

MINUTES OF THE HOUSE KANSAS 2000 SELECT COMMITTEE.

The meeting was called to order by Chairperson Kenny Wilk at 1:30 p.m. on January 19, 2000 in Room 313-S of the Capitol.

All members were present except: Representative Susan Wagle - excused

Committee staff present: Alan Conroy, Legislative Research Department
Audrey Nogle, Legislative Research Department
Leah Robinson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Jim Wilson, Revisor of Statutes
Janet Mosser, Committee Secretary

Conferees appearing before the committee:

Representative Annie Kuether
Bill Rich, Professor of Law, Washburn University School of Law
Senator Ben Vidricksen
William Avery, Former Governor, State of Kansas
Carol McDowell, President, Kansas Preservation Alliance, Inc.
Barton Cohen, Board of Directors, Kansas State Historical Society, Inc.
(written)
M.J. Hodges, M.D. (written)
Nancy Holt, Chair, Executive Committee, Kansas State Historical Society, Inc.
Jim Hoy, President, Kansas State Historical Society, Inc.
Dave Webb, Board of Directors, Kansas State Historical Society, Inc.
Cheryl Collins, Past President, Kansas State Historical Society, Inc.
Ramon Powers, Executive Director, Kansas State Historical Society
William Tsutsui, Board of Directors, Kansas State Historical Society, Inc.
Joe Snell, Past Executive Director, Kansas State Historical Society
Dick Troop, Member, Kansas State Historical Society, Inc.
Paul Stuewe, Member, Executive Committee, Kansas State Historical Society, Inc.
Kathleen Holt, Executive Committee, Kansas State Historical Society, Inc.
Betty Lu Duncan, Vice-Chair, Executive Committee, Kansas State Historical Society, Inc.

Others attending: See attached list.

Chairperson Wilk opened the hearing on **HB 2605 - Kansas department of history and preservation created, transferring powers, duties and functions from state historical society**. He noted that there were 17 conferees on the agenda, many of whom have traveled hundreds of miles to attend the hearing. It is his intention to hear from all conferees.

Chairperson Wilk recognized Representative Annie Kuether, proponent, to address the committee (Attachment 1).

Bill Rich, Professor of Law, Washburn University School of Law, neutral, was recognized and addressed constitutional issues that might affect legislative consideration of the proposed changes (Attachment 2).

Senator Ben Vidricksen, proponent, was recognized (Attachment 3).

William Avery, Former Governor, State of Kansas, proponent, was recognized (Attachment 4).

Carol McDowell, President, Kansas Preservation Alliance, Inc., proponent, was recognized. Because she did not travel a great distance to attend the hearing as did many others, she offered to testify out of order.

CONTINUATION SHEET

Chairperson Wilk expressed his appreciation for her yielding to others.

Chairperson Wilk noted that Barton Cohen, Board of Directors, Kansas State Historical Society, Inc., proponent, has submitted written testimony (Attachment 5).

Chairperson Wilk noted that M.J. Hodges, M.D., proponent, has also submitted written testimony (Attachment 6).

Nancy Holt, Chair, Executive Committee, Kansas State Historical Society, Inc., opponent, was recognized to address the committee (Attachment 7). She also provided the committee with a packet of information that members may not have had before including Board policies (Attachment 8), restated and amended bylaws of the Kansas State Historical Society, Inc. (Attachment 9), details of the six divisions of the Kansas State Historical Society, Inc. (Attachment 10), and information on the joint projects of the Kansas State Historical Society and the Kansas State Historical Society, Inc. (Attachment 11).

Jim Hoy, President, Kansas State Historical Society, Inc., opponent, was recognized to address the committee (Attachment 12).

Dave Webb, Board of Directors, Kansas State Historical Society, Inc., opponent, was recognized and echoed what had been said by Nancy Holt and Jim Hoy. Mr. Webb works with the Kansas Heritage Center in Dodge City which has a very close working relationship with the Kansas State Historical Society. He is frightened that a name with 125 years of recognition, respect and integrity would be changed. He noted that surrounding states call their society the blank (ie, insert name of state) State Historical Society. He also noted that changes have been made as a result of the Audit and asked that a period of time be allowed to evaluate how the changes are working and, if necessary, come back to re-examine this issue. He parted by saying "if it ain't broke, don't fix it."

Cheryl Collins, Past President, Kansas State Historical Society, Inc., opponent, was recognized to address the committee (Attachment 13).

Ramon Powers, Executive Director, Kansas State Historical Society, opponent, was recognized to address the committee. Due to the lateness of the hour and the fact that many other conferees remained to testify, Dr. Powers summarized his testimony (Attachment 14). Chairperson Wilk asked Dr. Powers to return tomorrow, if possible, in order to go into more depth on his testimony.

William Tsutsui, Board of Directors, Kansas State Historical Society, Inc., opponent, was recognized to address the committee (Attachment 15).

Chairperson Wilk requested that, in an effort to hear testimony from conferees who cannot return tomorrow, when a name is called and the conferee can return tomorrow, they please yield to those who cannot.

Joe Snell, Past Executive Director, Kansas State Historical Society, opponent, was recognized and yielded to his written testimony (Attachment 16). Chairperson Wilk requested that, if possible, he remain after the meeting since some members of the committee will stay late and would like to hear from him.

Dick Troop, Member, Kansas State Historical Society, Inc., opponent, was recognized to address the committee. Mr. Troop is a volunteer at the Kansas Museum of History and as a volunteer, thinks it would be a mistake to change the name of the Kansas State Historical Society. It would become just another department of the state and "department" has a negative connotation. He felt "society" had a nice "ring" to it.

Paul Stuewe, Member, Executive Committee, Kansas State Historical Society, Inc., opponent, was recognized to address the committee (Attachment 17).

Kathleen Holt, Executive Committee, Kansas State Historical Society, Inc., neutral, was recognized to address the committee. She explained that her charge was to summarize the comments of her colleagues from the Executive Committee and referred the committee to the position paper provided

CONTINUATION SHEET

(Attachment 18). Upon questioning by Chairperson Wilk as to what, in her opinion, the legislature might do to make everyone support this bill, Ms. Holt said that a clearer elaboration on the trustee relationship would be helpful.

Betty Lu Duncan, Vice-Chair, Executive Committee, Kansas State Historical Society, Inc., neutral, was recognized and at the request of Chairperson Wilk due to the lateness of the hour, agreed to return tomorrow and address the committee.

Questions and discussion followed testimony. Jim Wilson, Revisor, was recognized and assisted in answering questions.

Chairperson Wilk recessed the hearing on **HB 2605**.

Chairperson Wilk adjourned the meeting at 3:20 p.m.

The next meeting is scheduled for January 20, 2000.

KANSAS 2000 SELECT COMMITTEE GUEST LIST

DATE: 1-19-00

NAME	TITLE	REPRESENTING
Beth Carlgren	Executive ^{Committee} Board Member	Kansas State Historical Society
Joe Small		myself
Dave Webb	Asst. Director	KS Heritage Center DC.
Myra Brown Anderson	Advisor	Nat'l Trust for Historic Preservation
Jama Wagner	Executive Director	Kansas Preservation Alliance
Carl McDowell	President	Kansas Preservation Alliance Inc.
Bill Denny		KS Government Council
Ruth Small	Home page	for KS
Elen Torrence	BOARD OF DIRECTORS MEMBER	KS STATE HISTORICAL SOCIETY
WILLIAM CLARK ELLINGTON	BOARD OF DIRECTORS	KANSAS STATE HISTORICAL SOCIETY
VALERIE ELLINGTON, WIFE		
Helen L. King	KSHS, Board member	KSHS
Krista Casperich	Staff	DOA/ORS
Margaret J. Bradshaw	Volunteer - Savins Historic Site of U.S.R.R.	Friends of Free State Capital
Brian Hurdall		
Pauland Walker	KSHS Bd	
Letha Schmitt	Auditor	Legislative Post Audit
Bob Trout		KGC
Robert W. Richmond	KSHS member	
Joe Casper	KS HS Board	
Donald O'Loole	Tyaska General Soc	TGS
Ruth Keys Clark		Jeff Co General Soc
Mary Beth Figgins		family historians/Westerners
Robert Bader	KSHS Board	Kan. St. Hist. Soc.

ANNIE KUETHER
 REPRESENTATIVE, FIFTY-FIFTH DISTRICT
 SHAWNEE COUNTY
 1346 SW WAYNE AVE
 TOPEKA, KANSAS 66604-2606
 (785) 232-0717

STATE CAPITOL—ROOM 279-W
 TOPEKA, KS 66612-1504
 (785) 296-7669
 1-800-432-3924



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

ECONOMIC DEVELOPMENT—RANKING DEMOCRAT
 EDUCATION & LEGISLATIVE BUDGET COMMITTEE
 JOINT COMMITTEE ON ECONOMIC DEVELOPMENT
 UTILITIES

TO: SENATE AND HOUSE DEMOCRATS

FROM: REP. ANNIE KUETHER

RE: PROPOSED LEGISLATION CONCERNING THE STATE HISTORICAL
 SOCIETY

DATE: JANUARY 9, 2000

During the fall, a special committee was created to address problems disclosed in a Post Audit of the Kansas State Historical Society. This was the Special Committee on Structure and Organization of the State Historical Society. Members of the committee were:

Sen. Alicia Salisbury, Chair
 Sen. Ben Vidrickson
 Sen. Marge Petty

Rep. Kenny Wilk
 Rep. Annie Kuether
 Rep. Joanne Pottorff

The two, major concerns we were asked to address were the lack of accountability of the Society to the state (SGF are given to the Society) and that the Executive Director of the Society was also the State Historical Preservation Officer (SHPPO).

The committee met for a total of four days. During that time we heard testimony from the Executive Director, the President of the Board of Directors and other Board members. Senator Salisbury allowed a great deal of interaction with those that came to testify and the committee members. We visited with other states and learned about the structures of their Societies. On the third day we heard from Board members who raised serious concerns about activities of the Society. They have recently been criticized for speaking out. (See enclosure).

On the final day the Executive Director and the new President of the Society asked that we not make any changes. They believe that newly revised by-laws recently implemented would take care of all of our concerns.

With a unanimous vote, the special committee made the recommendation to create the Kansas Department of History and Preservation and to separate the responsibilities of the Executive Director and the State Historical Preservation Officer.

Some of you are getting calls from constituents (if not, just wait) asking you to support keeping the Society the way it is currently structured. The Board members are claiming that they didn't have enough time to testify and that we were "out to get them". Nothing could be farther from the truth. Each and every member on this committee is a strong supporter of the Society, tourism and preservation.

Please read the Post Audit report and/or speak to your colleagues who served on this committee. Our unanimous vote speaks volumes.

Site preservation and tourism in this state will now be in a position to be more adequately addressed.

Kansas has a rich history. I ask for your support of this proposed legislation when it comes before the House committee and chamber.

Thank you.

November 18, 1999

To: Members of the Executive Committee

From: Nancy Holt, Chair

Re: Meeting of the Special Committee on Governance of the KSHS, Nov. 11-12, 1999

Unfortunately the Special Committee on Governance of the Society did not provide us with the form that we needed to tell our story of the benefits of the Society's new procedures for governance. As Cheryl Collins and I exited the meeting on the second day, we were convinced that the Society had not been given a fair hearing and that we face a major challenge to preserve the integrity of the Society.

Society board member Mr. Bart Cohen had been asked by the Committee to appear. He spent a hour raising questions about the proposed bylaws and the operations of the private society policies and finances. All of his concerns relating to the bylaws were adequate rebutted by Dean Michael Hoeflich in his comments that followed Mr. Cohen's presentation. What was most disappointing was Mr. Cohen's commentary on the private society. He had raised many of these in the Finance Committee meeting (he is a member of that Committee) and the Committee members responded positively and most of his concerns were addressed or are being addressed. In his remarks he implied that Art Hodgson was unhappy with the way the Society was being run and he intimated that there were problems with Grinter House and Shawnee Mission. It was an unseamly attack on the private society by a board member who was present at the Society board meeting on Friday, November 5, but failed to raise any of his concerns about the private society at that time.

Cheryl and Ramon responded to specific issues raised by Mr. Cohen, but his negative tone of his presentation was very damaging to the Society. Martha Gannon and Marj Schanacke described for the Committee the Society's fund raising activities over the past few years. Marj, however, offered remarks about how the fund raising has been handled that were not appropriate and she offered, when asked by the chair, an opinion that the governance of the Society that was not in keeping with the the position adopted by the board.

In the afternoon of the first day, Jerry Clevenger, President and Chief Executive Officer of the Washburn University Endowment Association, discussed with the Committee the way that an endowment association operates in relation to a university. That presentation was followed by another Society board member, Rober Pratt, whose family gave funds to rehabilitate the Cottonwood Ranch near Studley, Kansas. Mr. Pratt's concerns had been previously reviewed in detail by the Post Audit and no problems had been identified in the way the Society had handled the issue. However, Mr. Pratt raised a new issue about a Committee Report from 1988 in which it was suggested that over \$200,000 was for the restoration of the Cottonwood Ranch. Committee staff pointed out that in the final appropriation in that year the funds were not

specifically designated for the Ranch. Ramon pointed out that when he started there were not substantive plans for the development of any of our historic sites and in the following session the Society asked to use some of the 1988 appropriation to undertake a major plan for the site. That we supported by the Legislature, particularly the Senate Committee on the Society's budget and that Committee also directed that the Society reduce its number of historic sites. Ramon also pointed out that the Society has spent more on the rehabilitation of the Cottonwood Ranch than on another other historic site in the past decade. Again, Mr. Pratt, as a member of the board of directors who was presented at the November 5 meeting, failed to present to the board any of the concerns be raised to the Legislative Committee. That was disappointing, to say the least.

Ramon delivered his presentation on the afternoon of the first day. He responded to all of the preservation issues raised in the previous hearing. He pointed out that there are two philosophies of preservation, one an in your face approach and the other a community based approach. The Society is following the second strategy which we feel best represents the views of philosophy of most Kansans.

Joe Snell, former executive director and a member of the board, gave the Committee a historical perspective on a number of issues related to the private society and the governance issue. He made a strong case for the present governance arrangement.

In the end, the Committee made the following recommendations:

Cheryl and I are particularly disappointed with the performance of board members Mr. Cohen and Mr. Pratt who failed to raise any of their concerns to the board before Committee. Their intemperate tone and divisive language they used was inappropriate. In addition, Marj Schnacke did a great disservice to the Society by remarks that were not necessary and did damage the image of the Society.

holt99a

January 19, 2000

To: Special Committee on Structure and Organization of the State Historical Society

**Fr: Bill Rich
Professor of Law
Washburn University School of Law**

Re: Constitutional Questions Concerning Historical Society Structure

Summary of Testimony

I have been asked to address constitutional issues that might affect legislative consideration of proposed changes to the structure of the Kansas Historical Society. The primary constitutional issue is whether the current structure of the Society comports with a requirement that state agencies which exercise general governmental power must be accountable. To meet this requirement, agency structures must be consistent with a doctrine of equal representation. The Committee should consider whether the current structure of the Society meets these constitutional constraints and whether proposed alternatives eliminate constitutional problems, and these are the issues which I will address.

First, is the Kansas Historical Society an agency which exercises "general governmental power"? The answer to that question is fairly complex. Primary guidance comes from three decisions by the United States Supreme Court: *Hadley v. Junior College District of Metropolitan Kansas City*, 397 U.S. 50 (1970); *Salyer Land Co. v. Tulare Lake Basin Water Storage Dist.*, 410 U.S. 719 (1973); and *Ball v. James*, 451 U.S. 355 (1981). Guidance can also be found from the decisions of the United States District Court which more recently concluded that the structure of the Kansas Board of Agriculture failed to meet constitutional requirements. *Hellebust v. Brownback*, 824 F.Supp. 1524 (D.Kan. 1993); *Hellebust v. Brownback*, 812 F.Supp. 1136 (D.Kan. 1993). We can learn from these cases that an agency exercises "general" power if it affects the public equally, as distinguished from agencies which have a limited impact on a distinct segment of the public and which can therefore be held accountable by that limited group. A Water Storage District was a body affecting a distinct group, while the Junior College and the Kansas Board of Agriculture affected the general public. I conclude that the Historical Society has general, rather than limited, responsibilities.

It is also important to determine whether the type of responsibilities exercised by the Historical Society are "governmental" or should be categorized in some more restricted terms. Clearly, the legislature can delegate ministerial or advisory responsibilities to entities that would not necessarily be considered a part of the government and therefore need not meet government accountability standards. If, for example, the functions of an agency were merely investigatory or advisory and did not involve significant exercises of discretion, then we could conclude that there did not need to be executive control over such an agency. The United States Supreme Court decisions actually do not tell us a great deal about how this line should be drawn. It would appear, however, that several functions of the Historical Society fit within a reasonable concept of governmental authority. I would note in particular the authority to spend state money, to

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administer state property, to hire and fire state employees, to act as the state historic preservation agency, to administer federal funds that have been allocated to the states, to establish and approve expenditures from fees, to adopt rules and regulations and to otherwise administer provisions of the law. It is difficult to imagine that this collections of responsibilities would not be considered "governmental." I would need to assess more specific information about each of these tasks, however, in order to give more detailed guidance regarding this issue.

