

Approved: March 20, 1998
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 19, 1998 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Donovan, Feleciano, Gooch, Jordan, Ranson, Steffes, Steineger and Umbarger.

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Alan Alderson, Alderson, Alderson, Weiler, Conklin, Burghart & Crow
Jack Selzer, Western Retail Implement and Hardware Association
Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association
Philip S. Harness, Director of Workers Compensation
Roy H. Worthington, Legislative Chairman, Kansas Land Title Association
Edward R. Moses, Managing Director, Kansas Ready Mixed Concrete Association

Others attending: See attached list

Upon motion by Senator Steineger, seconded by Senator Jordan, the Minutes of March 17 and March 18 Meetings were unanimously approved.

SB 675 - Authorizing K DFA bonds to be issued for projects of statewide and local importance

Bob Nugent, Revisor of Statutes, submitted balloon amendments to **SB 675** stating the agreement between the bond attorneys and Johnson County is reflected in **New Section 20** which allows a redevelopment district to adopt and impose a county retailers' sales tax at a rate of .5% without submitting the question to an election; and captures the .5% retailers sales tax dedicated for express purposes and protects those amounts for their dedicated purposes. (Attachment 1)

A Johnson County, Kansas, Board of County Commissioners Position Paper was submitted to the Committee which states the Commission supports **SB 675** with the addition of New Section 20. (Attachment 2)

Senator Jordan moved, seconded by Senator Brownlee, that the balloon amendments to **SB 675** be approved. The voice vote was in favor of the motion.

Mr. Nugent submitted a technical amendment to **SB 675** recommended by Lieutenant Governor Sherrer/Secretary of Commerce and Housing, clarifying the certification of a redevelopment plan and insuring there is a comprehensive feasibility study.

Senator Feleciano moved, seconded by Senator Barone, that **SB 675** be further amended on Page 6, Line 17, by striking the word "~~adopts~~" and insert "after the secretary of commerce and housing has certified that the district will contain", and on Page 7, Line 15 by striking "~~project of statewide as well as local importance is undertaken~~" and insert "redevelopment district is established pursuant to section 4". The voice vote was in favor of the motion.

Senator Barone submitted an amendment including the Parsons Ammunition plant area in the definition of "Project of statewide as well as local importance", as a result of the Army Excessing Program.

Senator Barone moved, seconded by Senator Umbarger, that **SB 675** be amended on Page 2, line 34

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 19, 1998.

following the number "300,000,000" by inserting: "or, if constructed in a county which according to the 1990 decennial census contained a population of 25,000 or less, costing not less than \$5,000,000"; and on line 35 following the number "1,500" by inserting "or, if created in a county which according to the 1990 decennial census contained a population of 25,000 or less, not less than 150". The voice vote was in favor of the motion.

Senator Steineger submitted an amendment providing the Wyandotte unified government the authority to expand the redevelopment zone to 3500 acres to ensure adequate acreage for the Oz project.

Senator Steineger moved, seconded by Senator Barone, that **SB 675** be amended in KSA 12-1771 (a) to include the following language: "A unified government, established pursuant to KSA 12-340 et seq., and amendments thereto, may enlarge an enterprise zone, established within its jurisdiction prior to July 1, 1992, to an area not exceeding 200% of the area of the original enterprise zone regardless of whether such enlargement crosses the boundary of a city within the jurisdiction of the unified government if the secretary of commerce makes the same findings required for enlargement of an enterprise zone by a city." The voice vote was in favor of the motion.

Senator Feleciano moved, seconded by Senator Barone, that **SB 675** be amended on Page 7, Line 41 by inserting a new subsection (c) which reads as follows: "(c) Under no circumstances shall the state of Kansas, any of its political subdivisions, the Kansas development finance authority, or any unit of local government assume responsibility or otherwise be responsible for any such environmental remediation." The voice vote was in favor of the motion.

Senator Jordan moved, seconded by Senator Feleciano, that **SB 675** be recommended favorable for passage as amended. The recorded vote was in favor of the motion Yes - 10; No - 1.

