Approved January 31, 1992
Date

MINUTES OF THE Senate COMMITTEE ON Economic Development.

The meeting was called to order by Senator Dave Kerr at
Chairperson

8:00 a.m./~~XXX~~ on January 30, 1992 in room 123-S of the Capitol.

All members were present ~~XXXX~~:

Committee staff present:

Lynne Holt, Legislative Research Department
Bill Edds, Revisor of Statutes' Office
LaVonne Mumert, Committee Secretary

Conferees appearing before the committee:

Bill Edds, Revisor of Statutes' Office
Lynne Holt, Legislative Research Department
Gary Reser, Governor's Office
Laura Nicholl, Secretary, Department of Commerce
Dennis Shockley, Department of Commerce

ERO 23 - An order which reorganizes various housing programs into a division of housing within a renamed department of commerce and housing

Bill Edds provided information on executive reorganization orders (Attachment 1) and the functions of the Legislature with relation to such orders.

Lynne Holt presented a memorandum providing background information on housing issues (Attachment 2). She noted that there have been three Legislative Post Audit reports issued during the last six months which relate to housing concerns. She discussed policy issues on housing and emphasized that, while there is definitely a correlation between low income households and inadequate housing, other factors also have an impact, which means different kinds of solutions are required to address different housing problems. Ms. Holt briefly described agencies administering housing programs and housing finance in other states. She explained that Kansas has no state housing programs but administers several federal programs: Section 8 New Construction, Section 8 Existing Housing, Emergency Shelter Grant Program, Permanent Housing for the Homeless Handicapped, Low Income Housing Tax Credit Program and the Rental Rehabilitation Program. She also mentioned funding mechanisms in the state. Ms. Holt reviewed recent developments related to housing and options for financing. She said the Legislature may wish to ensure that state agencies have flexibility to use creative financing mechanisms and also have staff with expertise in such matters. She observed that consideration might be given to more active pursuit of federal funding of housing activities as well as development of a needs assessment study.

Gary Reser testified in support of ERO 23 (Attachment 3). He said economic development efforts will be enhanced by strengthening housing programs.

Laura Nicholl spoke in favor of the ERO (Attachment 4). She noted that a state housing needs assessment is a high priority item and her agency is investigating the possibility of using $100,000 in Community Development Block Grant (CDBG) monies to fund the study. Senator Petty asked about the current funding of the housing office. Ms. Nicholl explained that the agency received authorization from the Department of Housing and Urban Development to trade-off the state match of CDBG funds for State General Fund monies to fund the office for 1992.

Dennis Shockley explained and testified in support of the ERO (Attachment 5). He said the order would: change the name of the current Department of Commerce, create a separate Division of Housing headed by an Undersecretary

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

and transfer the weatherization, Community Service Block Grant and the Emergency Homeless Shelter Grant programs from SRS to the new agency.

Senator Salisbury moved that the minutes of the January 28, 1992 meeting be approved. Senator Moran seconded the motion, and the motion carried.

The meeting adjourned at 9:00. The next meeting of the Committee will be Friday, January 31, 1992.

Date 1/30/92

SENATE ECONOMIC DEVELOPMENT
VISITOR SHEET

(Please sign)

Name/Company	Name/Company
Paul Johnson PACK	
Mary Ellen Conn LG of WV	
Winnie Crapson LGWV	
Martha Hodgesmith KARF	
Norma Phillips, Weatherization Prog	
Dennis Shockey, Dept. of Commerce	
Cindy Lash Legislative Post Audit	
Whitney Damron	Pete McGill & Associates
[illegible]	" "
Janet Stubbs	HBA of Kansas
BUD GRANT KCCI	
J Bowser United Tel	
[illegible]	
SHERYL SANDERS - KCAMI TOPEKA	observer
Jim McBride	
Chuck Stones	KBA
Gary Gibson	AARP
George Goebel	AARP-SLC CCTF
George Dugger	Dept. on Aging
Art Brown	KS LBR Dealers
Jim Kaup	League of KS Municipalities
Terry Denker	Ks. St. Bd. of Ag.
Suzanna Frost	KS Assoc. Community Action Dir.
Gary Reser	GOVERNOR'S OFFICE
Noelle St. Clair	Kansas NAHRO

To: Senate Committee on Economic Development

From: Bill Edds, Assistant Revisor of Statutes

Date: January 30, 1992

Re: Executive Reorganization Orders

Article 1, §6 of the Kansas Constitution authorizes the governor to issue executive reorganization orders for the purpose of transferring, abolishing, consolidating or coordinating all or any part of a state agency, or functions thereof, within the executive branch of state government. Agencies and functions of the legislature and judiciary and constitutionally delegated functions of state officers and state boards are exempt from such orders. ERO's are required to be presented to both houses on the same day within the first 30 calendar days of a session. An ERO becomes effective on July 1 following the transmittal to the legislature unless a resolution disapproving the order is adopted by a majority vote of either house within 60 days of its transmittal and before adjournment of the session. An ERO may be amended or repealed the same as state statutes.

Rule 77 of the Senate provides for assignment of an ERO to the appropriate committee for recommendation thereon. The committee may report by adopting a Senate resolution not later than the 60th calendar day of the session and not later than 30 calendar days after it has received the referral, whichever occurs first. Failure to report accordingly is deemed a return of the order to the Senate without recommendation. Upon report or return, it and all resolutions for approval or disapproval are made the special order of business at a time not later than the last day the ERO may be disapproved. The Senate is required to approve or reject every order unless at the time set for action the House of Representatives has already rejected the order.

With respect to ERO No. 23, the same was transmitted to the Senate and House on Friday, January 17, 1992. It was referred to this committee on January 22, 1992. The committee has until Friday, February 21 to adopt its recommendation, and the Senate has until Tuesday, March 17 to consider the resolution.

Attachment 1
1/30/92
Sen. Eco. Dev.