If you agree with my conclusion that the Kansas Historical Society exercises general governmental power, then the next question is whether the structure of the Society comports with requirements of accountability. The single most important principle in this context is that of equal representation, or "one person, one vote." Failure to meet that standard led to the conclusion that the Kansas City Junior College and the Kansas State Board of Agriculture were not structured in a valid manner. The Supreme Court has consistently ruled that any requirement that ties voting for a government authority to payment of a fee is unconstitutional. Rules for selecting the Historical Society governing board by dues paying members violate this standard.

The final question I will address is the question of remedies. I do not have any constitutional concerns regarding the changes in structure and organization encompassed by House Bill No. 2605; those changes appear to eliminate the constitutional problems described above. Other remedies are possible, however, and judicial opinions in this context do not be construed as strait-jackets that block all innovative or experimental combinations of public and private entities. While I do not believe that allowing the Governor to appoint three members of the Historical Society Executive Committee resolves the problems of accountability described above, other solutions are possible.

BLAINE E. VIDRICKSEN
SENATOR, DISTRICT 24
SALINE, OTTAWA
PART OF DICKINSON COUNTIES
1427 W. REPUBLIC
SALINA, KANSAS 67401
(785) 827-9546
FAX (785) 827-2518
STATE CAPITOL
TOPEKA, KANSAS 66612-1565
(785) 296-7390



TOPEKA
SENATE CHAMBER

Assistant Majority Leader

COMMITTEE ASSIGNMENTS
CHAIRMAN: TRANSPORTATION AND TOURISM
CHAIR/VICECHAIR: JOINT COMMITTEE ON STATE BUILDING CONSTRUCTION
VICECHAIR: NATIONAL CONFERENCE OF STATE LEGISLATURES—TRANSPORTATION KANSAS TURNPIKE AUTHORITY
MEMBER: COMMERCE CONFIRMATIONS FEDERAL AND STATE AFFAIRS INTERSTATE COOPERATION ORGANIZATION, CALENDAR AND RULES COUNCIL OF STATE GOVERNMENTS GOVERNOR'S COMMISSION ON TRAVEL AND TOURISM LEGISLATIVE CONSULTANT TO KANSAS FILM COMMISSION EISENHOWER COMMISSION

January 19, 2000

TESTIMONY BEFORE THE KANSAS 2000 SELECT COMMITTEE

MR CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I appear before you today to share a few comments regarding HB-2605 . I was a member of the Special Committee that made the recommendation to introduce legislation as per the recommendations of the Post Audit report. I have been a member of the Post Audit Committee for 18 years. We, the Legislature, take very seriously the recommendations of that agency and have passed legislation many times as recommended by them. We do not do it as a matter of form. We go through the process of public hearings in special committees or regular committees in both Houses, then debate them on the floors of the Senate and the House. All legislators are involved in the procedure. Then the bill has to be signed by the Governor

In my 21 years as a member of the Senate, the two most important goals I set were the transportation infrastructure of our State and the preservation of our heritage and tourism. It is my view that the Historical Society is the number one group of volunteers we have in our State. They have contributed millions of hours of personal time and have also contributed funds for countless programs in our State for our heritage and the promotion of tourism. I want to do nothing to diminish their role or their contribution to our heritage and the preservation of our State, as well as the overall promotion of Kansas.

This is not an assault on the Society or any of the members of the Society. I'm sure it will strengthen the Society with the changes we have recommended. The reasons for all this will come before you in testimony from Post Audit and others.

(OVER)

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I also want to emphasize that this is not an assault on the management of the Historical Society or any of the executive positions of the Society. This is not legislation geared to "get anyone." I want to make it clear, personalities were not discussed and were not a part of our change. Anyone now working in an executive position any place in Kansas, who now meets the qualifications set forth in the recommendations will be eligible for any new positions under the bill.

Many rumors and innuendos have been raised and I wanted to set the record straight. I fully support the recommendation by the Special Committee. It will strengthen both the non-profit entity, the Historical Society, and the new Kansas Department of History & Preservation.

SENATOR BEN VIDRICKSEN
ASSISTANT MAJORITY LEADER
CHAIR, SENATE TRANSPORTATION & TOURISM COMM

**TESTIMONY ON HOUSE BILL 2605
OF WILLIAM H. AVERY, WAKEFIELD, KS
TO THE
KANSAS 2000 SELECT COMMITTEE**

Subject: HB 2605 , a Bill to establish a Department of History and Preservation

First of all, let me state that I am setting out my personal views and do not propose to represent the State Historical Society.

I do not interpret the consideration of this legislation as a reflection on the dereliction of duty on the part of the staff of the Historical Society or mismanagement of the Executive Committee of the Society or the Director. After the court ordered the reorganization of the State Department of Agriculture, reorganization of the Historical Society structured similar to that of Agriculture, was inevitable.

There appears to be some deterioration in the confidence of the Legislature in the Society, partly due perhaps to a breakdown in communications. One possible reason for the communication problem is the relocation of the Society made necessary by the greater need for the space in the Memorial Building by the state.

Within the memory of most living Kansans, the Society was located in the Memorial Building, just across Jackson Street from the Capitol Building. Thus located, it provided immediate access to the legislators and the executive department for any need. Conversely, it provided the Director and staff to confer frequently with both the executive branch and the legislature.

When I was elected to the House of Representatives, I was named to the Committee on Agriculture. Conventionally, it would seem that the Director of the Society would have scant interest in a new member serving only on the Committee on Agriculture. However, after a few days , I was greeted by name by then Director Niles Miller with an offer to help in any way that he or the Society could perform. He made me feel welcome to the Legislature and immediately instituted a feeling of interest and support for the Society. That relationship is hard to duplicate when the facility is more than a mile away and accessible only by a road more suited for a drivers' training course rather than the only access to a state institution that probably has more visitors than any other state institution.

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This is not to suggest that the present location is not the most practical site. However, in my opinion, it did erode an established line of communication between the Society and other departments of state government that have been established over the years.

In a related matter, the Society has lost some formerly active members of the Executive Committee who had a close working relationship with the Legislature. Former members, Senate President Glee Smith and Judge Richard Rogers, later president of the Society, played a significant role in that regard. Former Senate President Ross Doyen, I understand, played a major role in obtaining funds for the relocation and start-up cost of the new facility. Clifford Hope, Jr., author and historian in Garden City, also was formerly on the executive committee.

At the present time no member of the executive committee has legislative experience, and I think I am the only one of the Board of Directors that has served in the Legislature. The Board of Directors does not serve in the conventional role of a Board. We are not compensated, but instead are assessed \$100 a year for the honor! I mention this to emphasize that we serve because we have a sincere interest in Kansas and want to assist in its preservation. We attend board meetings, but rarely are consulted on the affairs of the Society.

I mention the above to hopefully impress the committee and the House that the executive Committee and the Board have strived, some for years, to guide and improve the Society. Under House Bill 2606, these functions will be transferred to the Director of History and Preservation. The bill further provides the director in authorized to "contract with other entities." It is assumed this authority provides the director with the discretion to seek advice and delegate certain functions to the remaining private society, referred to in the bill as the State Historical Society, Inc. for purpose of distinction.

Since the private society has been functioning for most of the history of the organization, it is hoped the director will find ways to utilize the knowledge and experience of the remaining organization. Their hard work and dedication to the Society is reaffirmed by the \$1.4 million endowment earned, donated, and saved to spend sparingly.

I have no opinion on the recommendation of the special committee that a fund raiser be hired. I favor the recommendation that the Society designate an investment committee to supervise the management of the endowment.

I discussed with the Office of the Secretary of the Department of Agriculture how that agency worked with the advisory committee appointed by the Governor following the dissolution of the long-standing Board of Agriculture. I was hoping such could provide some experience of an appointed director assuming the responsibilities of policy making and enforcement that had been formerly made by an elected board independent of state supervision and direction which is similar to the situation for the new department and director with the enactment of this proposed legislation.

I did not get much helpful advice. Notwithstanding, I would hope the new Director of the Department of History and Preservation would confer with the Board of Directors of the State Historical Society, Inc. for counsel and precedents, realizing that the director will not be bound by any such suggestions or advice. Such would, however, help to remind those persons their service and experience are useful and appreciated.

I will respond to any questions that I am qualified to answer.

Thank you.

BARTON P. COHEN

9401 INDIAN CREEK PKWY. STE. 1200 OVERLAND PARK, KS 66210
TEL: (913) 696-7101 FAX: (913) 696-7070
E-MAIL: bcohen@bspmlaw.com

January 14, 2000

Honorable Kenny Wilk
Kansas House of Representatives
State Capitol
300 SW 10th Ave., Room 180-W
Topeka, KS 66612

Re: Organization and Structure of State Historical Society

Dear Representative Wilk:

Yesterday, as a member of the Board of KSHS, Inc., I received from Nancy Holt, Chairman, Executive Committee, Kansas State Historical Society, Inc., a letter dated January 12, 2000, a copy of which is enclosed. The letter informed me that House Bill 2605 will have a public hearing on January 19, 2000 at 1:30 p.m. and enclosed a copy of the Report of the Special Committee on the Organization and Structure of the State Historical Society to the 2000 Kansas Legislature dated December 1999 with the memorandum from Jim Wilson, First Assistant Revisor dated December 30, 1999.

At this time, I have not seen a copy of House Bill 2605 and therefore rely on the memorandum and the report as the basis for my comments.

I was particularly interested in the very last paragraph of the Report in which the Committee expresses being troubled by the lack of an Investment Committee to oversee the 1.4 million dollar endowment of KSHS. On numerous occasions at Board meetings, KSHS Committee meetings and at the public hearing, I have complained about the lack of investment oversight, the need for an investment committee and the need for a current policy to guide investments. The Executive Committee, KSHS officers and staff have failed to respond to my complaints, and the problems caused by such lack of response are evidenced by the enclosures.

Under date of December 21, 1999, I, as a member of the Finance Committee, was sent a letter with a list of assets of the endowment fund as of November 30, 1999 and an income statement for the current fiscal year as of 12/9/99. I was very troubled by the foregoing and protested in writing dated December 28, 1999 about the investment action taken by the KSHS

to KSHS Treasurer, Executive Director and Executive Committee Chairman and Bank of America V.P. A copy of my December 28, 1999 letter is enclosed.

The only response I have received to that letter was changing the date of the next meeting of the Finance Committee to Tuesday, January 18. Perhaps at that meeting, I will learn whether any other action has been taken.

Your committee members clearly understood the need for oversight of endowment fund investments. The decision to place all KSHS endowment funds in Nations Bank mutual funds was made after the public hearing. These investments were purchased on November 18 and 26, 1999 and without the appointment or involvement of an investment committee to guide the decision-making.

It is the lack of responsiveness and inattendant to the responsibilities and duties of funds management by those in charge of KSHS that has been of ongoing concern to me. I believe my concern is shared by several ladies on the Executive Committee but they have been unable to significantly change the manner in which KSHS is operated. They have neither the votes on the Executive Committee nor the staff support to make the necessary changes. I fear that once legislative pressure is gone, progress toward change will also disappear.

I cannot be present for the January 19 hearing but would like to be on record concerning certain provisions of the proposed legislation. Since I have not seen the proposed legislation, my comments will be directed to matters contained in the Report and Memorandum.

First: I would like to see a much closer relationship between the state agency and KSHS, Inc. than that proposed by the legislation. KSHS has much to offer as a support organization for the state agency. Totally removing it from the process of governance of the state agency would be a mistake. A state agency devoted to history must have a strong constituent body of people interested in the success of the organization. A public private partnership is essential and requires people on both sides of the contractual relationship to be interested in perpetuating an ongoing relationship. Other agencies serve the economic or social needs of Kansans but no one needs history.

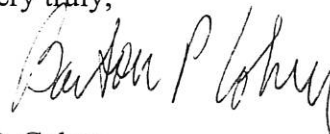
Therefore, I recommend that the legislation provide for a citizen governing board for the state agency composed of nine persons all appointed by the Governor to serve staggered four-year terms. Four of its members to be selected from a slate submitted to the Governor by KSHS, one from a slate submitted by the State Preservation Organization and four selected by the Governor from the population at large.

Second: The selection of the Executive Director should be made by the Governor on recommendation of the governing board. It would also be the responsibility of the governing board to make an annual evaluation of the Executive Director and submit same to the Governor. The Governor would have the authority to fire the Executive Director upon recommendation to the Governing Board.

Third: It is absolutely essential that the director of the state agency have demonstrated executive and administration ability to discharge the duties of the office. It should not be made a requirement that the person be qualified by education, training and experience in the field of history, historic preservation, education, museum administration or a related field. Department heads may need those qualifications depending on the job description for the department. People with strong executive and administrative ability have the capability of running an organization regardless of their field of training. Many public organizations recognize that such a requirement significantly restricts their ability to recruit the caliber of executives necessary for the top administrative position.

In conclusion, I want to thank you and your committee for the fine service you are rendering to the people of Kansas during your deliberations on this matter. If I can be of further service, please advise. I am attaching my business cards so that anyone who wants to contact me may do so and I invite their communication. I have sent copies of this letter to House members serving on the Special Committee as well as those members of the Kansas 2000 Select Committee from Johnson County.

Yours very truly,



Barton P. Cohen

BPC/ljm
Enclosures

cc: Hon. Annie Kuether, Rm. 279-W
Hon. Jo Ann Pottroff, Rm. 183-W
Hon. Larry Campbell, Rm. 155-E
Hon. Tim Carmody, Rm. 174-W
Hon. Al Lane, Rm. 115-S

BLACKWELL SANDERS PEPPER MARTIN

BARTON P. COHEN
ATTORNEY AT LAW

TEL (913) 696-7101 FAX (913) 696-7201
9401 INDIAN CREEK PARKWAY SUITE 1200 OVERLAND PARK, KS 66210
E-mail: bcohen@bspmlaw.com



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103rd & Metcalf • College & Quivira
151st & Metcalf

BARTON P. COHEN

9401 INDIAN CREEK PKWY. STE. 1200 OVERLAND PARK, KS 66210
TEL: (913) 696-7101 FAX: (913) 696-7070
E-MAIL: bcohen@bspmlaw.com

December 28, 1999

Max Prosser, Treasurer
Kansas State Historical Society, Inc.
3600 Randolph Square, #34
Topeka, KS 66611

Dear Max:

Received your memorandum dated December 21, 1999 addressed to Members of the Finance Committee including financial reports and notice of next meeting.

Among the financial reports was an account summary from Bank of America for the period 11/1/99 through 11/30/99. That report showed \$464,317 in cash and cash equivalents, \$417,934 in Nations fixed income, mutual funds and \$469,757 in Nations equity mutual funds. The equity mutual funds were allocated among seven Nations Bank funds.

I do not know who made the decision to invest all of KSHS assets into Nations mutual funds and to make the equities allocation among seven of their mutual funds. However, it is my obligation as a member of the Finance Committee to protest this decision. It is positively wrong for KSHS endowment fund to be invested in mutual funds. It is positively wrong for KSHS assets to be invested in assets of one fund manager. It absolutely violates the Investment Policy of KSHS in that (1) "the Fund is to be administered for the sole benefit of the Society," (2) "Fund assets should always be invested in accordance with high fiduciary standards" and (3) "all investments for the Fund should be made with the care, skill and diligence that a prudent person would exercise."

A letter from John Hartmann to KSHS in the third quarter 1999 suggested KSHS consider investments in individual stocks and fixed income securities. Why was that suggestion not discussed before making the investment of KSHS funds?

A Kansas state chartered bank would be strongly reprimanded by the Trust Examiners for the Kansas Banking Department if the bank, in managing a fund this size, invested all assets into mutual funds and the criticism would be stronger if the mutual funds were all managed by an affiliate of the bank. Surely Bank of America trust department in investing KSHS funds should expect to perform to the same standard as a Kansas state chartered bank. Even though some credit refund is being given, we do not know how much double dipping by Bank of America is costing KSHS. There is strong concern among legislators and others about KSHS using an out

Max Prosser
December 28, 1999
Page 2

of state bank to handle its investments. While I personally have no problem with Bank of America managing KSHS investments, I would think Bank of America would insist that KSHS investments be handled in accordance with high fiduciary standards by investing in individual stocks and fixed income investments. I serve on another investment committee which uses Bank of America to manage its assets and I know Bank of America is quite capable of investing in individual securities.

A prudent person does not invest in the huge number of stocks represented in the portfolios of the seven equity mutual funds. Over diversification is bad. KSHS funds should be invested in about 20-30 companies whose progress can be followed by the KSHS Finance Committee which should meet with our investment manager on a quarterly basis to review performance. It is impossible for the Finance Committee to follow all of the many companies represented in those mutual funds. For your information, I am including an article from the 12/26/99 issue of the *Kansas City Star*.

As bad as over diversification is, it is even worse to under diversify by placing "all your eggs in one basket." By having all fixed income and equity funds invested in an affiliate of Bank of America, KSHS has taken the risk if the affiliate were to take bankruptcy of losing everything or having all of its assets tied up until the extent of the bankruptcy were determined. Fund managers have been known to go broke. I am sure you are aware that neither the fund manager nor the mutual fund into which KSHS funds are invested are FDIC insured. At least if KSHS assets are invested with a number of different fund managers, then the risk of loss from bankruptcy is less.

