

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson August Bogina at 11:00 a.m. on March 9, 1995 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department
Kathy Porter, Legislative Research Department
Tom Colton, Legislative Research Department
Russell Mills, Legislative Research Department
Paul West, Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Dr. James Dawson, Vice President for Student & Institutional Development, FHSU
Audrey Nogle, President of Student Government
Karen Herrman, owner of property management company in Hays, KS
Dick Compton, homeowner and owner of rental apartment units in Hays, KS
Tom Pitner, President of Emprise Bank, Hays, KS
Henry Schwaller, IV, Hays businessman
Joan Strickler, Executive Director, Kansas Advocacy & Protective Services, Inc. (KAPS)
Jean Krahn, Kansas Advocacy and Protective Services
Monte L. Stiles
Bobbie Dall, Catholic Social Services, Kansas City, KS
Terry Larson, Executive Director, Kansas Alliance for the Mentally III
Duane Johnson, State Librarian
Ann Koci, Commissioner of Administrative Services, SRS
Randy Tongier, Financial-Compliance Audit Manager, Legislative Post Audit
Ted Ayres, General Counsel, Board of Regents

Others attending: See attached list

Senator Brady moved, Senator Morris seconded, that the minutes of the February 24 and 25 meetings and the minutes of the March 6 meeting stand approved as read. The motion carried on a voice vote.

It was moved by Senator Salisbury and seconded by Senator Brady that bill draft 5 RS 1206 as requested by Bob Storey, bill draft 5 RS 1191 as requested by the Historical Society, and bill draft 5 RS 1204 as requested by the Chairman be introduced. The motion carried on a voice vote.

SB 350: Fort Hays state university, lease to endowment association for student housing complex

Dr. James Dawson appeared before the Committee in support of **SB 350** and reviewed his written testimony (Attachment 1). He informed members that the proposed legislation would allow Fort Hays State University to enter into a lease agreement with the university's Endowment Association for the purpose of constructing and operating an apartment complex for students. He explained the need for suitable housing to meet institutional growth and the planned construction of 36 units encompassed by Phase I of the project. Dr. Dawson commented that the donors intend to make the project a gift to the University when it is beneficial to them for tax purposes, and that it is not the intent of the donors to make the project a for profit operation. In answer to questions, he stated that the Residential Life office at the University would manage the facilities and that rental revenues would cover all costs. In responding to a question about the advantages a developer might have in comparison with private landlords, Dr. Dawson stated that like all university housing, it would not be subject to all taxes, i.e., property and sales tax.

Ms. Audrey Nogle, President of Student Government, appeared before the Committee in support of **SB 350** and testified that much of the housing available to students in Hays is substandard. She stated that the

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community has been asked to respond to the need, but that hasn't occurred.

Ms. Karen Herrman, owner of one of the property management companies in Hays, appeared before the Committee in opposition to **SB 350** (Attachment 2). She testified that the community has responded to the University's challenge: if the private sector would build housing for students, the on-campus apartment project would be put to rest. She informed members about the impact of newly constructed apartments and those that are scheduled for completion in the fall of 1995. Ms. Herrman was the spokesperson for many from Hays who opposed **SB 350**, and expressed concern that development of the apartments would be subsidized with scholarship monies. In answer to questions, Ms. Herrman stated in discussing the higher than marketplace rental costs of the proposed apartments with the benefactor and developer of the project, he had stated that the apartment leases would have to be subsidized. In response to Senator Lawrence, Ms. Herrman stated that the community has not received a response in answer to their request for a student housing market analysis.

Dr. Dawson was asked to respond to Ms. Herrman's concerns. He stated that the rental of the units would cover all costs of the project and the subsidy referred to by the benefactor would be provided by the donors. He reiterated that the Endowment Association would not assume the fiduciary responsibility of subsidizing project costs.

The Chairman pointed out that **SB 350** authorizes the University to enter into an agreement with the Endowment Association but does not mandate construction. It was pointed out that the University must have legislative authorization because the proposed apartment complex would be located on state property.

Mr. Dick Compton testified as an opponent to **SB 350** and reviewed his written testimony (Attachment 3). He requested that the state not become involved in private enterprise, and pointed out that if the University engages in student housing projects, the public will realize no property or income taxes. He questioned whether the University would be subject to sales tax on procurement for maintenance.

Mr. Tom Pitner, President of Emprise Bank N.A. in Hays, presented testimony in opposition to **SB 350** (Attachment 4). He testified as to the credibility of the developer who is currently constructing an apartment complex in Hays, and stated that the private sector has stepped forward to meet the housing needs of the University.

Mr. Henry Schwaller, IV, a Hays businessman, appeared before the Committee in opposition to **SB 350**. He reviewed three reasons for his opposition which are contained in his written testimony (Attachment 5). Mr. Schwaller stated that his reference to 60% of the 4600 students on the FHSU campus as nontraditional was a figure supplied to him by an administrative official on March 8, 1995.

Written testimony expressing the opposition of Thomas and Barbara Wasinger (Attachment 6) and Dale and Edna Degenhardt (Attachment 7) to **SB 350** was distributed to members.

Senator Salisbury inquired whether the University was aware of the construction projects. Dr. Dawson responded that the University is aware, but pointed out that a major portion of the first phase of the project is dedicated to fraternity houses which is a need that will not be met by the private sector. Senator Brady requested that the Board of Regents make available information regarding the availability of public housing at each of the regents institutions.

Senator Rock moved, Senator Salisbury seconded, that **SB 350** be recommended favorable for passage. Senator Rock expressed his opinion that the University could enter into a contract with any entity providing the project would not be located on state property. It was pointed out that what makes this more attractive to developers is that projects constructed on state property are not subject to property tax and there is no capital cost involved.

The motion failed on a roll call vote.

SB 342: Creating the Kansas guardianship program

Joan Strickler, Executive Director of KAPS, and Jean Krahn, Director of the Kansas Guardianship Program, appeared before the Committee to testify in support of **SB 342** and reviewed their written testimony (Attachment 8). Ms. Strickler briefed members on the federal opinion that there is a conflict of interest in KAPS administration of the Kansas Guardianship Program (KGP) and proposed that the Legislature create the KGP in statute in order to allow it to continue operating as it has in the past. Mr. Krahn told members how the Guardianship Program is operated in Kansas. In answer to questions, Ms. Strickler stated that

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approximately 50% of the program's budget is for administration and the other 50% goes toward volunteer stipends. She indicated that if the program reaches the number of guardians they're budgeted to serve, the average cost is approximately \$500 per person served per year.

Senator Vancrum expressed concern about the proposed membership of the Board. Ms. Strickler expressed her opinion that the state's direct involvement is important because the clients are essentially the adult wards of the state.

Senator Petty expressed concern that the federal opinion about membership of the KAPS board would extend to the KGP board. Ms. Strickler stated that the KAPS program is a legal advocacy program and, as such, the federal government believed it should be totally separate from the state. The same thing would not apply to the guardianship program. She pointed out that because clients have been moved from institutions to community settings, the need to have guardians has been enhanced. She testified that the KGP is a key element in seeking protection of people who are widely distributed in small settings throughout the state.

Senator Petty stated that she did not know how many volunteers in the KGP were attorneys and indicated she believed that SRS is furnishing legal services for paperwork. Ms. Strickler explained that all clients are identified by Adult Protective Services of SRS or by state hospitals ; KGP does not become involved without a direct request from SRS. She stated that the role of KGP is limited to the recruitment of volunteers and seeking a match; it has never been the role of the KGP to provide legal services.

In response to Senator Petty's questions regarding staff, Ms. Strickler stated that there are 6 persons who serve as recruiter facilitators, a director, a parttime position, support staff and the KGP in the process of hiring one additional recruiter for the southeast portion of the state.

Senator Petty expressed her opinion that an opportunity should be provided for SRS to write specifications for bids for the project and KGP could participate in the bid process. Ms. Strickler cited the commitment of volunteers to the program, noting that nearly 400 of the 700 volunteers have served 5 years or more. It was her opinion that to subject the agency to the bidding process would suggest instability to the clients.

Monte Stiles appeared before the Committee and reviewed his written testimony (Attachment 9).

Bobbie Dall, currently a medical social worker in Catholic Social Services Home Health Care, appeared before the Committee and expressed concern regarding the feasibility of a volunteer program meeting the needs of an increasing population of wards of the state. It was her opinion that most volunteers are not prepared to deal with the demands involving a person needing emergency medical attention or someone whose family has a history of violent behavior. Ms. Dall expressed concern about separating the KGP from SRS, and encouraged the Committee to provide professional support for guardians recruited to serve in Kansas. In answer to questions, Ms. Dall stated that she believes the volunteer program is doing the best it can with limited funds.

Ms. Terry Larson, Executive Director for the Kansas Alliance for the Mentally Ill, appeared to testify in support of the concept of SB 342, but in opposition to the proposed composition of the program's Board of Directors (Attachment 10).

The Chairman advised that SB 342 would be held until a later date.

SB 351 Abolish the Stormont medical library fund

Mr. Duane Johnson, State Librarian, presented his written testimony in support of SB 351 (Attachment 11). It was moved by Senator Morris and seconded by Senator Petty that SB 351 be technically amended and recommended favorable for passage as amended. The motion carried on a roll call vote.

SB 344 SRS not required to have an intake office in every county

Ms. Ann Koci, Commissioner of Administrative Services with the Department of Social and Rehabilitation Services, testified before the Committee in support of SB 344 and reviewed her written testimony (Attachment 12). In answer to a question, she stated that savings in the range of \$40,000-\$60,000 would occur if the 12-14 offices that are operational 50% or less of the time were closed. However, Ms. Koci assured members that the intent of the proposed legislation is to provide negotiating leverage in lease contracts and that the Department does not intend to close any offices. In answer to a concern for small communities, the Chairman told members that it was not the intent of the subcommittee to diminish services to anyone.

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Senator Petty moved, Senator Salisbury seconded, that SB 344 be passed. The motion carried on a roll call vote.

HB 2065 **State education institutions, dormitory room and board fees, guidelines**

Mr. Randy Tongier, Division of Legislative Post Audit, presented information to the Committee regarding results of a Post Audit study at the state universities. He testified in support of **HB 2065** and indicated that the Division was supportive of the Board of Regents' position of allowing universities to respond to local housing market situations. (Attachment 13).

Mr. Ted Ayres, General Counsel for the Board of Regents, testified as a proponent for **HB 2065** and reviewed his written testimony (Attachment 14). In answer to a question, Mr. Ayres stated that residents of Ellis County are eligible for discounted dormitory fees at Fort Hays State University. It was stated that the City of Hays provides an annual gift of \$100,000 to encourage local students to live in dormitories.

It was moved by Senator Rock and seconded by Senator Salisbury that HB 2065 be recommended favorable for passage. The motion carried on a roll call vote.

The Chairman thanked members for their indulgence and adjourned the meeting at 1:15 P.M. The next meeting is scheduled for March 13, 1995.

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: March 9, 1995

NAME	REPRESENTING
TED D. AYRES	BOARD REGENTS
Marge Schmidt	Hays, KS
Albert Bryant	Hays
Boogert. K. H. H. H.	Hays, KS
Bruce D. Clewens	Hays, KS
Ken Dreher	Hays
Kim H. Zipsier	Hays, KS
Rich Curtis	Hays, KS
Henry W. W. W.	Hays, KS
Jeanine Dalton	Hays, KS
Angela Augustini	Hays, KS
W. Lynn Harrison	Hays, KS
Ralph Augustine	Hays, KS
Kathy Dreher	Hays, KS
Mark D. D.	Hays, KS
Dary Vanthout	Hays, KS
Ernie Bryant	Hays, KS
Lou Ann Buringardt	Hays, KS
Lais Augustine	Hays, KS

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: March 9, 1995

NAME	REPRESENTING
Art May Jr.	Hays Ks
Colyle Thompson	Hays, KS
Mr. George Urwin	Hays Kansas
George Urwin	Hays Ks.
Harmon D. Mcemis	Hays Ks
Kenneth Albers	Hays Ks
Janeq Simon	State Treasury
Diane Johnson	State Library
Lois Snow	State Library
Jon A. Smith III	HAYS, KS.
Gill McCaffrey	K.C. Ks.
Bobbie Dall	K.C. Ks.
Jerry Sloan	GTA
Paul Shelby	QTA
Zer Vogel	Dept. of Admin.
Jim Bermer	HAPS - Manhattan Ks
Michelle L. Brown	KAPS
Lewis Hearne	"
Jean Krahn	"

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: March 9, 1995

NAME	REPRESENTING
James Rockwell	KAPS
John Strubler	KAPS
Beth Pope	Citizen
Rodney Goble	Foot Hwy. State Student Body
Ronald R. [Signature]	FHU
Walter Damm	Pete McGill's Associate
Marty Kennedy	DOB
Ann Koci	SRS
Dwane Watersworth	DOB

**TESTIMONY TO THE
SENATE WAYS AND MEANS COMMITTEE
REGARDING SENATE BILL 350
FORT HAYS STATE UNIVERSITY STUDENT HOUSING**

Chairman, Bogina and members of the committee, my name is Jim Dawson, I am Vice President for Student and Institutional Development at Fort Hays State University. Fort Hays State University upon approval by the Kansas Board of Regents seeks authority to enter into a long-term lease agreement with the Fort Hays State University Endowment Association for the purpose of constructing apartments which will provide quality housing for students. Apartments are being proposed for student housing in leu of the traditional dormitory configuration because it has been determined after extensive student survey's, both locally and nationally, that the student populations of the 21st century will demand the flexibility afforded by apartment structures.

The proposed financing structure for the apartment complex represents an unique and creative approach to a public/private partnership between Fort Hays State University and some of its most generous donors. The Endowment Association of Fort Hays State University has agreed to enter into the long-term lease and to contract with a limited liability company for the construction of apartments. The attached pages outline the proposed structure for the construction of Phase I of the Apartment Complex. I would emphasize that the University's intention is to develop the first phase of the project and to ascertain additional demand before any further construction will be undertaken. The Board of Regents approval of the apartment project is for Phase I and any future construction must be reviewed by the Board. The University recognizes and appreciates the response of the private sector for appropriate student housing and we will work closely with developers in the future to ensure that our housing plans are undertaken in full recognition of plans from the private sector.

STATEMENT OF NEED

In recent years the community of Hays and the institution have enjoyed continuous growth as indicated in Appendix A. The growth of the University over the past six years has been steady and manageable. Current demands for rental property in the community exceed available spaces, and it has become virtually impossible to obtain housing suitable for renting in the community. During the same period of time, the residential life program consisting of dormitories and apartments on the campus of Fort Hays State University have reached capacity. While there are spaces available for double occupancy, students choosing to live in a single occupancy option find that this is not always available. In 1988, the waiting list for Wooster Place apartments was approximately 30 students. In 1993, the waiting list has

grown to over 70. Total occupancy in the residence halls and Wooster Place apartments for the last six years is outlined in Appendix B.