The Committee unanimously agreed that the Committee Report should be a substitute bill.

HB 2742 - Limitations on equipment dealership agreements

Jack Selzer, Western Retail Implement and Hardware Association, testified in support of **HB 2742** stating dealership agreements experience difficulty in obtaining written permission from the manufacturer to transfer ownership interest of a business to an individual or to sell the dealership. Manufacturers historically do not answer such requests in a timely manner. **HB 2742** amends the law regarding farm equipment, outdoor power equipment, dealers and the manufacturer or supplier of the equipment to provide that if the manufacturer or supplier has the ability to approve or deny a dealer's request to sell or transfer ownership of the business, the approval or denial of such request must be within 90 days of the request. If no action is taken within 90 days, the request will be deemed approved. If the request is denied, the manufacturer or supplier must provide a written notice of the denial with reasons for the denial. (Attachment 3)

Senator Barone moved, seconded by Senator Feleciano, that **HB 2742** be recommended favorable for passage. The recorded vote was unanimous in favor of the motion.

HB 2754 - Mobile home piers; construction requirements

Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association, testified in support of **HB 2754** stating KSA 75-1231 et. seq., was passed in 1978; however, due to a printing error or an engrossing error, the bill signed by Governor Bennett was not the bill passed by the Senate and the House of Representatives. **HB 2754** re-instates two statutes which were voided by the error in 1978, KSA 75-1230 (a) - approved tie downs and KSA 75-1231 - relating to foundations and piers of mobile home. (Attachment 4)

The Committee unanimously authorized the Chair to prepare a floor amendment to include **HB 2754** into HB 2676.

HB 3005 - Updating and modernizing the boiler inspection law

Phillip S. Harness, Director of Workers Compensation testified in support of **HB 3005** stating the bill is primarily a cleanup measure but does include a new concept, "pressure vessels", so that they are now regulated. Mr. Harness stated that all the states surrounding Kansas have legislation regulating pressure wells; since Kansas did not, the boiler inspection staff has found the state is becoming a dumping ground for non-code pressure vessels. Mr. Harness stated **HB 3005** clarifies that only 20 percent of the inspection fees are to be credited to the state general fund, and institutes a new program to inspect the construction and installation of newly installed pressure vessels (after January 1, 1999). (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 19, 1998.

Senator Feleciano moved, seconded by Senator Donovan, that **HB 3005** be recommended favorable for passage. The recorded vote was unanimous in favor of the motion.

Lynne Holt, Legislative Research Analyst, briefed the Committee on **HB 2731**, stating the bill amends current law regarding city structures which are unfit for human use or habitation. Current law requires the owner of such property to repair the structure, if the repair can be made at a reasonable cost in relation to the value of the building, and also requires the owner to demolish the building if repairs would be greater than the value of the structure. **HB 2731** changes the comparison from the value of the building to the replacement value of the building.

The Chair informed the Committee it would take up **HB 2731** at tomorrow's meeting if there is time.

A statement from Roy H. Worthington, Legislative Chairman, Kansas Land Title Association, in support of **SB 653** was distributed to members of the Committee. (Attachment 6)

A statement from Edward R. Moses, Managing Director, Kansas Ready Mixed Concrete Association, opposing **SB 653** was distributed to members of the Committee. (Attachment 7)

Jerry Donaldson, Legislative Research Analyst, distributed a copy of the Special Committee on Judiciary Proposal on Mechanics' Lien Laws. (Attachment 8)

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for March 20, 1998.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 19, 1998

| NAME | REPRESENTING |
|------------------|-------------------------------|
| Bill Grant | KCCJ |
| SKIP PALMER | OEC |
| LARRY WINN | Atty for OEC |
| Ashley Shevard | Overland Park Chamber |
| Mike Cook Jr. | TIAC |
| TERRY LEATHERMAN | KCCI |
| Rudy Leutzinger | KDHR |
| Don Jenkins | KDHR |
| Bill Caton | KDFA |
| Rebecca Floyd | KDFA |
| Michelle Miller | Johnson County |
| Gene Holthaus | Western Resources |
| Wynne Kitchen | Western Resources |
| Roger Fraudke | KGE |
| Wendy Harms | KS Aggregate Producers' Assn. |
| Whitney Dameron | Unified Govt., KC/KS/WYCO |
| Ron Seebor | Do Admin |
| | |
| | |