MEMORANDUM

Kansas Legislative Research Department

Room 545-N -- Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

January 29, 1992

To: Senate Committee on Economic Development

From: Lynne Holt, Principal Analyst

Re: Background Information on Housing Issues

This memorandum: (1) provides a policy framework for considering housing issues in Kansas; (2) briefly explains Kansas housing-related programs and financing mechanisms; and (3) briefly describes other types of funding mechanisms to finance housing programs. A companion memorandum, to be issued shortly, profiles state housing efforts in five states.

Policy Issues

The 1990 census counted 1,044,112 housing units in Kansas, an increase of 9 percent in the 1980s. This increase was less than the United States increase of 16 percent.[1] The rate of households in the United States for heads of household under age 25 dropped in the 1980s from 21.3 percent to 15.3 percent. For that same time period, that rate dropped for households aged 25-29 from 43.3 percent to 35.9 percent and for households aged 30-34 from 61.1 percent to 51.5 percent. In the United States, from 1974 to 1989, the home ownership rate for households with annual incomes of less than $20,000 (1989 dollars) fell from 50.3 percent to 47.2 percent. For the same time period, the home ownership rate among upper-income households with annual income of more than $50,000 increased from 85.8 percent to 88.1 percent.[2] The outlook for the single-family housing market in the 1990s is reported to be encouraging. However, accelerated income growth at the upper end of housing distribution will do little to reduce the number of renter households with limited purchasing power.[3] If Kansas demographics reflect national trends, it is safe to assume that the state's housing efforts might be directed, at least in some part, to assisting prospective first-time home buyers.

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[1] "1990 Housing Highlights Kansas." The Census of Population and Housing.

[2] Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 1991*, pages 9 and 11.

[3] *Ibid.*, page 23.

Attachment 2
1/30/92
Sen. Eco. Dev.

Prior to developing housing programs, whether intended for first-time home buyers or other populations (low-income renters, persons with disabilities, the elderly, deinstitutionalized persons, employees with low paying jobs, and persons with other special needs), one should identify the state's housing needs by responding to such questions as the following: To what extent does the profile of the Kansas housing market (rental and ownership) deviate from that of the housing market nationwide? To what extent are the profiles similar? How many people are unable to purchase their first homes? What programs, tax credits etc., currently exist to help them and to what extent are these programs meeting demand? How many people in Kansas have inadequate or unaffordable rental housing (or both) and where in the state are these people located? To what extent are these people assisted by existing programs? Is there sufficient and affordable rental housing to accommodate demand? In what areas of the state is there a paucity of such housing? Are there areas of the state which have an overcapacity of public housing? Can this housing be occupied to meet the needs of populations for which it might not have been originally intended? In other words, where are the gaps and mismatches between supply and demand in housing distribution in the state? Finally, is technical assistance sufficiently available to community organizations engaged in housing development and rehabilitation throughout the state? Consistent with "third wave" economic development ideas, programs are most effective when they address real needs, and identification of those needs is dependent on reliable and timely data.

Much of the data needed for formulating state policy decisions on housing should be available due to a requirement in the 1990 National Affordable Housing Act that an annual state plan (Comprehensive Housing Affordability Strategy or CHAS) be submitted as a precondition for future federal housing assistance.[4] The CHAS must include data on the current needs (and five-year projections) for housing assistance for very low-, low-, and moderate-income households. The needs assessment also must address families requiring supportive services in connection with housing, including: disabled families; families participating in an organized program to achieve economic independence and self-sufficiency; and persons with AIDS. Furthermore, the CHAS must address market and inventory conditions.

Policymakers might consider the following questions in making decisions on how to proceed with state housing policies:

1. Which housing needs are not being met by existing programs? Does the state's housing strategy (once it is finalized) provide a comprehensive analysis of those needs? If not, what remains to be addressed?

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[4]Staff was informed that future plans of the proposed Division of Housing will include formulation of an in-depth needs assessment. The CHAS should be viewed as the necessary step in that endeavor.

2. Will the state's housing strategy include a mechanism for identifying social service needs other than housing assistance and a method of coordinating housing services with other social services?[5]

3. How should existing programs and future programs be administered to most efficiently address housing needs? What staffing capabilities and organizational structures are required to ensure adequate implementation of housing programs?

4. What financing mechanisms should be considered to fund future housing initiatives?

5. Do existing statutes afford the agency or agencies charged with implementation of housing programs the necessary flexibility to use innovative financing mechanisms and leverage nonstate funds?

Agencies Administering Housing Programs

Every state, except Kansas and Arizona, has some type of housing finance agency. Housing finance agencies generally share the following characteristics:

1. they have been created by their legislative bodies as quasi-public, largely independent organizations (although a few are divisions of state agencies);

2. they are governed by boards appointed by the governor or chief executive of the state;

3. they are operated by an executive director and a staff; and

4. board members include bankers.

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[5] See William G. Grigsby, "Housing Finance and Subsidies in the United States," *Urban Studies*, Vol. 27, No. 6, 1990, 831-845. The policy questions raised in this article are: what is the most appropriate form of assistance and what is the desirability of creating assistance programs which provide households with options for determining the form of assistance most crucial to them? The article notes that of approximately 40 million households in the United States with low or very low incomes, less than two million are reported to live in seriously substandard housing and most do not live in substandard housing at all. Their problem is low income, coupled with one or more non-housing programs. Low income does not always equate to substandard housing. However, as noted in *A Place to Call Home: The Low Income Housing Crisis Continued*, poor households were more than twice as likely as nonpoor households to live in deficient units.

Congress created the original impetus for housing finance agencies by authorizing states to issue tax-exempt mortgage revenue bonds (MRBs).[6]

In addition to housing finance agencies, one or more executive agencies (usually including the equivalent of the Department of Commerce) administer housing programs. In a few states, all housing programs are located in one agency; the Missouri Housing Development Commission and the Michigan State Housing Development Authority are such examples. "Getting a handle" on the types of agencies which administer housing programs is very difficult because of the fragmentation in delivery of housing assistance services throughout the country. There is considerable variation among states with respect to administering agencies, number of housing programs, and number of staff assigned such responsibilities. For example, 16 agencies in Connecticut offer 64 housing programs and have 375 FTE positions. In contrast, the Arizona Department of Commerce currently has five staff assigned to housing programs and will administer three housing programs once the HOME program begins. The most consolidated information on organizational characteristics of administering agencies comes from the National Council of State Housing Agencies (NCSHA) which represents housing finance agencies. NCSHA surveys its members annually on their organizational characteristics -- departments within the agency, number of staff, and programs and responsibilities.