In addition to limited housing options which exist on campus, the projections for enrollment at Fort Hays State University during the remainder of this decade are very positive. There are increasing numbers of high school graduates in the western part of the state, as well as eastern Kansas which projects a total growth in excess of 1,000 students during the course of the decade. These projections are graphically displayed in Appendix C.

In addition to the expressed need for additional housing based solely upon the numbers of students attending Fort Hays State University, there is also evidence that the quality of living facilities surrounding the campus is less than desirable for many students, and new opportunities for housing would be very attractive. As the institution plans for growth, it must develop an aggressive program to accommodate the anticipated increases in students and housing that is both suitable and affordable.

In addition to the projected growth of high school graduates, the University has experienced tremendous growth in the non-traditional student population. Many single parent families and traditional families are returning to the campus for career changes and the educational opportunities afforded at Fort Hays State University. The total student population at Fort Hays State University is composed of nearly 40 percent non-traditional students for the 1993-94 academic year. This non-traditional population creates a much greater demand for apartment style living.

PROPOSED APARTMENT COMPLEX PROJECT

Given the demand for housing on the campus, it is proposed that an apartment complex be developed on University property, and the initial development would be approximately 36 units housing up to 120 individuals with an anticipated expansion of apartments on the site if demand exists. The maximum number of units which could be built on the proposed location would not exceed 250. The units would be predominately two-bedroom facilities with common parking areas, green space and recreation facilities.

The proposed location for the project is in close proximity to Gross Memorial Coliseum, Cunningham Hall, recreation facilities and the new tennis complex. The site is bound by the Coliseum parking lot, 183 by-pass, 8th Street and Big Creek. The site location is indicated on Appendix D. The site would require some preparation to elevate it above existing flood levels. Ingress and egress to the property would be possible with very little adaptation. Utilities are in close proximity, and the expense to accessing these utilities would be minimal.

JOINT VENTURE

It is proposed that the University provide the land and that developers built apartments on the site. The institution would enter into a 20 year arrangement with a 20 year option for the benefit of the developer. Upon full payment for construction, the developers would relinquish their lease and give title for the apartments to Fort Hays State University.

MANAGEMENT

It is proposed that the Residential Life Office at Fort Hays State University manage the facilities for the developers and that an appropriate management fee would be charged for these services. Students living in the apartment complex would be required to comply with university policies concerning living arrangements. These policies would insure limited damage to the facility and would also provide appropriate contractual agreements for occupancy. A copy of the current apartment lease agreement is provided as Appendix E.

In addition to providing management for the facility, Residential Life would also be responsible for maintenance. Developers would have an option to establish minimum maintenance standards and, of course, on-site inspection.

PROPOSED TIME LINE FOR PLAN DEVELOPMENT

In order to provide housing for the anticipated increase in enrollment, it would be necessary to seek legislative approval for a lease of the land during the 1993-94 legislative session. Upon approval, architectural plans and feasibility studies could be completed, and the project could be undertaken the fall of 1994 with anticipated completion by fall semester, 1995. This projected opening date would coincide with the anticipated increase in students seeking housing on campus.

The community of Hays is completing a housing study. Results of that study will be available at the end of October. Information from that study combined with projected increases at Fort Hays State University would make this project on of top priority for the University.

STUDENT HOUSING PROPOSAL

(Prepared to submission to the 1995 Kansas Legislature)

I. Bill Summary

Fort Hays State University seeks to join in a public/private partnership to build student housing on University land. The University seeks authority to lease land to the Fort Hays State Endowment Association who will contract with a private entity to develop student housing.

II. Fiscal and Administrative Impact

A. Self-Supportive Structure

The proposed housing project will be self-supportive in both phases: construction and operation. The project will be built through private funding. Maintenance and administrative costs will be paid by the developer/lessee under a management agreement with the University. The developer/lessee will purchase casualty insurance for the constructed improvements for the replacement value of such improvements.

B. Ownership

The land involved in this transaction will remain the property of the state. The land will be leased to the Fort Hays State University Endowment Association for a period of up to 40 years. The Fort Hays State University Endowment Association will contract with a developer/lessee who will construct housing. At the end of the initial lease period, the Endowment Association shall have the option of renewing the lease for an additional period of time; however, the University shall have the authority to renegotiate the lease terms. If the parties are unable to reach a mutually satisfactory renewal agreement, the lease-hold improvements will become the property of the state. At the end of any subsequent lease terms, the lease-hold improvements shall become the property of the state.

C. Liability

The developer/lessee must agree to full liability for any financing. A lending institution who undertakes to finance the construction shall only authorized to seek a security interest in the lease instrument. The developer/lessee shall maintain liability insurance in an amount equal to or greater than the limits established under the Kansas Tort Claims Act naming the University, Board of Regents, and the State of Kansas as named insureds.

D. Quality of Construction

All engineering and architectural designs shall be approved by the Fort Hays State University Architect, the Kansas Board of Regents Architect, and the Kansas Department of Administration, Division of Architectural Services requirements. The supervising architect shall be contractually required to assure that construction complies with Kansas Department of Administration, Division of Architectural Services requirements.

III. Policy Implications/Background

Fort Hays State University last made a housing expansion in 1971. Since 1971, several student and housing trends have affects the University.

A. Enrollment Growth

Overall University enrollment has increased each year for the last six recorded years. (Fall 1994 numbers are not yet available.) FHSU is the fastest growing institution in the Regents System over the last five years period. The adjusted Fall 1993 enrollment of 5,800 students was the second largest number of students ever to enroll in the University.

B. Changing Composition of Students

The composition of students has changed dramatically since the last housing expansion. Today's student body is much older and has a significant number of "non-traditional" students. The number of undergraduate students aged 25 or older increased from 601 in Fall 1983 to 921 in Fall 1993 -- comprising a 53% increase. These students often have families and are not attracted to or served by traditional dormitory style housing. Married students comprised 21% of the FHSU student body in Fall 1992.

Fort Hays State University completed the 84 unit Wooster family housing apartment complex in 1964. This complex averages 100% occupancy and the University's housing office reports that the waiting list for this complex averages 80 units.

Students are increasingly interested in single residence hall rooms as opposed to sharing space with a roommate. While capacity theoretically exists for double room occupancy housing, during the fall semesters of 1991 and 1992 all available rooms were used and many requests for single rooms could not be honored. In the Fall of 1993, due to the re-opening of an older residence hall, an eight room surplus existed campus-wide.

C. ADA Requirements

Only a small number of Fort Hays State University residence hall rooms are handicapped accessible. Only one of the Wooster Apartment complex apartments is handicapped accessible. A number of apartments in the new complex will be designed to meet accessibility requirements.

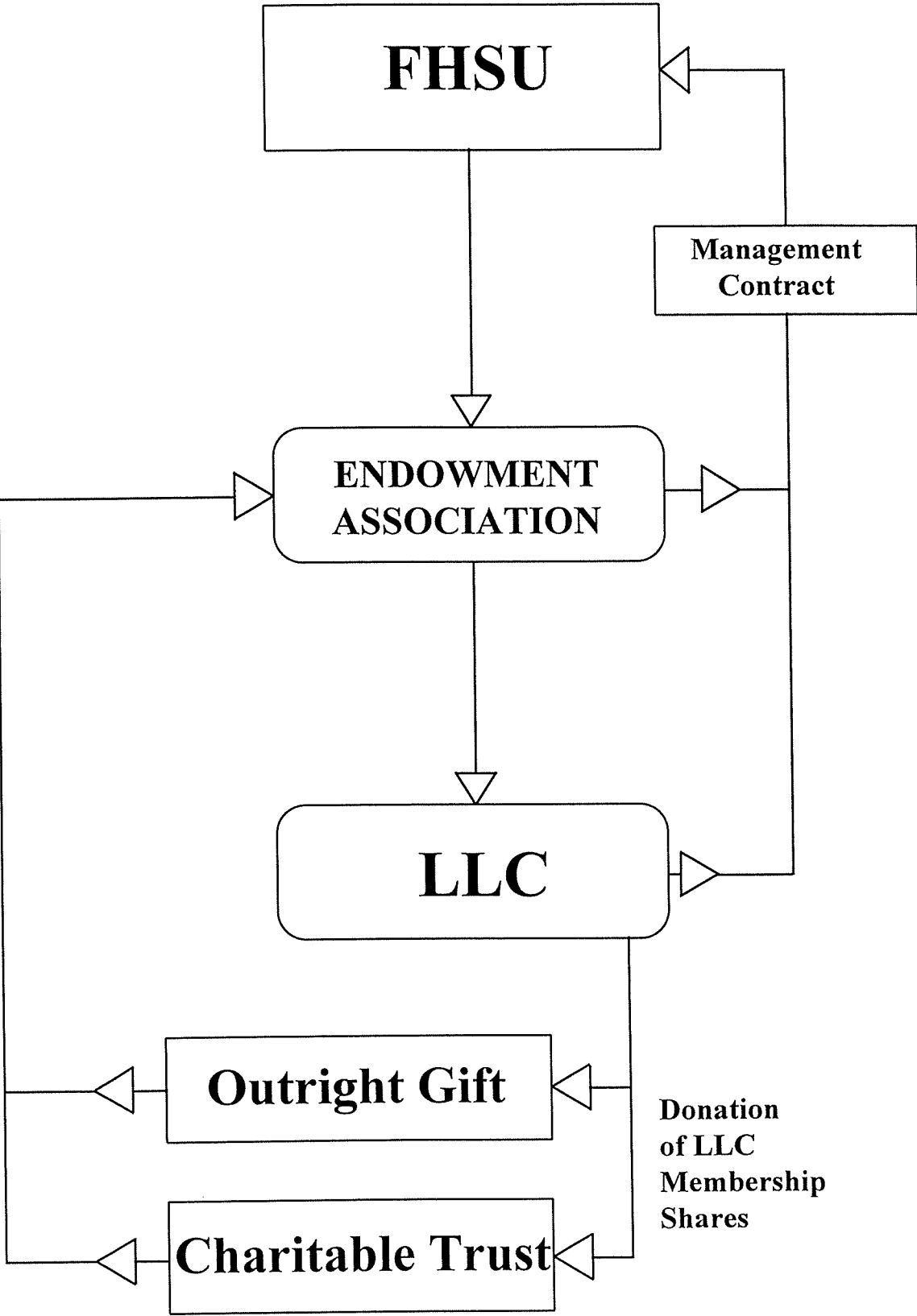
IV. Impact on Other State Agencies

Passage of this proposal would have no impact on other state agencies.

FHSU Apartment Complex Project

- Step One: A Limited Liability Company (LLC) will be formed with a primary underwriting investor. Additional investors will be secured subject to the approval of the primary investor.
- Step Two: A 20-year Lease Agreement with renewal options between the State of Kansas and the Fort Hays State University Endowment Association will be negotiated for the land on which the apartment complex will be built.
- Step Three: FHSU Endowment will assign this lease to the Limited Liability Company (LLC) for a period not longer than (20) years.
- Step Four: The LLC will negotiate and obtain a permanent construction loan from local lending institutions using lease hold improvements as collateral. Several lenders have expressed an interest and have proposed 15-year mortgage loans at prime plus 1% floating interest rate. Using loan funds and its own funds, the LLC will construct the complex.
- Step Five: The LLC will contract with FHSU Residential Life to manage the units for a fee of 12% of gross income.
- Step Six: The LLC will distribute net profits and positive cash flows. In addition, it will provide K-1 statements showing gain or loss and in this way pass through depreciation and interest expense and other potential operating profits or loss.
- Step Seven: At a date to be determined members of the LLC will individually choose one of the following courses of action:
1. Make an outright gift of their LLC membership shares to the FHSU Endowment Association; or
 2. Establish a Charitable Remainder Unitrust naming the FHSU Endowment Association as the remainder beneficiary.
- Step Eight: At the termination of its lease agreement or when all membership shares have been donated, the LLC will distribute its remaining assets among its members and dissolve.

OWNERSHIP INTEREST FLOW CHART



FORT HAYS STATE UNIVERSITY
Enrollment Figures
Fall 1986 Through Fall 1993

<u>Year</u>	<u>Total Headcount</u>	<u>Undergraduates</u>	<u>Graduates</u>
1986	5,538	3,930	1,608
1987	5,136	3,750	1,386
1988	5,005	3,711	1,294
1989	4,977	3,792	1,185
1990	5,501	4,059	1,442
1991	5,599	4,225	1,374
1992	5,603	4,346	1,257
1993	5,701	4,318	1,383

Information obtained from the FHSU Office of Budget and Planning

POPULATION GROWTH
Ellis County and Surrounding Area

Compared to the eight surrounding counties, Ellis County is the second most populous, according to the 1990 census (population 26,004). Of this nine county region, Ellis County experienced the least decline in population (-.36%) over the 1980-1990 decade. Between 1980 and 1990, the Ellis County population declined by 94 people, a decrease of .36 percent. In 1990, the population of Ellis County was 26,004. By 1995, it is projected to reach 27,720. The population is expected to grow to 28,189 by 2010 and decline to 27,670 by 2020. The largest city in Ellis County is Hays, with a population of 17,767 in 1990, an increase of about 9% from 1980.

Quoted from "A Profile of Ellis County: An Internal and External Environmental Analysis" prepared by The Docking Institute of Public Affairs, Fort Hays State University, 1992.