John Hartmann in his letter to me dated 10/29/99 included the performance history of Nations Disciplined Equity Fund and Nations Managed Index Fund. The performance of the Disciplined Fund for the last three months, one year, three year and five year period was below that of the S&P 500 Index. The performance of the Managed Fund for the last one year and two years was below the S&P 500 Index. Thus, KSHS would be better served to invest in a S&P 500 Index fund -- KSHS would receive a higher return and not pay an investment manager. It would be better if KSHS received a higher return than an S&P 500 Index Fund. KSHS has a right to expect for the management fee paid Bank of America to receive performance better than an S&P 500 Index Fund.

I do not know what management fee Bank of America is taking. But I do know that the management fee should have been negotiated by the Finance Committee after obtaining competitive bids.

Any management agreement should require the manager to furnish KSHS with the following information on a quarterly basis within one month following the end of each calendar year:

- a) Purchase and sale transactions during the quarter setting forth, at least, cost basis and sale price;
- b) Fees charged during the quarter and year to date.
- c) Listing of all assets held as of quarter end with cost and market value;
- d) Contribution received during quarter and YTD;
- e) Withdrawals detailed for quarter and summarized YTD.
- f) Receipts of income, dividends and refunds detailed for quarter and summarized YTD;
- g) Comparison of fund balances as of reporting date and end of last three preceding years.
- h) Comparison of performance with S&P 500 Index and other standard comparisons.

Further, the fund manager should be required to meet with the Finance Committee at a prescheduled time and date during the second month of each calendar quarter to review and discuss the report.

The Investment Policy Statement dated October 8, 1994 needs substantial revisions. Emphasis on protection of principal should be removed. In its place, KSHS investment policy should emphasize total return which includes both income yield and appreciation of capital. Protection of principal has resulted in a substantial loss in value of KSHS funds over the last five years. KSHS has failed to comply with the provisions of K.S.A. § 17-5004. Likewise, Bank of America, by investing all of KSHS funds in an affiliate, has violated the fiduciary's duty of impartiality set forth in that statute. I suggest that you and the others to whom this letter is sent become familiar with K.S.A. § 17-5004.

On another subject, it was announced at our last Finance Committee meeting that the next meeting of the Committee would be held on January 10. Your memorandum changed that date to January 17. While I intend to attend on either date, I want to remind you that it is Martin Luther King's birthday and as a result, most banks, including Bank of America, and most, if not all, government offices will be closed for the observance.

Lastly, I am concerned about the apparent drop in revenue for KSHS as shown by the profit and loss statement for the period July through December 9, 1999. I recognize that December usually produces substantial contribution and museum store sales and if sites and store sales for December reach the \$24,000 to \$28,000 level of past years, then sales revenue will be

Max Prosser
December 28, 1999
Page 4

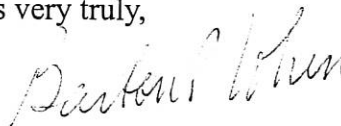
close to the budgeted figure for the first half year. Income from interest and dividends earned during the first half year is not reflected in the P&L.

So that those spending KSHS income will know what income is available to be spent and KSHS' investment manager will better know how to invest KSHS funds, a spending policy should be adopted by the Executive Committee. Using a total return approach to investing, the spending policy should provide for an amount equal to 5% (plus or minus) of previous year's endowment fund balance to be distributed quarterly by the investment manager to KSHS. With a fixed policy in place, budgeting for the year will be simpler since the Finance Committee will know how much will be received from investments. Without a spending policy, Bank of America does not know whether it is expected to invest endowment funds to reach \$40,000 in interest and dividend income and the Finance Committee in establishing its budget, does not know whether its assets are invested in a manner to produce the \$40,000. Without a requirement for quarterly distribution, the staff persons responsible for spending money do not know how much KSHS will receive from its investment nor when the money will be available.

Also, I want to share with you recent correspondence I received from Bank of America pertaining to its Money Manager Account for Not for Profits. Perhaps its program or a similar one offered by another bank could produce more income from the uninvested cash of KSHS than KSHS is currently receiving. I suggest that this alternative be investigated.

I strongly believe that the Executive Committee and the Finance Committee have a duty and obligation to see that KSHS and its endowment fund are responsibly and properly managed. When actions taken are irresponsible and improper, then each of us has an obligation to protest such actions and demand that appropriate action be taken. While I do not have authority to take any action on behalf of KSHS, I can call upon those in positions of authority to take proper action especially when it is called to their attention.

Yours very truly,



Barton P. Cohen

BPC/ljm
Enclosures

cc: Nancy Holt, Chair
Ramon Powers, Executive Director
John Hartmann, Vice President
Betty Lu Duncan, Vice Chair

The Women's Clinic

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MERLE J. "BOO" HODGES, M.D.

MERLE A. HODGES, M.D.

January 18, 2000

Representative Kenny Wilk
Capitol Office #180 West
Topeka, KS 66612

Dear Representative Wilk:

I am writing in support of the recent legislation being proposed in the House for changing the accountability of the Kansas State Historical Society's executive director as well as the functioning of the historical society in total. It has been a concern of mine for the last several years that the director of the historical society basically is in control of a million-dollar state institution but has no accountability to anyone other than to the executive committee of the board of directors. My concern also is that the executive committee at the board level is usually hand picked by the director himself, so in fact he has no real accountability to anyone for his duties.

I think this bill is an excellent way to change that. I think it will result in much better use of public dollars in support of this great endeavor of preserving history in Kansas. I also think that with an accountable director who will have to respond to the wishes of the people of the state of Kansas perhaps other areas such as historical support of tourism in the state can be greatly helped. I hope this will help in your determination. I stand available if you need to talk to me about any other comments or concerns about this bill, and I appreciate your time.

Sincerely,



M. J. "Boo" Hodges, M.D.

MJH/pw

JAN. 19, 2000

Rep. Kenny Wilk, Chair
Kansas 2000 Select Committee

Dear Chairman and Committee

When the KSHS was notified in the spring of 1999 that there was to be a legislative post audit report conducted by the Post Audit Committee we reacted with surprise and interest. First, we could not understand why there would be any interest in the organization structure of the KSHS and the KSHS, Inc. and at the same time welcomed the opportunity to present our organization to the legislature.

In the 6 months we have been involved in this process we have learned much about our 124 year old institution. We also realized the need to update our structure and policies, and to create new ones where none existed before. The staff and board of directors have had a positive experience working with the auditors of the Legislative Division of Post Audit and appreciate their professionalism and their ease to work with us.

The Audit committee basically questioned the accountability lacking in the relationship between the two societies and the State. Because of their recommendations, the KSHS Inc, revised, rewrote and passed a more realistic and workable set of bylaws that spoke to the present and future structure of the Society. 1) The dual position of Executive Director of the State Society and the Secretary of the Private Society was abolished and the bylaws now clearly state that the Executive Director is now a non-voting ex-officio member of the Executive Committee. 2) The relationship of the State agency and the Private Society has been asked to be clarified and possibly separated. Through the bylaws, the policies and activities of the two societies has been reinterpreted and the mission statement for both entities restated. The mission of the State Society is to preserve, collect and interpret the history of the State of Kansas. The Private Society has adopted as its mission statement "to promote membership; seek and administer funds in addition to State appropriations and promote the Society's programs and services for the benefit of the State and the general public". The Executive Committee of the KSHS, Inc.'s mission statement says, "The Executive Committee acts as trustee of the State on behalf of the Board of Directors for the purpose of collecting, preserving and interpreting Kansas History for the benefit of the citizens of Kansas". 3) An organizational chart has been developed to clearly show the lines of authority and chain of command for both societies. Job descriptions, policies relating to committees and membership and board responsibilities have been developed. A finance committee was appointed with a special investments subcommittee appointed due to the restructuring of the Treasurer's position in the Private Society for better financial oversight. 4) Much of the responsibilities of the SHPO officer has already been delegated to the local government units of the communities requesting preservation decisions. It is the philosophy of the present SHPO that these decisions need to be made at the local level where the people who live in these communities take on the responsibility of preservation, with guidelines established by the SHPO and the preservation community. The Society believes in a policy of educating the communities rather than forcing preservation on them. The Society supports the recommendation that the SHPO be a classified position other than the Director of the

Kansas 2000 Select Committee
Meeting Date 1-19-00
Attachment 7

Society in a division within the State agency. 5) we are committed to hiring a full time development officer/CEO of the private society within the 2001 budget to build our investment pool and to provide supervision and direction to the employees of the private society.

We have put all this information together, gathering what had always been in the files but not together in one document. We could not have accomplished this without the help of our 99 board members. This number has been brought into question as to whether or not it is a reasonable or even workable number. Each one of those 99 members has been carefully chosen to be a viable member of the Board of Directors. They are chosen for their geographic, cultural, and professional diversity and their unique qualities that can help accomplish the mission of the Society. We ask our board members to be active in contributing their time, their money and their areas of expertise. This allows us a wonderful resource base to make the Society one of the premier societies in the United States. It works very well for us.

Now for the recommendations of the Special Committee on the Organization and Structure of the State Historical Society. We feel we have separated the position of Director and Secretary and have written in the bylaws that the Executive Director is hired and fired with the consent of the Governor with input from the Board of Directors of the Private Society. We believe that it is important for the KSHS, Inc. to be involved in the process of selection of the Director by screening the applicants for the Governor and then submitting as many names as needed to the Governor for appointment. We have included in the bylaws the addition of 3 members appointed by the Governor to the Executive Committee for further lines of accountability. Those positions have been filled.

The job description developed by the Committee is a good one and one that we can easily adopt. However, this is no guarantee of qualified applicants. The screening process assures the selection of a non-political appointment that is in accordance with the stance of the KSHS, Inc.

The Private Society needs to remain in a trustee relationship with the State Society. Not only are we responsible to our donors to see that their requests for use of their donation is used conscientiously as designated by the donor, but as advisors and as the contractee for funds that cannot go to a state agency. It is the feeling of the public that the State would have no obligation to honor that designated use. The 501(c)3 is also of value to the State Society in applying for and receiving major grants.

What troubles us most of all is the need to change the State Society to a department with a different name. The need to officially make the Society an agency of the State through statutes is appropriate, the need to change the name hence the identity is not. We have thrived through the years in the eyes of the public as one entity, not two. The public knows there is a great museum of history in Topeka with a research center that attracts more visitation than anything else, and the society runs historic sites that are near their homes and are important partners in their communities. They do not want to give money nor artifacts to a state agency--they are afraid they will be lost or misdirected. But they have confidence in the private society which asks them to be a member of the

organization, have frequent contact with them through the private society's magazines and journals and frequent outreach programs. All funded by the private society for 125 years (a century and a quarter).

We need time to see if the changes we have made will make a difference. We are asking you for three years to evaluate the effectiveness of our efforts and then reevaluate the organization. After 124 years we do not want to throw the baby out with the bath water!

Thank you for this opportunity to be heard.

Nancy Holt
Chairman, Executive Committee

Board Policy 1

Bylaws:

KANSAS STATE HISTORICAL SOCIETY, INC

ARTICLE I

NAME AND PURPOSE

The name of this organization shall be the Kansas State Historical Society, Inc. (hereinafter referred to as KSHS), as created by charter in 1875 as amended and now existing as a 501c-3 not-for-profit corporation. KSHS is affiliated with the Kansas State Historical Society, a state entity, (hereinafter referred to as the Society). Fundraising for the Kansas State Historical Society, governance for the Kansas State Historical Society, and education of Kansans about Kansas history shall be the principal objectives of KSHS.

ARTICLE II

MEMBERSHIP

KSHS shall be constituted of annual and life members. Honorary memberships may be granted by the board of directors. Membership dues, and other classes of membership if considered desirable, shall be determined by the board of directors. Local historical societies may join KSHS by the payment of annual membership dues. The editor or publisher of each Kansas newspaper or periodical who contributes regular issues of his publications to the Society may be considered an annual member during the continuance of such contribution. The same shall apply to out-of-state periodicals.

ARTICLE III

OFFICERS

The officers shall be a president, president-elect, a vice-president, who shall serve as the recording secretary, and a treasurer, (non-voting member of the executive committee and chairman of the finance committee), who shall be elected by the board of directors at the annual meeting. The president, president-elect, and vice-president shall hold office for a term of one- (1) year, to begin on the day following the annual meeting.

The treasurer shall be elected for a two-(2) year term at the annual meeting in alternate years, to begin on the day following the annual meeting at which he/she is elected. The president shall be the public spokesperson for KSHS. Succession of officers shall continue from vice-president through president.

In the event a vacancy occurs in the office of president, the president-elect shall succeed to the presidency for the balance of the unexpired term and shall also serve his/her designated term.

ARTICLE IV

EXECUTIVE DIRECTOR

The executive director of the Society shall be appointed by the executive committee subject to election by the board of directors and confirmation by the governor. The executive director shall be the chief operating officer of the Society. The executive director is authorized to appoint such employees as may be necessary to carry out statutory duties assigned to the state entity.

The executive director shall appoint an assistant executive director, subject to confirmation by the executive committee.

In the event of the temporary incapacity of the executive director, the assistant executive director shall serve as acting executive director. In the event of a vacancy in the office of executive director, the assistant executive director shall serve as acting executive director until the office of executive director is nominated by the executive committee subject to election by the board of directors and confirmation by the governor.

There shall be a written annual review of the executive director by the executive committee, which shall be forwarded to the governor.

ARTICLE V

BOARD OF DIRECTORS

There shall be a board of directors consisting of ninety-nine-(99) members, who shall be elected from among the membership of KSHS and of whose number at least

eighty-nine-(89) shall maintain their residence in Kansas. KSHS shall work through its board to reflect the diversity of Kansans.

The directors shall serve for three- (3) years and shall be divided into three- (3) classes, one- (1) class of thirty-three- (33) to be elected each year by the membership at an annual meeting.

The board of directors shall meet annually on the day of the annual meeting of the membership. A special meeting of the board of directors may be called by the president or a quorum of the executive committee upon ten-(10) days' notice by mail to all directors, and such notice shall specify the purpose or purposes for which the special meeting is called.

Any member of the board of directors, a resident of Kansas, who moves out of state shall be deemed to have vacated his or her position on the board unless the out of state quota, as specified in this section is not filled in which case the board member will be transferred to out of state status.

Vacancies on the board shall be filled for the unexpired term by the executive committee. A minimum of thirty-three-(33) directors shall constitute a quorum. The president shall preside at the meetings of the board of directors.

The board of directors shall establish policies for KSHS, which shall be administered by the executive committee. The board of directors or executive committee may appoint committees from among its members as it may deem necessary.

ARTICLE VI

EXECUTIVE COMMITTEE

There shall be an executive committee consisting of thirteen-(13)-voting members and two (2) non-voting members to transact the business of KSHS, when the board of directors is not in session. The executive committee shall consist of six-(6)-voting members elected from the board of directors who will be divided into three-(3) classes, each serving for a term of three- (3) years. Three-(3) additional voting members shall

appointed by the governor in the following manner: one-(1) at-large member shall be appointed to serve a three-(3) year term; another shall be a current member of the State Senate chosen after consultation with the President of the Senate to serve a two-(2) year term; and, the third shall be a current member of the House of Representatives, chosen after consultation with the Speaker of the House to serve a one-(1) year term. At the end of these terms, each succeeding appointee shall serve a three-(3) year term. The legislative members may only serve during their terms in the legislature. In addition to the nine-(9) appointed or elected voting members, the president, president-elect, vice-president and the immediate past president shall also be voting members of the executive committee. The executive director and the treasurer shall be non-voting members of the executive committee. The executive committee shall organize by electing a chairman and vice-chairman at its first meeting in each year. Subject to the general direction of the board of directors, the executive committee shall be authorized to exercise the powers of the board, and shall be consulted by the executive director in carrying out the policies of the board and managing the affairs of KSHS and the Society. The executive committee shall meet at least four-(4), times a year and upon call of the executive committee chairman, president, or executive director.

A quorum of the executive committee shall be seven-(7) of the voting members.

Vacancies as to the appointed or elected members of the executive committee shall be filled by the executive committee or governor depending upon the vacancy. Replacements shall serve the unexpired term.

The executive committee may engage such staff as needed to carry out its administrative, fund raising, membership, and education functions.

ARTICLE VII

ANNUAL MEETING

The annual meeting of the membership of KSHS shall be held in Kansas in the fall between September 1 and November 30 on a date designated by the executive committee.

Notice of the annual meeting shall be given by publication at least thirty-(30) days prior to such meeting.

The president shall preside at the annual meeting of the membership.

At any meeting of KSHS, in the absence of any special rules to the contrary, *Robert's Rules of Order* shall govern the proceedings.

ARTICLE VIII

COMMITTEES OF THE BOARD

The executive committee chairman shall appoint a chairman from the executive committee for each of the standing committees of development and membership. Each committee chairman will serve for a one-year-(1) term. * No fewer than six-(6) board members shall be appointed by the executive committee chairman to each standing committee.

personnel

The finance committee shall be a standing committee chaired by the treasurer and appointed by the executive committee chairman. This committee shall meet as deemed necessary by the treasurer, and have oversight of KSHS funds, securities, and other assets. All personnel authorized to handle funds of KSHS shall be bonded in an amount and with surety as approved by the executive committee and KSHS shall pay premiums on such bond.