Kansas Housing Programs and Funding Mechanisms

In Kansas, the Department of Commerce currently administers four housing assistance programs, one tax credit program, and one rental rehabilitation program, and oversees mortgage revenue bond allocations. A portion of funding from the Small Cities Community Development Block Grant (CDBG) Program also has been historically applied to housing projects. The Governor's executive reorganization order on housing (E.R.O. No. 23) would shift the responsibilities for the Kansas Weatherization Program, the Community Services Block Grant Program, and the Emergency Homeless Grant Program from the Department of Social and Rehabilitation Services (SRS) to the Kansas Department of Commerce. The agency would be renamed the Kansas Department of Commerce and Housing and would establish a Division of Housing and the position of Undersecretary for Housing to administer the division. Under an interagency memorandum of understanding, program staff from SRS will be "on loan" to the Department of Commerce prior to the effective date of the executive reorganization order. All housing programs administered by the state are federal programs. There are currently no state-funded housing programs in operation.

The Legislative Division of Post Audit issued a report in August, 1991, titled *Examining Issues Relating to Selected Housing Programs at the Department of Commerce*. This report responded to two questions: Has the Department of Commerce carried out its responsibilities for administering the state's housing assistance program over the years? Did the Department of Commerce follow its established procedures in allocating tax credits under the Low Income Housing Tax Credit Program? In responding to those questions, the auditors reviewed the federal housing assistance programs administered by the Office of Housing in the Kansas Department of Commerce. These include

[6]*Leveraging Bank Resources for Low- and Moderate-Income Housing: A Summary of a Conference Sponsored by the Office of the Comptroller of the Currency*, Office of the Comptroller of the Currency, Washington, D.C., May, 1991, page 5.

Section 8 New Construction, Section 8 Existing Housing -- "Operation Homeless" (subcontracted with Johnson County Housing Authority), the Emergency Shelter Grant Program, and Permanent Housing for the Homeless Handicapped. (See Attachment I for brief explanations of each program.)

In addition to these four programs, the Office of Housing in the Kansas Department of Commerce administers two other federal housing-related programs: the Low Income Housing Tax Credit Program and the Rental Rehabilitation Program. The Low Income Housing Tax Credit Program is a fee-funded program which awards tax credits to developers who submit qualified plans for new construction, purchase, or the rehabilitation of low-income housing units. The state's credit allocation is approximately $3.1 million annually. The Rental Rehabilitation Program is designed to rehabilitate rental property for use by lower-income families by making grants to localities which, in turn, use the money for specific projects. (Funding for the program terminated in 1991; funds for the HOME Program, discussed below, may be used for rental rehabilitation.) Finally, a small portion (on average 5.8 percent) of the grants of the Small Cities Community Development Block Grant (CDBG) Program has been awarded to housing projects.[7] This program, which is administered in the Community Development Division of the Department of Commerce, also awards grants for public facilities, economic development projects, and planning activities.

A report by the Legislative Division of Post Audit, titled *Supplement to the Audit of Selected Housing Programs at the Department of Commerce* (November, 1991) examined the three programs addressed above (from which the information contained herein was extrapolated). The report recommended that the Legislature consider directing the Kansas Department of Commerce to institute a set-aside from the Small Cities CDGB program for housing projects, if the Legislature would like additional resources to be directed toward low-income housing in communities eligible for the Small Cities CDBG Program.

Complementing federal funding and tax credits for housing assistance efforts in Kansas are mortgage revenue bonds (MRBs).[8] Federal law allows state and local governments to issue tax-exempt bonds to provide mortgages at below-market interest rates. Lower interest rates result in lower monthly mortgage payments for qualified first-time home buyers. Restrictions govern eligibility of home buyers, as well as the types of homes that can be purchased. MRBs are classified as a type of private activity bond. Other types of private activity bonds include industrial revenue bonds and qualified student loan bonds. The cap on private activity bonds has been $150 million in Kansas. For the past several years, $100 million of that amount was reserved for MRBs. According to the Department's Deputy Director, the Kansas Department of Commerce initially intends to reserve $115 million for MRBs in 1992. However, if a portion of that authority remains unused after a specified period of time, it would be applied to other qualified bond issuances. In Kansas, localities issue

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[7]According to a report by the Legislative Division of Post Audit (November 1991), the portion of Small Cities CDBG funds allotted to housing projects nationwide in FY 1989 was 26 percent of total program expenditures.

[8]The information below on mortgage revenue bonds and mortgage credit certificates was taken from a report issued by the Legislative Division of Post Audit titled *Examining Mortgage Assistance Programs at the Department of Commerce* (December, 1991).

MRBs. Except for Arizona where housing bonds are issued through the Department of Commerce, all the other 48 states issue MRBs through their respective state housing finance authorities.[9]

Another federally-authorized program, designed to assist first-time home buyers, is the Mortgage Credit Certificate Program. Under this program, qualified home buyers receive a credit against their annual federal income tax liability. Unlike the Mortgage Revenue Bond Program, this program does not directly lower mortgage interest rates or lower monthly payments. Instead, home buyers receive the once-a-year benefit of a tax credit. To issue mortgage credit certificates (MCCs), a governmental unit must trade its mortgage revenue bond authority for the authority to issue mortgage credit certificates -- a trade made at a rate of $4 in mortgage revenue bond authority for $1 in mortgage credit certificate authority. In Kansas, Geary and Riley counties have elected to convert their authority to issue MRBs to that of issuing MCCs. These counties contracted with a private investment banking firm to administer the program. Many, but not all, state housing authorities administer the Mortgage Credit Certificate Program.

