of this year.

HOUSE FEDERAL AND STATE AFFAIRS  
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Subsection (d) on page 3 retains the 50-hour requirement for those licensed between the 1988 effective date and the date of the change.

**Lines 20-21 on page 5**

The amendment is to make reference to the federal and state fair housing acts, instead of updating the language as additional groups are covered.

**Lines 38-39, page 5**

The amendment gives the commission authority to commence an investigation or file a complaint against a real estate licensee within three years from the date of occurrence. Currently, we are unable to commence a complaint after one year except in specified situations.

**Lines 7-18 on page 8**

The new provision gives the commission the authority to direct brokers to remit money from the trust account to the real estate recovery revolving fund under certain conditions. The common problem is that brokers hold earnest money deposits that they have been unable to disburse because of an earnest money dispute and no one files a court action.

We understand, if it is not clear who the money belongs to, it cannot be paid to the state treasurer under the unclaimed property act. In most of these cases, that's the reason it remains in the trust account!

**Lines 10-11, page 10**

A licensee is prohibited from offering prizes, gifts or gratuities which are contingent on listing real estate -- or on the purchasing or leasing of real estate. A "listing agreement" is with the seller of the property. The change to "agency agreement" is to also cover a licensee's agreement with a buyer. The amendment also covers the sale of real estate in addition to purchase or lease.

**Lines 41-43 page 10 and 1-3 page 11**

Some brokers hold deposits on the purchase of lots which is not designated as earnest money. The amendment is to provide for the same deposit requirement as for earnest money.

Lines 21-27 on page 11

The rebates and inducements related to title insurance are already prohibited under the unfair or deceptive acts in the insurance code. The amendment would allow the real estate commission to take disciplinary action against real estate brokers who accept such rebates or inducements.

Lines 27-37 on page 12

The provisions in the new language are currently in regulation 86-3-21. However, the regulation is only applicable to real estate brokers who elect not to have trust accounts and whose contracts provide for earnest money to be held by a "third party" escrow agent. The provision requires the listing broker to deliver the contract and earnest money check to the escrow agent within five business days and to obtain a receipt from the escrow agent. The provisions are applicable to all contracts that provide for earnest money to be placed with a third party escrow agent.

The Kansas Real Estate Commission respectfully requests that this bill be passed out of committee favorably.





Executive Offices:  
3644 S. W. Burlingame Road  
Topeka, Kansas 66611  
Telephone 913/267-3610

TO: THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE  
FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS  
DATE: APRIL 9, 1991  
SUBJECT: SB 194 KANSAS REAL ESTATE LICENSE LAW

Thank you for this opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear today to support SB 194. The bill was requested by the Kansas Real Estate Commission in order to clarify a variety of problems which have come up in their attempts to enforce the Real Estate License Law.

We support the changes proposed in the bill as it stands now. The changes will clarify various issues for both the Real Estate Commission and for real estate licensees. We see no need for further amendment and ask that you pass the bill out favorably in its current form.

HOUSE FEDERAL AND STATE AFFAIRS  
April 9, 1991  
Attachment #2 - Page 1



KANSAS DEPARTMENT OF REVENUE  
*Division of Alcoholic Beverage Control*  
Topeka, Kansas 66612-1584

MEMORANDUM

**TO:** House Committee on Federal and State Affairs

**FROM:** Jim Conant, Chief Administrative Off.  
Alcoholic Beverage Control Division

**DATE:** April 9, 1991

**SUBJECT:** Senate Bill 232

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Thank you for your attention to this testimony in support of Senate Bill 232. This bill would enhance the ABC Division's ability to thoroughly evaluate an applicant or licensee's qualifications and potential to operate an on-premise establishment in a manner which is not detrimental to the community in which it is located.

