

Approved 2-27-91  
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Sen. Edward F. Reilly, Jr. at  
Chairperson

11:00 a.m./~~p.m.~~ on February 26, 1991 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Mary Galligan, Legislative Research Department  
Mary Torrence, Office of Revisor of Statutes  
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Mr. Jim Yonally, Kansas Library Association  
Dr. Terry Harmon, Kansas State Historical Society  
**Mr. Duane Johnson**, Kansas State Librarian  
Mr. Robert Walter, Kansas Library Network Board  
Ms. Jeanne Kutzley, Asst. Attorney General, Consumer Protection Division  
Mr. Jonathan Becker, Association of Community Arts Agencies of Kansas  
Mr. Sherman Parks, Secretary of State's Office

The minutes of the February 21, 1991, meeting were approved.

Hearing on: SCR 1614 - Use of acid-free paper for printing certain types of state records and other matters.

Mr. Jim Yonally, Kansas Library Association, appeared in support of the bill. He distributed the association's 1991 Legislative Priorities paper and referred to item #9: "Encourage legislation requiring materials of enduring value printed with state funds to be produced on permanent paper." (Attachment 1)

Dr. Terry Harmon, Kansas State Historical Society, said the study envisioned by SCR 1614 would be an initial step toward addressing what has become a nationwide crisis with shelves of archives and libraries filled with material that is brittle and crumbling. (Attachment 2) Also attached to his testimony is a copy of the Joint Resolution by Congress addressing the preservation crisis.

He exhibited a file copy of a letter from Gov. Arthur Capper, 1918, to demonstrate the problem of preserving old documents.

Dr. Harmon was asked about the cost factor and said that the process is no more expensive than processing acidic paper. As there is more demand, there will be more mills producing acid-free paper.

The Chairman asked Dr. Harmon and staff to prepare amendments which would address the concerns of the State Historical Society.

Mr. Duane Johnson, Kansas State Librarian, said when this proposal was SB 4, he offered testimony to endorse it. He endorsed Dr. Harmon's testimony. He said the switch could be made to acid-free paper with no significant increase in cost; the study of the availability is a worthwhile undertaking and an important step in the overall records management of the state. This fits into the scope of the State Records Board. The Board has schedules of length of life of various documents. He clarified that acid-free paper and permanent paper are not the same; acid-free is less durable, though less expensive. Some documents merit using permanent paper.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,  
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on February 26, 1991

Though manufacturers will produce the acid-free paper as there is a demand for it, the study would allow us to develop a policy that addresses the preservation issue.

Mr. Robert Walter, Kansas Library Network Board, said SCR 1614 is an important step in rectifying the most common cause of lost information today and that the preservation of information that forms our cultural and political heritage is of extreme importance. (Attachment 3) He tore a sheet from an old book and showed how it just fell apart when folded. He has talked with several paper vendors who told him acid-free paper is actually cheaper to produce. He echoed Dr. Harmon's concern that many important records are not printed ones. He spoke of his interest in recycled paper. Creating recycled paper using both acid-free and acidic paper will produce acidic. Three mills in the country produce postconsumer alkaline paper. The study group should not try to determine what is or is not to be printed on acid-free paper; that should be left to the agencies. It should keep flexible to allow for new technology. He expressed concern that due to the large amount of communication that is now done electronically there may be a big gap in records.

Hearing on: SB 245 - Concerning certain charitable organizations; relating to registration requirements.

Ms. Jeanne Kutzley, on behalf of Attorney General Robert Stephan, said this bill was requested as a clean up to the Charitable Organizations and Solicitations Act. Organizations which do not raise more than \$100,000 would now be exempt from registration with the Secretary of State's Office, and a professional fundraiser would no longer disqualify them from exemption. (Attachment 4)

Mr. Johnathan Becker, Association of Community Arts Agencies of Kansas, presented testimony in support of the bill saying that the current regulation requires duplication of reports already required by state and federal sources of public funds. (Attachment 5)

Mr. Sherman Parks, Secretary of State's Office, spoke in support of the bill and offered balloon amendments. (Attachment 6)

Mr. Sherman Parks requested introduction of a bill concerning the UCC. It would provide that a FIEN and/or SSN be used with a person's name when filing financing statements to ease in the search for debtors.

A motion was made by Senator Morris and seconded by Senator Bond to introduce the bill. The motion carried.

The meeting was adjourned at 12:00 noon.