Donations, bequests, membership dues and receipts from any source not subject to state control shall be deposited to the account of the KSHS, Inc. in financial institutions protected by the FDIC or the FSLIC, or in government bonds or other securities as determined by the finance committee with the consent of the executive committee. Such accounts shall be submitted for audit. Such audits, and an annual financial report submitted by the Treasurer, shall be examined by the executive committee. The executive committee, on the day of each annual meeting, shall make written report of the results of such examinations to the board of directors.

The executive committee chairman shall appoint a committee of nominations

* Executive committee shall have authority to appoint and remove members of the standing committees

consisting of six-(6) members of KSHS. By no later than April first of each year, the committee shall meet to select nominees for membership on the board of directors and for membership on the executive committee.

The nominating committee shall work to reflect the diversity of Kansans in the nominations it makes for the board of directors and the executive committee.

Notice of the nominees selected by the nominating committee shall be approved by the executive committee and given to the membership of KSHS by publication at least thirty- (30) days prior to the annual meeting.

Additional nominations may be made by petitions signed by not less than twenty-five-(25) members of KSHS and filed with the chairman of the executive committee at least fifteen- (15) days prior to the annual meeting. If nominations are made by petition, they shall be submitted to the appropriate electing body along with the nominations by the nominating committee. The nominations for officers and executive committee shall be submitted to the board of directors and nominations for directors shall be submitted to the membership at the annual meeting of KSHS.

ARTICLE IX

PROPERTY

The Executive Director shall cause to be made, and currently maintained, inventories and/or accession records of property of the Society. The executive committee shall cause to be made, and currently maintained, inventories and/or accession records of KSHS.

Contracts may be entered into by the chairman of the executive committee and the treasurer of KSHS.

ARTICLE X

BYLAWS AMENDMENTS

These bylaws may be amended at any meeting of the board of directors and membership of KSHS, provided that notice of the proposed amendment was given at the

preceding annual meeting, or provided the proposed amendment has received the approval of the executive committee and has been submitted in writing to the members of the board of Directors at least thirty-(30) days prior to the duly constituted meeting.

ARTICLE XI

PRIOR BYLAWS

By adoption of these bylaws, KSHS hereby repeals any prior constitution or bylaws and the Society hereafter shall be governed by the applicable statutes of the State of Kansas, its Articles of Incorporation and these bylaws.

Board Policy 2

Subject: Mission
Kansas State Historical Society, Inc.

Mission Statement KSHS

The mission of KSHS is to promote membership, seek and administer funds, (in addition to those appropriated by the state), and promote KSHS' programs and services for the benefit of the state and general public.

Mission of the Executive Committee:

The mission of the executive committee is to act as trustee of the state on behalf of the Board of Directors for the purpose of collecting preserving, and interpreting the history of Kansas for the benefit of all the citizens of Kansas.

Board Policy 3

Subject: Governance
Kansas State Historical Society, Inc.

Board of Directors:

The Kansas State Historical Society Inc. (KSHS) is a private, non-profit organization and is official trustee of the state's historical resources. KSHS in partnership with the citizens of Kansas, collect, preserve, and interpret Kansas' history. A 99-member board of directors presides over the non-profit with the executive committee serving to act as the governing body on behalf of the board of directors.

Executive Committee:

Subject to the general direction of the board of directors, the executive committee shall

be authorized to exercise the powers of the board, and shall be consulted by the executive director in carrying out the policies of the board and managing the affairs of KSHS and the Society.

Board Policy 4

Subject: Board Responsibility

Kansas State Historical Society, Inc.

Section 1

Board of Directors:

- There shall be an executive committee consisting of thirteen-(13)-voting members and two (2) non-voting members to transact the business of KSHS, when the board of directors is not in session.
- Subject to the general direction of the board of directors, the executive committee shall be authorized to exercise the powers of the board, and shall be consulted by the executive director and the CEO of KSHS in carrying out the policies of the board and managing the affairs of KSHS and the Society.
- Vacancies as to the appointed or elected members of the executive committee shall be filled by the executive committee or governor depending upon the vacancy. Replacements shall serve the unexpired term.
- The board of directors or the executive committee may appoint committees from among its members as it may deem necessary.
- The executive committee may engage such staff as needed to carry out its administrative, fund raising, membership, and education functions.

Meetings:

The board of directors shall meet annually on the day of the annual meeting of the membership. The president or a quorum of the executive committee upon ten-(10) days' notice may call a special meeting of the board of directors by mail to all directors, and such notice shall specify the purpose or purposes for which the special meeting is called.

Vacancies:

Any member of the board of directors, a resident of Kansas, who moves out of state shall be deemed to have vacated his or her position on the board unless the out of state quota, as specified in this section is not filled in which case the board member will be transferred to out of state status.

Vacancies on the board shall be filled for the unexpired term by the executive

committee.

Quorum:

A minimum of thirty-three-(33) directors shall constitute a quorum.

Attendance:

Meetings of the Board of Directors are attended by members of the Board, both elected and ex-officio, the Executive Director of the Society and the CEO of KSHS. The president of KSHS shall preside at the meetings of the board of directors. The Board of Directors may invite staff members or other persons to attend a regular or special meeting of the Board.

Section 2

Executive Committee:

Pursuant to Article VI of KSHS bylaws, there shall be an executive committee consisting of thirteen-(13)-voting members and two (2) non-voting members to transact the business of KSHS, when the board of directors is not in session.

- The executive committee shall organize by electing a chairman and vice-chairman at its first meeting in each year. Subject to the general direction of the board of directors, the executive committee shall be authorized to exercise the powers of the board, and shall be consulted by the executive director in carrying out the policies of the board and managing the affairs of KSHS and the Society.
- The executive committee shall designate the date for the annual meeting and of the membership committee of KSHS between September 1 and November 30 of each year.
- The executive committee, on the day of each annual meeting, shall make written report of the results of financial examinations to the board of directors.
- The executive committee may engage such staff as needed to carry out its administrative, fund raising, membership, and education functions.

Meetings:

The executive committee shall meet at least four-(4), times a year and upon call of the executive committee chairman, president, or executive director.

Vacancies:

Vacancies as to the appointed or elected members of the executive committee shall be filled by the executive committee or governor depending upon the vacancy. Replacements shall serve the unexpired term.

Quorum:

A quorum of the executive committee shall be seven-(7) of the voting members.

Attendance:

The executive committee shall meet at least four-(4), times a year and upon call of the executive committee chairman, president, or executive director.

Chairperson of the Executive Committee:

- The executive committee shall organize by electing a chairman and vice-chairman at its first meeting in each year.
- The executive committee chairman shall appoint a chairman from the executive committee for each of the standing committees of development and membership.
- May appoint special committees necessary to accomplish the work of KSHS.
- May enter into contracts with the Treasurer of KSHS to conduct the business of the KSHS
- Can serve as an ex-officio member of any committee
- Sets agendas for executive committee meetings
- Calls special meetings of the executive committee
- Provides recommendations to the executive committee to fill all unexpired terms of members to the Board of Directors, its officers, (excluding the president), standing and special committees.

Vacancy:

The vice-chairman of the executive committee shall fill the unexpired term of the chairman in the event a vacancy occurs. The vice-chairman will then serve his or her own term as chairperson. The executive committee elects a new vice-chairman. The vacancy created by the succession of officers is filled by the executive committee or governor depending upon the vacancy. Replacements shall serve the unexpired term.

Ex-Officio Members:

- The executive director and the treasurer shall be non-voting members of the executive committee.

Section 3

Officers and their Duties:

The officers of KSHS are a President, president-elect, Vice President (Secretary) and Treasurer elected according to the provisions in the Bylaws of KSHS, Article III.

Duties of the President:

- The President presides over the annual meeting of the membership and the Board of Directors and is responsible for assuring a quorum is in attendance.
- The President serves as a spokesperson for KSHS.
- A special meeting of the board of directors (BOD), may be called by the upon ten-(10) days' notice by mail to all directors, and such notice shall specify the purpose or purposes for which the special meeting is called.
- Responsible for communication with the Board of Directors-newsletter, special mailings, etc.
- Responsible for overseeing the compilation of KSHS annual report including a written introduction on the current status of the KSHS.

Duties of the president-elect

- Fills the vacancy of the office of president if vacated.
- Chairs the annual meeting of the nominating committee and the board of directors in absence of the president.
- Plans the annual meeting of the board of directors
- Performs additional duties as delegated by the chairperson of the executive committee.

Duties of the Vice-President

- Fills the vacancy of the office of president-elect if vacated.
- Custodian of records, bylaws, policies and other correspondence of KSHS
- Plans the Spring meeting of KSHS
- Is responsible for providing that minutes and records of attendance be taken at meetings of KSHS
- Responsible for the notification to members of their election to KSHS
- Responsible for the notification to members of meetings, committee assignments and other important correspondence.

Treasurer

- The treasurer shall be elected for a two-(2) year term at the annual meeting in alternate years, to begin on the day following the annual meeting at which he/she is elected. The treasurer shall be a non-voting member of the executive committee.
- The finance committee shall be a standing committee chaired by the treasurer and appointed by the executive committee chairman. This committee shall meet as deemed necessary by the treasurer, and have oversight of KSHS funds, securities, and other assets. All personnel authorized to handle funds of KSHS shall be bonded in an amount and with surety as approved by the executive committee and KSHS shall pay premiums on such bond.
- Donations, bequests, membership dues and receipts from any source not subject to state control shall be deposited to the account of the KSHS, Inc. in financial institutions protected by the FDIC or the FSLIC, or in government bonds or other securities as determined by the finance committee with the consent of the executive committee. Such accounts shall be submitted for audit. Such audits, and an annual financial report submitted by the Treasurer, shall be examined by the executive committee. The executive committee, on the day of each annual meeting, shall make written report of the results of such examinations to the board of directors.
- The Treasurer is responsible for seeing that all bills are paid and shall be one of the official check signers; the others being the chairperson of the executive committee.
- The Treasurer presents to the Board at each regular meeting, a current financial statement, in order to reflect the current status of KSHS.

Section 4

Standing Committees of the Board of Directors:

Purpose:

There shall be such standing committees of the Board of Directors as are necessary to accomplish the work of the KSHS as determined by the Executive Committee. The executive committee chairman shall appoint a chairman from the executive committee for each of the standing committees of development, membership and finance committee.

Chairpersons:

The chairpersons of all standing committees shall be members of the Board of Directors. Each committee chairman will serve for a one-year-(1) term.

Members:

No fewer than six-(6) board members shall be appointed by the executive committee chairman to each standing committee. *for a general...*

Functions:

- The development committee shall be chaired by the CEO of KSHS and shall meet as deemed necessary to
- Pursuant to Article VIII of the bylaws, the executive committee chairman shall appoint a committee of nominations consisting of six-(6) members of KSHS. By no later than April first of each year, the committee shall meet to select nominees for membership on the board of directors and for membership on the executive committee. The nominating committee shall work to reflect the diversity of Kansans in the nominations it makes for the board of directors and the executive committee. The nominations for officers and executive committee shall be submitted to the board of directors and nominations for directors shall be submitted to the membership at the annual meeting of KSHS.
- The finance committee shall be a standing committee chaired by the treasurer and appointed by the executive committee chairman. This committee shall meet as deemed necessary by the treasurer, and have oversight of KSHS funds, securities, and other assets. The committee will furnish quarterly reports, annual budgets, provide budget assistance to the KSHS CEO, oversee adherence to the KSHS endowment investment policy and provide a three year forecast.

Meetings:

The standing committees shall meet as needed upon call of the committee chairman.

Vacancies:

The chairman of the executive committee shall appoint board members to fill vacancies when a chairmanship of a standing committee is vacated. The chairman of the executive committee shall also appoint board members to fill vacancies on the standing committees.

Section 5

Special Committees:

Purpose:

There shall be such special committees of the Board of Directors as are necessary to accomplish the work of KSHS as determined by the executive committee. The executive committee chairman shall appoint a chairman from the executive committee.

Chairpersons:

The chairpersons of all special committees shall be members of the Board of Directors. Each committee chairman will serve as necessary to complete the objectives of the committee.

Members:

No fewer than six- (6) board members shall be appointed by the executive committee chairman to each special committee.

Personnel Committee:

Functions:

- A chairperson as appointed by the chairperson of the executive committee shall chair the personnel committee.
- The personnel committee shall be responsible for all proposals concerning current job descriptions, personnel procedures, and providing recommendations regarding personnel benefits to the executive committee.
- Oversees the evaluations of the KSHS CEO and the Society's Executive Director. Makes recommendations to the Governor with regard to the Executive Director and to the executive committee with regard to KSHS CEO as to status of continuation of employment, pay raises, etc.
- Makes recommendations to the Finance Committee with regard to pay increases, additional expenditures for benefits, etc.

Meetings:

The personnel committee shall meet as needed upon call of the committee chairperson.

Vacancies:

The chairperson of the executive committee shall appoint a board member to fill the position of committee chairperson when vacated. The chairperson of the executive committee shall also appoint a board member to fill a vacancy on the special committee.

Quorum:

A quorum of the standing committees shall be 4 of the voting members.

FAX TRANSMIT		# of pages
To	<i>Nancy West</i>	<i>25</i>
Dept./Agency	<i>Albany</i>	<i>Part 11</i>
Fax #	<i>765-527-2820</i>	<i>516-476-5479</i>
NSN 7540-01-917-7368		6099-101
GENERAL SERVICES ADMINISTRATION		

Section 5

Special Committees:

Purpose:

There shall be such special committees of the Board of Directors as are necessary to accomplish the work of the KSHS as determined by the Executive Committee. The Executive Committee chairman shall appoint a chairman from the Executive Committee.

Chairpersons:

The chairpersons of all special committees shall be members of the Board of Directors. Each committee chairman will serve as necessary to complete the objectives of the committee.

Members:

No fewer than six- (6) board members shall be appointed by the executive committee chairman to each special committee.

Personnel Committee:

Functions:

A chairperson as appointed by the chairperson of the Executive Committee shall chair the personnel committee.

The personnel committee shall be responsible for all proposals concerning current job descriptions, personnel procedures, and providing recommendations regarding personnel benefits to the Executive Committee.

Oversees the evaluations of the KSHS CEO and the Society's Executive Director. Make recommendations to the Governor with regard to the Executive Director and to the Executive Committee with regard to KSHS CEO as to status of continuation of employment pay increases, etc.

Makes recommendations to the Finance Committee with regard to pay increases, additional expenditures for benefits, etc.

Meetings:

The personnel committee shall meet as needed upon call of the committee chairperson.

Vacancies:

The chairperson of the Executive Committee shall appoint a board member to fill the

position of committee chairperson when vacated. The chairperson of the Executive Committee shall also appoint board members to fill vacancies on the special committee.

Quorum:

A quorum of the standing committees shall be 4 of the voting members.

Board Policy 5

Subject: Role of the Board in Fundraising
Kansas State Historical Society, Inc.

1. The Board of Directors, which includes the Executive Committee is responsible for fundraising and are expected to participate and contribute to all fundraising activities of KSHS, to the amount at which they are as financially able.
2. The Board of Directors is expected to contribute at least \$100 to the KSHS on an annual basis.
3. Board members are expected to contribute to the KSHS endowment in any amount to demonstrate 100% participation.
4. The Board of Directors is to help with the annual legislative effort to grow support for KSHS.
5. Board members will contribute in-kind costs of travel and per diem to attend KSHS meetings.
6. Help grow the collections of KSHS.

Board Policy 6

Subject: Organizational Chart-Job Descriptions

Kansas State Historical Society, Inc.

Members:

To support the mission of KSHS

Members of the Board of Directors:

Must be member of KSHS.

Shall maintain their residence in Kansas.

Shall serve for three- (3) years.

Commitment to the organization and its mission

Public support for the organization

Must be available for two annual meetings a year, and special meetings as called by the president or quorum of the executive committee.

Establish policies for KSHS to be carried out by the executive committee.

The board of directors may appoint committees from among its members, as it may deem necessary.

Members of the board of directors may be asked to serve on standing and special committees.

See Section 1, Policy 4, Board Responsibilities

Officers, President, president-elect, Vice-President:

Previous experience in KSHS preferred.

Must be a member of the Board of Directors and meet all the qualifications of a member of the Board of Directors.

Must dedicate time to attend all meetings

Develop agenda for the meetings

See Section 3, Policy 4 board Responsibilities

Chairman/Chairperson/Chair:

Previous experience in KSHS preferred.

Must be a member of the Board of Directors and meet all the qualifications of a member of the Board of Directors.

Must dedicate time to attend all meetings

Develop agenda for the meetings

Chief Executive Officer:

The Chief Executive Officer shall be the head of the employed staff of the KSHS.

Shall oversee fundraising, strategic planning and the development of the KSHS budget.

Shall develop partnerships with corporations, encourage volunteer participation and grow the membership of KSHS.
Shall promote KSHS through publications and communications.

Administrative Assistant:

Office Assistant:

Museum Store Manager:

Should manage personnel and a volunteer network effectively.