A report issued by the Legislative Division of Post Audit titled *Examining Mortgage Assistance Programs at the Department of Commerce* (December, 1991) reviewed the activities of the Mortgage Revenue Bond Program and the Mortgage Credit Certificate Program in Kansas and recommended that the state administer and operate both programs.

In essence, Kansas housing assistance programs and tax incentive programs for first-time home buyers have resulted entirely from federal initiatives. However, certain recent developments might provide the impetus to consider state initiatives in the future.

Recent Developments and Options for Financing

As a precondition for receiving federal funds for programs under the auspices of the National Affordable Housing Act of 1990, states and participating localities must develop plans (referred to as CHAS), on an annual basis, for use of those funds. The Kansas Department of Commerce submitted a draft of its first plan or CHAS for review by HUD.

The 1990 legislation has several purposes:

1. to facilitate savings for down payments for home purchase;
2. to retain, where feasible, affordable federally assisted housing for low income families;
3. to extend public and private partnerships to produce and operate housing affordable for low and moderate income families;
4. to expand and improve federal rental assistance for very low-income families; and

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[9]It might be noted that the Kansas Development Finance Authority is statutorily prohibited from issuing MRBs unless these bonds are intended for low-income families or the elderly.

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5. to increase the supply of supportive housing and services to allow persons with special needs to live with dignity and independence.

To implement those purposes, the legislation established several new programs, including the Home Ownership and Opportunity for People Everywhere (HOPE) Program, the Housing Assistance and Rental Assistance Program, and the HOME Investment Partnerships Program. The latter program, considered the 1990 Act's cornerstone, authorizes $1.5 billion for grant allocations in FFY 1992. Of total allocations (after subtracting a portion for Indian tribes and technical assistance), 60 percent of funding will be allocated to cities and counties and 40 percent to states. The State of Kansas is to receive over $6.5 million of a total allocation of almost $10 million to Kansas and localities. No state match is required in FFY 1992 but the HOME program guidelines specify match ratios by project for future fiscal years. Eligible and noneligible sources of matching funds are likewise specified. HOME funds may be used for a variety of activities, including: tenant-based rental assistance; assistance to first-time home buyers and existing homeowners; property acquisition; new construction; reconstruction; moderate or substantial rehabilitation; relocation expenses; and others. At least 15 percent of HOME funds must be used in projects sponsored by "community housing development organizations" (CHDOs), or neighborhood-based nonprofits. HOME funds may not be used for administrative costs.

The difference between the HOME program and previous federal housing programs is the flexibility given to states and local governments in developing housing programs. A recently issued report on housing made the following observation about federal housing programs prior to the HOME program:

> The drawbacks of this system were rigidity in program design, an overwhelming emphasis on program efforts tailored to satisfy producers -- as opposed to consumers or the communities -- and difficulty in meeting local needs. Now [with the HOME program] the emphasis on centralization is being replaced with opportunities for state and local actors to shape their own programs.[10]

Trust Funds

In anticipation of matching requirements for the HOME Program, the Kansas Department of Commerce requested legislation from the 1991 Legislature to establish a state housing trust fund. H.B. 2517, enacted by the 1991 Legislature, establishes the State Housing Trust Fund, to which public and private grants, donations, gifts, and fees may be credited. As provided by statute, expenditures from that fund may be used for such purposes as: repair, rehabilitation, and improvement of existing residential housing; accessibility modifications; rental subsidies; and the provision of housing services and assistance to persons with low and moderate income and disabled persons.

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[10]Edward B. Lazare *et al.* *A Place to Call Home: The Low Income Housing Crisis Continues*, Center on Budget and Policy Priorities, Washington, D.C., 1991, page 49.

Many states have established housing trust funds, which are generally administered by state agencies instead of housing finance authorities, although some joint oversight occurs.[11] A housing trust fund is defined as "a permanent pot of money with an ongoing source of revenue that is dedicated to meeting the housing needs of low and moderate-income people."[12] (A chart depicting the operations of a trust fund is found in Attachment II.) Expenditures from housing trust funds can be used for a wide range of purposes: debt or equity financing for development, acquisition of vacant land and the purchase of abandoned buildings for rehabilitation, home ownership assistance of various types, rental assistance, funding for preservation and maintenance of housing, housing services to assist the handicapped and prevent displacement, and technical, administrative, capacity building, and planning assistance.

In addition, many innovative revenue sources have been used to finance state housing trust funds.[13] Examples include: unclaimed property funds (Arizona); tax revenues from off-shore drilling (California); surcharge fees from documents filed and recorded with the Recorder of Deeds (Delaware); real estate transfer taxes (Illinois, Maine, Nevada, New Jersey, Tennessee, and Vermont); excess income from bond surplus or reserve funds (Kentucky, Texas); interest on real estate escrow accounts (Maryland, Minnesota, and Washington); "alternative" socially responsible investments, primarily from religious organizations (Michigan); interest on application deposits for tax exempt revenue bonds (Minnesota); interest from tenant security deposits (Oregon); unnamed unclaimed funds (Ohio); stripper well settlement funds (North Carolina); lottery earnings (Oregon); and General Obligation tax-exempt bond proceeds. Several states have in past years appropriated moneys from the State General Fund to complement expenditures from other revenue sources. For example, Indiana initially capitalized its housing trust fund with a biennial appropriation of $500,000.

State Subsidies

State subsidies for housing programs totaled $1,391,000,000 in FY 1992, with the states of New York, Massachusetts, California, Connecticut, and New Jersey contributing approximately $1.1 billion of that total. However, states with populations closer to that of Kansas provided some state funding for housing programs: Iowa ($4 million); Rhode Island ($1.5 million); Colorado ($600,000); and Oklahoma ($400,000). State fiscal circumstances have affected funding for state programs. Expenditures for emergency programs for the homeless decreased $41 million or 7 percent in FY 1992, and expenditures for "affordable housing" also decreased $246 million or 22 percent from the previous fiscal year.[14]

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[11]Dayna Ashley, *Constructing Local Solutions: Affordable Housing*, National Conference of State Legislatures, April, 1991, page 5.