**9. Encourage legislation requiring materials of enduring value printed with state funds to be produced on permanent paper.**

1) the use of permanent paper for bound copies of legislative publications (Session Laws, House and Senate Journals, etc.); annual reports of all agencies and agency subdivisions; bound copies of judicial proceedings (Kansas Reports, etc.); and all publications of a serial or periodic nature, including titles in series;

2) that the purchase of photocopy paper for use by state agencies be alkaline paper;

3) that state agencies use alkaline paper for all records designated for permanent retention in agency records retention schedules; and

4) that the Division of Purchases' bid specifications for alkaline paper meet or exceed the ANSI standards for permanent paper.

**10. Encourage the Kansas Legislature to direct the Legislative Coordinating Council to implement a Summer 1991 interim study to improve Kansas libraries by amending and recodifying the existing Kansas Library Laws and have recommendations for the 1992 Legislative Session.**

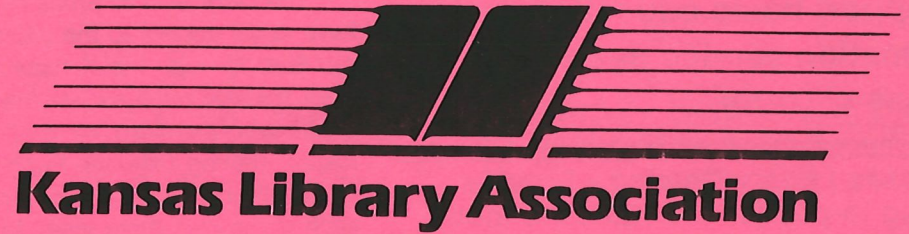
State statutes concerning library laws have not seen a comprehensive revision since 1951. Over the years, special legislation enacted has created needless complexity and confusion in the interpretation and application of these laws as well as in the delivery of library services. The situation as it now stands has created insufficient, inequitable support of libraries and unequal access to library information services throughout the State of Kansas. During the first few months of 1990, a ten-member citizen task force appointed by the State Library Advisory Commission to conduct public hearings to study state-wide problems in public library services recommended that the State Library should sponsor and support an independent, contracted study for the evaluation of Kansas library laws and funding. During the 1990 Governor's Conference on Libraries and Information Services over one hundred delegates representing the various interests and areas of the State of Kansas passed a resolution recommending that the Kansas Legislature implement a summer 1991 interim legislative study on library laws and funding.

*A good library is a source of strength in your community. The library, as a local link to a vast information system, assists citizens of all ages in self improvement and assists business and industry in economic development. The long term economic health of Kansas depends on an effective information management system for education, research and economic development. State government, working with libraries and other education and research institutions, should be a strong participant in this system of information communication and management. To achieve this strength from which all will benefit, the Kansas Library Association is asking for your support. Please give us your vote when library issues are before the legislature.*

**KANSAS LIBRARY ASSOCIATION**

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Hutchinson, KS 67501  
316-663-2501

**CHARLES PERDUE**  
KLA Legislative Chairman  
Kansas City KS Public Library  
625 Minnesota Avenue  
Kansas City, KS 66101



**1991**

**LEGISLATIVE PRIORITIES**

**Kansas Libraries**

**For Education, Economic Development  
and a High Quality of Life**

**Quality Libraries,  
Quality Life**

Senate F&SA  
2-26-91  
Att. 1

5745A  
8-26-91  
Att 1

1-4

The following actions are requested from state government to support basic education and information service needs of Kansas citizens:

**1. Kansas Library Catalog - Provide funding to publish the KLC, the index of statewide library holdings, at least two times each year and increase funding from state government to provide telecommunications access for all libraries to this invaluable research and education tool.**

The research and education materials owned by all types of libraries in the state are a resource for economic development and individual citizen self-improvement which is not fully utilized. The research power of this information resource can be effectively made available to researchers, students and other citizens only through more frequent publication of the catalog or through online access to the computer which holds the catalog's database. The value of the catalog diminishes as data is allowed to become out of date. The catalog is edited and updated with each publication. The leadership and financial support of state government is needed to make the full value of this resource available. State government should recognize that the KLC is a state resource of immense education and economic development value. Funding in the amount of \$1,345,755 for the continued support of the Kansas Library Catalog and the related Kansas Information Network is the Kansas Library Association legislative objective.

**2. Create a matching grant fund to assist 540 school, college and public libraries to purchase the equipment**

**which would enable these libraries to use the Kansas Information Network.**

The citizens in all areas of the state should have equal access to the information services provided through the Kansas Information Network. Most libraries need assistance to purchase the equipment necessary for participation in this information sharing network. Each unit of this equipment will cost \$4,100. The budget authorization each of the next three years to support 50% of the purchase of 180 units each year, or an annual amount of \$369,000 is the Kansas Library Association legislative objective.