The goal of the bookstores is to be sensitive to the KSHS mission while:

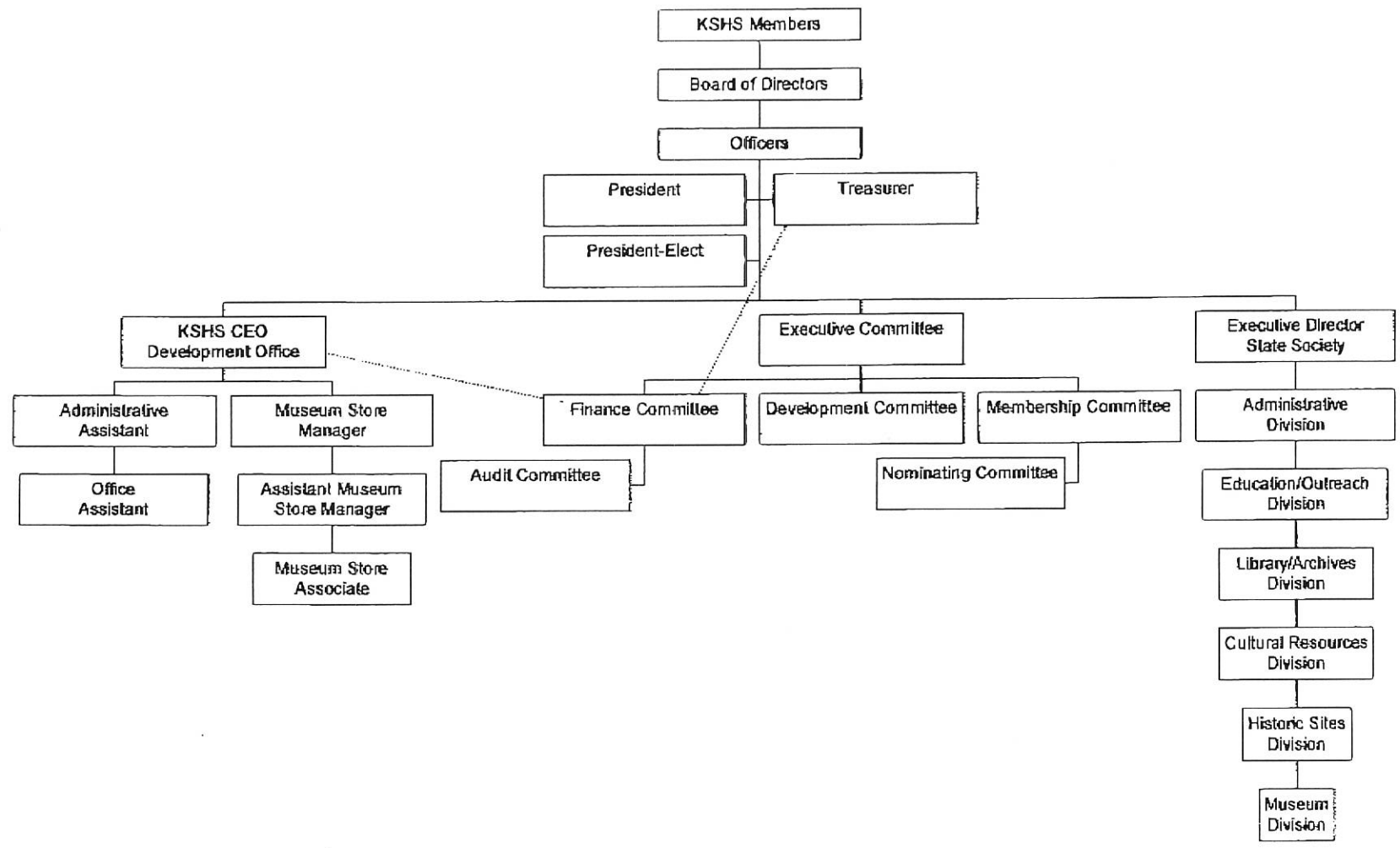
1. Fundraising,
2. and raising Kansas awareness of Kansas history.

Operationally the bookstore should

1. have the capability to take major credit cards
2. use a volunteer network
3. assess inventory and evaluate presentation through allocation of book and floor space
4. provide members with a 10% discount
5. provide guidance to sites and resolve the "Friends" issue
6. reach customers through e-commerce, web links and effective marketing-book signings

Museum Store Staff:

Kansas State Historical Society, Inc, (KSHS) Organizational Chart



Board Policy 7
Kansas State Historical Society, Inc.
Subject: Administrative Procedures

Section 1

Personnel Policies:

The Board of Directors is responsible for employing the staff of KSHS. The Personnel Committee has the responsibility to recommend for adoption to the Executive Committee personnel policies and recommendations of employment of staff members.

The Chief Operating Officer is the head of employed staff, accountable to the Executive Committee. The CEO has authority as delegated by the Executive Committee to administer personnel policies. The CEO employs, assigns, supervises and releases all employed staff. The CEO reports action on staff appointments and terminations to the Executive Committee. The CEO must be a member of KSHS.

Personnel policies are established to serve the best interests of employer and employee and are meant to be a framework within which sound relationships develop between the two parties. KSHS will use as a guide the Administration Manual.

Section 2

Conditions of Employment.

All staff must be willing to accept responsibility for implementing the mission of KSHS and be supportive of all policies and programs adopted by KSHS Board of Directors and the Executive Committee. Only the CEO is required to be a member of KSHS however, the staff needs to be committed to the purpose of KSHS and therefore membership is strongly recommended.

Section 3

Staff Development, Supervision and Performance Appraisal

1. Orientation of new staff:

The CEO shall develop a plan for orientation of new staff, which shall include discussion of the mission, dissemination of personnel policies, introduction of other staff including the Executive Director of the Society. In the case of a new CEO, the Executive Committee is responsible for the orientation.

2. Supervision.

On an annual basis, the CEO shall complete a work plan for staff. The work plan should set out personal goals as well as goals for helping the organization reach its

stated goals. This work plan is an integral part of the supervisory and appraisal process.

3. Staff meetings.

Meetings for professional, administrative and supervisory staff should be held on a regular basis for the purpose of working together as a staff team and to provide supervision as a group process. Meetings for support and program staff should be held as often as necessary. Meetings should be held on a regular basis to help the employee achieve program goals.

4. Job performance appraisal.

A performance appraisal must be conducted annually, and may be conducted at such other times, as the CEO feels necessary. This appraisal is held at the conclusion of a period of work, usually at the end of the year. The content of the meeting is an evaluation of the quality and quantities of work assigned or the success in carrying out the work plan.

The CEO will prepare a written summary of the appraisal to the staff member. The staff member may add points that were omitted but relevant. The performance report is signed and dated by the staff member. If there is a difference in a point of view expressed that cannot be reconciled the comments are filed with the personnel record.

5. Training and Development

Opportunities for training and development will be provided as recommended by the Executive Committee.

Section 4

Work Week, Hours of Work and Fair Labor Standards Act

A forty-hour week, exclusive of lunch or dinner hours, is regarded as the basic standard for full-time employment with working hours as scheduled to suit the job requirements. Employees that are considered non-exempt shall document their time. Exempt employees are excused from this requirement.

Overtime.

Excessive overtime for all staff is discouraged. Compensatory time off may be granted by the CEO to exempt employees who work more than 50 hours in any given work week. Compensatory time may not be taken in increments of more than two consecutive days and must be used within 30 days of the accrual. When it is in the best interest of KSHS the Executive Committee chairperson of KSHS may grant an exception or modification of this policy.

Non-exempt staff as defined by the Fair Labor Standards Act, may not work overtime without permission of the CEO. Overtime compensation for non-exempt staff must meet legal requirements.

Section 5

Employee benefits holiday and leave time.

Earned leave.

1. Vacation leave.

- A major portion of leave should be taken consecutively.
- A ten-day advance should be given to the CEO but the CEO has a right to deny the request if the vacation, except for emergencies, should the leave be disruptive to the programs of KSHS.
- The CEO must work with the employee to reschedule if the request for vacation is denied.
- Vacation is based on length of service and is granted after six months. Vacation leave begins accruing on the first day of employment; but such leave cannot be taken until six months of consecutive service. If the employee leaves employment before the six month probationary period is completed, the employee will not be paid for accrued vacation leave.
- Vacation leave will be vacation based on the following length of service: 1 year to 3 years; 12 days. Three years to five years; 14 days; five to ten years; 17 days; ten years to 15 years, 20 days; 15 years or more, 25 days. Vacation days may not be carried over.
- Vacation leave for regular, part time employees will be calculated on a pro rata basis as determined by the percent of the full workweek worked. Vacation leave may not be taken before it is accrued.
- Vacation leave not taken prior to leaving KSHS will be compensated up to the maximum of 25 days if applicable, provided the employee complies with all conditions related to leaving the employment of KSHS.

2. Holidays.

-All regular employees shall receive an official paid holiday for national holidays, weather emergencies or other emergencies. Official paid holidays include:

New Year's Day

Veterans Day

Martin Luther King Day

Thanksgiving Day

Memorial Day

Christmas Day

Independence Day

Labor Day

Discretionary leaves:

1. Sick Leave

Sick Leave is granted for illness and conditions requiring medical attention. Sick Leave accrues at the rate of one working day per each month of employment with the first day being accrued on the first day of the second month of employment. Employees may accrue up to 30 days of Sick Leave. This leave may not be used in advance of accrual except in extreme circumstances as determined by the CEO and in the case of the CEO by the Chairperson of the Executive Committee. If the employee leaves before fully earning the leave used, the amount shall be deducted from an employee's final paycheck.

2. Personal Leave.

Each regular employee shall be granted two personal days upon employment. Two days are granted each calendar year and cannot be carried over the next year. Personal leave time must be scheduled in advance with the CEO. Upon separation of employment, personal leave is not compensated.

3. Other Types of Leave.

Other types of leave, such as leave for bereavement, jury duty, leave for military duty must be cleared with the CEO and in the case of the CEO with the chairperson of the Executive Committee.

4. Family and Medical Leave

KSHS will comply with the provision set forth in the Family and Medical Leave Act (FMLA) of 1993.

Insurance.

Health insurance shall be provided for full-time employees of KSHS.

Retirement.

KSHS, Inc. employees are paid a dollar amount of 2% of their annual salary to use as they determine toward a retirement plan. Only employees on permanent status receive retirement pay. If the employee chooses to participate in KSHS' savings Incentive Retirement Plan for Employees, "SIMPLE", then KSHS will match their contribution 3%.

Administration of Salary Plan

1. Salaries.

The Finance Committee as approved by the Executive Committee establishes salary ranges. Salary increases will be conditional upon satisfactory performance appraisal, even for cost of living increases. Bonuses may be available if funds permit; these are only awarded to full-time staff and are subject to the discretion of the Executive Committee.

2. Social Security.

All employees must be covered by the Federal Security Act and its amendments.

3. Pay Days.

4. Job related expenses

Personnel Records

Personnel Records are kept for all staff members and are the responsibility of the CEO. Leave records are also kept. For privacy, access to personnel records are given only to the CEO, administrative assistant. An employee may review their personnel file when accompanied by the CEO or the administrative assistant. An employee may not remove anything from their file.

1. Resignation

If at all possible notice of resignation should be given at least 30 days in advance. Resignations should be submitted to the CEO and in the case of the CEO to the chairperson of the Executive Committee with a copy to the chair of the Personnel Committee. The resignation should be submitted to the President of KSHS.

2. Termination



**RESTATED AND AMENDED BYLAWS
of the
KANSAS STATE HISTORICAL SOCIETY, INC.**

ARTICLE I

NAME AND PURPOSE

The name of this organization shall be the Kansas State Historical Society, Inc. (hereinafter referred to as KSHS), as created by charter in 1875 as amended and now existing as a 501c-3 not-for-profit corporation. KSHS is affiliated with the Kansas State Historical Society, a state entity, (hereinafter referred to as the Society). Fundraising for the Kansas State Historical Society, governance for the Kansas State Historical Society, and education of Kansans about Kansas history shall be the principal objectives of KSHS.

ARTICLE II

MEMBERSHIP

KSHS shall be constituted of annual and life members. Honorary memberships may be granted by the board of directors. Membership dues, and other classes of membership if considered desirable, shall be determined by the board of directors. Local historical societies may join KSHS by the payment of annual membership dues. The editor or publisher of each Kansas newspaper or periodical who contributes regular issues of his publications to the Society may be considered an annual member during the continuance of such contribution. The same shall apply to out-of-state periodicals.

ARTICLE III

OFFICERS

The officers shall be a president, president-elect, a vice-president, who shall serve as the recording secretary, and a treasurer, (non-voting member of the executive committee and chairman of the finance committee), who shall be elected by the board of directors at the annual meeting. The president, president-elect, and vice-president shall hold office for a term of one- (1) year, to begin on the day following the annual meeting.

The treasurer shall be elected for a two-(2) year term at the annual meeting in alternate years, to begin on the day following the annual meeting at which he/she is elected. The president shall be the public spokesperson for KSHS. Succession of officers shall continue from vice-

Kansas 2000 Select Committee

Meeting Date 1-19-00

Attachment 9

president through president.

In the event a vacancy occurs in the office of president, the president-elect shall succeed to the presidency for the balance of the unexpired term and shall also serve his/her designated term.

ARTICLE IV

EXECUTIVE DIRECTOR

The executive director of the Society shall be nominated by the executive committee subject to election by the board of directors and confirmation by the governor. The executive director shall be the chief operating officer of the Society. The executive director is authorized to appoint such employees as may be necessary to carry out statutory duties assigned to the state entity.

The executive director shall appoint an assistant executive director, subject to confirmation by the executive committee.

In the event of the temporary incapacity of the executive director, the assistant executive director shall serve as acting executive director. In the event of a vacancy in the office of executive director, the assistant executive director shall serve as acting executive director until the office of executive director is filled by nomination by the executive committee subject to election by the board of directors and confirmation by the governor.

There shall be a written annual review of the executive director by the executive committee, which shall be forwarded to the governor.

ARTICLE V

BOARD OF DIRECTORS

There shall be a board of directors consisting of ninety-nine-(99) members, who shall be elected from among the membership of KSHS and of whose number at least eighty-nine-(89) shall maintain their residence in Kansas. KSHS shall work through its board to reflect the diversity of Kansans.

The directors shall serve for three-(3) years and shall be divided into three-(3) classes, one-(1) class of thirty-three-(33) to be elected each year by the membership at an annual meeting. The board of directors shall meet annually on the day of the annual meeting of the membership. A special meeting of the board of directors may be called by the president or a quorum of the executive committee upon ten-(10) days' notice by mail to all directors, and such notice shall specify the purpose or purposes for which the special meeting is called.

Any member of the board of directors, a resident of Kansas, who moves out of state shall be deemed to have vacated his or her position on the board unless the out of state quota, as specified in this section is not filled in which case the board member will be transferred to out of state status.

Vacancies on the board shall be filled for the unexpired term by the executive committee. A minimum of thirty-three-(33) directors shall constitute a quorum. The president shall preside at the meetings of the board of directors.

The board of directors shall establish policies for KSHS, which shall be administered by the executive committee. The board of directors or executive committee may appoint committees from among its members as it may deem necessary.

ARTICLE VI

EXECUTIVE COMMITTEE

There shall be an executive committee consisting of thirteen-(13)-voting members and two (2) non-voting members to transact the business of KSHS, when the board of directors is not in session. The executive committee shall consist of six-(6)-voting members elected from the board of directors who will be divided into three-(3) classes, each serving for a term of three- (3) years. Three-(3) additional voting members shall be appointed by the governor in the following manner: one-(1) at-large member shall be appointed to serve a three-(3) year term; another shall be a current member of the State Senate chosen after consultation with the President of the Senate to serve a two-(2) year term; and, the third shall be a current member of the House of Representatives, chosen after consultation with the Speaker of the House to serve a one-(1) year term. At the end of these terms, each succeeding appointee shall serve a three-(3) year term. The legislative members may only serve during their terms in the legislature. In addition to the nine-(9) appointed or elected voting members, the president, president-elect, vice-president and the immediate past president shall also be voting members of the executive committee. The executive director and the treasurer shall be non-voting members of the executive committee. The executive committee shall organize by electing a chairman and vice-chairman at its first meeting in each year. Subject to the general direction of the board of directors, the executive committee shall be authorized to exercise the powers of the board, and shall be consulted by the executive director in carrying out the policies of the board and managing the affairs of KSHS and the Society. The executive committee shall meet at least four-(4), times a year and upon call of the executive committee chairman, president, or executive director.

A quorum of the executive committee shall be seven-(7) of the voting members.

Vacancies as to the appointed or elected members of the executive committee shall be filled by the executive committee or governor depending upon the vacancy. Replacements shall serve the unexpired term.

The executive committee may engage such staff as needed to carry out its administrative, fund raising, membership, and education functions.

ARTICLE VII

ANNUAL MEETING

The annual meeting of the membership of KSHS shall be held in Kansas in the fall between September 1 and November 30 on a date designated by the executive committee. Notice of the annual meeting shall be given by publication at least thirty-(30) days prior to such meeting.

The president shall preside at the annual meeting of the membership.