[12]Definition from Mary E. Brooks, *A Citizen's Guide to Creating a Housing Trust Fund*, Center for Community Change, 1989, page 5.

[13]The following list is taken from Mary E. Brooks, "A Summary of Revenue Sources Committed to Existing Housing Trust Funds," from the Center for Community Change, November, 1991, pages 12-17.

[14]"State Housing Programs," *State Policy Reports*, Vol. 10, Issue 1, 13. Included in totals for state funding are general obligation bond proceeds but not self-liquidating mortgage loans financed with tax exempt bonds.

Leveraging and Cooperative Financing Efforts

State legislatures throughout the country have discovered that leveraging of program funds is instrumental to successful housing programs, as is networking of financial institutions and housing development and assistance agencies. Such an example is found in a program implemented in Allegheny County, Pennsylvania. That program began with a 300-unit development of existing town homes in disrepair. A nonprofit organization approached the redevelopment authority, and with the help of Mellon Bank, purchased the homes. Mellon Bank provided $1.5 million for the purchase money, working capital, and rehabilitation costs. Five savings and loans provided loan commitments for families to purchase the homes. In addition, the transaction involved grant moneys, CDBG moneys, and Section 312 moneys (revolving loan funds). It also involved participation of banks, savings and loans, HUD, a private company, a state agency, and a county agency.[15]

Creative financing could involve participation of such organizations as Freddie Mac or Fannie Mae. An example noted in the publication *Leveraging Bank Resources for Low- and Moderate-Income Housing* is that Fannie Mae cannot provide rehabilitation loans with mortgages. Fannie Mae requires either a traditional construction loan or a repurchase provision. However, if a nonprofit or public agency guarantees the renovation, lenders might be more comfortable with Fannie Mae's repurchase provision. Fannie Mae can structure these loans with as little as a 5 percent down payment.[16]

Another example of creative financing is Ohio's Development Loan Program administered by the Ohio Housing Finance Agency within the Ohio Department of Development. The Development Loan Program provides low-interest loans to nonprofit corporations, limited profit corporations, and public corporations for predevelopment, construction, and interim financing. The ultimate beneficiaries of these loans are low- and moderate-income households.

Two major types of program loans are compensating balance loans and interim development loans. Compensating balance construction loans are link deposits; the Ohio Housing Finance Agency makes a noninterest bearing rate deposit with a federally insured lending institution. This deposit serves as collateral for the loan it makes to the borrower. In exchange for receiving the Agency's deposit, the lending institution provides a loan to the corporation for the construction project at below market interest rates. However, the biggest use of loan moneys is for interim development. Essentially, these loans bridge the gap between a corporation's use of federal Low Income Housing Tax Credits, which may extend over a ten-year period, and the demand by the lender for repayment of a construction loan. (The time periods for receiving credits and repaying the loan do not usually coincide.) The loan can cover no more than 50 percent of the actual development. State law allocates 25 percent of state-held unclaimed funds to capitalize a revolving loan fund for this program and another program which is currently making no loans.

Approximately $16 million was available in 1991 to fund program loans. Eighty loans (both types) were approved and 50 were closed in the past five years (35 in the past two years). This

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[15]Michael Nail, Director, Housing and Community Development, National Association of Housing and Redevelopment Officials in *Leveraging Bank Resources for Low- and Moderate-Income Housing*, page 8.

[16]See discussion summary, Op Cit., page 21.

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financing enabled the construction of 1,000 new and rehabilitated units. The program director claimed that the loan programs have been very successful and that other states have expressed interest in emulating them.[17]

Yet another innovative use of financing for housing is Tennessee's HOUSE Program which completed its fourth round of funding in 1991. The Tennessee Housing Development Authority administers this program, which in 1991 funded $7.25 million for projects from mortgage recording fees and real estate transfer taxes. There are two program components: entitlement projects and demonstration projects. Eligible applicants for entitlement grants are local governments and for demonstration grants, local governments and nonprofit housing organizations. Entitlement grants require a one-to-one local match (tax, CDBG, property). Demonstration projects require leveraging of private or other public funds (or both). An example of a demonstration project is the use of HOUSE moneys which, when complemented by weatherization moneys, would rehabilitate a house beyond minimum weatherization standards under the federal program. An example of an entitlement program is the use of HOUSE funds, combined with federal CDBG moneys, to rehabilitate rental housing in targeted CDBG areas. During the 1991 funding round, 62 projects were funded (25 entitlement grants and 37 demonstration grants). The intended beneficiaries are very low-income and low-income families. This funding approach appears to be consistent with "third wave" thinking in that local governments and nonprofit organizations develop the project to be funded, are required to leverage or provide other funding sources and, in some cases, "piggy-back" off of existing housing programs.[18]

Examples of creative bond issuances are also found in other states. The Delaware State Housing Authority, a quasi-public entity, offers two programs -- the Fair Assisted Interest Rate (FAIR) Loan Program and the Second Mortgage Assistance Loan Program -- to assist first-time home buyers with annual incomes of not more than $26,000.[19]

The FAIR Program operates as follows. The Housing Authority issues approximately $40 million in MRBs. Although the interest rate cannot exceed the federally allowed limit, a combination of two rates could be used to equal the allowable rate (for example, $36 million at a slightly higher rate than allowed and $4 million at 2 percentage points below market rate). This is considered a "cross-subsidization" bond issue. The issue at the lower rate (FAIR loans) allows very low-income families to borrow money. Five banks participate in the program. As there is some risk involved in uneven repayment of the higher interest rate loans, local banks agree to purchase from the Authority 30-year zero coupon bonds that cover the risk (usually $700,000 to $800,000 on the $40 million issue). The participating banks share the risk (the Authority incurs none). In exchange for bearing the risk, participating banks are able to claim Community Reinvestment Act credits.