**3. Increase state general fund support for the grant-in-aid program for city and system libraries.**

Through five steps of funding increase, Kansas should achieve the national average of state government grant support to local libraries. To assist local libraries in fulfilling education and other information service responsibilities, minimum annual increases to the grant-in-aid program of \$714,009 for each of the five years of this program are necessary. This level of funding, combined with the funding of the Interlibrary Loan Development Program, will bring Kansas to the 1988 \$2.19 per capita national average of state grant support to libraries. Of the first annual step, the Governor and the 1989 Legislature funded \$348,100. To complete the funding of the first step of this equalization program, \$1,333,554, an increase of \$365,909 of state general fund support is the KLA legislative objective.

**4. Increase state general fund support for the Interlibrary Loan Development Program.**

Inadequate research and education holdings in libraries throughout the state continues to be a severe limitation on effective library service in Kan-

sas. To overcome this inadequacy, the original goals of the ILDP must be achieved. The ILDP improves library information collections, helps the coordination of purchasing to reduce duplication and encourages all circulating library materials to be available to the statewide interlibrary loan network. Five steps of funding increase of \$120,000 are necessary to bring this program to the \$1,200,000 level documented to be necessary to achieve adequate library collection improvement. The Governor and the 1989 Legislature allocated an increase of \$50,000 for this program. To continue the effort for this program, an additional \$120,000 is the KLA legislative objective.

**5. Increase state general fund support for the Kansas Talking Book Service, the library program for blind and physically handicapped citizens, for the statewide delivery of which state government contracts with six local providers.**

Through annual steps of funding increase, state government should achieve a fair level of compensation to the six local service providers by increasing the total of these payments by \$250,000. The Talking Book Service supplies recorded information in tape or disk formats to those who cannot use printed information. The Governor and the 1989 Legislature allocated 130,000 for this program improvement. To continue the effort for this program, an additional \$50,000 of state general fund support is the KLA legislative objective.

**6. Amend K.S.A. 75-2551 to increase the levy authority of the Regional Systems of Cooperating Libraries to 5 mills.**

The regional library systems are charged by statute to extend services to all types of libraries. The systems are also expected to equalize citizen

access to information services in all areas of the state. The current mill levy authorization is severely inadequate to fulfill the essential objectives. To increase the system's mill levy authority to 5 mills, with 2 mills of this amount pledged to support participating libraries for services provided by the participating libraries to the system's residents is the KLA legislative objective.

**7. Amend budget limitation statutes to increase the levy authority of public libraries**

The recently concluded Task Force on Equity in Library Service and Funding identified that a severe problem for effective information service in the state is the chronic low funding of all public libraries. The task force received extensive testimony and evidence that public libraries of all sizes cannot purchase adequate information for public use, cannot adequately provide services, and cannot provide adequate numbers of staff or fairly pay existing staff. To improve library funding capability, the increase of levy authorizations for all types of public libraries is the KLA legislative objective.

**8. Increase state general fund support for the State Library's information services to state government and extension services to all types of libraries in the state.**

The Kansas Information Network and information services to and from libraries of all types throughout the state will not be complete and totally effective without an adequately staffed, equipped and funded Kansas State Library. The strengthening of the service of the State Library to state government and to all citizens by way of local libraries is the KLA legislative objective.

TESTIMONY CONCERNING SENATE CONCURRENT RESOLUTION NO. 1614

Presented to the Senate Committee on Federal and State Affairs  
by Terry Harmon, Assistant State Archivist  
February 26, 1991

Thank you for this opportunity to appear again before the committee as a representative of the Kansas State Historical Society.

The study envisioned by S.C.R. 1614 would be an initial step toward addressing in Kansas a problem which has become a nationwide crisis. During the past century most of the paper used in creating government records, printed documents, books, and periodicals has been poor in quality. Because of chemicals unnecessarily used in the paper-making process, the shelves of archives and libraries are filled with material which has become brittle and is crumbling.

In an effort to convey a better understanding of this problem, I brought with me a copy of the Senate Journal for the 1909 legislative session and a folder of correspondence of the governor's office during the administration of Arthur Capper (1915-19). If adequate time were available, I could show you numerous other types of printed documents and unpublished state government records which also are deteriorating rapidly and which therefore need expensive measures to preserve at least the information which they contain.

In 1989 I attended a conference in Washington, D.C., sponsored by the National Archives, the Library of Congress, and the National Endowment for the Humanities. This was a meeting of librarians, archivists, and other interested persons convened for the purpose of discussing this widespread preservation problem. I currently am serving on a committee appointed by the Kansas Library Network Board to study the extent of the preservation crisis in Kansas, to build public awareness of the serious problems which exist, and to prepare a statewide plan for addressing these needs.