At any meeting of KSHS, in the absence of any special rules to the contrary, *Robert's Rules of Order* shall govern the proceedings.

ARTICLE VIII

COMMITTEES OF THE BOARD

The executive committee chairman shall appoint a chairman from the executive committee for each of the standing committees of development and membership. Each committee chairman will serve for a one-year-(1) term. No fewer than six-(6) board members shall be appointed by the executive committee chairman to each standing committee.

The finance committee shall be a standing committee chaired by the treasurer and appointed by the executive committee chairman. This committee shall meet as deemed necessary by the treasurer, and have oversight of KSHS funds, securities, and other assets. All personnel authorized to handle funds of KSHS shall be bonded in an amount and with surety as approved by the executive committee and KSHS shall pay premiums on such bond.

Donations, bequests, membership dues and receipts from any source not subject to state control shall be deposited to the account of the KSHS, Inc. in financial institutions protected by the FDIC or the FSLIC, or in government bonds or other securities as determined by the finance committee with the consent of the executive committee. Such accounts shall be submitted for audit. Such audits, and an annual financial report submitted by the Treasurer, shall be examined by the executive committee. The executive committee, on the day of each annual meeting, shall make written report of the results of such examinations to the board of directors.

The executive committee chairman shall appoint a committee of nominations consisting of six-(6) members of KSHS. By no later than April first of each year, the committee shall meet to select nominees for membership on the board of directors and for membership on the executive committee.

The nominating committee shall work to reflect the diversity of Kansans in the nominations it makes for the board of directors and the executive committee.

Notice of the nominees selected by the nominating committee shall be approved by the executive committee and given to the membership of KSHS by publication at least thirty- (30) days prior to the annual meeting.

Additional nominations may be made by petitions signed by not less than twenty-five-(25) members of KSHS and filed with the chairman of the executive committee at least fifteen- (15) days prior to the annual meeting. If nominations are made by petition, they shall be submitted to the appropriate electing body along with the nominations by the nominating committee. The nominations for officers and executive committee shall be submitted to the board of directors and nominations for directors shall be submitted to the membership at the annual meeting of KSHS.

ARTICLE IX

PROPERTY

The Executive Director shall cause to be made, and currently maintained, inventories and/or accession records of property of the Society. The executive committee shall cause to be made, and currently maintained, inventories and/or accession records of KSHS.

Contracts may be entered into by the chairman of the executive committee and the treasurer of KSHS.

ARTICLE X

BYLAWS AMENDMENTS

These bylaws may be amended at any meeting of the board of directors and membership of KSHS, provided that notice of the proposed amendment was given at the preceding annual meeting, or provided the proposed amendment has received the approval of the executive committee and has been submitted in writing to the members of the board of Directors at least thirty-(30) days prior to the duly constituted meeting.

ARTICLE XI

PRIOR BYLAWS

By adoption of these bylaws, KSHS hereby repeals any prior constitution or bylaws and the Society hereafter shall be governed by the applicable statutes of the State of Kansas, its Articles of Incorporation and these bylaws.

As approved by the KSHS Board of Directors, November 5, 1999.

The Kansas State Historical Society is arranged into six divisions:

Administration
Cultural Resources
Education/Outreach
Historic Sites
Library/Archives
Museum

Administration

The Administration Division is to create a working environment that allows Society staff to function efficiently and creatively, to provide supportive services to all Society programs, and to provide for the environmental and physical security of the staff, patrons and collections housed in the Kansas History Center. Functions included in Administration are budget, accounting, personnel, communication and telecommunication resources, payroll, purchasing, facilities planning, maintenance and security.

Cultural Resources

The mission of the Cultural Resources Division is to facilitate preservation of the state's archeological, architectural, and historic resources by providing information, technical assistance, grants-in-aid, and educational/outreach opportunities to the public and by identifying, documenting, interpreting, and protecting those resources. Cultural Resources includes activities and programs of the archeology and historic preservation offices.

Education/Outreach

The goal of the Education /Outreach Division is to facilitate public understanding and appreciation of Kansas history and culture so that individuals and communities recognize and understand their heritage and how it relates to their lives. This is accomplished through quality interpretive educational programs developed for a broad-based audience, including adults and school age children. The Society publications and promotion of the Society is also part of the Education/Outreach Division.

Historic Sites

The Historic Sites Division is a program of the Kansas State Historical Society which has as its mission to preserve and interpret the history of Kansas through historic sites and to provide a rich educational experience for those who visit them. The Historic Sites Division provides the public with a historical, cultural, educational, and recreational experience through the preservation, interpretation and operation of 16 sites, three of which are now staffed and operated by local entities.



**KANSAS
STATE
HISTORICAL
SOCIETY**



Susan K. Duffy
Associate Director
Administrative Services
tel. ext. 204



6425 S.W. 6th Avenue
Topeka, Kansas
66615-1099
PHONE# (785) 272-8681
FAX# (785) 272-8682
TTY# (785) 272-8683



KANSAS HISTORY CENTER

Administration
Center for Historical Research
Cultural Resources
Education / Outreach
Historic Sites
Kansas Museum of History
Library & Archives

HISTORIC SITES

Adair Cabin
Constitution Hall
Cottonwood Ranch
First Territorial Capitol
Fort Hays
Goodnow House
Grinter Place
Hollenberg Station
Kaw Mission
Marais des Cygnes Massacre
Mine Creek Battlefield
Native American Heritage Museum
Pawnee Indian Village
Pawnee Rock
Shawnee Mission

TO: Audrey Nogle, Analyst
Legislative Fiscal Research

FROM: Susan K. Duffy
Kansas State Historical Society

DATE: January 18, 2000

RE: Joint Projects of the Kansas State Historical Society and the
Kansas State Historical Society Inc.

You had requested information concerning private/state partnership of the Society as they relate to exhibits and other activities. I have provided you some very recent examples of the type of partnering between the two entities. Please let me know if you need other examples.

Carry Nation Donation

In April 1999, the Kansas State Historical Society received a substantial donation of Carry Nation materials. Dianne Kelly, a great-great niece of the famous prohibition crusader, who lives in Martinez, California, donated the collection of artifacts and paper materials. The steamer trunk holding the cache of materials was discovered in the upstairs of a carriage house owned by Kelly's great aunt Callie Moore Blum, who lived in Kansas City, Kansas. Dianne Kelly and her husband Jerald have treasured the materials, but they felt the fragile items needed to be preserved and stored in a secure and stable environment. Among the items donated are letters written to and by Nation, including several written while in jail, sheet music, books, Bibles, pamphlets, photographs, newspaper clippings and miscellanea. The artifacts donated included dresses, hats, purses, false teeth, and a watch presented to Carry Nation in Scotland. This new acquisition complements and fills in gaps in the Society's existing collections.

This significant new acquisition of valuable historical materials resulted from the Kansas State Historical Society's relationship to the non-profit KSHS, Inc. The donors were interested in the tax benefits of making a charitable contribution. This could not have been accomplished in the absence of the not-for-profit status of the KSHS, Inc. The IRS has very specific rules governing this type of charitable contribution which require a written appraisal from a recognized appraiser to document any donation valued at more than \$5,000. These donations must be made to a certified not-for-profit entity in order for the donor to claim it as a legal tax deduction. The ability to offer donors a tax benefit has become increasingly important in an environment in which historical items command high prices on the open market. The Historical Society, given its limited resources for acquisitions, would not have been able to purchase the

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Testimony before Kansas 2000 Select Committee
House Bill 2605
Structure and Organization of the State Historical Society

by Jim Hoy, President
Kansas State Historical Society, Inc.

Members of the Committee:

Thank you for the opportunity to give my thoughts about the bill before you, which would make significant and, in my opinion, unwise changes in the nature of the Kansas State Historical Society (the state agency) and its relationship to the Kansas State Historical Society, Incorporated (the private society). I would like to focus my comments on two areas of concern: (1) the relationship of the public agency and the private society, and (2) the proposal to change the name of the Kansas State Historical Society to the Kansas Department of History and Preservation.

(1) The legislation as proposed would essentially minimize the role of the private society to a figure-head position, devoid of any real function or authority in directing and overseeing the mission of the state historical society. Others will speak more fully to this aspect, but I wish to make two points.

First, at a time when public agencies are being encouraged to make alliances and working arrangements with the private sector, it seems to me wrongheaded at best to weaken what has proven, for nearly a century and a quarter, a very model of a working relationship between public and private. I know, from my position as a trustee of the American Folklife Center at the Library of Congress, that we are being urged, at the AFC, to develop the same kind of programs and partnerships at the national level that have long been operative here at the state level.

Second, my relationship with the American Folklife Center has brought me into personal

contact with the president of the Nebraska State Historical Society and the director of the Minnesota State Historical Society (recognized nationally among professionals and scholars alike as perhaps the premier state historical agency). Both of these people have told me, as have many scholars, researchers, and patrons, that the Kansas State Historical Society is one of the best, most efficiently run, most useful historical institutions in the country. We should be proud that our historical museum, our research library, our preservation program, our educational and outreach programs rank us in the same company as the comparable facilities of Minnesota, Illinois, and Ohio. Let me point out, and emphasize, that each of these three institutions has exactly the same sort of governance that we currently have, the same relationship of public agency and private society that acts as trustee to the public good. The proposed legislation would destroy the very governance system that has made us strong.

If anything, the bond between public and private, in regard to the operation of the Kansas State Historical Society, should be strengthened, not weakened, as the proposed legislation, in my opinion, would do. Citizen involvement, and citizen oversight, would be curtailed and circumscribed by this legislation. Rather, such involvement should be encouraged by maintaining the present relationship between public agency and private society.

(2) Concerning the proposed change of name, one might ask, as does Juliet, "What's in a name?" A rose, she says, by any other name would smell as sweet. True enough, but remember that Shakespeare put this question in the mouth of a feckless young girl from a closed and artificial society, a girl who, at the time, knew nothing of the way the world really works.

Shakespeare, himself a master of language, knew very well what was in a name. If roses were called toad flowers or dung blossoms, they would certainly not be the flower of choice for Valentine's Day or wedding anniversaries, nor would apologetic young men have any hope of

making up with their sweethearts by sending them a dozen. More seriously, I honestly wonder if the course of world history would have been the same if the ruler of the Third Reich had not changed his name to Hitler. Somehow I cannot take seriously the image of troops massed under a speaker's stand, their arms outstretched in salute, and shouting "Heil Schickelgruber."

Names matter. By changing the name of the Kansas State Historical Society to the Kansas Department of History and Preservation, we would not only flout a hundred and twenty five years of tradition, we would also change the perception of the institution itself. When I think of a Department, I think of an academic department (a collection of scholars and teachers) or something like a highway department or an education department (a collection of workers and bureaucrats). "Department" has a mundane ring to it; "Society" possesses eclat.

Moreover, a Society is less limiting, more inclusive. Our state historical society brings together academic scholars, museum professionals, archivists, archaeologists, historic preservationists, librarians, educators, and, most important of all, ordinary citizens--all under the umbrella of their common interest in collecting, preserving, and presenting the history of Kansas. I believe that changing the name would lower the prestige and change the function of the Kansas State Historical Society.

Putting aside the immediate, but not insubstantial, cost of a name change, consider the even more costly long-term implication of the loss of name recognition. Companies, entertainers, politicians--they all recognize the importance of name recognition. It is a commodity that money cannot buy (or if it can, the cost is exorbitant). The Kansas State Historical Society has a hundred and twenty five years of name recognition. The citizens of Kansas know the Kansas State Historical Society, and they trust it. I do not believe they would have the same affection for, nor the same trust in, what would be merely another department of state government.

Let me close by assuring you that the Kansas State Historical Society, though conservative (as one would expect from a protector of history), is not hidebound. We welcome appropriate change. We have, in fact, at our annual meeting last November, enacted changes in our bylaws that accommodate the recommendations of the Legislative Post Audit Committee, and we are continuing to examine our structure and make needed changes. We also agree with many of the changes recommended in the proposed legislation.

But we resist inappropriate change, and some of the changes in the proposed legislation would be detrimental to the mission of the Kansas State Historical Society. It is those changes, some of which I have discussed, others of which will be set forth by other speakers, that I urge you to reject.

Thank you for your attention.

TESTIMONY
OF
D. CHERYL COLLINS
TO THE KANSAS 2000 SELECT COMMITTEE
CONCERNING HOUSE BILL 2605
JANUARY 19, 2000

Chairman Wilk and Members of the Kansas 2000 Select Committee:

Thank you for allowing me to speak to you today.

There are a number of things about House Bill 2605 that I find make me uneasy about the future of our Kansas past.

Most critical though is the severing of the trusteeship held by the Kansas State Historical Society Inc. and the complete severing of this public/ private partnership.

The Kansas State Historical Society Inc. was asked by the State to serve as its trustee in 1879. The trustee role is broad, far reaching, and in my mind critical. It is far more than that of overseeing the money appropriated by the State. The State has a comprehensive set of policy and procedures for expenditure of State money. The KSHS has always followed these regulations, and the role of trustee has never been used to meddle in that process, and never will. In its role as trustee the KSHS Inc. has set goals and philosophy in concert with the Governor, Legislature and Staff, in its role as trustee it watched over collections and properties and provided a sounding board and citizen voice. I thought of a few examples of how important this trusteeship has been in the past:

A few years ago a small committee of the Legislature decided that the Kansas State Historical Society must get rid of some of its properties. (Not the full Legislature, not the Governor, but this one committee.) They told staff -Get rid of properties. When staff reported this message to the Executive Committee they said "Wait, we can't simply walk away from our commitments and responsibilities to those properties and dump them on their local communities. Some of those communities are completely unprepared to preserve them. We will have to find some way to comply with this Legislative order without simply turning our back on our past commitments." So staff worked out (and it was a lot of work) agreements with Ossawatimie, with Riley County, with the Partners of the First Territorial Capital and didn't just dump those historic sites. In my heart, I am certain that if House Bill 2605 were in place, staff would have simply boarded up the windows and put the key in the mail. And the Goodnow House and all the others would not be open to Kansans (at a much less expense to the State) today. Their crumbled ruins would be a graphic warning that the State will accept your gift, but it won't necessarily keep it or value it. We need the trusteeship of the Kansas State Historical Society Inc., the not for profit, to provide institutional memory and find ways to honor our past commitments, even if it is the hard road to travel. House Bill 2605 does not give

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the group of citizens charged for the last 125 years to keep an eye on things even the opportunity to voice their concerns.

Another example of the trusteeship role that I believe is important and needed occurred to me:

Not long ago another movie about the tragic killing of the Clutter family at Holcomb Kansas was filmed and aired on T.V. There was quite a lot of media hype about this new movie. The television promoters approached the staff of the Kansas State Historical Society and asked if they would exhibit the gallows (which is an artifact in the KSHS collections.) These gallows were used to hang the men responsible for this crime. The television promoters would use footage of the gallows in this media blitz promoting the program. Initially staff thought this a fine idea, but after discussion with the Executive Committee considered the ramifications of using this artifact with its powerful emotional aura as a sideshow, with no educational or historical value. An artifact used in this exploitative way would have served only as a lightning rod for political controversy, not education. This artifact may appear in an exhibit at the Kansas Museum of History one day, but I hope not as a sideshow. If House Bill 2605 passes the Board of Directors of the Kansas State Historical Society Inc. would no longer serve as trustee of the collection, would no longer help staff with these difficult decisions concerning artifacts. You have, I am sure, read about a number of museums and historical societies across the country who have made grievous errors in judgement concerning exhibits and programs. I cannot tell you that continuing the trusteeship which allows citizens to have a voice in how we present Kansas History will continue to keep us from making this sort of error, but if we do not have that citizen voice, I can guarantee it will be a lot harder for staff to know what citizens think.

As Trustee of the Society, the Board of Directors, through the Executive Committee, has worked with the Governor, Legislature, and Staff to set the goals and philosophy. One of the things I am most proud of is the fact that the membership of the Board the Society holds a variety of occupations: doctors, museum people, lawyers, farmers, academic historians, business people, archivists, ministers and the list goes on. We have a very good geographical spread across our state and have a variety of personal backgrounds. Society Board members do not have interest in only one area of history (only museums, library/archives, historic preservation, or archeology etc.) We are not a single interest group. We try to cover all of Kansas History. Sometimes the trusteeship means that we find forgotten pieces of the past and make sure they are remembered. In an example of that this past year a Board member donated a new marker that commemorates Bathsheba, a Jewish community in Finney County. This corner of history might have been forgotten forever. The citizen voice is needed in the setting of goals and philosophy. Yes, the Kansas State Historical Society Inc. is "private" but only in the legal sense as a 501 c 3 not for profit. The only thing you need to be a member of the Kansas State Historical Society is an interest and love of Kansas History. We need citizens with an interest and love of Kansas History to have a voice in the Kansas State Historical Society's goals and philosophy.