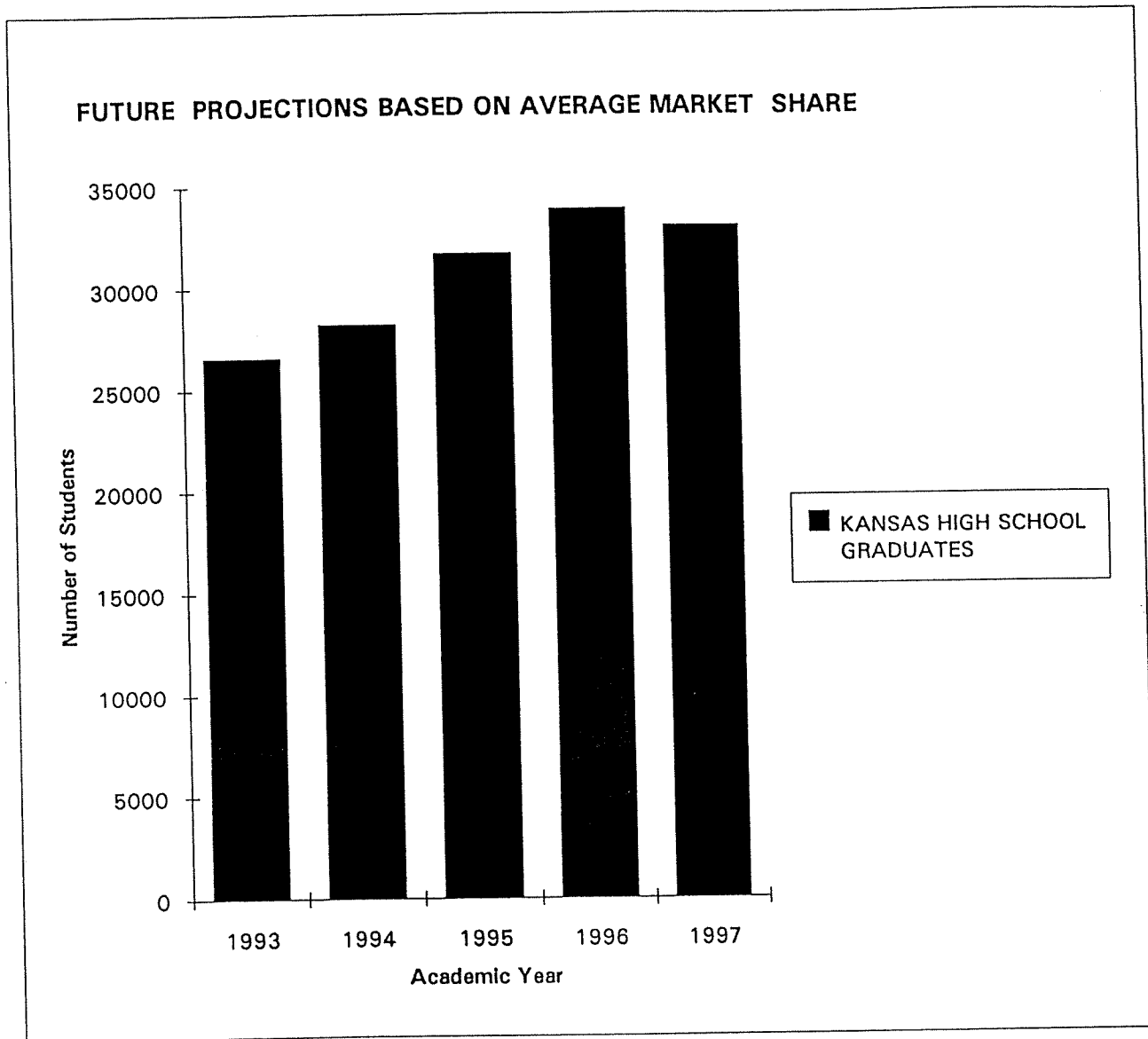
FORT HAYS STATE UNIVERSITY
On Campus Housing Figures
Fall 1988 Through Fall 1993

<u>Hall</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
Agnew Hall	93	77	95	111	101	90
Custer Hall	Closed-----				37	36
McGrath Hall	Closed-----				23	30
McMindes Hall	378	358	403	408	446	413
Wiest Hall	294	298	352	348	356	368
<hr/>						
Residence Hall Totals	765	733	850	890	970	937
Wooster Place Apartments	83*	83*	83*	84	84	84

*One Wooster Place apartment was closed for remodeling. Wooster Place has been at 100% occupancy since it was built in 1961.

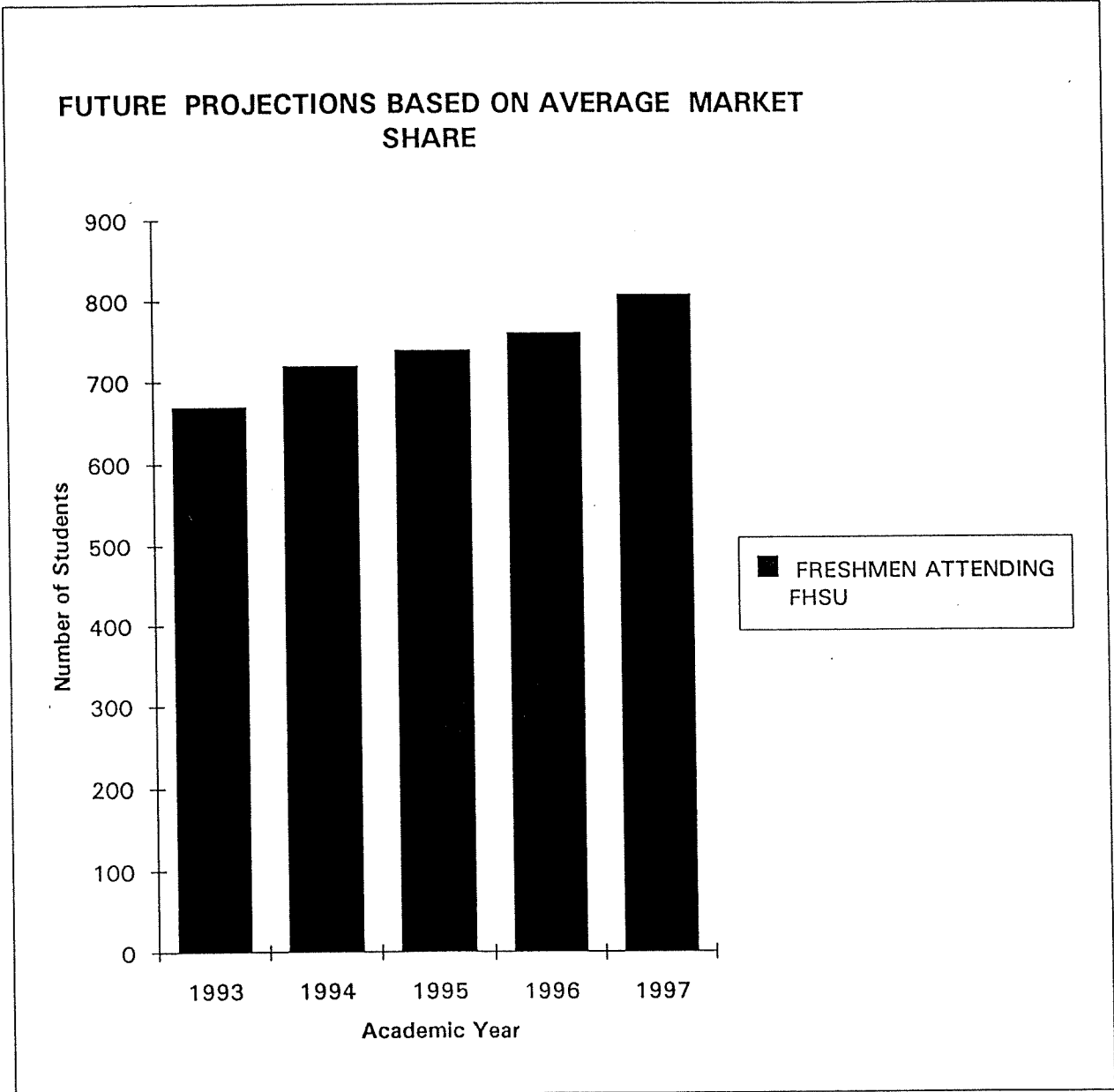
TOTAL KANSAS

ACADEMIC YEAR	1993	1994	1995	1996	1997
KANSAS HIGH SCHOOL GRADUATES	26566	28210	31659	33839	33013



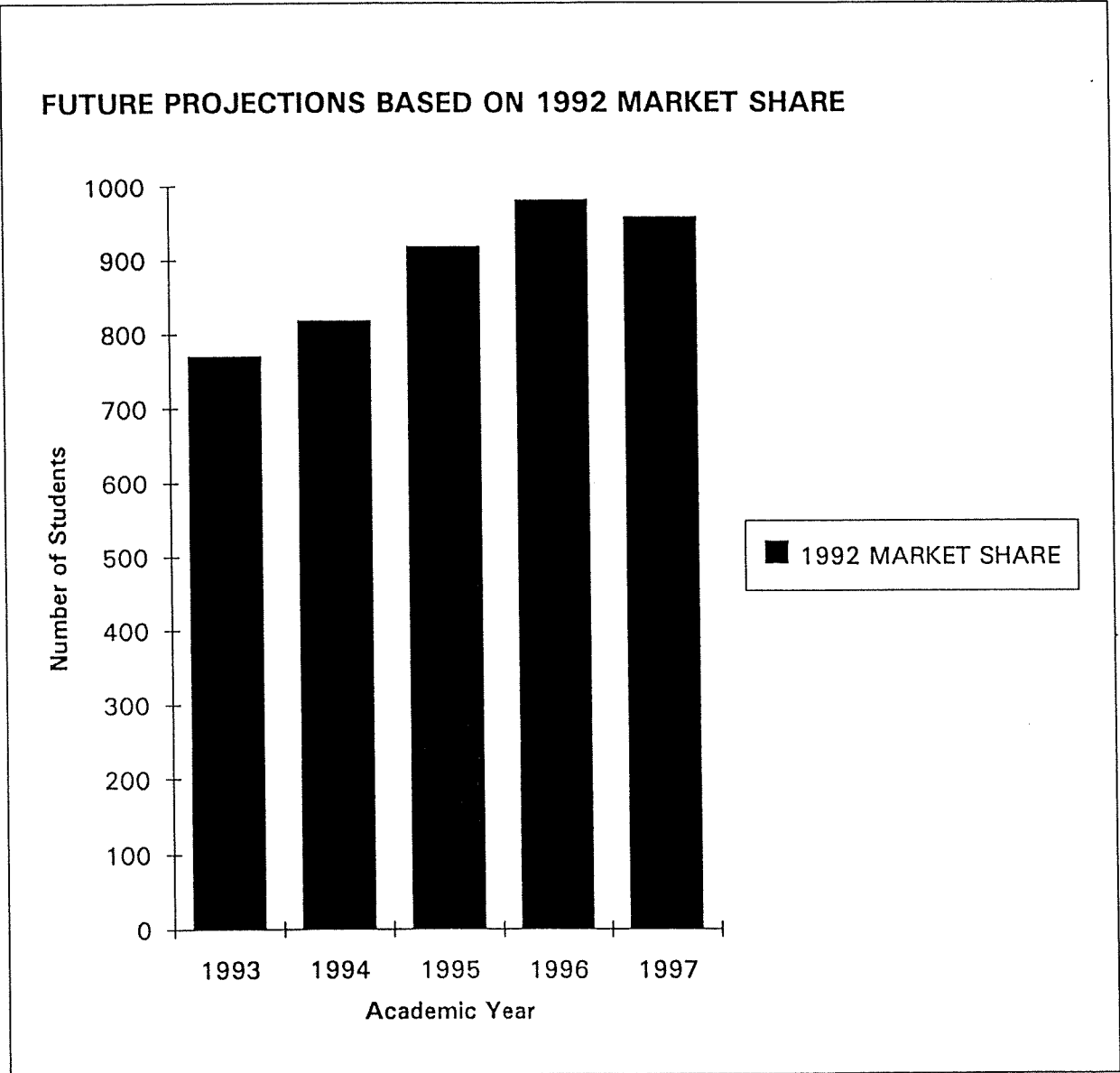
TOTAL KANSAS

ACADEMIC YEAR	1993	1994	1995	1996	1997
FRESHMEN ATTENDING FHSU	669	719	738	759	806



TOTAL KANSAS

ACADEMIC YEAR	1993	1994	1995	1996	1997
1992 MARKET SHARE	770	818	918	981	957





Langardt
Architects

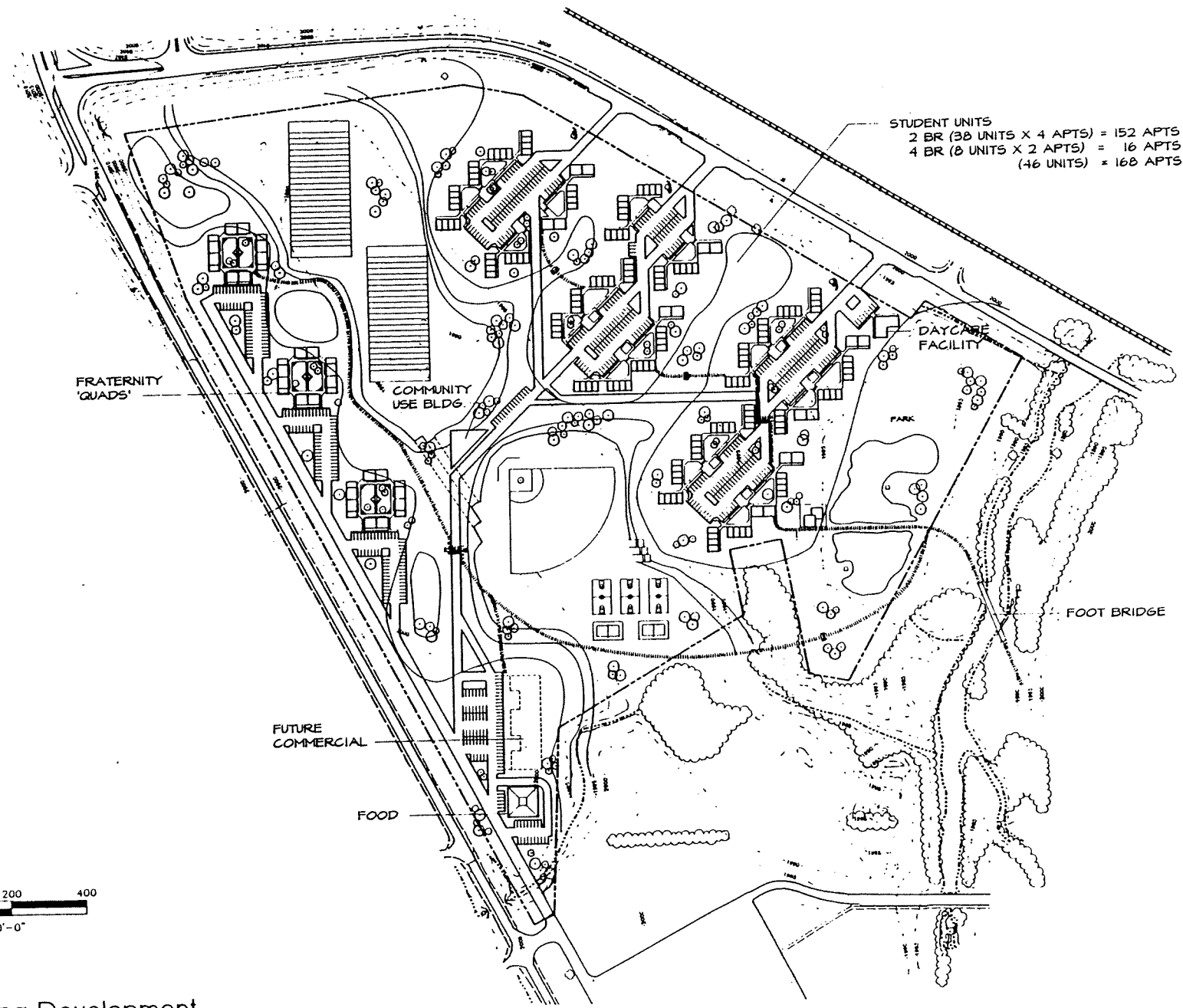
Member
American
Institute
of Architects

1200 Main Street
Suite 318
Fort Hays, Kansas
67801
(813) 435-0423
FAX
(813) 435-0401

Planning
Architecture
Interior
Design

Proposed Housing Development
Fort Hays State University
Hays, Kansas

Project No.
9808
Date
August 1994



APPENDIX D

Proposed Housing Development
Fort Hays State University
Hays, Kansas

APARTMENT CONTRACT — FORT HAYS STATE UNIVERSITY

This Agreement, hereinafter identified as the CONTRACT, made and entered into this _____ day of _____, 19____, by and between Fort Hays State University of Hays, Kansas, hereinafter identified as the UNIVERSITY, and _____ of _____ city _____ state _____ nation hereinafter identified as the LESSEE, witnesseth:

WHEREAS THE LESSEE has made application for living accommodation in an apartment-type unit of the UNIVERSITY Housing System and WHEREAS THE UNIVERSITY has assigned such accommodations to the LESSEE. NOW THEREFORE THE LESSEE AND THE UNIVERSITY do agree and covenant together as follows:

1. Apartment No. _____ in _____, hereinafter identified as the APARTMENT, shall be rented to the LESSEE on a month-to-month (as qualified by paragraphs (9) and (10) below) basis. This is a(n) _____ bedroom apartment with rents for \$ _____ per month.
2. The LESSEE shall pay the UNIVERSITY those charges prescribed by the Kansas State Board of Regents for rent according to the terms of this CONTRACT.
3. The rental payment shall be due on the first day of each month in advance. The first month's rent is due as an advance deposit when the APARTMENT is first assigned to the LESSEE. All other rent is payable at the UNIVERSITY Business Office, or at the Student Residential Life Office, as determined by the UNIVERSITY.
4. The rental payment becomes delinquent when not paid within ten days after the due date. Any delinquent rental payment is sufficient reason for the UNIVERSITY to require the LESSEE to vacate the APARTMENT.
5. Charges for a partial month's occupancy shall be computed on the basis of a daily percentage of the monthly rate. Each month shall be considered as having thirty (30) days for the purpose of such rental computation. If by mutual agreement of the UNIVERSITY and the LESSEE, the latter party occupies the APARTMENT for days earlier than the commencement date and/or later than the expiration date of the CONTRACT - in the absence of any other written agreement between the two parties - the LESSEE shall pay the UNIVERSITY rental charges as provided in paragraphs (1) thru (5) of the CONTRACT and shall reimburse the UNIVERSITY for electricity used in the APARTMENT during said days of occupancy as provided in paragraph (6) of the CONTRACT.
6. The LESSEE shall reimburse the UNIVERSITY on a month-to-month basis for the full cost of all electricity (as determined by the UNIVERSITY) used in the APARTMENT during the term of the CONTRACT and/or during any additional days of occupancy as discussed in paragraph (5), above.
7. The UNIVERSITY through its agents, may enter the APARTMENT at any time it is deemed necessary for the purposes of maintenance, inspection or emergency reasons. But in no event will any of these operations be carried out by a single agent of the UNIVERSITY, except in the presence of LESSEE or the LESSEE's authorized representative.
8. The UNIVERSITY may assign the LESSEE to an alternative unit in the UNIVERSITY Family Housing System, any time it considers this to be in the best interest of the Lessee and/or the UNIVERSITY.
9. The LESSEE agrees to give the UNIVERSITY Student Residential Life Office forty (40) days' advance written notice prior to any termination of the CONTRACT by the LESSEE.
10. In the event that the LESSEE does not give notice of intent to terminate as required by the CONTRACT the LESSEE shall be subject to liquidated damages. The amount of these liquidated damages shall be equal to the amount of the total rental payment for the notice period required. Provided that if the LESSEE terminates the CONTRACT before actually moving into the APARTMENT and if the UNIVERSITY then enters into an agreement for the APARTMENT with another eligible lessee (the commencement date of said agreement being either the same as or earlier than that of the CONTRACT) the LESSEE shall forfeit \$25.00 of the advance deposit described in paragraph (3), above, as liquidated damages to cover administrative expenses incurred by the UNIVERSITY in connection with establishing and cancelling the CONTRACT.
11. The LESSEE agrees to abide by the UNIVERSITY policy which prohibits the presence of pets of any kind in UNIVERSITY housing, in or on any appurtenances thereto, upon the adjacent grounds (including sidewalks, walkways and related), or upon any streets, alleys or parking lots in Zone 2 of the UNIVERSITY campus (as defined by the Traffic and Parking Regulations of the UNIVERSITY), or within or upon any vehicle or conveyance located upon said streets, alleys or parking lots. The term "pets" includes animals, birds, reptiles, amphibians and insects but is not limited to this list.
12. Parents/guardians are responsible for the supervision of their children at all times.
13. The LESSEE must be a full-time student of the UNIVERSITY. A "full-time" student is enrolled for a minimum of seven (7) hours of classwork during the regular academic year and three (3) hours during the summer term, with the intention of satisfactorily completing said classwork for credit. Provided that the UNIVERSITY may choose to waive the classwork requirement during the summer term with no penalty to the LESSEE.
14. The LESSEE will use the APARTMENT only as living quarters for the LESSEE and the LESSEE'S immediate family.
15. Subletting and reassignment of the APARTMENT is administered by the UNIVERSITY.
16. Violation by LESSEE of any part of the CONTRACT with the UNIVERSITY may result in the LESSEE being given a written notice to vacate within twenty-four (24) hours. The UNIVERSITY may choose to give the LESSEE more than twenty-four (24) hours to vacate the APARTMENT. Provided that any time the UNIVERSITY requires the LESSEE to vacate the APARTMENT the LESSEE shall be subject to liquidated damages the same as those required when the LESSEE gives notice of intent to terminate the CONTRACT (as provided in paragraph (9) and in sentences one and two of paragraph (10)).
17. The LESSEE agrees that under no circumstances will the LESSEE remodel or alter the APARTMENT or do repair or maintenance work on UNIVERSITY buildings or equipment.
18. The LESSEE shall deposit _____, hereinafter identified as the DEPOSIT, (in addition to the "advance deposit" described in paragraph (3), above) with the UNIVERSITY at the time the LESSEE signs the CONTRACT. If the LESSEE leaves the APARTMENT in a satisfactory, clean condition when the LESSEE vacates, the entire DEPOSIT shall be refunded to the LESSEE. In the event the LESSEE does not leave the APARTMENT in a satisfactory, clean condition, the UNIVERSITY or its authorized agents shall then clean the APARTMENT and the LESSEE shall immediately reimburse the UNIVERSITY for the full cost of said cleaning. In the event the DEPOSIT is insufficient to reimburse the UNIVERSITY for the full cost of restoring the APARTMENT to a satisfactory, clean condition, the LESSEE shall immediately make additional payment to the UNIVERSITY until the latter party is reimbursed for the full cost of cleaning the APARTMENT. In the event the cost to the UNIVERSITY of cleaning the apartment is less than the DEPOSIT, the net remaining balance of the DEPOSIT shall be refunded to the LESSEE. In all cases the UNIVERSITY shall be the judge of the condition of the APARTMENT.
19. The LESSEE shall be responsible for the full cost of repair of damages to the APARTMENT which result from the LESSEE'S negligence.
20. The LESSEE agrees not to use or install any of the following in the APARTMENT: piano; organ; clothes washer; clothes dryer; kitchen range (except as provided by the UNIVERSITY); air cooler; or outside radio or television antennae.
21. Window-mounted refrigeration type air conditioners may be FURNISHED BY THE LESSEE. Installation of said air conditioners will be by the UNIVERSITY.
22. In the case of a married couple, both spouses are considered jointly and severally responsible for the rental payment and for all other charges payable to the UNIVERSITY in connection with the APARTMENT. In the event of divorce or separation the spouse remaining in the APARTMENT is generally considered responsible for all rental payments and other charges.
23. The LESSEE agrees that any of the LESSEE'S financial aid funds remaining after UNIVERSITY tuition has been paid may—at the discretion of the UNIVERSITY—be applied to any rental payment due under this CONTRACT. Provided that said financial aid funds shall not be applied to any rental payment which becomes due at a date later than the end of the term of study for which the financial aid was received.
24. This contract shall expire on _____ with option for renewal subject to the approval of both parties.
25. The LESSEE has read, understands and agrees to abide by the terms of this Apartment Contract (the CONTRACT).

Signature of LESSEE

Date

For the UNIVERSITY

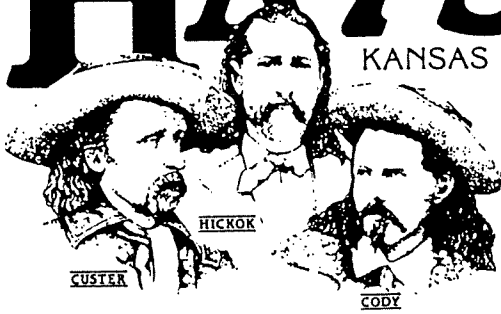
Date

Address

Social Security No.

HAYS

KANSAS



Hays Area Chamber of Commerce

1301 Pine, Box 220 • Hays, Kansas 67601 • (913) 628-8201

RECEIVED

OCT 14 1994

PRESIDENT'S OFFICE
FHSU

October 12, 1994

Dr. Edward Hammond, President
Fort Hays State University
600 Park
Hays, Kansas 67601

Dear Dr. Hammond:

The Board of Directors of the Hays Area Chamber of Commerce recently adopted a formal resolution in support of the proposed housing project at Fort Hays State University, based on the phasing in of the apartments on as-needed basis.

We believe that the obvious housing shortage in Hays will be relieved by this project, move the fraternity houses from the areas of single family dwellings and allow for continued growth of the university. Students cannot come here without suitable places to live.

We think this plan is a win-win for everyone.

Sincerely,

Hays Area Chamber of Commerce

A handwritten signature in cursive script that reads 'Kate'.

Kate Schmidtberger
Chairman of the Board

KS/gdl

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P.O. BOX 490
HAYS, KANSAS 67601-00490

TEL 913/628-7320
FAX 913/628-7323

September 29, 1994

Dr. Edward Hammond
Fort Hays State University
President's Office
600 Park Street
Hays, KS 67601

RE: Hays City Commission Support for
Proposed University Housing Complex

Dear Dr. Hammond:

Please know that on September 22, 1994, the Hays City Commission considered your request to draft a letter in support of your proposed apartment complex. As you know, there was a great deal of discussion concerning the 150 unit complex. Following discussion, however, the City Commission did vote in favor of a letter of support noting that the need to provide adequate student housing is important to continuing the growth of both the community and Fort Hays State University. This support was given contingent upon the following:

- 1) Assurance that the University will develop and construct all units according to the most recent Hays building codes, even if such codes are more stringent than those outlined or required by the State of Kansas.
- 2) Assurance that the University will consult and review development plans with City staff to insure adequate ingress and egress for the apartment complex as well as street width and turning radius' to accommodate adequate fire protection services.
- 3) Assurance that all water lines placed in the project area are done according to City standards including the placement of fire hydrants and size of lines.

- 4) Assurance that the number of units to be placed on the site will be done in such a manner to be sensitive to the local housing market, recognizing the potential impact on local investors which may be in competition with this University housing project.

As you recall, the discussion at the City Commission meeting raised several concerns concerning the housing project including:

- 1) The fact that such a development will occur on property owned by the State of Kansas thus, being exempt from all personal and real property taxes.
- 2) The size of the project being so large as to erode the return on investments made by property owners renting apartments within the corporate limits of the City of Hays.
- 3) The University's ability to reduce rents and perhaps require students to live in such housing during any future economic downturns.

These concerns were balanced against the potential positive effects of the project including:

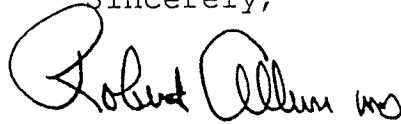
- 1) Easing of a significant housing shortage in the community among all income levels.
- 2) Increase pressure on owners of marginal or substandard housing to improve the quality of housing to attract future renters.
- 3) Relocation of fraternities and sororities outside of the neighborhood directly adjacent to the University thus, reducing a significant amount of noise and congestion in the neighborhood.

As was stated earlier, the concerns and benefits of the project were weighed most carefully by the Commission. Following this lengthy discussion the Commission did vote to prepare this letter of endorsement for the project. It is hoped that this letter will encourage you, the Kansas Board of Regents, and contributors to the project to proceed with the plans as presented in a sensitive and thoughtful manner.

Dr. Edward Hammond
September 29, 1994
Page 3

Please let me know if you have any questions or concerns regarding this letter of endorsement.

Sincerely,

A handwritten signature in cursive script that reads "Robert Albers" followed by a small flourish.

Robert Albers, M.D.
Mayor

sd

Senate Bill 350

Testimony of Karen Herrman, 111 West 11th Street, Hays, Kansas 67601

Chairman Bogina and members of the committee, I wish to thank you for the opportunity to appear before you today. Our statement is that the proposed apartments on the campus of Fort Hays State University are not needed because construction is underway to satisfy student housing needs.

To the credit of Dr. Hammond, his insistence and persistence have stimulated the careful, cautious real estate developers into action. Now that developers are sure the Hays economy has recovered from the oil-related recession of the late eighties, apartments and houses are being built. It took Dr. Hammond's innovative and concentrated focus on the problem for the demand to be met.

All opposition to this project has not been based on the landlords' fear of competition. Because landlords constantly study the same problem, they are obviously more knowledgeable on the subject. The landlord concern is that a surplus of apartments will be created with this project. The landlords very well recognize the units currently under construction provide competition to all of them and will provide students with sufficient choice to force substandard housing to remain vacant. That is acceptable. Although landlords are the most outspoken opponents, the objection is to state government allowing a university endowment association to enter into a non-competitive building agreement, on tax-exempt land, for the development of apartments that are priced so much higher than the marketplace that they will be subsidized with monies that could go for scholarships.

The community has asked only that a student housing market analysis be made, identifying both need and affordability, just as the private sector must do. The study should reflect conditions today, before you pass this bill. The Ellis County Housing Task Force study barely touches on student-specific needs and is quite out of date. We know the result of such an analysis will show the proposed project is not needed. A list of appropriate questions for such a specific study are shown on an attached letter we sent to the Board of Regents office previously.

The direct solution to the housing needs of Fort Hays students is being met in the fall of 1995 with 108 new bedrooms one block from the college. These new apartments are the first phase with a total of 216 bedrooms scheduled for the project. Another seventy-four units are under construction for senior citizens, which will free up single-family dwellings for current renters to move to. Rezoning is also underway for a twenty-acre tract to accommodate multi-family housing (up to 228 apartments) within the City of Hays. Twenty-four new apartments were completed in 1994, allowing a similar number to become vacant within a reasonable distance of the university. All of this, combined with the recent construction of over fifty new houses has made a rapid impact. Now the

SWAM
March 9, 1995
Attachment 2

list of classified ads for rentals is rather lengthy. Indeed, when Dr. Hammond demanded that the private sector respond, it worked.