Attached is a copy of the Joint Resolution (Public Law 101-423) which is a response by Congress to the preservation crisis. It was distributed to archivists throughout the country by Don W. Wilson, Archivist of the United States, who incidentally is a native of Kansas and a former staff member of the Kansas State Historical Society and the Eisenhower Library.

Although the State Historical Society supports adoption of S.C.R. 1614 and would be pleased to assist in the study which it envisions, we would like to suggest several revisions in the proposal. The attached federal resolution establishes the policy of using acid free permanent papers in creating "Federal records, books, and publications," but it leaves to administrative agencies the complex task of determining just which records and publications have permanent value. A feasibility study by a special committee

Senate F&SA  
2-26-91  
Att. 2

appointed by the Legislative Coordinating Council certainly would be worthwhile, but S.C.R. 1614 probably goes too far when it directs the proposed committee to determine which documents should be created on acid-free paper. Making such determinations should be an administrative function involving policy implementation, rather than policy formulation. It will require considering the enduring value of thousands of types of documents created by state government agencies. Kansas already has a State Records Board which, with the assistance of the state archives staff, makes such decisions. It is an enormous and complex task requiring comprehensive record surveys, careful communication with agency personnel, knowledge of the needs of researchers in various fields, and study of numerous other diverse factors.

It is our hope that a study conducted by the proposed special committee would reveal that use of acid-free paper in creating state government records and publications would be cost-effective and worthwhile, that the legislature then would enact a statute containing a general policy statement about the matter, and that designating the particular types of documents meriting acid-free paper would be a task left to the State Records Board as it approves comprehensive retention and disposition schedules, working in cooperation with the agencies which create records. Decisions about which records have permanent value should be made as a routine part of the state's records management system and should be subject to periodic review, not as a hasty one-shot effort by a special legislative committee.

With the copies of the attached federal resolution, Dr. Wilson also distributed to archivists throughout the country copies of his testimony in a hearing held by a subcommittee of the Committee on Government Operations of the U.S. House of Representatives. Some of his comments suggest another reason why determining when acid-free paper should be used is more difficult than one might imagine:

While certain categories of records are always designated as permanent (e.g., records that document the establishment or continuing legal basis of an agency, that document institutional functions, or that establish policy), it is not feasible to identify all permanently valuable Federal records at the time of their creation. Some records are not designated as permanently valuable until years later during the records scheduling process when it is determined that the records concern historically significant people, places, things, issues, or events. For this reason, a strong case can be made to require the use of acid-free permanent papers for all Federal records.

It is quite possible that in the near future acid-free paper will become so readily available and inexpensive it would be feasible to require that all state government records be created on acid-free paper also.

Our other concern about S.C.R. 1614 involves language on lines 10 and 29-31 which seems to imply that the committee should study only use of acid-free paper in creating printed documents. State agencies also create many unpublished records with permanent value which are endangered by embrittlement. S.B. 4, for which S.C.R. 1614 is a substitute, seemed to include unpublished records within the scope of the proposed study. It may be that the emphasis on printed documents was included in the concurrent resolution without an awareness by the Committee on Governmental Organization that the scope was being narrowed.

This effort by the legislature to begin addressing the problems resulting from use of acidic paper is appreciated very much by the State Historical Society and other institutions in Kansas responsible for preserving documentary materials. We hope the committee will approve S.C.R. 1614 after making changes in the resolution which solve the problems I have discussed.



# One Hundred First Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday, the twenty-third day of January,  
one thousand nine hundred and ninety*

## Joint Resolution

To establish a national policy on permanent papers.

Whereas it is now widely recognized and scientifically demonstrated that the acidic papers commonly used for more than a century in documents, books, and other publications are self-destructing and will continue to self destruct;

Whereas Americans are facing the prospect of continuing to lose national, historical, scientific, and scholarly records, including government records, faster than salvage efforts can be mounted despite the dedicated efforts of many libraries, archives, and agencies, such as the Library of Congress and the National Archives and Records Administration;

Whereas nationwide hundreds of millions of dollars will have to be spent by the Federal, State, and local governments and private institutions to salvage the most essential books and other materials in the libraries and archives of government, academic, and private institutions;

Whereas paper manufacturers can produce a sufficient supply of acid free permanent papers with a life of several hundred years, at prices competitive with acid papers, if publishers would specify the use of such papers, and some publishers and many university presses are already publishing on acid free permanent papers;

Whereas most Government agencies do not require the use of acid free permanent papers for appropriate Federal records and publications;

Whereas librarians, publishers, and other professional groups have urged the use of acid free permanent papers;

Whereas even when books are printed on acid free permanent paper this fact is often not made known to libraries by notations in the book or by notations in standard bibliographic listings; and

Whereas there is an urgent need to prevent the continuance of the acid paper problem in the future: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. It is the policy of the United States that Federal records, books, and publications of enduring value be produced on acid free permanent papers.