One of the high points of my year as President of the Kansas State Historical Society Inc. was meeting the great great niece of Carry Nation, Mrs. Kelley from Santa Rosa, California. Mrs. Kelley and her husband donated a number of very interesting and valuable objects (dresses, false teeth, papers) that had belonged to Carry Nation this last year. Mrs. Kelley began to cry when she told how happy she was to bring these precious family things back to Kansas where they will be valued and kept safe. When people give objects and they are accepted into our collection they are not just things, they have a history and an emotional attachment. The Kelley family are not wealthy and the tax deduction they received from donating to a not for profit was very helpful to them even if it was not what they could have realized from a sale. The Kansas State Historical Society Inc., the not for profit, receives objects on behalf of the State and the objects become State property under the trusteeship of the not for profit. I believe that the trusteeship is what gives donors the confidence that we will not forget why we took their precious objects in the first place. These things are not "State Property" like the computers, chairs, and desks used by State legislators and staff. They are unique and deserves a unique treatment. We need for the trusteeship of collections and property to continue and House Bill 2605 does not make sure that happens.

For the last 125 years the State and Not for Profit sides of the Kansas State Historical Society have been partners in collecting, preserving and interpreting Kansas History. It is entirely appropriate to change exactly how that partnership operates so that it works better in this new century. But please don't destroy this partnership. We may need change, but House Bill 2605 is not the change we need.

Testimony to the Kansas 2000 Select Committee on the Governance of the Kansas State Historical Society, January 19, 2000, by Ramon Powers, Executive Director of the Society.

Chairman Wilk and members of the Committee, I am Ramon Powers, director of the Kansas State Historical Society. I appreciate the opportunity to appear before you today.

A major issue that came before the interim committee on Society governance concerned historic preservation. The mission of the Kansas State Historical Society is to collect, preserve, and interpret the historic resources of Kansas. This means our mission is to preserve the built environment, along with other documents and artifacts of our collective past.

The state historic preservation office fosters the preservation of the historical, architectural, archeological, and cultural heritage of Kansas. The office does not itself own, administer, or preserve historic properties, but rather it seeks to provide information and manage federal and state programs and otherwise assist property owners so they can maintain and preserve the state's historic and cultural resources. The office administers the nomination procedures for the National Register of Historic Places and also the state register of historic places; the staff is responsible for evaluating the potential effects of projects on historic and cultural properties under both federal and state laws. The office administers programs that provide financial incentives for historic preservation, including the state Heritage Trust Fund grants program, the federal investment tax credit for rehabilitating historic commercial buildings, and federal grants for local communities to survey, nominate, and plan for their historic resources. The office has special working relationships with eight communities/counties that have adopted local historic preservation ordinances and chosen to become Certified Local Governments. Another important element for the preservation staff is public education; these activities include one-on-one site visits with historic property owners or managers, presentations to organizations and groups of all types, conferences and seminars, and a bimonthly preservation newsletter.

Within every community there will always be a dilemma between future growth and the desire to preserve the past through the legacy of older structures in the community. These interests can work well together, but more often than not, they create a natural tension within the community. Preservationists today are faced with two very different philosophies on how to approach this problem.

One approach would have the state preservation office aggressively reacting to instances where buildings are endangered. In this method the goal is in essence to get "in the face" of those who threaten the state's historic resources by any means that would preserve them. It involves creating delays in accessing required permits to make major changes or to demolish a historic structure, so that communities have the opportunity to negotiate solutions. This approach is dramatic and certainly offers the opportunity to save a few structures. But it puts the state preservation office in an adversarial position and ultimately by law, city and county governments have the final say in terms of what is "saved" or "altered" in their community, as they should. This approach also tends to polarize people. In our opinion, this "stick" approach is not an effective approach to historic preservation in the long term.

The other approach, which reflects the direction in which we have taken the preservation office, is to view preservation as a community decision. In this approach, the state preservation office views itself as a facilitator for preservation, not the judge of what should be preserved. After all, a community can only embrace what it values. In this approach, we work from a position of education and assistance. We try to help communities to see the value of their historic resources and how they relate to the community's well-being, and, in the end, the quality of life in the community. We assist communities in the ways of preservation, rather than attempt to dictate a specific standard for all communities, no matter how different the circumstances. We provide incentives for community preservation, and help communities to work through state and federal regulations that allow the communities to access needed resources.

This is the approach to preservation that we have taken. We are responsible for this decision, but we took cues from legislators, the governor's office, and ultimately from the people of Kansas. This second approach to preservation seems more consistent with the values and attitudes currently expressed by leadership of this state and by the people we all serve.

I have also been asked to speak to the issue of the governance of state historical societies around the country. I have written a memorandum on *Governance of State Historical Societies*, which I would be most pleased to submit it to all of you. In that document, I quote an historian who categories state societies into three types: the privately endowed societies in the east; the equally vigorous societies functioning under state support in the central west; and the departments of archives and history that dominate in the south.

First, it is important to remember that societies differ from state to state based on the traditions of the particular state. However, there are models that clearly reflect attempts by states to provide nonpartisan management of history. There is no list ranking state historical societies; however, it is generally agreed among state history administrators that certain states have clearly achieved a level of excellence above others.

The dominate state historical society today is the Minnesota Historical Society. The Minnesota statutes make the society "an agency of state government." However, the governance of the Society is entirely under the private corporation chartered by the Territorial Government. The statutes provide that the society employees are paid salaries "comparable to the salaries paid to state employees in the classified state civil service," except for the director, and "Money appropriated to the Minnesota historical society shall be expended in the manner and under the terms and conditions described by the governing body of the Minnesota historical society." The Minnesota Historical Society, a private nonprofit corporation, is governed by an executive council of not more than twenty-five (25) members elected by its membership. The director is selected by the executive council.

The State Historical Society of Wisconsin, whose governance was used as the model for the Kansas State Historical Society, operates under a board of curators. The statutes, which were amended in 1980s, provide that in addition to the members, not to exceed thirty (30), elected by

society members to the board, the governor or his or her designee, the speaker of the assembly or his or her designee, and the president of the senate or his or her designee are members of the board. The representation of the state historical society members on the board is determined by the bylaws of the society. Society employees are in the state classified service, and the director is selected by the board.

The Ohio Historical Society is a private corporation that is trustee of the state and was chartered by the state "as a corporation not for profit to promote a knowledge of history and archeology, especially of Ohio, and operated continuously in the public interest since 1885." The general assembly appropriates money each biennium to carry out the public functions of the society; the appropriation constitutes an offer to contract with the society. How the society is organized is not provided for in the statutes. The members of the society board select the director.

The Nebraska State Historical Society was declared a state agency by amendment to the society's governing statutes in 1994; however, the society's trustee relationship is retained. The agency is under the direction of a board of trustees who are elected in part by the members and in part appointed by the governor. (The governor has three appointees on the board). The procedures for the election of the trustees is provided in the statutes. The trustees are authorized to establish bylaws for their own governance, and select a director or chief executive officer who also serves as secretary to the board of trustees.

The Oklahoma Historical Society consists of members of the society in accordance with the society's bylaws and constitution; the society is declared to be an organized agency of the state of Oklahoma. The board of directors consists of not more than twenty-five (25) members with the governor as an ex officio member. Each member of the board holds office until a successor is elected and qualified pursuant to the provisions of the constitution of the society. (The board hires the director.)

The Colorado State Historical Society was incorporated first as a private society and is made one of the educational institutions of the state. The society is trustee of the state to expend funds and hold collections. The society is part of the division of the Department of Higher Education. (The Division of Archives is in the Department of Administration.) The president of the society (i.e. director) makes funding recommendations to the governor and general assembly. The assembly makes annual appropriations to the society. (The structure of the society and how the president is selected are not treated in the statutes.)

The South Carolina Department of Archives and history is under the control of the South Carolina Commission of Archives and History which consists of five (5) ex officio members and six non ex officio members. The ex officio members are the heads of the departments of history of the University of South Carolina, The Citadel, Clemson University, Winthrop University and the head of the Department of Political Science and History at South Carolina State University. The non ex officio members are nominated by the South Carolina Historical Society, one by the American Legion, Department of South Carolina, and one by the South Carolina Historical Association; they are appointed by the governor for five-year terms. Two members appointed by the governor and approved by the senate have terms concurrent with the governor. The sixth

member is president of the University South Caroliniana Society with a five-year term. The director is appointed by the commission.

The statutes of the state of Washington provide that "each state historical society [Washington State Historical Society and the Eastern Washington State Historical Society] is designated trustee for the state" and is authorized to collect and preserve objects and manuscripts, operate a museum, accept gifts, charge fees and engaged in other activities including creating classes of membership. The procedures for how the societies are organized and select their directors is left to their bylaws. (A department of community, trade, and economic development administers the office of archeology and historic preservation in Washington state.)

The Kentucky Historical Society has all the powers and duties of a corporation and the statutes grant to the society the charter authorizing it to collect, preserve, and make available objects and records; it also is authorized to hold objects and documents. Membership in the society is offered to those who pay dues authorized by the executive committee. The officers of the society are the chancellor, who is the governor; a president; a first, second, and third vice president all elected for one term, except the chancellor. The executive committee consists of sixteen (16) members, the officers of the society, and an individual designated by the State Archives and Records Commission. Members are divided into four classes with one class retiring at each annual meeting of the society. The executive committee meets four times annually unless otherwise authorized. The nominating committee procedures are spelled out in statute. The director is appointed by the executive committee.

The Arizona Historical Society is authorized to have a president, a treasurer, a board of directors and other officers who are elected by the members of the society at times and by methods prescribed in the bylaws of the society. The board may designate an executive committee. The Arizona statutes provide that "The board of directors shall hold in trust for the state and administer for the benefit of the state and use of the society all property acquired by the society." The board may employ an executive director.

The Pennsylvania Historical and Museum Commission consists of the secretary of education or his or her designee, nine residents of the commonwealth appointed by the governor with consent of the senate, and four members of the general assembly or their designees (two from the senate, one appointed by the president pro tempore and one by the minority leader; and two from the house, one appointed by the speaker and one by the minority leader). The members serve four-year terms except the legislators who serve terms concurrent with their legislative terms. The governor designates the chairperson, and the commission appoints the executive director. The Pennsylvania Historical Society in Philadelphia, which dates from the first part of the nineteenth-century, is a private corporation that collects Pennsylvania history.

The Michigan Historical Commission consists of six members, with the addition of the governor as ex officio, appointed by the governor with consent of the senate. The appointments are for six years and are staggered. The commission collects, preserves, publishes, and displays historical materials. The secretary of state is placed in charge of the entity that manages history in Michigan. The Michigan Historical Society is an entirely private not-for-profit organization; in

recent years there has been an attempt to unite these two entities.

The Idaho State Historical Society is governed by a board of trustees consisting of seven members appointed by the State Board of Education chosen with regard to their knowledge, competence experience, and interest in the fields related to preservation of the historical archives of Idaho. Not more than four members of the board can belong to the same political party; the appointees serve six-year terms. The director of the Society is appointed by the board of trustees and serves at its pleasure.

The State Historical Society of North Dakota is under the supervision and control of the State Historical Board. The Board consists of nine members appointed by the governor for three-year terms. The secretary of state, state engineer, director of the Department of Transportation, state forester, director of the Game and Fish Department, state librarian, and state treasurer are ex officio members of the board who may appointee designees. The State Historical Board selects and appoints a superintendent to carry out its policies and directives.

The State of Oregon recognizes a continuing obligation to contribute to the support of the Oregon Historical Society. The amount appropriated each biennium will be considered the continuing level of state aid for operation of the society for the next biennium. Supplements may also be added to acknowledge inflationary factors and as match for demonstrated increases in membership dues or a combination thereof.

The Historical Society of Montana was originally organized under provisions of an 1865 act of the territorial legislature. In 1949, the society became "an agency of state government." The governance and administration of the society is vested in a board of trustees appointed by the governor with consent of the senate; appointments are for five years.

The South Dakota Historical Society is under the Department of Education and Cultural Affairs. A nonprofit South Dakota Heritage Fund operates as the fund raising arm of the society. The director is appointed by the secretary of the Department of Cultural Affairs.

The Iowa State Historical Society is likewise part of the Department of Cultural Affairs in Iowa and the Iowa Historical Foundation raises money for the society. The director is appointed by the director of the Department of Cultural Affairs.

I appreciate the opportunity to provide this information to you. If you desire any addition information on historic preservation or historical society governance or any other aspect of the Kansas State Historical Society organization or management, please let me know.

DRAFT

Statement at Public Hearing on House Bill 2605
January 19, 2000

William M. Tsutsui

My name is William Tsutsui and I am an Associate Professor of History and Acting Director of the Center for East Asian Studies at the University of Kansas. I have proudly served as a member of the Board of Directors of the Kansas State Historical Society, Inc. since 1996. Thank you for this opportunity to share my views with you this afternoon.

The members of the Special Committee on the Organization and Structure of the State Historical Society are to be highly commended for the hard work and careful thought which they put into their report to the 2000 Kansas Legislature. The proposed legislation resulting from this report - House Bill 2605 - is admirable in many ways yet could (in my opinion) prove detrimental to the long-term success of the Historical Society in several important respects.

First, as other speakers today have mentioned, any change in the name of the Kansas State Historical Society would be time-consuming, costly and confusing to the general public. It would also be damaging to the hard-won reputation of the organization: historians, archivists, curators and preservation officials around the nation know the Kansas State Historical Society as one of the most active and well respected bodies of its kind. A "Kansas Department of History and Preservation" would have no such positive and widespread name recognition and would be forced to invest many dollars and years (possibly even decades) in re-establishing its professional profile. Moreover, and I feel compelled to mention this as a historian myself, any change in the name of the Kansas State Historical Society would be deeply disrespectful to the organization's very long and illustrious heritage: the Society's name is a link to a rich past - over a century of service to the people of Kansas - and breaking this historical linkage would be unwarranted and irreparable.

Second, I find House Bill 2605 disturbing in the way in which it marginalizes and changes the fundamental character of the "private society," the Kansas State Historical Society, Inc. The proposed legislation would relegate the private society to a role analogous to that of an endowment association at one of our public universities, making it little more than a private fundraising body. At present, the general membership of the Kansas State Historical Society, Inc. (as well as those of us on the Board of Directors) feel a great investment in the Historical Society and its work. This investment is not simply financial - though we do contribute significantly to the organization's programs - but goes far, far deeper than that. Members of the private society feel a great sense of participation, of connection with the Historical Society under the present structure: members identify with the Society, appreciate the important role they play (through the Board of Directors and the Executive Committee) in the operation of the Society, and consequently have been remarkably willing to volunteer their time and their money in support of the Society's work. I fear that this kind of personal connection, this intimate bond between the Kansas State Historical Society and its most active backers, will suffer greatly if the

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private society is stripped of its current trustee status and made a mere fundraising organ. If the private society is so thoroughly excluded from any substantive role in the state agency, I fear that neither body will be able to thrive, that public support for the organization (and history more generally) will decline, and that the quality of services provided to the people of Kansas will inevitably be affected adversely. I thus encourage you to seriously reconsider the changes proposed in House Bill 2605 which would radically (and I believe harmfully) alter the status and functions of the Kansas State Historical Society, Inc.

Thank you for your time and attention.

STATEMENT OF JOSEPH W. SNELL BEFORE THE HOUSE KANSAS 2000
SELECT COMMITTEE IN OPPOSITION TO HB 2605 (KANSAS DEPARTMENT
OF HISTORY AND PRESERVATION)
JANUARY 19, 2000

I am Joe Snell, 5609 SW Hawick Lane, Topeka, Kansas 66614 (785) 271-7452. I was a member of the staff of the Kansas State Historical Society from 1957 to 1988 and held the positions of manuscript cataloger, curator of manuscripts, assistant state archivist, assistant secretary and finally secretary/executive director, the latter for eleven years.

Since shortly after my retirement in May, 1988, I have been a member of the Society's Board of Directors.

I oppose passage of HB 2605 because I believe it will destroy one of the most efficient governmental relationships Kansas has ever experienced. For 120 years the Kansas State Historical Society has served as trustee of the State in matters relating to history. In all that time, to the best of my knowledge, there has never been a hint of improper use of State funds, Society failure to be accountable to the governor or legislature, malfeasance or favoritism in the preservation and interpretation of state history.

In 1888 the Society's Board of Directors set the tone that has followed to this day. It observed that "the Society is greatly stimulated to exertion to fulfill the public requirements. Where by law the society is made the trustee and servant of the State its work is not perfunctory like that of the State official, whose term of service is determined upon political considerations. The existence of the Society and its continued support are dependent upon its fulfillment of the public demand and expectation year by year and continually."

What I am about to say may cause some to think I am critical of certain individuals, but I assure you I am not. My purpose is an attempt to understand why we find ourselves here today and what may happen if the bill's suggested changes are adopted. I am speaking as an individual who has the best interests of the State and the Society at heart; I have not been coached by any person or group, my statements are mine and mine alone.

It has become my understanding that unhappiness with the current administration of the Society was the catalyst which brought about last year's performance audit by the Division of Legislative Post Audit, the Special Committee on the Organization and Structure of the State Historical Society and now House Bill 2605.

Just who was instrumental in initiating this chain of events I do not know but it seems to me that destroying the outstanding relationship which has for so long existed between the Society and the State is a poor way to correct dissatisfaction with leadership.

The Kansas State Historical Society has long been regarded as one of the nation's most outstanding history organizations in terms of programs, collections and staff. As I told the Special Committee last fall, we were once adjudged to be one of the top four state historical organizations in the United States and **the** best west of the Mississippi. This judgment was made by our peers, heads of other state historical organizations.