The group of us here represents many, many others in Ellis County. Out of consideration for your valuable time, most of us will not testify. However, I would like to acknowledge the group who could find a way to leave their work and drive in from Hays. We represent the concerns of the building trades, the financial market and, of course, real estate investors and taxpayers. Some of our citizens are simply concerned about state government usurping free enterprise. Additionally, we represent the concerns of those who fear the loss of scholarship contributions if the Endowment Association must subsidize the proposed apartment project.

You may logically ask how this issue has come this far. The very process of taking a proposal of this type through the required system is a time consuming one. However, the development of the appropriate number of apartments targeted to student needs became a reality right after this issue was placed before the Board of Regents. The Regents were concerned about a shortage of housing choices and a small tour identified some students living in substandard conditions. Unfortunately, a development paralysis occurred when the "on-campus" apartments were proposed, even though the community growth was well underway. Development was simply too slow and we in the community had little to offer before the Regents considered the issue. Our information was not brought into any facilities evaluation after that. Now, in a methodical way, the private sector has finally responded with an adequate solution and we ask for your esteemed judgment to impose caution.

An article from the Hays Daily News discusses the number of apartments on campus when it was proposed to the Board of Regents before this legislative session. The recommendations included a recognition of 150 substandard student quarters in the university area, with another sixty in the remaining community identified as needing work. This total need is 210 and their approval of the first phase identified that number for fall of 1996. The regents indicated a preference for revisiting each phase, however the developer requested complete infrastructure for further development in the future. We believe the development of 216 bedrooms, with 108 completed in the fall of 1995, completely addresses that need of 210 bedrooms. Furthermore, if you were to postpone action for the on-campus apartments for this session, the many sound housing studies underway by private developers will produce further development throughout the community.

Yesterday I checked on the progress of the new student apartments under construction, to learn that twelve of the units had been rented to fraternity members that very day. Leases are being contracted for the fall term of this year. The owner of that complex, Mr. Ray O'Connor accepted Dr. Hammond's challenge: if the private sector would build housing for students, the on-campus apartment project would be put to rest.

We want you to know that our opposition to the project is not to discredit Dr. Hammond or the administration team. We are tremendously pleased with his leadership, innovation, creativity, and hard, hard work benefiting our whole community, as well as our university. His enthusiasm and drive are contagious and we all want to jump on board. Each and every one of us cares greatly about the success of the university.

Chairman Bogina and Senators of the Ways and Means Committee, we recognize your assignment to this committee is a result of your wisdom and experience in taking care of the citizens of Kansas. Throughout the session, you hear from one cause or another, wanting government to do something for them. We are asking only that government do nothing. Now that you have more complete information available to you, we trust that a decision will be made to avoid duplication of the needed facilities.

I will be happy to answer any questions.

Steve Jordan, Ph.D..
Executive Director
Kansas Board of Regents
Topeka, Kansas

October 18, 1994

Re: Proposed Apartments on the Campus of Fort Hays State University

Dear Dr. Jordan:

Enclosed are comments for the consideration of the Board of Regents regarding the above project.

We have asked the university for the following information, which we consider relevant to a decision to develop apartments to a targeted group of people, the students. For a period of nearly two weeks, this information has not been provided us.

We hope that each of the Regents will ask that a professional, independent study be undertaken to evaluate the viability of the project. The information below will support our position; that the project is not warranted and that excess development will stagnate the natural progression of the apartment market in Hays. Indeed, **the threat** of such a development has in itself created a fear of further development.

We believe an appropriate study should include the following information:

- Total enrollment.
- Outreach students who do not attend class in Hays.
- Students who prefer to live in dormitories.
- Vacant dormitory rooms.
- Dormitory rooms underoccupied.
- Students who live in Wooster Place and will not pay significantly higher rent.
- Students who traditionally live in the Hays community in their family homes.
- Students who prefer to commute from area communities, rather than live in Hays.
- Students who presently live in off-campus rentals.
- Vacant units off-campus with rates affordable to students
- Vacant units off-campus with rates unaffordable to students.
- Rental rates affordable to students, by percentage of renters on campus.
- Rental rates affordable to students, by percentage of renters off campus.
- Maximum rents the above two groups would pay before leaving Ft. Hays.
- An application of a normal inflation factor to the above rates, for 1996.
- The impact of affordable housing on a student's choice of schools.
- A definition of substandard housing.
- A survey of housing amenities for which students are willing to pay extra.
- An identification of students rejecting Ft. Hays because of housing.

- A clarification of declined enrollment relating to housing, as opposed to the enrollment drop experienced statewide.
- A specific and well-publicized plan for financial losses for the ownership or the state in the event of high vacancies at the university apartments.

We appreciate the consideration of our position. We believe this to be an issue that reaches far beyond the portrayed interest of landlords. The construction of tax-subsidized apartments without the appropriate market demand, is an injustice to an entire community.

Sincerely,

Karen Herrman, Spokesperson
Opponents to the Apartment Project on the Grounds of
Fort Hays State University

111 West 11th Street, Hays, Kansas 67601
913-628-6106

Statement of Dick Compton
Senate Ways & Means Committee - SB-350
Thursday, March 9, 1995 - 11:00 a.m.

Mr. Chairman and members of the committee, thank you for allowing me to appear today to offer comments in opposition to the passage of the proposal before you in the form of Senate Bill 350. My name is Dick Compton. I own rental apartment units and a home in Hays.

I would hope my testimony today would not be construed in any manner as an attempt to question the integrity and abilities of the administration and staff at Fort Hays State University. On the contrary, I can only offer praise for their leadership and vision during the 1980's which could truly be characterized as trying times in western Kansas and more particularly in Hays. Dr. Hammond and his staff are all top drawer and they as well as the institution they represent are a great source of pride for all who live in Hays and should be for all Kansan's.

The essence of the proposal before you in Senate Bill 350 will be to further the State's involvement in an activity that is better left to private parties. In support of this assertion, I include with this testimony, at Attachment (A), a copy of a letter published February 10 in the Hays Daily News. The letter is written by Bill Davis of Hays. I might add that I don't know Bill Davis but thought he stated the case for private as opposed to governmental construction of housing so well you may have an interest in seeing it. I would encourage you to read this Hays citizens well thought out comments at your leisure.

SWAM
March 9, 1995
Attachment 3

In support of their proposal, the university has enlisted the services of an Architectural "consultant" who is an employee of the Board of Regents. The consultant found "30 percent" of the currently available student housing in Hays to be "sub-standard". I would ask, by what standards does he make this judgment? We all know housing comes in varying qualities in even the most affluent of communities. That which is available in Hays only differs from the "norm" in that it is most likely better than the "norm" found in most communities. The consultant went so far as to label some of the communities landlords as "slumlords". At best, this is an inflammatory remark probably intended to elicit Regent and Legislative support for this project. The consultants charge has no basis in fact. No one, I know, wants students inadequately or unsafely housed. Any one who has ever been in Hays, Kansas knows there are no slums. In all honesty, Hays housing quality does run the gamut just as in any other community and, again in all honesty, the attention to needed maintenance from landlord to landlord varies. It is highly likely, however, that the large majority of students housed in Hays are living in accommodations equal to in quality if not exceeding that which was provided them by their parents.

If Fort Hays State University engages in student housing projects the public will realize no property taxes. In 1994, approximately eleven (11) percent of my gross rental income went to pay property taxes. I ask, is it truly a free market capitalistic system if through the passage of Senate Bill 350 I am forced to compete with an entity that will not make this same contribution?

If Fort Hays State University engages in student housing projects the public will realize no income taxes. As a private owner of rental property, any income I receive is taxed, in part, to support Fort Hays State University. I thought this was the American way and I never dreamed that through Legislative action it may become necessary for me to compete with governmental institutions. In effect, to get to support them. And, I might add, compete on a field that is not at all level.

Would such a complex operated by the University be subject to sales tax on procurements for maintenance? I don't know the answer but it seems a fair question.

From what I know about the contemplated project, it is expensive. \$15,000,000 for 158 units comprising 164,264 square feet. That equates to roughly \$95,000 per unit with a per square foot cost of roughly \$92.00. Only government could be expected to be a party to these cost projections. And, only those with a hidden profit motivated agenda or the truly in-experienced would consider such a project to be even remotely viable. Sensible private developers are currently achieving costs in the \$40.00 per square foot range.

There is no apartment shortage in Hays. There are people here today with years of experience in the ownership and management of rental units who can readily testify to this fact. Those who would have you believe otherwise are not only inexperienced but ill informed and seeking complicity from this body in an ill advised project. A substantial number of new units are currently under

construction as is evidenced by the letter included at Exhibit (B) under the signature of the Hays City Building and Zoning Administrator.

I believe, under close questioning and examination you will find that enrollment levels for the 1994 fall term as well as the 1995 term that began in January have both decreased. Will this trend continue? Will the trend toward interactive video for off campus instruction further reduce the need for traditional resident student housing in Hays? Couple these factors with the living units currently under construction and those planned for construction by the private sector and we may well be headed for an "over built" situation. This "over built" situation could very well develop with out and it most assuredly will develop with the project authorized and endorsed by Senate Bill 350.

I, and I'm certain the others from Hays in attendance today, want to support the University in its endeavors. I think we can demonstrate a good record of support. It's just good business to be supportive. It is truly unfortunate and disheartening, however, when good and well meaning public officials come forth with this sort of proposal. If they had the experience gained through participation in the private enterprise free market economy their proposals would be entirely different. I believe this to be the case here.

This is being promoted as a no cost to the taxpayer "motherhood and apple pie" attempt to correct glaring deficiencies in not only the quality but quantity of housing units available to Fort Hays State University students. In

your deliberations over the worthiness of this proposal, please consider and give some weight to these points.

- 1) Housing will be provided by the private sector as the market dictates.
- 2) If the project receives your blessing, the likelihood of additional apartment unit construction by private taxpaying interests will be virtually nil.
- 3) It is through private interest taxes and/or out right contributions that Fort Hays State has traditionally received its support. How would this proposed project affect those traditional funding sources?
- 4) When there is an over abundance of rental units available in Hays, which units will become unoccupied first? Will it be McGrath and Custer Halls on the Fort Hays State campus which were only re-occupied in 1991 & 92 respectively after a long period of being unoccupied? If so, what will be the cost to the State?

We live in an age when government at practically all levels is searching for ways to back out of those activities better left to private individuals. Years of social engineering through unnecessary governmental agency intervention have offered hard lessons. Hopefully, those lessons will be heeded and this committee will see the wisdom of reporting Senate Bill 350 unfavorable for passage.

Page (6)

Thank you for the opportunity to appear. If there are questions, I will try to answer them.

###

2-10-95

READER'S OPINION

In long run, housing supply always equals demand

It is a mistaken idea that there is a true shortage of housing in Hays. While there are short-time lags — over a longer time the supply always equals the demand. Hays is no anomaly. Short-term housing deficits will occur when there is a short-term spurt in university enrollment or employment on construction projects, e.g. the science building at the university. Another example is when there is considerable public school construction as there was last summer. Society as a whole must always pay for it if they choose to produce a surplus of anything.

The quality of housing, which students and many of the remainder of us would prefer, cannot be profitably provided at what we can afford to pay. About 80 percent of our students qualify for financial aid. The pay scale for many of the rest of us is below national average. When we can afford to pay for better housing, the private sector will provide it.

If more expensive housing were a profitable enterprise, such housing would be energetically financed and built. Furthermore, our housing construction is artificially suppressed periodically by government-subsidized housing which is priced below what private enterprise can furnish. This can be done because private individuals would have to pay market price for money, taxes and insurance.

The continued threat by the university that it is considering the building of more housing has also had the effect of dashing private enterprise building. Private enterprises and their financial organizations know they would go broke competing with an entity which does not have to "make expense" because the Legislature will bail it out. Oddly enough, those who disagree with the amount of present and

future economic return have not dashed in to take advantage of the proclaimed opportunity.

A private entity is forced to maintain its property at a level above the depreciation rate or the financier will soon be unhappy or the rate of return will soon be disastrous. Examples of dormitories becoming uninhabitable and unrentable at a premature age because they did not charge rates high enough to maintain and supervise them are examples of housing policies that are able to defy the laws of economics for a short time. These policies impact long-term quality housing in a negative manner.

As disturbing as some of us think student behavior and noise is sometimes in the student-occupied area of the community, we witness students moving out of university housing constantly because they feel that private housing is better supervised and maintained than public-sector housing.

Before one criticizes the physical appearance in the private sector, one should tour the university housing and observe the need of maintenance — screens needing to be replaced, dirty walls, holes in panels and walls, damaged woodwork and plumbing that works minimally. All this is despite the ground maintenance and other labor furnished at public expense. Despite this again, they have not charged the rates needed to sustain quality and this has been, and is historically, disastrous to local housing as the community capital is dissipated.

If you think private housing is expensive, you should be told the true price and quality of public housing.

Bill Davis
500 W. Seventh

HIDN

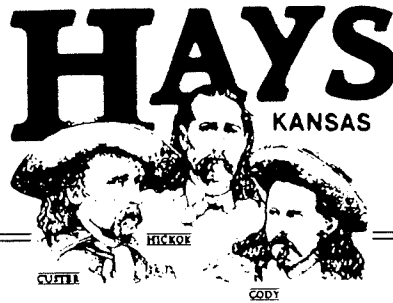
The Hays Daily News

Kay Berenson
editor and publisher

Gregory Halling
managing editor

Daily News editorials are written by the editor or managing editor and are their opinions. The Daily news welcomes letters to the editor. The letters must be signed and must include the writer's address and a daytime telephone number. The editor reserves the right to condense and edit. Publication is not guaranteed.

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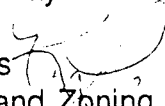


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TEL 913/628-7320
FAX 913/628-7323

TO: Whom It May Concern

FROM: Kent Laas 
Building and Zoning Administrator

DATE: March 6, 1995

SUBJECT: Multi-Family Dwelling Construction/Development

Three multi-family housing projects are currently under construction within the City of Hays, at this time. They are as follows:

1801 East 27th Street	33-Units (Assisted Living)
1005 West 28th Street	41 Units (Rental Housing for the Elderly)
730 West 12th Street	36 Units (Under Construction). A total of 56 units are planned.

Additionally, a public hearing is pending to rezone a 20 acre tract to accommodate multi-family housing.

Exhibit (B)

Testimony to Kansas Senate Ways and Means Committee

RE: Senate Bill 350

Testimony of Thomas J. Pitner, President

Emprise Bank N.A.

1200 Main Street

Hays, KS 67601

Chairman Bogina and Members of this Committee,

I wish to thank you for the opportunity to appear before you today.