As amended by Senate Committee, Section 1 of the bill clarifies the right of all law enforcement officials to have immediate access to club and drinking establishment premises. While ABC has historically interpreted the statute in the manner described, the proposed amendment to K.S.A. 1990 Supp. 41-2613 clearly removes any doubt regarding the interpretation of this law.

The most promising aspect of the bill is found in New Section 2. This section allows the governing body of a city or county to have a voice in the state licensing process, before a club or drinking establishment becomes a source of continuing problems for the community. Cities and counties may currently exercise some control in this area by enacting licensing and zoning laws at the local level. The bill, however, would provide local governing bodies with an additional opportunity to express the community's concern over the location or conduct of premises subject to state licensing, without compromising the applicant's right to a fair hearing.



# City of Lawrence KANSAS

CITY COMMISSION

MAYOR

SHIRLEY MARTIN-SMITH

COMMISSIONERS

ROBERT L. WALTERS

DAVID PENNY

MIKE RUNDLE

BOB SCHUMM

MIKE WILDGEN, CITY MANAGER

CITY OFFICES

6 EAST 6th

BOX 708

66044-0708

913-841-7722

To: Chairperson Kathleen Sebelius and members of the House  
Federal and State Affairs Committee  
From: Mayor Shirley Martin-Smith, City of Lawrence  
Date: April 4, 1991  
Re: Senate Bill 232 -- Amendments to Licensed Premises  
Law

As Mayor of the City of Lawrence, Kansas I appear before you today representing the City's strong support for Senate Bill 232. The proper regulation of licensed premises requires a strong partnership between state and local officials, and we urge this Committee's serious consideration of Senate Bill 232 which strengthens the tools both state and local officials can use to regulate problem licensed premises.

Senate Bill 232, as amended in the Senate, contains two major sections, which I will address in my testimony.

Most private clubs and drinking establishments, are operated in a manner that is neither a threat to public safety nor a problem for state or local law enforcement officials. However, a few clubs and bars do operate in a manner which harms the surrounding neighborhood, endangers the public safety, and creates a burden on local law enforcement officers. In 1990 the Lawrence Police Department reported 145 serious incidents in or near private clubs and drinking establishments, 44 of these incidents were related to one particular private club. These problems illustrate the importance of the provisions of Senate Bill 232.

Section 1 -- Amending K.S.A. 1990 Supp. 41-2613 to clarify law enforcement right of entry to licensed premises.

In enforcing applicable state and local laws regarding licensed premises, our law enforcement officers have been challenged with an opinion by an attorney representing a private club that K.S.A. 41-2613 only allows entry when the club is open for business. While our legal counsel and Alcoholic Beverage Control (ABC) officials disagree with this interpretation, we urge the Legislature to amend the statute to make it abundantly clear that law enforcement entry is not limited to hours of operation but shall also apply during hours when the club is not open for business. Any other reading of the statute greatly harms the ability of law enforcement officers in the performance of their duties.

HOUSE FEDERAL AND STATE AFFAIRS

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Attachment #4 - Page 1



New Section 2 -- Allowing local government notice and participation in licensing decisions.

This section allows the state to notify cities and counties after their request of applications for license or renewal. This should not create an unreasonable burden on Alcoholic Beverage Control because such notification will only be to local units of government that have requested the notification. The remainder of New Section 3 allows local governments to participate in a hearing on the license and state officials to consider the testimony and evidence in granting or refusing the license. It is appropriate to involve concerned local government officials in these decisions given the impact licensed premises operations can have on a community.

The City of Lawrence appreciates the opportunity to share our concerns with the Committee, and strongly urges your favorable report of Senate Bill 232.

April 4, 1991

To: House Committee of Federal and State Affairs  
RE: SB 232

The undersigned respectfully request that the Committee amend Senate Bill 232 in accordance with the "balloon" attached hereto.