I think it is interesting that the report of the Special Committee, on page 4-3, second column, states that staff "provided the Committee with additional information on the structure of the Minnesota, Ohio, and Wisconsin historical societies. In all three of those states, a private, not-for-profit historical society performs the same functions performed by the Kansas State Historical Society." What the Committee did not know, and could not report, was that those three Societies were the only ones judged to be better than ours when our survey was done perhaps 20 years ago.

So, could we say that private-state relationships result in the most outstanding historical societies?

Under HB 2605 there would be little change in the duties, functions and operations now performed by the Society except that the Governor would appoint the director of the new state agency with the approval of the Senate.

I must tell you that as a citizen of Kansas I have no great confidence that most Governors would make the best appointments. We have had good Governors and we have had inefficient ones; we have had good gubernatorial appointees and we have had miserable failures. _____

Why, then, should we assume that a director appointed by the Governor would be any more qualified and efficient than one elected by the Society's Board of Directors after a national search for talented and interested persons?

The Society has had three long term secretaries during the last 50 years, Nyle Miller, myself and Dr. Powers. Edgar Langsdorf served a three month term as interim director during the legislative session of 1977.

I am not familiar with how Nyle was selected but I do know that in my case, and that of Dr. Powers, there were special search committees appointed by the president of the Society who advertised the position nationally. The committees included a Kansas Supreme Court Justice, a former Governor, a Judge of the US District Court in Kansas, the head of the Eisenhower

Presidential library, prominent attorneys ranging from US Commissioners to distinguished professors , and members of the history faculties of several state universities.

The committees interviewed four finalists each time and made their recommendations without regard to political persuasion, something I cannot imagine a Governor doing.

My point is that it seems to me the Society has gone to far more trouble in finding a suitable leader than a Governor would have time to do. Having the Governor appoint the director, then, would not be an advantage over the present system.

The Board of Directors of the Society, recognizing the need for the secretary/executive director to be directly accountable to someone, has, last November fifth, amended the Society's bylaws to provide for direct control of the secretary/executive director by the executive committee. In addition the executive committee has been enlarge to provide for legislative and gubernatorial representation. Just last week it was announced that Representative Wilk, Senator Alicia Salisbury and Governor Bill Avery have filled those places.

The Society is trying to meet the supposed deficiencies noted by the performance audit.

Another disadvantage of a gubernatorial appointment is that no director could count on more than a four year term or service. This alone would fail to attract many persons who would otherwise apply for the job and rapid changes in leadership would be devastating to the organization.

Considerable has been said about the state needing more "accountability" in the expenditure of appropriated funds. I cannot understand this tact since all funds to all state agencies are carefully controlled by appropriation acts, the Division of Accounts and Reports, and financial audits as well as standing procedures. The Society is as controlled by these processes as is any other State agency. The "accountability" is in the budget.

I am also concerned about the relationship and rapport the Society has developed with local historical societies and genealogical groups. The state Society has made a determined effort to work closely with these organizations and we feel akin to one another. I do not think that relationship would exist between those groups and a state agency. The word "society" alone puts us all in the same boat.

Given the excellent record the partnership between the State and the Society has over the last 120 years I truly can't understand why a change is needed. In my opinion it can only lead to a negative future.

It also seems to me that by eliminating the trusteeship with the Society, the State would be condemning the Society to a useless role. Comparisons are made between university alumni associations and the Society as fund raisers. This is like comparing apples to oranges. Universities, by tradition and design, have a large constituency of loyal graduates from whom to solicit funds. The Society has only those who love history. House Bill 2605 relegates the issuance of historical publications to the State agency. If the Society did not have *Kansas History, a Journal of the Central Plains*, to offer its members, there would be little reason to join.

I can see the Society dwindling in numbers, losing its effectiveness and finally fading away like General MacArthur's old soldier. I do not think it would ever be an effective fund raiser for the State agency. The Society could not apply for federal grants, a large source of non appropriated funds, only the using agency could do that.

In conclusion I'd like to pass on an old saw which I have heard for years. I don't know where it originated or when but it is certainly a truism. "If it ain't broke, don't fix it." Give the amended bylaws a chance to work, scrutinize the relationship over the next several years, but don't precipitously destroy what has worked so well for so long.

Witness Testimony

HB2605

Kansas House of Representatives

Select 2000 Committee

January 19, 2000

By

Paul Stuewe

Good afternoon Mr. Chairman and members of the Select 2000 Committee.

My name is Paul Stuewe and I am a history teacher at Lawrence High School. In addition to teaching, I am also on the Executive Committee of the Board of Directors of the Kansas State Historical Society. This afternoon I am going to address you as both a Board member and a history teacher in opposition to HB2605 as it is currently written.

At this point, it is customary for the witness to say that it is a pleasure to appear before this committee. If I said that, I would not be telling you the truth. My discomfort has nothing to do with you as individuals or members of this committee. In all honesty, I would rather be at Lawrence High School teaching my history class about Andrew Johnson's impeachment and the role U.S. Senator Edmund Ross of Kansas played in stopping his removal from office.

However, I also teach political science. In my Advanced Placement U.S. Politics class, we discuss a variety of issues including why Americans dislike politics. The comment I hear most often is that of the disconnection between the political leaders and the citizens, blaming the political leaders for not listening or caring about what the average citizen wants. I quickly remind them that citizens have a responsibility to let their leaders know how they feel by taking direct action. I am here today practicing what I preach.

I gladly volunteer my time to serve on the Executive Committee of the Board of Directors of the Kansas State Historical Society because as a teacher of Kansas history I know how important this organization is to preserving, promoting and interpreting Kansas history. Since the Kansas legislature mandated the teaching of Kansas history,

our school district has decided to teach it in junior high so I no longer teach it as a separate course at the high school. However, if you ask students in my U.S. history classes they would tell you that I still teach Kansas history.

Now you are probably wondering what this has to do with HB2605. Well, it has a great deal to do with this bill. I teach my students that history does matter. It tells us much about who we are as a people and who we want to be. History is much more than preserving artifacts and old buildings. As a high school history teacher, the Kansas State Historical Society is critical in providing the primary and secondary sources necessary to teach Kansas history. Let us face it, national textbook publishers are not interested in such a small market. This bill could affect my ability to teach Kansas history by replacing the existing private-public partnership that has developed over the course of 125 years with just a state agency.

When I attend national history conferences and talk to historians from other states about state historical societies, the Kansas State Historical Society is thought of as being in the top group of state societies. What does Kansas and the other top states have in common? They have some structure where individual history teachers, historians and anyone interested in history can have input and access and there is some kind of partnership that goes beyond fundraising and makes people feel a part of their state's history. People feel better about a private-public partnership than they do about solely state agencies. A state historical society, which is strictly a state agency, with a private endowment, is not the best way to preserve, protect and interpret history. Raising money, getting people to volunteer time and artifacts would be difficult if it were for a state agency. As a classroom teacher, I know how well at least one state agency listens to teachers. I do not want that to happen to Kansas history.

The Kansas State Historical Society is not like the Kansas State Department of Education nor is it like the old Kansas State Board of Agriculture. I have heard legislators say that the Kansas State Historical Society is similar to the old Kansas State Board of Agriculture and as a result of the U.S. District Court decision of 1993 similar changes should be made. I read the judge's decision and spoke with the judge himself. The bottom line is that the State Board of Agriculture had broad regulatory functions that affected all residents of Kansas daily. The Board of Agriculture was responsible for insuring the safety and fitness of the meat we eat and the milk we drink. It regulated everything from our water to the use of pesticides to weights and measures at the gas pumps and grocery stores. These powers are commonly called "police powers" and the Board of Agriculture exercised what is referred to as "general governmental powers". The Kansas State Historical Society clearly does not fall under the "general governmental powers" and the comparison of our situation to theirs simply does not hold up under scrutiny.

Historical societies are not only repositories for the larger society's cultural memory but institutions that promote state history through education. This awesome responsibility requires the participation of a diverse group of Kansans in addition to state employees.

Historical societies should reflect the ideas and values of that individual state, not some generic model that currently exists in states with mediocre historical societies.

As a teacher of Kansas history I now have a voice in the Kansas State Historical Society and an opportunity to help make decisions that ultimately effect my ability to teach the children of Kansas about their heritage. If HB2605 passes and the history of Kansas is solely governed by a state agency we will have lost something unique and valuable.

In 1879 the State of Kansas asked the Kansas State Historical Society to become the official trustee for the State's collection. Its mission was to collect, preserve and interpret Kansas history for the people of the state. For 121 years, it has lived up to its purpose which is to enrich people's lives by connecting them to Kansas history.

The people of Kansas recognize the name "Kansas State Historical Society" even if they cannot give you a breakdown of its organizational structure. They know the name stands for an organization that is not wholly private or public but a partnership that has built one of the premier state historical societies in the country. They have given of their time, money, papers and artifacts because of the quality of the institution. This partnership is uniquely Kansan and is something to be refined yes, but not destroyed.

This bill, more than any other this session, has the potential to do irrefutable harm. History does matter and it is my guess that many Kansans think their history is better collected, preserved and interpreted by this private-public partnership than by a state agency alone. I know you care about our history and its place in the future but good intentions sometimes have unintended consequences. Take care in your decisions and let us work together to improve but not destroy this wonderfully unique institution.

Thank You.



The Kansas State Historical Society, Inc.
*A Non-Profit Organization Dedicated to the Mission
of the Kansas State Historical Society*

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The Kansas State Historical Society was organized in 1875 by Kansas newspaper editors and publishers. Four years later, it became the official trustee for the state's historical collections. Its mission was to collect, preserve, and interpret Kansas history for the people of the state. Since then the Society has operated as a private-state partnership making it not only the trustee of the state's collections but giving the organization authority to promote membership, to seek and administer funds in addition to state appropriations and promote the Society's programs and services for the benefit of all the people of Kansas. This relationship has thrived for the past 125 years and has made the Kansas State Historical Society one of the preeminent historical societies in the country.

**Kansas State Historical Society, Inc. (KSHS)
a private nonprofit**

Response to HB 2605:

HB 2605 has been introduced to provide for changes in the governance of the Kansas State Historical Society and the Kansas State Historical Society, Inc., a nonprofit organization. To effect this change, the bill proposes to differentiate the organizations by name. The name of the Kansas State Historical Society would be changed to the Kansas Department of History and Preservation.

The bill resulted from the work of a post-legislative audit and the Special Committee on Structure and Organization of the State Historical Society. It is our position that members of the interim committee, members of this committee AND members of the Kansas State Historical Society, both public and private, are committed in clear and uncertain terms to finding a form of governance and structure that provides the utmost accountability to the taxpayers upon whose behalf the Society functions.

It is our position that the name of the Kansas State Historical Society (Society) should not be changed.

Kansas 2000 Select Committee
Meeting Date 1-19-00
Attachment 18

The Kansas State Historical Society, Inc. supports retention of the name Kansas State Historical Society.

1. For 121 years, the name of the Kansas Stae Historical Society has been part of a long tradition of identity that we nourish as Kansans. Although we asert that the Society's primary function is to assist Kansans in their pursiut of their heritage, no other cultural institution in the stae embodies the spirit and identity of Kansas. The Eociety has been very successful in fostering the identity of Kansans through exhibits such as "How Kansas Gave Texas the Boot" and the present "Wheat People Exhibit", both of which were sponsored through private, corporate funding. The Society and KSHS, Inc have worked together to energize the teaching of Kansas history in the schools, to promotoe heritage tourism, with the state historic sites, and as members of committees, has worked closely with tourism, economic development, the humanities, museums and preservation groups.

2. Some objection has been made to the fact that The Kansas State Historical Society, Inc., the non-profit arm of the Society, shares the name of the Society. This fact has allowed the two bodies to work toward a shared long before such a relationship was described as a "public/private partnership". The resulting name associations have facilitated fundraising, allowed the Society to apply for grants for which public entities are not eligible and have created an impressive volunteer force unequalled in other state agencies. One must ask how accountability is served by diminishing a relationship that benefits the public through a unique partnership at a time when other government bodies are seeking ways to increase involvement from the private sector and local communities.

3. In addition to the loss of name identity of the museum, library, sites and programming, there is a cost to replace the name on stationary, signs, logos, traveling trunks, exhibits, every book that has been printed with our name on it, credits of documentaries, etc. The cost reflected in the fiscal note for the cost of the name change is low when considering all of the changes that will need to be made. While information is not available on the cost to establish name familiarity with the new name, there is information in marketing and research related to establishing name recognition. Public relations calls this "brand equity" or "name equity" and that category, not only includes the name, but the logo. Name and logo equity is among the most valuable marketing resources ranking at the same level as copyrights and patents.

Example: In 1997, Good Housekeeping changed their Seal of Approval and it cost \$2.9 million to get the public to recognize their new symbol. Based on this example, the cost could be estimated to KDHP to run into the hundreds of thousands.

Based on research, there is very little documented success at re-establishing recognition based on a new name.

Example: How many people know what happened to the car named Datsun? Did the company stop production? No, the company underwent an unsuccessful name change to Nissan.

KSHS looks forward to working with the Director of a state agency but support retaining some authority in the matters of the selection of the direct, state governance and oversight. .

1. KSHS endorses the position of Director of the a state agency, already identified in our bylaws. HB 2605 provides for the appointment of the chief administrative officer by the Governor with confirmation by the Senate. The Society's board believes that such a policy will strengthen accountability. We suggest, however, that accountability will be further strengthened by building upon the partnership with the private body. We would propose that the Governor appoint from a list of nominees submitted by the private, nonprofit KSHS, Inc.

The job description provided in the legislation closely parallels that of the existing administrator. Current bylaws of the nonprofit provide for the appointment of the executive director by the Governor based upon recommendations from a pool of applicants. Confirmation by the Senate is assumed with the gubernatorial appointment.

2. In order to retain a part in the governance which is essential in the communication of the agency with the non-profit, it is suggested that the KSHS serve in an advisory capacity to the public body. Doing so would provide the desired accountability without destroying the link between the two organizations.

3. Currently the KSHS and the Society retain the non partisan nature of the Society which goes back 125 years. It provides an open forum for the discussion of history and is inclusive of all of our various constituencies in the state. Making the position a political one is a decision which may seriously erode our ability to maintain an office whose priority is the preservation and interpretation of Kansas history and the education of Kansans.

The status of the KSHS as trustee for the state should not be terminated.

1. The private/public partnership, which has been developed over the past 125 years, would be destroyed. It is very good for history to have interested citizens, advised by state professional staff, making the decisions concerning collections and historic properties. Currently collection decisions are made under state oversight through specific laws and regulations. Rather than sever the trustee relationship, we propose charging the KSHS Executive Committee to serve in an advisory capacity to the public body regarding collections and property decisions. Doing so further provides for accountability while maintaining the benefits of the partnership.

2. Donors must have confidence in the decision-making process regarding collections. The trustee status of the KSHS provides a checks-and-balances for collections management.

3. There is both legal and experiential evidence that points to significant problems with the separation of the two entities.

Example: The Illinois Historical Society has had lengthy and costly legal battles over the trusteeship of properties donated to their 501(c)3 and later transferred to the state. The result of these cases has not only been to question the intent and purpose of previously donated properties and materials, but has alerted future donors as to the complexities of gifting to their organization considering the existing climate.

HB2605 has the effect of creating two organizations that can be compared to an organization that supports a friends group. Experience tells us that these groups serve for a purpose for public entities, since they largely grew out of a response to the reluctance of donors to support public bodies through more than tax incentives.

Example: The Wichita Arts Museum's board of directors and its Friend's group are known for the years' long legal, public relations and personal battles between the two entities. Unfortunately, there are numerous, similar examples across the nation.

4. The administration of grants and the receipt of private donations have traditionally been the responsibility of KSHS, Inc. The funds are then transferred to the state side based on program needs and designation. If the trustee authority is given solely to the state side, it undermines the strength of the close partnership and the confidence the nonprofit will retain some decision-making power over the charitable gifts it receives.

The Kansas State Historical Society, Inc. supports establishing the Office of State Historic Preservation Officer (SHPO) in the classified service Act to perform historic preservation duties under the statutes.

KSHS recognizes the importance of the SHPO and policy has already been adopted to provide for the recognition of preservation as a division within the Society. KSHS has already made changes in this area where the Department of Cultural Resources and the Preservation Office are handling preservation issues in cooperation with local government units where preservation questions originate. KSHS believes that local government units must make their own preservation decisions rather than the state stepping in to dictate to local entities what must be done. Every effort is made to develop public and private partnerships in the area of preservation.

Summary

Toward the end of establishing accountability, we support:

- 1) Retaining the name of the Kansas State Historical Society for the department created by section 2 and amendments thereto of HB 2605; and
- 2) Retaining a part of the governance model essential to close alliance between the public body and the nonprofit by charging the Executive Committee of the KSHS, Inc. to act in advisory capacity to the public body:
 - a. By charging the board with the responsibility of screen applicants for the position of director of the public body and
 - b. By charging the board to provide input to the Governor as to the evaluation of the director; and
 - c. by charging the board to advise the state body in matters of the trusteeship of collections and properties.
- 3) Establishing the Office of State Historic Preservation Officer in the classified service to perform historic preservation duties under the statutes.