The Authority issues MRBs for this program twice a year and provides an average of 65 loans an issue at approximately $60,000 per loan. (Lending institutions actually make the loans

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[17]Conversation with Mark Marino, Ohio Housing Finance Agency, January 23, 1992.

[18]Ellen Bowyer Thompson and John Sidor, *State Housing Initiatives: the 1990 Compendium*, Council of State Community Affairs Agencies, 1990, pages 28-29. Information contained therein was updated by the Tennessee Housing Development Authority staff.

[19]Conversation with Paula Sims, Delaware State Housing Authority, January 27, 1992.

but the Authority buys back the loans.) To date, there have been five bond issues under this program, which started in 1989.

A companion program, to provide second mortgage assistance to families with less than $26,000 annual incomes, also began in 1989. If a family is eligible for FAIR loans at below-market interest rates, the program allows the family to receive a second mortgage for up to $5,000 at the same interest rate as that on the first mortgage loan (or FAIR loan, if that is the first mortgage loan), to cover down payments and closing costs. Repayment of the second mortgage is deferred until after the first mortgage has been repaid, which might be as long as 30 years. As with the FAIR Loan Program, this program is tied to the issue of MRBs. The first mortgage must be insured by FHA. With respect to these second mortgage loans, the Authority gives lender institutions the money and the loan is between the Authority and the borrower.

Conclusion

The expected receipt by the state of federal HOME funds of over $6.5 million in FFY 1992 might encourage the Legislature to reexamine the laws governing the Kansas Department of Commerce and the Kansas Development Finance Authority to ensure that the agencies charged with any aspect of financing for housing have latitude to use creative financing mechanisms. Accompanying the use of such mechanisms is the need for staff with an adequate understanding of and expertise in matters concerning financing and policy related to housing. In addition, consideration might be given to more aggressive pursuit of federal funding for expanded program activities under Section 8 -- existing housing and the Stewart B. McKinney Homeless Assistance Act. Finally, a detailed needs assessment might be considered a prerequisite for the formulation of state housing policies and for future program expansion.

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ATTACHMENT I

Housing Assistance Programs
Currently Administered by the Department of Commerce

Section 8 New Construction

Date Offered: 1981
The Program: This is a federal loan guarantee program for construction of new low-income housing. The Department of Economic Development agreed to serve as a public housing authority for seven projects with a total of 291 units that were approved for federal loans, but were located in areas that did not have a housing authority. Each project is operated by a management company.
The Department's Responsibility: The State's role is to provide limited oversight of the management company, monitor annual recertification of individuals living in the housing, pay out monthly rent subsidies from federal funds (the tenant pays 30 percent of his or her adjusted income), and prepare annual budgets and quarterly requests to the federal government for each project. The Department inspects approximately 10 percent of the units annually to verify occupancy and income levels of the tenants and the condition of the units. The State is required to administer this program until 2002.

Section 8 Existing Housing - "Operation Homeless"

Date Offered: 1986
The Program: The regional office of the federal Department of Housing and Urban Development and the State Department of Economic Development initiated a pilot program to serve families who did not have a permanent address, had been in an emergency shelter, or had inadequate resources to acquire safe and decent housing. Under the program, which is offered only in Johnson, Leavenworth, and Wyandotte Counties, eligible homeless individuals or families receive a certificate that entitles them to a 70 percent rent subsidy for private rental units.
The Department's Responsibility: Originally, the State was responsible for annual recertification of individuals participating in the program (this included verifying income levels and family compositions), and inspected all rental units initially and thereafter on an annual basis. In 1989, the State subcontracted with the Johnson County Housing Authority to operate all aspects of the program. (As a result, federal funds bypass the State and are sent directly to the Johnson County Housing Authority.) However, the State remains contractually responsible for assuring continued operation of the program if the Housing Authority chooses not to continue with the program.

Emergency Shelter Grant Program

Date Offered: 1987
The Program: Funded by the Stewart B. McKinney Homeless Assistance Act, this program provides grants to shelters for the homeless and the battered. In all but one year, the State priorities have emphasized non-consumable goods. Grants have been awarded for rehabilitation and expansion of shelters, purchase of major appliances such as refrigerators and freezers, furniture, and the like. In one year the State also awarded grants for consumable items, which included such things as payment of utility expenses. Grant amounts have averaged about $10,000 per shelter.
The Department's Responsibility: State staff establish funding priorities, solicit and rank applications, and award grants based on the priorities.