The undersigned in working with the author of the amendments to House Bill 2571, and after consultation with the Alcoholic Beverage Control, believe that this proposal represents a fair compromise to the concerns expressed by the Alcoholic Beverage Control in enforcing K.S.A. 41-714 as a result of Attorney General's Opinion Number 89-89 which interpreted the law amended in 1988 to allow advertising of the price and brand name of alcoholic liquor by any means.

This amendment would reinstitute the prohibition against advertising alcoholic liquors by handbill, would allow the continuation of outdoor advertising by suppliers while prohibiting liquor retailers using billboards, and provides for the first time a definition of a billboard. This definition is taken from the Code of the City of Topeka as used in its zoning regulations. The amendment continues the prohibition against the display of alcoholic liquor in the window of licensed premises and removes the one sign limitation imposed on licensed retail liquor dealers. The amendment includes technical changes that delete unnecessary date references and includes at line 43 the clarification requested by the Alcoholic Beverage Control necessitated by the Attorney General's Opinion.

The Alcoholic Beverage Control has indicated that these proposed amendments will satisfy their concerns and provide them with an enforceable law. Your attention to and consideration of this matter is appreciated.

Respectfully submitted,

Kansas Retail Liquor Dealers Association  
Kansas Beer Wholesalers Association  
Kansas Wine and Spirits Wholesalers Association  
Anheuser-Busch  
Wine Institute  
Kansas Outdoor

HOUSE FEDERAL AND STATE AFFAIRS  
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Attachment #5 - Page 1

HOUSE BILL No. 2571

By Committee on Federal and State Affairs

3-11

9 AN ACT concerning alcoholic liquor; relating to advertising; amend-  
10 ing K.S.A. 1990 Supp. 41-714 and repealing the existing section.  
11

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

13 Section 1. K.S.A. 1990 Supp. 41-714 is hereby amended to read  
14 as follows: 41-714. (a) It shall be unlawful for:

15 (1) Any person to advertise any alcoholic liquor by means of  
16 handbills;

17 ~~(2) any person to advertise any alcoholic liquor by means of~~  
18 ~~billboards along public highways, roads and streets or for any owner~~  
19 ~~or occupant of any property to permit any billboard advertising~~  
20 ~~alcoholic liquor to remain on the property; or~~

21 (3) any retailer of alcoholic liquor to have any sign on the  
22 licensed premises in violation of subsection (b); or

23 (4) (3) any licensee to display alcoholic liquor in any window of  
24 the licensed premises.

25 (b) No retailer shall have more than one sign on the licensed  
26 premises. The sign shall contain nothing but the license num-  
27 ber, the name of the retailer and the words "Retail Liquor  
28 Store." No letter or figure in the sign shall be more than four  
29 inches high or three inches wide. If more than one line is  
30 used, the lines shall be not more than one inch apart. The sign  
31 shall be placed on the corner of a window or on the door.

32 (e) (b) The provisions of this section shall not be interpreted to  
33 prohibit the advertising of a microbrewery or farm winery; but be-  
34 fore July 1, 1989, no advertising of a farm winery shall advertise  
35 the sale of wines by the winery or the prices of those wines  
36 and before July 1, 1989, no advertising of a microbrewery shall  
37 advertise the sale of beer by the brewery or the prices of that  
38 beer. Any advertising of a farm winery or microbrewery shall be  
39 subject to approval by the director prior to its dissemination.

40 (d) (c) On and after July 1, 1989, The provisions of this section  
41 shall not be interpreted to prohibit advertising of the price of any  
42 alcoholic liquor or advertising of any alcoholic liquor by brand name,  
43 other than by means declared unlawful by subsection (a), and no

(2) Any retailer of alcoholic liquor to  
advertise any alcoholic liquor by means  
of billboards along public highways  
roads and streets or to have any  
billboard on the licensed premises which  
advertises alcoholic liquor. A billboard  
as used in this section shall mean any  
board or panel erected, constructed or  
maintained for the purpose of displaying  
outdoor advertising by means of painted  
letters, posters, pictures and pictorial  
or reading matter, either illuminated or  
nonilluminated, when such sign is  
supported by uprights or braces placed  
upon the ground or a building affixed  
thereto. The term "advertising" shall  
not be deemed to include statements  
pertaining to a business conducted within  
or on the premises on which the sign is  
maintained.