SEC. 2. The Congress of the United States urgently recommends that—

(1) Federal agencies require the use of acid free permanent papers for publications of enduring value produced by the Government Printing Office or produced by Federal grant or contract, using the specifications for such paper established by the Joint Committee on Printing;

(2) Federal agencies require the use of archival quality acid free papers for permanently valuable Federal records and confer with the National Archives and Records Administration on the requirements for paper quality;

S. J. Res. 57—2

(3) American publishers and State and local governments use acid free permanent papers for publications of enduring value, in voluntary compliance with the American National Standard;

(4) all publishers, private and governmental, prominently note the use of acid free permanent paper in books, advertisements, catalogs, and standard bibliographic listings; and

(5) the Secretary of State, Librarian of Congress, Archivist of the United States, and other Federal officials make known the national policy regarding acid free permanent papers to foreign governments and appropriate international agencies since the acid paper problem is worldwide and essential foreign materials being imported by our libraries are printed on acid papers.

SEC. 3. The Librarian of Congress, the Archivist of the United States, and the Public Printer shall jointly monitor the Federal Government's progress in implementing the national policy declared in section 1 regarding acid free permanent papers and shall report to the Congress regarding such progress on December 31, 1991, December 31, 1993, and December 31, 1995. In carrying out the monitoring and reporting functions under this section, the Librarian of Congress, the Archivist of the United States, and the Public Printer may consult with the National Endowment for the Humanities, National Agricultural Library, National Library of Medicine, other Federal and State agencies, international organizations, private publishers, paper manufacturers, and other organizations with an interest in preservation of books and historical papers.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

**TESTIMONY BEFORE KANSAS SENATE  
FEDERAL AND STATE AFFAIRS COMMITTEE  
FEBRUARY 26, 1991**

My name is Robert Walter. I am the Dean of Learning Resources for Pittsburg State University and a member of the Kansas Library Network Board's Preservation Committee. I am also currently the chairperson of the State Library Advisory Commission.

I wish to thank the Committee for the opportunity to speak to you today regarding Senate Concurrent Resolution No. 1614 that would establish a special committee for the purpose of making a legislative study concerning the advisability of using acid-free paper in the printing of certain state records.

In today's library community, the preservation and conservation of the information that forms our cultural and political heritage is of extreme importance. The KLNBS's Preservation Committee is attempting to come to grips with this issue in Kansas and as we deal with the myriad problems, I have become even more cognizant of the importance of preservation of information in its many forms. Libraries are struggling not only with the rapid proliferation of information and new technologies, but also with preserving our history for future generations.

Senate Concurrent Resolution 1614 is an important step in rectifying the most common cause of lost information today. For the past one hundred years paper used to record the activities of our society has been manufactured with a high acidic content. Many of Kansas' important state records, printed and hand written, are deteriorating as we speak and threaten to create a void in our state and national history.

Pittsburg State University is a Kansas Depository Library. Materials in this collection, like others throughout Kansas, are becoming too fragile for use. Students, faculty, and Kansas citizens regularly consult the printed materials issued by the various state agencies, including the Journals, Session Laws, and other materials generated by the Kansas Legislature. Ironically, some of the Kansas territorial documents are in better condition than those of more recent times because of the quality of the paper upon which they were printed. It is important that future generations have access to paper-based state documents so that they may be able to fully appreciate the life and times of the 1990's in Kansas as we currently look to past documents to find the roots of our government and culture. As pointed out in the text of the Resolution, the cost to ensure such access is minimal.

The study that SCR 1614 authorizes is an excellent first step in assessing the problem in Kansas. I would urge the Committee to broaden the scope of the special committee's proposed charge to consider the following points:

1) All state records are not printed. Acid-free paper should be required for other types of permanent records that might be produced by computers or be

Senate F&SA  
2-26-91  
Att. 3

or be handwritten.

2) Some printed Kansas documents that can expect heavy use over the years, for example Session Laws, Kansas Reports, and Annual Reports, should be printed on "permanent paper" which meets ANSI standard Z39.48. There is a difference between "acid-free" and "permanent" papers. Permanent paper will cost more; however, the long-range benefit should be more than worth the slight extra outlay.