I first want to read to you a letter from Mr. Raymond J. O'Connor regarding Senate Bill 350.

Mr. O'Connor's letter (Attached)

As President of Emprise Bank, I want to take this opportunity to advise you of Mr. O'Connor's creditability and that we financed not only the purchase of University Park apartments for Mr. O'Connor, but we also are providing the construction and long term financing for Phase I of Mr. O'Connor's current project. I feel that it is important to repeat that Phase I of this project, consisting of 36 three bedroom, two bathroom, 1225 square foot apartment units that will provide housing for 108 students will be

SWAM
March 9, 1995
Attachment 4

Completed by August 1, 1995 and that the balance of Phase I, consisting of an additional 18 three bedroom, two bathroom, 1225 square foot apartment units, housing 54 additional students will be completed by August 1, 1996. Mr. O'Connor also states that he is presently planning Phase II which will provide housing for an additional 108 university students.

It was stated by Fort Hays State University administration that if the private sector stepped forward and addressed the housing needs of the University, the housing project contemplated by the University would not be required. I am here to tell you that the private sector has stepped forward.

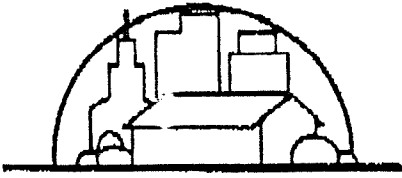
At the present time significant numbers of bedrooms for university students housing are being constructed along with five duplexes, 41 units for the elderly, and 32 units of assisted living, along with numerous private residences. This broad spectrum of current construction will provide a ripple affect freeing up the housing crunch we are currently experiencing.

I am here today to also represent over 20 clients of the private sector whom we finance who have invested in housing projects in Hays and Ellis County. The investment of these individuals would approach \$8 million dollars and, based on current mill levies, will produce \$126,610 in property taxes alone. I would think you would find it offensive to approve a project that will undermine the investments of these tax paying citizens.

ant to reaffirm that, in my opinion, the private sector has stepped forward to answer the needs of the University, and that you consider the project the University is proposing would potentially compete for capital that would flow into the University for educational purposes rather than for tax exempt and tax motivated housing investment. Additionally, if the University project is permitted to go further, the state and local units of government lose the opportunity for increased property, sales and income taxes that benefit us all.

I respectfully request that the provision of Senate Bill 350 be denied and the housing needs of Fort Hays State University be left to the private sector.

Thank you for your consideration.



Raymond J. O'Connor

Business and Real Estate Interests

March 7, 1995

Senator Gus Bogina
Chairman, Kansas Senate Ways & Means Committee
Kansas State Capitol
Topeka, KS 66612

RE: Senate Bill 350

Dear Senator Bogina,

I am writing to inform you of my current involvement in the City of Hays as it relates to the development of apartment units that are targeted for University students.

I purchased the University Park Apartment complex in 1992. This 40 unit complex is located adjacent to Fort Hays State University and provides housing for 80 university students. An adjoining 1.8 acres of land was purchased for development in November 1994 to provide housing for an additional 162 students. In progress is Phase I construction of 36 three bedroom, two bathroom, 1225 square foot apartment units to house 108 students which will be completed by August 1, 1995. The balance of Phase I construction consisting of 18 three bedroom, two bathroom, 1225 square foot apartment units to house an additional 54 students will be completed by August 1, 1996.

The development of Phase II construction is being planned as I communicate to you today. I have negotiated for the purchase of an additional adjacent parcel of land that when developed will provide housing for an additional 108 university students.

I am proud to state that I was asked to develop apartments in the City of Hays and to demonstrate that the demand for student housing is being met by the private sector. I am also proud to state that the financing for this development is being provided by Emprise Bank N.A., Hays, thus demonstrating their commitment to funding development of university housing by the private sector.

I sincerely appreciate your interest in Fort Hays State University and the housing needs of the university students. Please contact me if I can provide any information that will assist you and your committee in assessing this concern.

Respectfully yours,

Raymond J. O'Connor

**Senate Bill 350:
Private/Public Development of Rental Property at
Fort Hays State University**

Testimony presented to:

Ways and Means Committee of the Kansas Senate

Testimony presented by:

Henry Schwaller, IV

March 9, 1995

SWAM
March 9, 1995
Attachment 5

Mr. Chairman and Members of the Senate Ways and Means Committee: I appreciate this opportunity to testify against Senate Bill 350, which would allow Fort Hays State University (FHSU) to develop rental property under a public/private partnership.

I am Henry Schwaller, IV, a Hays businessman, and I oppose this bill for three reasons: 1) it involves public sector involvement in a traditionally private sector area; 2) the Hays business community is currently working to meet the needs addressed by the intent of this legislation; and 3) the University's changing demographics are not appropriately met by this proposal. I would like to briefly elaborate on each of these points this morning.

First, rental property development in Kansas Regents' school communities has been primarily driven by private investment. In fact, history demonstrates the long-term effectiveness of the private sector in responding to students' needs for affordable, well-maintained housing. For example, the University of Kansas' residence halls face stiff competition from newer, more cost-effective, privately developed housing. Additionally - and more to the point - FHSU converted several of its residence halls for other uses almost ten years ago for similar reasons. Even though the private sector would be involved in the development of these rental units, the long-term administration and maintenance would be left to a university institution.

Second, Hays' business community and investors are meeting local housing needs by both upgrading existing rental units *and* building additional multi-unit properties. This considerable investment follows one of the most dramatic, devastating economic recessions - and recoveries - in the city's history. Nearly 10 years ago, Hays' rental property owners were hit by collapse of the oil industry and a long cycle of agri-business consolidation. Also, economic incentives to build rental property in Hays does not equal those in other communities: a standard two-bedroom apartment in Hays rents for less than \$350 per month, while a comparable unit commands more than \$500 per month in Lawrence or Wichita. Despite these challenges, investors and builders are stepping up efforts to meet future rental housing needs and will continue to do so.

Finally, Northwest Kansans applaud Dr. Hammond's incredible work in building and sustaining a stronger university. The benefits are evident: FHSU enrollment is up, reaching record numbers, and the economic benefits to our community are great. However, this growth came from an extraordinary change in student demographics; enrollment growth has come from *non-traditional students*, and they currently represent 60 percent of the 4,600 students on the FHSU campus. And paradoxically, the housing needs of these students is radically different from their 18 to 22 year-old counterparts. Many non-traditional students commute to the campus, hold full or part-time jobs, and/or have families. They have no need for this type of housing, nor would they choose to live with the younger students. This proposal does not reflect the changing demographics of the university.

In sum, Senate Bill 350 undermines traditional, private sector development opportunities. Hays businesspeople and investors are currently meeting housing challenges and needs. We will continue to do so. Therefore, there is no need for university involvement, and in fact, it would be counterproductive to private business.

Thank you for your time.

March 8, 1995

TO: The Honorable Committee Members of the
Kansas State Senate/House of Representatives

FROM: Thomas M. Wasinger and Barbara K. Wasinger
1602 Elm Street
Hays, Kansas 67601

RE: Proposal to allow new residential housing to be built
by private investors on the campus of FHSU

Dear Senators and Representatives:

My wife and I own some rental property in Hays. We don't own a lot of rental property, but we just started to invest and we were hoping to acquire some other property in the near future. Our purpose in becoming involved in such a business venture is to use the income from the properties to help finance our children's college education.

In order to accomplish our goals, however, the properties must pay off in a reasonable period of years. Based upon the current market conditions we have reasonably calculated that we can in fact achieve our objective. Our calculations will not work, however, if Ft. Hays State University is allowed to have privately financed residential housing built on state owned land. The reason is simple. The playing field is not level for FHSU's investors and us private land owners. Housing built on state owned land will generate no property taxes. We do. This tax exemption is a tremendous advantage for the proposed investors.

To add insult to injury, we will in effect be subsidizing the project with the property taxes we must pay each year. And we hear that FHSU has proposed to further subsidize the rents from the project with scholarship money - yet another advantage not afforded the private sector.

This idea is bad because it necessarily will force the private real estate owners of Hays to pick up the slack in property taxes created by the tax exempt status of the new project. And it is bad because this project is not necessary at this time.

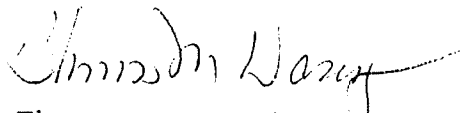
The fact is the private sector has responded to the need for more rental units in Hays. More units are being built on a regular basis and there is currently a major housing project under development a stone's throw away from the university. But as is usually the case, the market place does not always move as fast as some would like - in this case the president of FHSU.

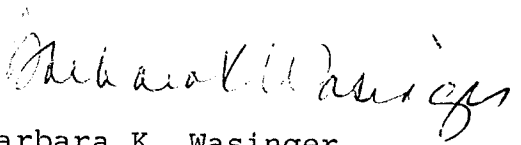
SWAM
March 9, 1995
Attachment 6

Government has made a habit of trying to out guess the private sector in decisions involving allocation and distribution of goods and services. Many would argue that they have actually developed a bad habit. If the recent elections said anything, the voters are tired of the government at all levels intervening or interfering, either directly or indirectly, in matters that affect or regulate the lives of the hard working taxpayers of this country.

Our request is simple. Keep government out of the housing business here.

Sincerely,


Thomas M. Wasinger


Barbara K. Wasinger

March 8, 1995

To Whom It May Concern:

I, as a homeowner, as well as owner of several rental properties in Hays, Ks. am totally against Fort Hays State University building apartments 100%. Several landlords have had very hard times in the rental market in the past, due to an over-abundance of rental property. The rental market must stay at a level which landlords can keep up clean, nice, and well-maintained homes and apartments such as I currently own. Supply and demand on housing will take care of itself, as it has in the past. Investors will and have shown they will come forward when additional housing is needed.

I firmly believe Fort Hays State should let additional rental properties alone.

Thank You,

Dale Degenhardt

Dale Degenhardt

404 E. 17th

Hays, Kansas

SWAM
March 9, 1995
Attachment 7

Kansas Advocacy & Protective Services, Inc.



2601 Anderson Ave., Suite 200, Manhattan, KS 66502-2876

(913) 776-1541, FAX (913) 776-5783

Kansas City Area
6700 Squibb Rd.
Suite 104
Mission, KS 66202
(913) 236-5207

Wichita Area
255 N. Hydraulic
Wichita, KS 67214
(316) 269-2525

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W. Patrick Russell
Topeka

Rep. Rochelle Chronister
Neodesha

Ross O. Doyen
Concordia

Harold James
Liberal

Sen. Barbara Lawrence
Wichita

Sen. Janis Lee
Kensington

Raymond L. Spring
Topeka

Rep. George Teagarden
LaCygne

W.H. Weber
Topeka

Liaison to the Governor
Renee Gardner

Chairman Emeritus
R.C. Loux
Topeka

Executive Director
Joan Strickler

TO: The Senate Committee on Ways and Means
Senator Gus Bogina, Chairperson

RE: S.B. 342, The Kansas Guardianship Program

DATE: March 9, 1995

Kansas Advocacy and Protective Services (KAPS) has been serving the State since 1977. Last summer Federal reviewers of the agency's protection and advocacy programs concluded that there is a conflict of interest in KAPS administering the Kansas Guardianship Program (KGP). In response, our Board has agreed to remove the Guardianship Program from KAPS and to initiate action to make it a separate and distinct legal entity.

KAPS is a private non-profit corporation created in 1977 for the purpose of providing protection and advocacy services for persons with disabilities pursuant to federal law -- the Developmental Disabilities Act (42 USC 6000 et. seq.); the Protection and Advocacy for Persons with Mental Illness Act (42 USC 10801 et. seq.); and Protection and Advocacy for Individual Rights (29 USC 794e). Federal funds are provided to states to operate these programs.

In 1979, KAPS initiated a new program, the Kansas Guardianship Program. This is a program unique to Kansas and which operates with State funds.

The goal of the program is to provide that qualified, caring, willing and trained volunteers are available throughout the State to serve as court appointed guardians and/or conservators for adults who need such protection and who do not have family members available, willing, or appropriate to assume such responsibilities. Individuals served are generally dependent upon public support.

KAPS has been charged with developing systems of advocacy and protective services in Kansas relevant to the provisions of Sec. 113 of P.L. 94-103, as amended; the Developmental Disabilities Services and Facilities Construction Act, and P.L. 99-319, the Protection and Advocacy for Mentally Ill Individuals Act.

SWAM
March 9, 1995
Attachment B

All persons served are identified by Social and Rehabilitation Services. Requests are made to the KGP by adult protective service workers or State hospital social workers. SRS legal petitions the court for the hearing to determine the need for guardianship. The Kansas Guardianship Program is considered when other alternatives have been exhausted. Persons served by the program may be considered the adult wards of the State.

Currently (counting persons served, or somewhere in the process of being served) the program has commitments to serve more than 1800 persons. Approximately 700 volunteers are participating in the program.

We ask volunteers to make a legal, moral, ethical and emotional commitment to another individual previously unknown to them - someone who is not a family member. The needs of the potential ward and conservatee are matched with the abilities and interests of a volunteer. Volunteers maintain regular contact with the ward and conservatee through personal visits, phone calls and other efforts. In their legal capacity as guardians and conservators, volunteers provide consents and maintain communication with service providers such as case managers, facility staff and medical providers; and assume responsibility for the paperwork necessary in accessing appropriate benefits such as Social Security and Veteran's pensions. They provide annual documentation on the status of the ward and conservatee to the court. We estimate that, on the average, a volunteer spends up to ten hours or more each month working on issues related to his/her ward and conservatee.

Guardians and conservators provide a check and balance on the services system. The more than 700 guardians and conservators currently serving in the KGP, through their legal authority, have access to group homes, nursing facilities, public institutions or residences of their wards and conservatees. Advocacy and protective efforts frequently extend to a roommate or another resident. A guardian's very presence can afford a sense of safety, protection and security.

Two critical components contributing to the success of the program are the support and assistance provided to volunteers by Kansas Guardianship Program staff and the monthly stipend to offset out-of-pocket expenses. Fifty percent of staff time is spent on recruiting and related activities, while the remaining time is given to training, providing information and referral, and offering general support to volunteers as they provide services on behalf of their wards and conservatees. The \$20 stipend has not increased since the program's inception and is intended only to offset expenses.

Guardianship issues are receiving increased attention throughout the country. Studies done on the national level point out that more people are living longer and many will need some form of protection through substitute decision makers such as guardians and conservators.

Guardianship program models used in other states often involve public agencies with paid staff at the state and county level. Kansas is the only state to be successful in using a volunteer model on a statewide basis. Just in the past two years we have provided extensive program information to organizations in sixteen states. We have presented information on the KGP to the Senate Interim

Committee on Health and Human Services in Texas and to the Louisiana Guardianship Task Force. Both the city of Columbus, Ohio, and the state of Wyoming have modeled volunteer programs using the Kansas approach. Four states have sent review teams to view our volunteer program. A judge in Nebraska sent several of her court staff to visit us in February. Because of the extensive contributions of volunteers, the Kansas approach to public guardianship is viewed as one of, if not the, most cost-effective program in the country.