Permanent Housing for the Homeless Handicapped

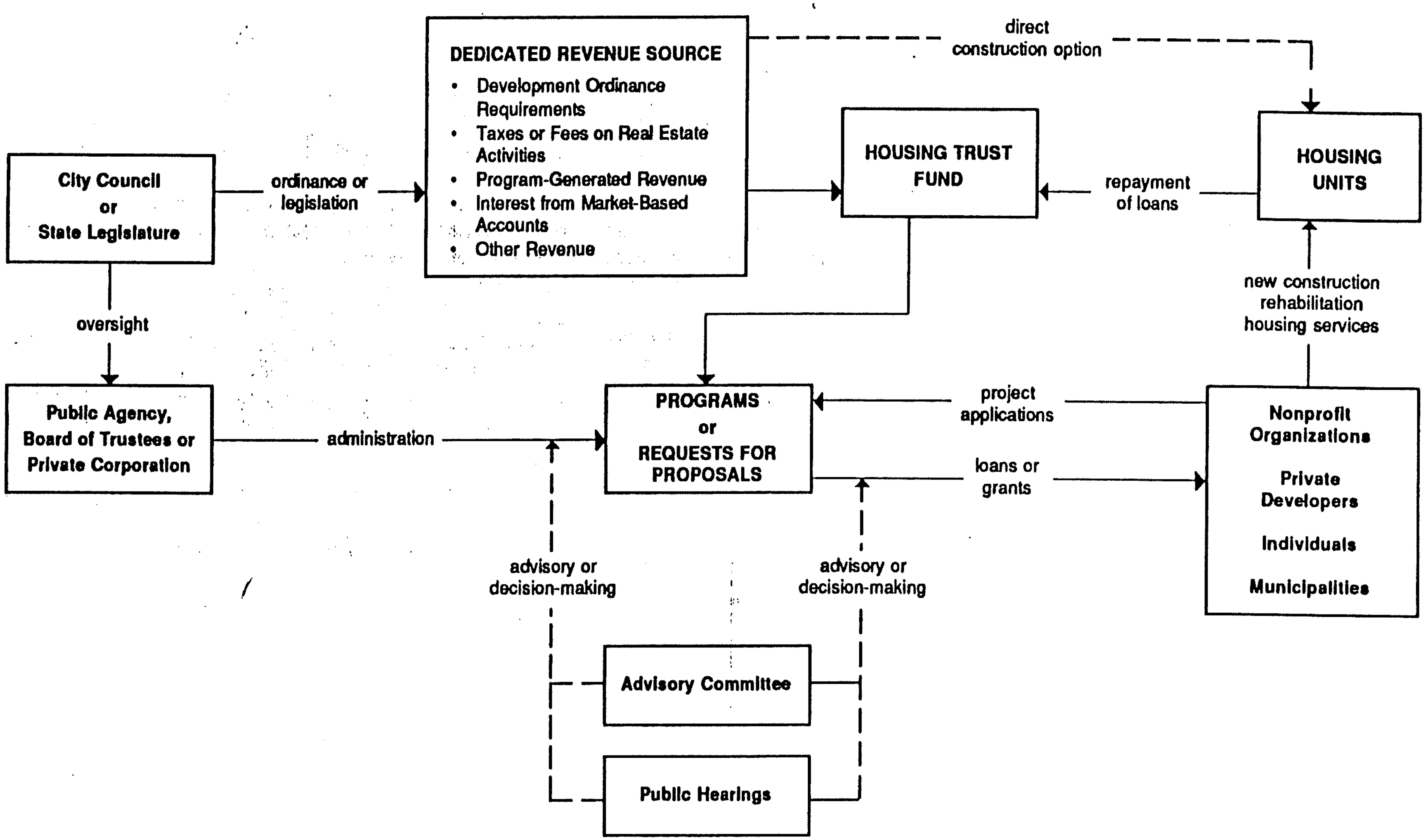
Date Offered: 1990
The Program: Also funded by the McKinney Act, this program was designed to assist developmentally disabled and chronically mentally ill people. Projects can receive loans for acquiring or rehabilitating group housing facilities, and can receive a grant for operating costs and supportive services for the first two years of operation. The housing facilities must be operated for the homeless handicapped for a minimum of 10 years, at which time the loan must be repaid unless the facility continues to operate. Loan repayment is reduced by 10 percent for each year the facility is operated beyond the initial 10-year period.
The Department's Responsibility: Under this program, the State applies to the federal government on behalf of specific projects. The loans are guaranteed by the State. The State's ongoing responsibility involves submitting reports to the Department of Housing and Urban Development on expenditures during the two-year grant period and may involve some monitoring activities in the future. No federal guidance has been provided on what this monitoring might entail.

11/30/92
2-12

ATTACHMENT II

1/30/92
2-13

HOW A HOUSING TRUST FUND WORKS



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Testimony Before the Senate Economic Development Committee
on Executive Reorganization Order No. 23
by Gary Reser, Governor's Legislative Liaison

January 30, 1992

Senator Kerr, Senator Moran, and members of the committee, thank you very much for affording me the honor of appearing today and seeking your support for Executive Reorganization Order No. 23, establishing a Department of Commerce and Housing.

On behalf of the Governor and the citizens of Kansas, I would also like to congratulate you for the diligence and dedication you always exhibit in charting an effective and successful economic development strategy for our great state. It is sincerely appreciated.

This order confers cabinet level status on the Division of Housing and raises the priority of housing within state government. An important first step was taken in the 1990 legislative session when the Office of Housing was created and placed in the Department of Commerce. This reorganization order takes housing into the next logical phase, raises it to division status, and consolidates within that division the weatherization, community services block grant, and emergency community services homeless program functions from the Department of Social and Rehabilitation Services with the present function performed by the Office of Housing. Under the existing structure, there has not been a coordinated housing effort in Kansas.

The consolidation and cabinet level will allow these programs to more effectively serve the housing needs of all Kansans and allow housing issues to be more effectively articulated before the Legislature and the Governor. It will also provide better coordination of housing policy with other relevant agencies of state government and better position the state to take advantage of ongoing and upcoming Federal housing programs.

Attachment 3
1/30/92
Sen. Eco. Dev.

The reorganization will also enable the Department to better serve local units of government and housing constituents by providing technical assistance and serving as a clearinghouse for housing information.

The Governor wants to assure you that the integrity of the economic development mission of the new Department will be maintained and even enhanced, because housing, as you know, has a significant economic development role to play.

Finally, the executive reorganization will position Kansas to aggressively compete with other states in this important area. Kansas has diverse housing needs. This reorganization will allow our state to better meet those needs.

Again, thank you for the chance to be with you today.

Testimony before the
Senate Economic Development Committee

on

Executive Reorganization Order No. 23

January 30, 1992
Kansas Department of Commerce
Secretary Laura E. Nicholl

Attachment 4
1/30/92
Sen. Eco. Dev.

I appear before you in support of Governor Joan Finney's Executive Reorganization Order No. 23 relating to the state housing program.

The Governor proposes to;

1) rename the department as the Department of Commerce and Housing,
2) elevate the current Office of Housing to Division level status headed by an Undersecretary for Housing, and
3) consolidate three housing functions from SRS to the new Housing Division,

which will put special emphasis on the need to assist in achieving affordable housing for all Kansans and to address the needs of the homeless and other special needs groups.

The legislature established the Office of Housing within the Community Development Division of the Department of Commerce in 1990 but did not fund any staff on programs within the function.