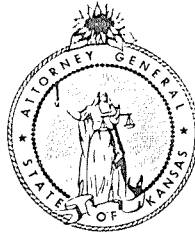
3) Recycling goals and the need for acid-free paper for retention of important state records may appear to be in conflict. To assist in creating a demand for recycled paper, government agencies are being encouraged to purchase recycled paper containing a certain level of post-consumer waste. Manufacturing acid-free post-consumer recycled paper is currently restricted to very few mills in the United States. While both of these issues are important, the need for mandating the use of acid-free paper for permanent state records needs to take precedence over recycling goals until technology and the market place are able to deal with both issues.

4) The special committee should deal primarily with the feasibility of the use of acid-free and permanent papers for state records and relegate the implementation details to appropriate state agencies. While an expression of the types of state records that should use acid-free paper would be of benefit, the study committee should not be burdened with creating a definitive list of such records as is suggested in the current wording of the resolution.

5) Flexibility in long-range implementation should be of special concern for the study committee. Proposed legislation should allow leeway for state and local agencies to react to changing technologies in information processing and paper production without requiring technical statutory changes.

6) The use of acid-free paper in state records is just one element, albeit a large one, in the issue of preserving important state government information. This study should be the first step in a long-range study of the needs for preservation of Kansas governmental information in a variety of formats.

On behalf of the Kansas library community and the Preservation Committee of the Kansas Library Network Board, I appreciate the opportunity to express our support for Senate Concurrent Resolution 1614. The Preservation Committee would be pleased to provide any assistance that the special study committee might request should this resolution be passed by the legislature.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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TESTIMONY OF  
ASSISTANT ATTORNEY GENERAL D. JEANNE KUTZLEY  
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN  
TO THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

RE: S.B. 245

FEBRUARY 26, 1991

Mr. Chairman and Members of the Committee:

Attorney General Stephan offers this bill as clean up on the Charitable Organizations and Solicitations Act. This requested change is a result of enforcement of the Act.

Currently, organizations which do not raise more than \$10,000 per year and which raise funds with only volunteers are exempt from registration. Registration is not a costly process but it is time consuming for these small organizations. Our office and the Secretary of State's Office have limited personnel to police this registration requirement.

In today's charity market, a "small" charity may raise \$100,000. Attorney General Stephan is asking the exemption amount to be raised to \$100,000.

He is also asking that these small charities be allowed to use professional fundraisers and still be exempt. Virtually all charities need a professional fundraiser's help from time to time.

Those professionals are required to register. Due to a printing  
Senate F&SA  
2-26-91  
Att. 4

error S.B. 245 does not reflect this requested change. Attorney General Stephan requests that the language on page 2, line 1 be struck as follows: "if all such organization's fundraising functions are carried on by persons who are unpaid for such services."

This exemption does not mean these charities will be unregulated. They still come under the enforcement language of the Act if they solicit in any prohibited manner. Primarily, this will benefit groups like Optimist Clubs, Elks Clubs, and fraternal and social organizations which raise funds for charitable purposes but are not really in the full-time business of raising funds.

Attorney General Stephan urges you to approve this bill.

SB 245

FEDERAL/STATE COMMITTEE  
Testimony of Jonathan C. Becker  
February 26, 1991

Mr. Chairman, my name is Jonathan C. Becker, and I am resident of Lawrence, Kansas. I am a attorney practicing in Johnson County. I appear today as a representative of the Association of Community Arts Agencies of Kansas (ACAAK). I am the President of ACAAK and have been a board member since 1987.

ACAAK is a not-for-profit organization founded in 1972 and organized under the laws of the state of Kansas in 1974. ACAAK is a statewide organization representing the community arts councils, municipal arts agencies, arts centers, art museums, art guilds, art associations, fairs, festivals, and other organizations that are involved in the presentation, exhibition, support, and encouragement of arts in Kansas. Our tasks are many, and our members are in every part of the state. We have 70 regular member organizations, who are not-for-profit community based organizations that support the arts at the local level. We have over 90 associate member organizations that are not-for-profit organizations that support local arts, besides doing other community activities, or support one specific artistic discipline or group. Additionally, we have over 250 individual members and 25 corporate and foundation members.

ACAAK is a 1990 recipient of the Governors Arts Award and works with the Kansas Arts Commission and other state agencies in providing opportunities for arts organization to develop artistically and financially. We are the network that reduces the isolation and we seek cooperative solutions to common arts problems in Kansas.

I appear here today to address and support the statutory changes recommended by the Attorney General in K.S.A. 17-1762(d). Under the current law, the Charitable Organizations and Solicitations Act (K.S.A. 17-1761 et seq.), most ACAAK members are required to file an annual registration. We do not object to this action, per se. But in light of the following facts, we believe the requirement places a repetitive burden on many not-for-profit organizations and upon our members that is better addressed by other governmental and regulatory agencies.