PROBLEM

If the Kansas Guardianship Program is to continue to serve Kansas, it must become a separate legal entity since it can no longer remain a part of KAPS.

PROPOSED SOLUTION

To accomplish the separation, we are proposing that the Legislature create the Kansas Guardianship Program in statute in such a way as to allow the program to continue to operate much the same as it has for the past 16 years. S.B. 342 is intended to achieve this goal.

We believe it would be wise to create the program in statute for several reasons.

- The first of these is commitment. Volunteers in the program are asked to make a long-term commitment to their ward/conservatee. For some individuals that may extend to the rest of their life or the life of the ward/conservatee. Caring and loving relationships develop and the guardian becomes, many times, the one person with long-term involvement in the ward's life. In reviewing our records over the years, we find that 94 of the volunteers have served in the program for 10 or more years and 392 have served in the program for 5 years or more. That represents an outstanding commitment to their people and to the program.

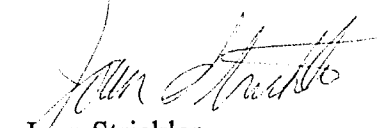
We believe the agency that recruits the volunteers, and provides the structure and support system they need, must itself be able to offer stability and commitment. By establishing the Kansas Guardianship Program into law, the State has an opportunity to send a message to present and future volunteers that Kansas values their services and stands behind this unique approach to guardianship of last resort.

- A second issue that is addressed in S.B. 342 is that of the conservator's bond. The State serves as surety on the bond of any conservator providing services to a conservatee served by the program (K.S.A. 78-101(b)). The Legislature initiated this action to save the many thousands of dollars otherwise needed to purchase individual conservator's bonds. The establishment of the Kansas Guardianship program in statute would allow the existing law to be amended to reference the new Act. The current law must be amended since it refers to the federal Act pertaining to the protection and advocacy program.


- A third reason for creating the KGP in statute is that it can reduce the negative fiscal impact of the separation. Through creating the Kansas Guardianship Program in law, the KGP would be able to receive funds directly from the State and not through SRS. This would negate the need for the cash flow reserve created to alleviate problems caused by delays in accessing funds from SRS in a new fiscal year. If the program is not able to receive funds directly, and must maintain the reserve, we project that an additional \$159,000 will be needed to achieve the separation and meet anticipated needs.
- Finally, passage of S.B. 342 will achieve the separation of the KGP from the Protection and Advocacy program, thus satisfying the Federal requirements.

We ask your support in creating the Kansas Guardianship Program through passage of S.B. 342.

Respectfully Submitted,



Joan Strickler
Executive Director



M. Jean Krahn
KGP Program Director
Kansas Guardianship Program

BIFOCAL



AMERICAN BAR ASSOCIATION
COMMISSION ON LEGAL PROBLEMS OF THE ELDERLY

Volume 11, Number 4

Winter 1990-91

PROGRAMS ADDRESS NEED FOR QUALIFIED GUARDIANS

Sally Balch Hurme

INTRODUCTION

Many courts face serious problems in locating qualified and willing guardians. Problems may occur at the beginning of a guardianship proceeding when no suitable family member is available to serve or when various family members are competing over which one of them should be given responsibility for taking care of the disabled person. Sometimes after the initiation of the guardianship, the court may become aware that the appointed guardian is not performing satisfactorily, has developed a conflict of interest with the ward, or is no longer able to serve. Even those states which have public guardianship programs may not have enough available guardians. Although public guardianship programs provide individuals who can serve either as initial or substitute guardians, problems also arise when a public guardian may not be able to serve certain clients because of restrictions on the types of cases to which they can be appointed. As a result of these circumstances, there is often a critical shortage of qualified guardians which in turn impedes the efforts of many jurisdictions to provide able surrogate decision-makers for the elderly.

This article spotlights several jurisdictions which have attempted to deal with some of the problems encountered in locating qualified and willing guardians by establishing panels of trained guardians who can be called on to serve in difficult cases. These programs differ with respect to the geographic area served. For example, the Kansas Guardianship Program is a statewide program; the Ebenezer Society Program in Hennepin County, Minnesota, and the San Mateo County, California, Friends of the Court Program are county programs; and the Northern Virginia Volunteer Guardians Program is a regional program. As illustrated, they range in size and scope from the large Kansas statewide program which involves 600 volunteers to the small local program in San Mateo County, California, with eleven on the panel. These programs also differ in the ways the guardians are recruited, trained and supported. Only the Northern Virginia programs are true volunteer efforts. The others provide minimum expenses from state appropriations, small county stipends, or court-approved fees from the ward's estate. Regardless of design or size, these programs are all meeting a critical need in their local jurisdictions. Moreover, these programs may well serve as models for jurisdictions looking for ways to develop a pool of available guardians.

Note: Because the terms guardian and conservator have very different meanings in these spotlighted jurisdictions, we have separately defined the terms in each section.

Kansas Guardianship Program

Eleven years ago the Kansas Advocacy and Protective Services, Inc., (KAPS) developed a statewide volunteer guardianship program (The Kansas Guardianship Program) to serve persons with developmental disabilities who were in need of guardians, but who did not have families who could see to their welfare. The Kansas Guardianship Program (KGP) expanded quickly to provide guardians and conservators for any incapacitated adult who had no one available to serve as a guardian/conservator. It functions as an alternative to a public guardianship program and is funded by direct state appropriations. Kansas employs the terminology "guardian of the person" and "conservator of the estate." For simplicity, because KGP can provide either guardians or conservators, the single term "guardian" is used in this article.

A KGP case begins with a referral from the Kansas Social and Rehabilitation Service (SRS). After an SRS social worker, investigating a report of adult abuse or neglect, has determined that a guardianship appears necessary, an SRS attorney will petition for the guardianship. The social worker will request that KGP provide a volunteer guardian if no appropriate family member is available to serve, and the adult is financially eligible for the program. KGP will then attempt to match the client with the most appropriate guardian from a panel of recruited volunteers.

The Kansas program tries to recruit wise and caring persons with high integrity who are able to learn to deal with many social service systems and to manage lots of paper work. Four KGP staff members travel extensively throughout the state contacting service clubs, churches and other groups to seek suitable volunteers. They also use the recruiting technique of asking reluctant volunteers, "If you are unable to do it, can you recommend someone else." The potential volunteers must provide six personal references and attend a personal interview. At the interview they are asked to explain why they want to be a guardian, and how they will deal with persons with disability. If accepted to the program, they sign a contract with KAPS and then become available to serve if a suitable personality and geographic match is made with a disabled person. The prospective guardian

will try to meet with the disabled person before the court appointment.

KGP encourages the guardian to be the ward's friend and advocate and expects the guardian to visit the ward at least 2 to 4 times each month. The guardian must report monthly on the number of visits, on advocacy provided to the ward, on the guardian's frustrations and/or satisfactions, and on any help needed from KGP. Each report is reviewed both by the KGP program coordinator and by one of the four staff facilitators located in three regional offices. After review of the monthly report, each volunteer is paid \$20 a month to offset expenses such as gasoline and telephone tolls. Out of a central office in Manhattan, Kansas, the staff also provides extensive training and support functions to assist the guardians in understanding the scope of their responsibility and advocacy. KGP also furnishes the guardians with court reporting forms, sends reminders of reporting dates, receives copies of court reports and maintains an 800 telephone number to respond to guardians' questions. The program handbook includes, among other items and informative graphics, a useful job description for a guardian, explanation of court procedures and reporting responsibilities, where to go to help, and how to apply for public benefits. In the urban areas, the guardians meet quarterly for mutual support and continuing training. These meetings occur less frequently for the widely dispersed guardians in the rural areas.

As of November 1990, KGP had 582 active volunteers serving 1240 wards, with 149 cases pending legal appointment and 219 "unmatched" requests. Many volunteers only have one ward although some may have up to five. The volunteer project is state funded with a budget of approximately \$840,000. KGP expects to serve up to 2,000 wards by the end of 1991. Approximately half of the budget goes toward the volunteers' monthly stipends. The Department of Social and Rehabilitation Services serves as the surety for all KGP guardians.¹

Ebenezer Society Panel

In Minneapolis, Minnesota, the Ebenezer Society, a non-profit organization, offers a broad array of services to the elderly which include adult day health centers, community education, home health aides, visiting nurses, caregiver support and respite programs, nursing homes, counseling services and a Medicare Alzheimer's disease demonstration project. In addition, the Society has taken the lead to develop a panel of individuals who can serve as guardians or conservators for fee or county stipend. In Minnesota guardians have full powers over either the person or property, or both, while conservators have limited powers over either the person or property. Because con-

servatorship is so frequently ordered, that term is used.

The Ebenezer Society plays a significant role in assessing the needs of elderly clients and providing services to avoid conservatorships. They also provide competent trained conservators when conservatorship is necessary. One key service of the Ebenezer Society is its Protective Services Unit. It is this unit which assesses the situation of elders who are having difficulty making financial, health or safety decisions and recommends services. Initially funded under a Title III Older American's Act grant, currently Ebenezer Protective Services is funded in part by the Ebenezer Society, the United Way, by county contracts and by fees for services.

During its eighteen years of service to the elderly community, Ebenezer Protective Services has received numerous calls from throughout the community about people who have lost their ability to plan and carry out financial or personal aspects of life. In 1989 alone, Ebenezer Protective Services received 587 inquiries from nursing homes, attorneys, doctors, families and social workers. Of those inquiries, 196 cases were fully assessed and in most instances the staff of 2 social workers was able to find alternatives to conservatorship. In the remaining 39 cases, the Ebenezer social workers found it necessary to petition for conservatorship.

Recognizing the community's need for competent conservators, Ebenezer has recruited and trained a panel of 45 conservators. It has developed a 16-hour curriculum and conducted trainings led by social workers, judges and attorneys. The training program includes discussions of the roles of the various players and agencies in the care and conservatorship process, least restrictive alternatives, working with persons with cognitive impairments, legal and practical aspects of surrogate decision-making as well as case studies. Issues in advocacy, privacy and medical decision-making are also on the agenda.

Once the conservators are trained, re-screened and added to the roster, Ebenezer carefully matches potential conservators with its own clients. It also makes referrals to private attorneys or to the court when they seek competent professional conservators for their cases. While most of the conservators maintain close ties to the Ebenezer program, some also serve on cases unrelated to Ebenezer. During the entire course of the conservatorship, Ebenezer conservators regularly work closely with various private attorneys who specialize in conservatorship matters.

In addition to providing a panel of conservators, the Ebenezer Protective Services has contracted with Hennepin County Adult Protective Services to provide training, screening and support of conservators to represent indigent adults who need a guar-

dian or conservator. If the county Adult Protective Services Guardianship Panel decides that someone is in need of a conservator because of abuse or neglect, the county attorney is requested to petition. Ebenezer selects a compatible conservator and provides initial support and on-going monitoring. The conservators agree to accept at least one county case in exchange for the training. Using county contract funds, Ebenezer pays the conservator a stipend of \$50 or \$100 a month, depending on whether the conservator has both financial and personal powers. The Guardianship Panel uses stringent screening criteria to select these contract cases as illustrated by an average of only eight appointments a year.²

Friends of the Court San Mateo County, California

The Court Investigator in San Mateo County, California, has recruited a number of business persons, called Friends of the Court, to serve as conservators when no family member or friend of the proposed conservatee is available or appropriate, or if a successor conservator is needed. In California, court-ordered surrogates for adults are called "conservators", while the term "guardian" is used in cases involving minors. Although the county Public Guardian takes conservatorship cases which involve assets, the Friends of the Court are primarily used in time-consuming cases involving conservatees who have some assets to pay the conservator's fee.

The Friends program started out a number of years ago when a judge asked a retired banker to serve as a conservator in a few cases. Another retired banker was also recruited, and slowly the program grew to a present total of eleven. The current Chief Court Investigator personally recruits each new Friend, looking for someone with social concern and business experience. Once a Friend is appointed to a case, the court investigator staff works closely with the new conservator explaining procedures and resources available for the conservatee's care. Training is mostly on-the-job, although the Friends meet regularly to share professional resources and discuss matters of mutual concern. The Friends are paid at a rate of \$50 an hour from the conservatee's estate, subject to court approval. Detailed time records are kept at ten-minute intervals. They are expected to continue to provide conservatorship services even if the conservatee's funds are exhausted.

Although the Friends provide conservatorship services for a fee, they take no cases other than referrals from the court. Each Friend may have approximately eight

continued on page 4

LOCATING GUARDIANS

continued from Page 2

to ten clients.³

Northern Virginia Volunteer Guardians

Although each of three northern Virginia jurisdictions has separate volunteer programs, the three jurisdictions cooperate in many aspects of their programs. The Fairfax County Office on Aging set up the first volunteer panel in 1980 with the assistance of the county Division of Social Services and Legal Services of Northern Virginia, the regional legal services program. Neighboring Alexandria City and Arlington County shortly followed with similar programs. As each of the three programs grew, they developed different characteristics, but they continue to share their efforts in developing a training course, a volunteer manual and a manual on how to develop volunteer guardianship programs.⁴ In Virginia a totally incompetent person is appointed a committee, while less incapacitated persons receive guardians. The volunteer guardianship program in Fairfax is one of nine different volunteer programs in the Office on Aging involving a total of 400 volunteers in such efforts as friendly visitors, medical forms assistance, home care and long term care ombudsmen, pets-on-wheels, and seniors in action. Because of the size of these volunteer programs, the county even uses volunteers to interview prospective volunteers.

The Fairfax Office on Aging volunteer coordinator participates in a multi-agency pre-guardianship review panel. County social workers considering a client's need for a guardian present the case to a group of professionals including representatives from the aging, mental health, and social services offices, a private attorney and a senior citizen. In each instance alternatives to guardianship are explored and frequently guardianship may be avoided. However, if a guardian becomes necessary, the volunteer program is able to provide a trained volunteer.

The lead agency in Alexandria's Volunteer Guardianship Program is also the Office on Aging, which receives referrals from Social Services of clients, aged 60 or older, with limited resources and no friend or relative to serve as guardian. They also get assistance on legal issues and training from the Alexandria office of Legal Services of Northern Virginia. Alexandria has designed an innovative volunteer application asking the prospective volunteer to answer "what would you do if . . ." questions. For example, the applicants are asked what they would do if the doctor informed them that the ward had a blockage of the carotid artery requiring immediate surgery, or what they would do if the ward owned property in another

part of the state which needed to be sold to complete a Medicaid spend-down. The application also asks what the applicant expects from the program and what his/her preferences are for types of persons to be served.