HB 2571—Am.

2

1 rule and regulation adopted hereunder shall prohibit such  
2 advertising.

3 (e) (d) The secretary of revenue may adopt, in accordance with  
4 K.S.A. 41-210 and amendments thereto, rules and regulations nec-  
5 essary to regulate and control the advertising, in any form, and  
6 display of alcoholic liquor and nothing contained in this section shall  
7 be construed as limiting the secretary's power to adopt such rules  
8 and regulations not in conflict with this act.

9 Sec. 2. K.S.A. 1990 Supp. 41-714 is hereby repealed.

10 Sec. 3. This act shall take effect and be in force from and after  
11 its publication in the statute book.

THOMAS A. BISHOP  
"TOM"  
REPRESENTATIVE, 91ST DISTRICT  
SEDGWICK COUNTY  
1500 W. 32ND N.  
WICHITA, KANSAS 67204



COMMITTEE ASSIGNMENTS  
MEMBER: ECONOMIC DEVELOPMENT  
GOVERNMENTAL ORGANIZATION  
PUBLIC HEALTH AND WELFARE  
ADVISORY COUNCIL ON AGING

TOPEKA  
—  
HOUSE OF  
REPRESENTATIVES

To: Members of the House Committee on Federal and State  
Affairs

From: Rep. Tom Bishop

RE: Background on Substitute HB 2517

Date: April 9, 1991

S.H.B. 2517

Creates a Kansas State Housing Trust Fund

Authorizes Commerce to receive grants, gifts and fees  
from programs to go to this fund

Enables the Department of Commerce and Kansas  
Development Finance Authority to coordinate finance  
programs for the purpose of affordable housing

Creates a Housing Trust Fund to match Federal programs

Why a State Housing Trust Fund Now?

1. New federal programs require a comprehensive state plan  
and matching funds or existing federal funds will be lost.

Projected Kansas allocation of HOME funds  
\$4,327,000

Rehabilitation 25% match  
Substantial Rehab 33% match  
New construction 50% match

2. A State Housing Trust Fund will make resources and  
programs available to all areas of the state, not just urban  
areas. A local trust fund bill was passed last session.

HOUSE FEDERAL AND STATE AFFAIRS

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Attachment #6 - Page 1

3. It will cost Kansas consumers and taxpayers less and provide more benefit at less overall cost. Fund will be all fee and dedicated revenue. No general budget tax dollars will be used.

Example: Mortgage Credit Certificate Program  
1989- Contracted to private firm  
Cost to 1,114 families- \$1,100,000  
According to KU study program could be run by one less than full time state employee.

4. S.H.B. 2517 is economic development. The Fund will enable more construction activity and jobs, provide funds for first time homebuyers thus expanding the tax base, and bring additional dollars and jobs to Kansas.



## Substitute for HOUSE BILL NO. 2517

By Committee on Federal and State Affairs

AN ACT relating to housing; establishing the state housing trust fund; providing for administration of the fund by the office of housing of the department of commerce; authorizing receipt of certain grants, gifts and donations; providing for certain financing.

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

New Section 1. The secretary of commerce is hereby authorized to develop and operate housing finance programs and other housing programs and services for single-family and multi-family housing and affordable and accessible housing, including a mortgage credit certificate program and a mortgage revenue bond program and to fix, charge and collect service fees for such programs, which programs may be conducted in conjunction with the Kansas development finance authority.

New Sec. 2. (a) There is hereby established in the state treasury the state housing trust fund. All moneys credited to the state housing trust fund shall be used for the purposes of housing programs and services including, but not limited to, for single-family and multi-family housing and the provision of financial programs for the repair, rehabilitation and improvement of existing residential housing, accessibility modifications, rental subsidies and the provision of housing services and assistance to persons having low or moderate income and disabled persons and the expenses of the department of commerce related to such purposes.