1. Since the inception of the National Endowment for the Arts (NEA) in 1965, there has been, and continues to be a symbiotic relationship between federal, state, private and individual support for the arts. The federal support, while it is a very small percentage of the federal budget of 1.1 trillion (\$177 million), is very important as a symbol. By requiring matching funds based on various ratios, that federal support leverages both state and private support for many worthwhile arts activities that occur not just in Kansas, but throughout the United States. The federal support from the NEA to the Kansas Arts Commission (KAC) requires support from the Kansas

Legislature. The KAC then regrants both federal and state funds requiring the grant recipient to match any grant money on a 1:1 basis. The KAC is directly responsible to the NEA to report on how its money is used for arts activities in Kansas. As the KAC regrants that money to local arts agencies, KAC makes them accountable to the KAC for how the funds are spent. Annual evaluations are required and necessary in order to receive any future consideration for future money from either the NEA and the KAC.

2. The KAC regulates most, if not all, of the members of ACAAK, through its grants process. The grants process requires past recipients of KAC grants to file annual reports that narrate how the money was spent and account for the use of federal and state dollars. Particular importance is made of the need for matching dollars -- i.e. for every dollar from NEA or KAC, there must be a matching dollar from the local agency. If there is no match, then the grant is not given, or future grants are denied.

3. For larger institutions, the NEA and the KAC demand more rigorous accounting and reports. For example, anyone applying to the NEA for a Challenge Grant, which requires a 3:1 match of new money for support, must file a certified audit. The KAC requires the same of any organization that applies for support in excess of \$20,000 from the KAC. (The anomaly of this regulation means that if an arts organization applies for \$8,000.00 for annual general support and then applies for \$6,000.00 of artist-in-the-schools support, and then applies for \$5,000.00 for a special project, a festival for example, then makes application for \$2,000 for touring fees for artists on the Kansas Arts Touring Program, for a total of \$21,000.00, and even if they only receive half of what they asked for, the arts organization still must comply with the certified audit regulation.)

3. Not-for-profit agencies involved in the arts, be they producers, presenters, festivals, museums, arts centers, arts agencies are using some combination of federal, state and private support. In doing so, they are accountable for their use of public moneys and demonstrating matching dollars at the local level. Even the smallest organizations in our state, such as the Minneapolis Arts Guild, and the Palco Art Guild are required to submit an application and final evaluation demonstrating how state money was used. No one who receives KAC support is exempt from this requirement and those who violate it simply do not receive any consideration for grant requests the next year.

4. The evaluation and application forms are supplemented by panel review before the Kansas Arts Commission or the National Council for the Arts at the NEA would recommend funding. The panel review takes into account both artistic and financial condition of the applicant.

5. With few notable exceptions, (witness the Serrano and Mapplethorpe furor this past summer), the grants process of application, panel review and final evaluation used by federal and state funding agencies of arts organizations, prevents the usurpation of private moneys solicited as match and provides private donors with a "Good Housekeeping Seal of Approval" for NEA and KAC grant recipients. A failure to meet any one element



of the public grants process would result in the loss of public money. The loss of public support has a domino effect on private support and spells the death knell of any such organization.

6. The stick of the "carrot-and-stick" method is the final evaluation. Without that, grant money for the next year is unavailable. If the grant money is not forthcoming, then the very existence of many arts organizations is threatened.

The intent of the legislation in the Charitable Organization and Solicitation Act is to prevent greedy solicitors from taking advantage of the public weal and to protect our common desire to help from unscrupulous solicitors. The intent of the legislation is to protect. It does so by requiring registration and by civil penalty for failure to register. The annual registration fee for most, if not all, of ACAAK members, is not the problem. Our problem is that the regulation requires duplication of reports already required by state and federal sources of public funds.

Our other problem with the current law is that its regulatory scheme does not conform with other public agencies requirements. The \$10,000 floor is arbitrary in its result. For example, one arts organization that applies to the KAC for just one general operating support grant of \$20,000 and raises its match from its own members for a total budget of \$40,000 would not be subject to K.S.A. 17-1761 et seq. Yet another organization that applies for \$10,000 and raises its match of \$10,000 from the public would be subject to K.S.A. 17-1661 et seq. Both are subject to the extensive reporting and evaluation requirements of KAC. Most importantly to both organizations, it is the continued access to state and federal support that helps generate public support that is important, not whether or not the organization's public fund raising meets certain levels.

Because the current law found in K.S.A. 17-1762(d) sets arbitrary levels of regulation and registration and because that level of regulation duplicates regulation by other departments within both the federal and state government, on behalf of the members of the Association of Community Arts Agencies of Kansas, we urge you to incorporate the Attorney General's recommendation of a \$100,000 floor into K.S.A. 17-1762(d).