Presently the Alexandria program is serving five wards, has one case about to be matched, and five volunteers in reserve. One experienced volunteer currently without a ward has program-wide monitoring responsibilities, and other volunteers are used as mentors for new guardians.

In Arlington the Adult Protective Services coordinator in the Division of Social Services handles major responsibilities for the volunteer program. This program currently has twenty-five volunteers handling nineteen cases with a dozen additional recruits in the midst of training. Arlington requires each volunteer to report quarterly on the amount of time spent providing services to the ward, the problems encountered, and the services the guardian needs from the agency. They also have used a student intern to make home visits with all wards who have a volunteer guardian but do not receive other social services support, such as a companion or community care.⁵

CONCLUSION

Clearly all of these programs, have responded to a critical community need for capable guardians, and have developed unique aspects. As these programs illustrate, there are many different ways to sponsor, finance, organize and monitor such programs. Each program has developed the available resources and adapted in response to various community concerns. Cooperation with other community groups stands out as a hallmark of a successful program. Strong programs also need dedicated and conscientious coordinators. The ABA Commission on the Legal Problems of the Elderly would be interested in receiving information about other guardianship programs.

ENDNOTES

1. For more information about the Kansas Guardianship Conservatorship Program, contact M. Jean Krahn, Program Coordinator, Suite 2, 513 Leavenworth, Manhattan, Kansas 66502, (903) 776-1541.

2. For more information about the Ebenezer Protective Services, contact Laura Fraser, EPS Coordinator, Ebenezer Community Services, 110 East 18th Street, Minneapolis, Minnesota 55403, (612) 879-2835.

3. For more information on the San Mateo Friends of the Court, contact Jim Kaspar,

Chief Court Investigator, Hall of Justice and Records 401 Marshall Street, Redwood City, California 94063, (415) 363-1937.

4. "Handbook on How to Create a Volunteer Guardianship Program: A Virginia Perspective," prepared by The Task Force on Volunteer Guardianship has sections on alternatives to guardianship, choosing a guardian, getting a program started, setting up an advisory committee and liability considerations. It also has sample contracts, reporting forms and training agendas. A copy may be obtained from the Fairfax Area Agency on Aging.

5. For more information about the northern Virginia volunteer panels, contact Susan Herbert, Volunteer Coordinator, Fairfax Area Agency on Aging, (703) 246-5411; Connie O'Connor, Adult Protective Services Coordinator, Arlington County Division of Social Services, (703) 358-4999; and Harriet Epstein, Volunteer Guardianship Coordinator, Alexandria Agency on Aging, (703) 838-0926.

Sally Balch Hurme is Assistant Staff Director of the ABA Commission on the Mentally Disabled.



NEW PUBLICATIONS

The ABA Commission on Legal Problems of the Elderly has just published *Legal Issues and Resources: A Guide for Area Agencies on Aging* by Stephanie Edelstein. This publication was developed primarily to acquaint area agency on aging directors and their staffs with the legal problems most frequently encountered by seniors and to provide them with a general description of resources which may exist in a particular community to address these legal needs. This guide can be used as a training tool and to determine gaps in services, as well as to provide some ideas for filling those gaps. A limited number of copies are available from the ABA Commission, 1800 M Street NW, Washington, D.C. 20036, prepaid at \$10.00 per copy including postage and handling.

The American Society on Aging has published their *GENERATIONS Supplement 1990* issue which focuses on Autonomy and Long-Term-Care Practice. Copies are available at \$7.50 prepaid per copy from ASA, 833 Market Street, Suite 512, San Francisco, CA 94103.

Examples of requests provided to KAPS by
SRS adult protective service staff and SRS
hospital social workers.

_____ has been in a state psychiatric hospital since 1951. Both parents are deceased. The whereabouts of siblings is unknown. There has been no contact with relatives for years. _____'s only source of income is Social Security Disability benefits. She needs supervision of even the most basic self-care skills.

_____ fails to pay bills to the nursing home. He is paranoid and every month staff have to persuade him to pay. He believes they shouldn't have his money. He also refuses to sign needed papers. He has no family. A conservator is needed to handle his financial affairs so he can continue to receive medical assistance and keep bills current at the nursing home.

_____ is a 40 year old white male. He lives at (community group home). He has two brothers but they show no interest in his care. His father died in 1984. _____'s diagnosis is mental retardation. His doctor feels that a guardian/conservator should be appointed to handle his affairs. He does not appear capable of understanding or exercising his legal rights and responsibilities without assistance. He is not capable of managing his financial affairs due to profound mental retardation. He can, however, manage small personal expenditures.

This 83 year old white elderly woman who lives at (nursing home) has never been married and has no children. She took care of all her brothers but they have all moved away. One of her diagnoses is Organic Brain Syndrome. She does not know her age; not oriented to time and place. Relatives have not made contact with her in years. One relative, who lives in _____, Kansas, had requested not to be contacted except in case of death.

KGP - WARDS/CONSERVATEES

Age

18 - 59	=	52%
60 - 89	=	42%
90+	=	6%

Disability

MI/MR	=	6%
MI	=	18%
MR	=	51%
Aging	=	15%
Other	=	10%

Residential

Public Institution	12%
Community Residential	19%
Independent	13%
ICF/MR	13%
NF/MH	7%
ICF	35%
Other	1%

My name is Monte Lee Stiles and I live in Topeka

Due to my son's mental illness he needs a competent non-family member to help make important decisions for him. Trying to locate that person has been a lengthy, difficult process. Also it's been frustrating for those involved. From early June of last year KAPS, SRS and the Department on Aging have been trying to find this person. Those of us who have enjoyed good health sometimes take it for granted and over-look those who don't.

My son, Larry, has had a guardian/conservator since the early 1980's. He is impossible to take care of - if he lived with me he would burn the house down. I have had 2 private attorney's as guardian/conservator for him. Then for about the last five years, KAPS provided a guardian. I still continued to pay attorney bills and dental bills for him. I trusted the KAPS guardian and paid him additional monies but the administrator at Larry's home said Larry still did not have money to go shopping with them and I began to be concerned about this guardian in 1993.

Last summer my son called the Ombudsman complaining about his guardian. They contacted me and I told KAPS and the Department on Aging that I also wanted a new guardian for Larry. By fall SRS also knew of the problem. All Fall and Winter I was worried about getting Larry a new guardian.

As of now a new guardian has been named, Michelle, a beginning attorney. I have high hopes for this new guardian, but I have not talked to her and she has not seen Larry.

For six months Larry did not get a new guardian. I am worried, frustrated and afraid that I will die and the matter still not be resolved. The people who helped have spent 75 or more hours on this and still Larry has not been visited. There should be someone to help families like ours where there is a long term mentally ill person, and, if possible, speed up the process.

Thank you.

SWAM
March 9, 1995
Attachment 9

KANSAS AMI

KANSAS ALLIANCE FOR THE MENTALLY ILL

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Terry Larson

Executive Director

Dottie Melchior

Administrative Secretary

Testimony

March 9, 1995

To: Members, Senate Ways & Means Committee

From: Terry Larson, Executive Director,
Kansas Alliance for the Mentally Ill

RE: Senate Bill 342

Advocating on behalf of families of persons with serious mental illness, our mission includes achieving the best services possible. Creating a guardianship program separate from the protection and advocacy program removes the current conflict of interest potential that we believe does not serve the best interests of Kansans with mental illness. The bill also provides for better accountability of fund expenditures. For these reasons, we support the concept of SB 342.

Our primary concern is who will serve on the Board of Directors of the Kansas Guardianship Program. We strongly believe that, in any program, those impacted should have the greatest voice in governance. It is not so important as to who the board appointing authority is as long as family and consumer representatives comprise at least a majority of those appointed. We appreciate the language in SB 342 which requires that members have "knowledge and interest in issues relating to guardianship and the needs of adults adjudicated disabled." The people with the most knowledge and interest are those with disabilities and their families.

Thank you.

SWAM
march 9, 1995
Attachment 10

Senate Ways and Means Committee

Senator August Bogina, Chair

From: Duane Johnson, State Librarian
About: Senate Bill 351, Stormont medical library fund
Date: Thursday, March 9, 11:00 AM

I. Senate Bill 351 would authorize the transfer to the Stormont-Vail [Hospital] Foundation a very small endowment which the state has administered for the past 105 years.

The endowment was part of gift of medical books and money given to the state by Jane C. Stormont, wife of a Topeka physician, in 1889. The book collection of this gift was transferred to the Stormont-Vail hospital library in 1963.

The total of the endowment is \$5,000 and the annual transfers from the state to Stormont-Vail are from \$100 to \$500. The endowment proceeds support health and medical information purchased by and for the Stormont-Vail hospital library.

It appears logical and cost effective to transfer the endowment to the hospital, as was done with the book collection, and relieve the state of the accounting and the very small fund transfers which occur as bits of interest accrue. The latest the State Library received was for 47¢.

The State Librarian has been the administrator of the endowment under authority of K.S.A. ~~12-1225~~⁷⁵⁻²⁵¹⁵ through ~~12~~⁷⁵-1233. However, the hospital's foundation could hold this endowment for the medical library and meet the objectives of the original bequest.

We can find no endowment instrument which might raise objection to this action. There are no identifiable survivors of the Stormont family to consult with on this question. The cited statutes are the prevailing guidance for the administration of the endowment.

I recommend that the Stormont medical library fund be given to the hospital's endowment fund with the direction that the fund be held as a perpetual fund with the investment income to be used for the benefit of the hospital's professional library.

Through the help of Executive Budget Analyst, Kathy Bradshaw Sexton, the Division of the Budget has encouraged this transfer.

SWAM
March 9, 1995
Attachment 11

2. Staff of the State Treasurer have encouraged that the authorizing legislation clearly pertain to both the fund identified in statute (K.S.A. 75-2526, Stormont medical library fund) and the fund of the State Treasurer for this purpose, which is titled, "Jane C. Stormont perpetual endowment fund."

3. Staff of the State Treasurer have suggested that the word "transfer" specified in line 34 may be ambiguous. For the movement of this money to the hospital endowment, the Division of Accounts and Reports should be authorized to use whatever method of transaction is appropriate within law.

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Janet Schalansky, Acting Secretary

Senate Ways and Means Committee
Testimony on Senate Bill 344

March 9, 1995

Legislation proposed in Senate Bill 344 would allow the Department of Social and Rehabilitation Services the discretion to close offices in counties where client caseloads are minimal. Current statutes require offices in all 105 counties.

While cost savings are minimal, the major impact of this bill will be to give SRS leverage when negotiating lease agreements. Leasing agents are aware the agency is required to have an office in each county. Many rural counties do not have a lot of lease options. Some agents take advantage of this requirement by asking exorbitant rates. As indicated in our FY 96 budget, rents have escalated rapidly due to the increased cost of long term lease renewal. This bill will allow the agency negotiating room to demand a better price or change locations.

We would caution that losing offices cannot be translated into considerable savings. The Department of Social and Rehabilitation Services would still be responsible for providing all services to residents of each county. However, with current telecommunication technology and cooperative agreements with other agencies in the county, our obligation can be met. Any plans to close must be cognizant of client needs such as the ability of frail, elderly and disabled or other individuals with inadequate transportation to access services.

Again the agency is very interested in seeing this bill passed. *It will provide negotiating leverage which can be translated to cost avoidance.*

SWAM
March 9, 1995
Attachment 12

**UNIFORMITY OF DORMITORY FEES
(House Bill 2065)**

**Presentation to the Senate Ways and Means Committee
March 9, 1995**

Randy Tongier, Financial-Compliance Audit Manager
Legislative Division of Post Audit

During fiscal year 1994, the Legislative Division of Post Audit conducted audit work at the State universities. As part of that work, we reviewed dormitory fees those institutions charged for compliance with applicable requirements.

We found that current State law seems to require the universities to charge students in the same dormitory, with the same type of room, the same occupancy, and the same meal package, the same dormitory fee. We found at Fort Hays, Emporia, and Pittsburg State Universities that this was not the case. Students with the same type of accommodations and meals were charged different dormitory fees based on such things as:

- ◇ Class standing (freshman, sophomore, etc.)
- ◇ Previous residence in dormitories (previous residents charged less)
- ◇ Location of the high school from which the student graduated
- ◇ Academic performance

In responding to our finding, the Board of Regents pointed out that these policies were the universities' attempt to respond to local housing market situations, and that our interpretation of State law would limit the universities' flexibility to respond to those market situations.

In its discussion of this finding, the Legislative Post Audit Committee was supportive of the Board's position, and introduced legislation that would amend current State law to provide the flexibility needed by the universities.

*SWAM
March 9, 1995
Attachment 13*

The Testimony of

Ted D. Ayres
General Counsel and
Director of Governmental Relations
Kansas Board of Regents

before
SENATE COMMITTEE ON WAYS & MEANS
1995 Legislative Session

in re
H.B. 2065

11:00 a.m.
March 9, 1995
Room 123-S
Kansas Statehouse

SWAM
March 9, 1995
Attachment 14

Chairperson Bogina, Members of the Ways & Means Committee:

My name is Ted D. Ayres and I am General Counsel and Director of Governmental Relations for the Kansas Board of Regents. I am here this morning representing the Board of Regents. I am here to speak in support of House Bill 2065, as introduced by the Legislative Post Audit Committee. This legislation is a specific legislative initiative approved by the Board of Regents for 1995.

In April of last year, the Legislative Division of Post Audit completed a compliance and control audit report on Emporia State University (for Fiscal Year 1993). As a part of that report, the Post Audit Division questioned the University's compliance with state law, i.e. K.S.A. 76-6a05 and K.S.A. 76-761. The auditors commented:

In testing dormitory fees, we found that Emporia State University has established an incentive to encourage students to reside in its dormitories. That incentive provides a reduced fee for students who previously have resided in a University dormitory. The reduction ranges from \$125 to \$500 a year, depending on the circumstances. This type of reductions in fees does not seem to be in accordance with the requirements of State law.

The Board's Executive Director and I met with the Legislative Post Audit Committee on or about April 19, 1994. We discussed the audit concerns and explained the rationale for the University practices. It was certainly my sense that, at that time, there was not disagreement with the practices per se; the concern was with the practices in light of the perceived statutory limitations. We were advised to work with Jim Wilson of the Revisor's Office to seek a suitable compromise/remedy.

Mr. Wilson, Ms. Hinton and I reviewed several alternatives. It was our conclusion that removal of the language, as provided for in House Bill 2065, would be the most favorable means of rectification. I recommend the legislation to you favorably.

From the perspective of institutional management flexibilities, I commend this legislation to you; in my view it is vitally important, financially and programmatically, that our University residence halls remain competitively viable and attractive to students. In my opinion, Board judgment, parental pressure, competitive factors, student activism and other existing laws against discriminatory treatment should provide sufficient protection against unfair/outlandish/inappropriate behaviors by the Institutions and Board in this regard.

Thank you for your attention and consideration of my testimony. I would now stand for questions.