(b) The state housing trust fund shall be administered by the office of housing of the department of commerce. All expenditures from the state housing trust fund shall be in accordance with appropriations acts upon warrants of the director

of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or the secretary's designee.

(c) The office of housing and the department of commerce are hereby authorized to apply for and receive available public or private grants, gifts and donations for the purposes of housing programs and services. All such grants, gifts and donations, which are not required to be deposited in a separate special revenue fund, and all service fees received under section 1 shall be deposited in the state treasury to the credit of the state housing trust fund.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

House Bill 2517

Testimony of

Kansas Department of Commerce

April 9, 1991

We support the establishment of a state housing trust fund to be administered by the Office of Housing in the Department of Commerce.

Such a trust fund could hold the funds from sources cited for use in state housing programming as authorized by current statute.

TESTIMONY CONCERNING SENATE BILL NO. 5

Presented to the House Committee on Federal and State Affairs  
by Terry Harmon, Assistant State Archivist  
April 9, 1991

I appreciate very much this opportunity to appear before the committee as a representative of the Kansas State Historical Society.

K.S.A. 75-104 currently allows each governor to designate an "institution of post secondary education" in Kansas as the repository for most records of the governor's office created during his or her gubernatorial administration. This could be any state university, community college, municipal university, or private college or university which is "approved by the state board of regents to award academic degrees." If no such academic repository is designated by the governor, the records must be transferred to the custody of the State Historical Society at the end of the governor's term of office or upon the death of a governor while in office.

S.B. 5 would amend K.S.A. 75-104 in order to eliminate the option of transferring records of the governor's office to an academic institution and would require that they be deposited in the custody of the State Historical Society.

It is appropriate for colleges and universities to develop special collections of manuscripts, rare books, photographs, and other library materials. The State Historical Society welcomes competition from academic institutions in collecting the papers of individuals, corporations, social organizations, etc. It is appropriate, moreover, for each state university to set up an archives program for preservation of its own records possessing enduring value. We believe, on the other hand, that in order to have an effective state archives program, the records of other state agencies must be assembled in a centralized repository. K.S.A. 45-405 gives the responsibility of serving as such a centralized repository for the state archives to the State Historical Society.

Records of the governor's office are not simply personal papers which a governor should be able to bestow on his or her alma mater as a gesture of good will. They were created at public expense largely by the governor's staff, and they document the official actions and policies of a state agency. Correspondence and other documents found in the files of the governor's office sometimes have important legal and administrative value. When proceedings in the important *Brown v. Topeka Board of Education* case and the *Kansas v. Colorado* case were reopened during the past few years, attorneys for both the plaintiffs and the defendants made thorough searches for relevant documents in the state archives holdings, including records of the governor's office. Needless to say, it would be very cumbersome if attorneys, historians, and

other persons needing information in these important records had to travel to colleges and universities scattered around the state in order to conduct their research.

It should be noted, moreover, that storing the large quantities of records created by the governor's offices requires substantial storage space which is not available to most colleges and universities. Properly arranging large quantities of government records, determining which documents should be retained, preparing finding aids for them, and retrieving requested items are difficult tasks requiring considerable labor by personnel with archival training and experience. The current statute creates the potential for academic libraries to receive offers of records from governors which are difficult to refuse for political reasons but for which they are ill-equipped.