Governor Finney's proposal includes a full program component including policy, research, and program capacity; establishes affordable housing as a state priority; and recognizes the significance of housing to the economic development of our state.

The addition of the Housing Division to the Department of Commerce and Housing will not detract from the currently established trade, marketing, promotional business and community assistance functions of the Department. With the creation of the Undersecretary for Housing the responsibility for housing programs and policy of the Secretary of Commerce can be substantially delegated to a capable senior manager. No EDIF funding is proposed for the housing function.

If there is any doubt about housing as a significant part of economic development, I can relate to you a case in western Kansas a short time ago when a company which would employ fifty (50) persons decided not to locate in a community due, in large part, to the lack of available housing for workers who would need to be recruited to the area. While sufficient older housing stock in need of rehabilitation was available in the community, mortgage loan financing was not available. Had there been an active state housing program it may have been possible to positively impact that situation with a creative problem solving approach and resources.

Additionally, we are all aware that housing construction and rehabilitation in themselves have a significant economic impact on communities.

Affordable housing for all Kansans is a goal to which we can all subscribe and one which is important to stable and productive workers -- who are the foundation of our economic fortunes in Kansas.

We are proud of the prospect of joining 48 other states which have major housing programs in service to their citizens and of this commitment to Kansans' quality of life.

I am pleased now to introduce Mr. Dennis Shockley, Chief of the Office of Housing, who will discuss this proposal in greater detail with you.

KANSAS DEPARTMENT OF COMMERCE
OFFICE OF HOUSING
DENNIS SHOCKLEY, CHIEF OF HOUSING DEVELOPMENT & POLICY

TESTIMONY BEFORE SENATE ECONOMIC DEVELOPMENT COMMITTEE
JANUARY 30, 1992
ON
EXECUTIVE REORGANIZATION ORDER #23

As you are already aware, Kansas was the last state to create a permanent housing office in July, 1990. It was logically placed in the Department of Commerce. It has authority and responsibility to: prepare, amend, and administer the state housing plan; serve as a clearinghouse and single point of contact for the state regarding information, programs, and resources related to affordable and accessible housing; provide access and management of federal housing programs for delivery to the citizens and businesses of Kansas; and work to assist agencies and organizations in the development of affordable housing. A Legislative Post Audit Report in August, 1991, determined that after one year of operation, the Department had taken limited action in these areas. The main reason given is that there had not been a corresponding commitment of money and human resources to carry out the housing activities charged to the Department by the Legislature.

The Governor's Executive Reorganization seeks to remedy these inadequacies by centralizing various housing related activities into a new <u>division</u> within the Department and giving the area of housing the visibility and commitment afforded to it by other states.

Executive Reorganization Order No. 23 has six basic components which will:

1. Change the name of the Department to Commerce <u>and Housing</u>.

2. Create a separate division of Housing in the Department.

3. Head the new division with an Undersecretary (a cabinet level designation).

4. Transfer the weatherization program from SRS to Commerce and Housing.

5. Transfer the Community Services Block Grant Program from SRS to Commerce and Housing.

6. Transfer the Emergency Homeless Shelter Grant from SRS to Commerce and Housing.

Attachment 5
1/30/92
Sen. Eco. Dev.

The reasons for the reorganization are many. First, as already indicated, the Office of Housing has not performed its legislative charge. Properly staffed and funded, the new division will properly administer state housing programs.

Second, Kansas has lagged far behind other states in the area of housing. The aforementioned Post Audit Report points out that compared with surrounding states and other states contacted, "Kansas has relatively few housing programs and devotes limited staff resources to housing issues." The reorganization will allow Kansas to move up to comparison with some other states.

Third, the new division will permit Kansas to compete effectively for available federal housing funds that we are not presently receiving. Such programs as HOPE and Stewart B. McKinney grants can henceforth be actively sought. Of the 18 available McKinney grants, Kansas has participated in only three. A Kansas Department of Education study published in August of last year shows over 2,100 homeless children in the state identified by the Kansas Public Schools. That number is no doubt higher. We need to be more aggressive in pursuing McKinney grants. HOPE is a new federal competitive grant program aimed at homeownership.

Fourth, the new federal HOME program is a $6.5 million direct allocation of housing dollars into Kansas. This is a major influx of money into a state that has had only a modest housing effort until now. HOME is the major new housing initiative of the Bush Administration. Administered by HUD, it is a very flexible program that can be used for acquisition of existing housing, rehabilitation, tenant assistance, and new construction. Properly administered, the HOME program can be a revolutionary housing program for the state.

Fifth, the relationship of economic development issues to housing are obvious. Two consecutive administrations representing both political parties have seen that tie and have acted on it. It is difficult to attract business and industry into the state if adequate and affordable housing stock is unavailable. Also, the infusion of $14.5 million in federal dollars into the local economies of the state has an impact on the local housing industry and flows into the pockets of real estate agents, hardware and lumber stores, developers, tradespeople, and financial institutions - a ripple effect similar to that of tourism or other economic development dollars.

Sixth, the synergy created by the focus of housing resources in one fully staffed agency will allow Kansas to become creative in the field of housing. For example, the state of Delaware has a second mortgage assistance program which allows first time home-buyers who are credit-worthy to defer down-payment and closing costs into a second payment that enables them to realize homeownership. The state of Colorado has a major housing thrust working with nonprofit organizations in rural areas. In Arizona the Housing Office is responsible for handling the Resolution Trust Corporation (RTC) properties. There are many other examples. In addition, the new housing division would be able to work more closely with the Farmer's Home Administration and other federal housing related agencies to accomplish affordable housing objectives.

In closing, I would simply like to add that this move by Governor Finney is the next logical step for housing, raising it from a programmatic level to the division or department status it enjoys in 48 other states. Some have argued that Housing should be a separate agency or department and maybe it should. However, this proposal allows housing programs to be consolidated in Kansas without incurring the costs associated with a separate department in this instance, and gives housing the status and organizational focus to achieve its mission of bringing affordable housing within the reach of all Kansans.