SENATE BILL No. 245

By Committee on Federal and State Affairs

2-18

8 AN ACT concerning certain charitable organizations; relating to reg-  
9 istration requirements; amending K.S.A. 1990 Supp. 17-1762 and  
10 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. 17-1762 is hereby amended to read  
14 as follows: 17-1762. The following persons shall not be required to  
15 register with the secretary of state:

16 (a) State educational institutions under the control and supervi-  
17 sion of the state board of regents, unified school districts, educational  
18 interlocals, educational cooperatives, area vocational-technical  
19 schools, all educational institutions that are accredited by a regional  
20 accrediting association or by an organization affiliated with the na-  
21 tional commission of accrediting, any foundation having an estab-  
22 lished identity with any of the aforementioned educational  
23 institutions, any other educational institution confining its solicitation  
24 of contributions to the student body, alumni, faculty and trustees of  
25 such institution, and their families, or a library established under  
26 the laws of this state, provided that the annual financial report of  
27 such institution or library shall be filed with the attorney general;

28 (b) fraternal, patriotic, social, educational, alumni organizations  
29 and historical societies when solicitation of contributions is confined  
30 to their membership. This exemption shall be extended to any sub-  
31 sidiary of a parent or superior organization exempted by this sub-  
32 section where such solicitation is confined to the membership of the  
33 subsidiary, parent or superior organization;

34 (c) persons requesting any contributions for the relief or benefit  
35 of any individual, specified by name at the time of the solicitation,  
36 if the contributions collected are turned over to the named bene-  
37 ficiary, first deducting reasonable expenses for costs of banquets, or  
38 social gatherings, if any, provided all fund raising functions are car-  
39 ried on by persons who are unpaid, directly or indirectly, for such  
40 services;

(d) any charitable organization which does not intend to solicit  
and receive and does not actually receive contributions in excess of  
\$10,000 \$100,000 during such organization's tax period, as defined

and their families

from solicitations from person not members  
of the charitable organization

Senate F&SA  
2-26-91  
Att. 6

1 by K.S.A. 17-7501 and amendments thereto, if all of such organi-  
 2 zation's fund-raising functions are carried on by persons who are  
 3 unpaid for such services. However, if the gross contributions received  
 4 by such charitable organization during any such tax period is in  
 5 excess of ~~\$10,000~~ \$100,000, such organization, within 30 days after  
 6 the end of such tax period, shall register with the secretary of state  
 7 as provided in K.S.A. 17-1763 and amendments thereto;

8 (e) any incorporated community chest, united fund, united way  
 9 or any charitable organization receiving an allocation from an incor-  
 10 porated community chest, united fund or united way;

11 (f) a bona fide organization of volunteer firemen, or a bona fide  
 12 auxiliary or affiliate of such organization, if all fund-raising activities  
 13 are carried on by members of such organization or an affiliate thereof  
 14 and such members receive no compensation, directly or indirectly,  
 15 therefor;

16 (g) any charitable organization operating a nursery for infants  
 17 awaiting adoption if all fund-raising activities are carried on by mem-  
 18 bers of such an organization or an affiliate thereof and such members  
 19 receive no compensation, directly or indirectly, therefor;

20 (h) any corporation established by the federal congress that is  
 21 required by federal law to submit annual reports of such corporation's  
 22 activities to congress containing itemized accounts of all receipts and  
 23 expenditures after being duly audited by the department of defense  
 24 or other federal department;

25 (i) any girls' club which is affiliated with the girls' club of America,  
 26 a corporation chartered by congress, if such an affiliate properly files  
 27 the reports required by the girls' club of America and that the girls'  
 28 club of America files with the government of the United States the  
 29 reports required by such federal charter;

30 (j) any boys' club which is affiliated with the boys' club of Amer-  
 31 ica, a corporation chartered by congress, if such an affiliate properly  
 32 files the reports required by the boys' club of America and that the  
 33 boys' club of America files with the government of the United States  
 34 the reports required by such federal charter;

35 (k) any corporation, trust or organization incorporated or estab-  
 36 lished for religious purposes, or established for charitable, hospital  
 37 or educational purposes and engaged in effectuating one or more of  
 38 such purposes, that is affiliated with, operated by or supervised or  
 39 controlled by a corporation, trust or organization incorporated or  
 40 established for religious purposes, or to any other religious agency  
 41 or organization which serves religion by the preservation of religious  
 42 rights and freedom from persecution or prejudice or by fostering  
 43 religion, including the moral and ethical aspects of a particular re-

in response to the solicitation of persons that are not  
 members of the organization