Adoption of S.B. 5 certainly would be a step in the right direction from an archival point of view, but it is not an ideal solution to the problems presented by the current provisions of K.S.A. 75-104. Deciding which records merit permanent preservation should be an administrative function, and the legislature has established a State Records Board to make such determinations, with the assistance of the state archives staff. Thousands of different types of records are created by state agencies, and a number of diverse factors must be considered in making decisions about the enduring value of each. It would not be feasible for the legislature to study these mundane matters carefully and incorporate retention and disposition schedules in the statutes. Yet that is just what the legislature attempted to do in subsection 1(a) of K.S.A. 75-104. Subsection 1(c) provides for determinations by the State Records Board regarding the enduring value of financial records. Then subsection 1(e) contains the implicit (and false) assumption that all other records created by the governor's office merit permanent preservation.

It would be much simpler, and much better records management, to repeal most existing provisions of K.S.A. 75-104 and replace them with a simple statement that decisions regarding disposition of records of the governor's office shall be made by the State Records Board pursuant to K.S.A. 75-3501 et seq. and 45-401 et seq. This would make disposition of records of the governor's office part of the same records management system which exists for other state agencies, would help avoid the preservation of documents lacking enduring value, and would prevent scattering of some of the state's most valuable archival resources.

This committee might also want to consider changing the provisions of subsection 1(e) on lines 17-23 of page 2 of S.B. 5. The reference to "records, correspondence or other papers which are not required to be disclosed under K.S.A. 45-221" is confusing. Rather than requiring disclosure of records, K.S.A. 45-221 authorizes agencies to refuse to disclose specified types of

records. Attorneys in the revisor's office and the office of the attorney general recently stated in informal conversations that this provision enables a former-governor to control access only to the types of records listed in K.S.A. 45-221, but that does not seem to be what this provision of the statute literally says. If subsection 1(e) were revised to state clearly that records of the governor's office are subject to the provisions of the Open Records Act, it would provide ample protection for 70 years against disclosure of the types of records listed in 45-221 which sometimes contain sensitive information. John Carlin, incidentally, has recently decided to provide full access by researchers to all the records of his administration, totalling more than 800 cu. ft., which have been deposited in the state archives.

On numerous occasions during the past 13 years I have appeared before this committee to support adoption of statutory changes needed to strengthen the state archives program. The House Committee on Federal and State Affairs has played an important role in creating the statutory framework for preserving state and local government records with enduring value and for granting adequate public access to them. A favorable recommendation for S.B. 5, or perhaps a revised version of the bill, would be one more significant step in the development of a satisfactory state archives program for Kansas, and it would be appreciated very much.

Testimony to the House Federal and State Affairs Committee on S.B. 427, by Ramon Powers, Executive Director, Kansas State Historical Society, April 9, 1991.

In the 1990 Session, the Legislature enacted House Bill 3097 which authorized the Kansas State Historical Society to permit the use of its facilities by third parties for special events. We sought that authority for the purpose of promoting Kansas history by encouraging groups to meet at the Kansas Museum of History and tour the galleries as part of their meeting.

We initiated the Special Events use (i.e. Third Party use) program beginning in January, and we feel that it has been beneficial to the Society and the state of Kansas. June McMaster has been hired on a part-time basis to manage it. June is here to respond to any questions.

The amendments to S.B. 427 deletes some language that make operation of the program difficult to administer. It is clear that this program cannot be operated on an advance payment basis. Consequently, we want to develop a partnership with the Society's private corporation to manage this program. The private corporation has the ability to operate on a reimbursement basis. We have discussed this option with the Division of Purchases and it appears that such an arrangement is feasible. We would like to combine "corporate" memberships in the private corporation with special events use of the facility. The revenues from corporate memberships ultimately provide added funds for the Society and its programs. Our intent is not to make money, but to cover costs as much as possible and secure greater visitation and visibility for the Museum.

The language on lines 35 to 41 requires the balances in the fee fund created to operate this program be transferred to the General Fund at the end of the fiscal year. By requiring this transfer of funds, the special events program is not allowed to apply revenues to the overall maintenance and enhancement of the Museum facility. Again, the purpose of this program is to promote the Kansas history, the State of Kansas, and the Society and this restriction limits our ability to manage the program.