Session of 1998

SENATE BILL No. 675

By Committee on Federal and State Affairs

2-17

9 AN ACT concerning the Kansas development finance authority; author-
10 izing the issuance of bonds for projects of statewide as well as local
11 importance; amending K.S.A. 74-8907, 79-3603 and 79-3703 and
12 K.S.A. 1997 Supp. 74-8902 and 74-8905 and repealing the existing
13 sections.

14

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

16 Section 1. K.S.A. 1997 Supp. 74-8902 is hereby amended to read as
17 follows: 74-8902. The following words or terms used in this act shall have
18 the following meanings unless a different meaning clearly appears from
19 the context:

20 (a) "Act" means the Kansas development finance authority act.

21 (b) "Authority" means the Kansas development finance authority cre-
22 ated by K.S.A. 74-8903, and amendments thereto.

23 (c) "Agricultural business enterprises" means facilities supporting or
24 utilized in the operation of farms, ranches and other agricultural, aqua-
25 cultural or silvicultural commodity producers and services provided in
26 conjunction with the foregoing.

27 (d) "Board of directors" means the board of directors of the authority
28 created by K.S.A. 74-8903, and amendments thereto.

29 (e) "Bonds" means any bonds, notes, debentures, interim certificates,
30 grant and revenue anticipation notes, interest in a lease, lease certificate
31 of participation or other evidences of indebtedness, whether or not the
32 interest on which is subject to federal income taxation, issued by the
33 authority pursuant to this act.

34 (f) "Capital improvements" means any physical public betterment or
35 improvement or any preliminary plans, studies or surveys relative thereto;
36 land or rights in land, including, without limitations, leases, air rights,
37 easements, rights-of-way or licenses; and any furnishings, machinery, ve-
38 hicles, apparatus or equipment for any public betterment or improve-
39 ment.

40 (g) "Construct" means to acquire or build, in whole or in part, in such
41 manner and by such method as the authority shall determine to be in the
42 public interest and necessary to accomplish the purposes of and authority
43 set forth in this act.

Senate Commerce Committee

Date 3-19-98

Attachment # 1-1 thru 1-21

SB 675

1 (h) "Loans" means loans made for the purposes of financing any of
2 the activities authorized within this act, including loans made to financial
3 institutions for funding or as security for loans made for accomplishing
4 any of the purposes of this act and reserves and expenses appropriate or
5 incidental thereto.

6 (i) "Educational facilities" means real, personal and mixed property
7 of any and every kind intended by an educational institution in further-
8 ance of its educational program.

9 (j) "Facilities" means any real property, personal property or mixed
10 property of any and every kind.

11 (k) "Health care facilities" means facilities for furnishing physical or
12 mental health care.

13 (l) "Housing development" means any work or undertaking, whether
14 new construction or rehabilitation, which is designed and financed pur-
15 suant to the provisions of this act for the primary purpose of providing
16 dwelling accommodations for elderly persons and families of low income
17 in need of housing.

18 (m) "Industrial enterprise" means facilities for manufacturing, pro-
19 ducing, processing, assembling, repairing, extracting, warehousing, dis-
20 tributing, communications, computer services, transportation, corporate
21 and management offices and services provided in connection with any of
22 the foregoing, in isolation or in any combination, that involve the creation
23 of new or additional employment or the retention of existing employment.

24 (n) "Political subdivision" means political or taxing subdivisions of the
25 state, including municipal and quasi-municipal corporations, boards, com-
26 missions, authorities, councils, committees, subcommittees and other
27 subordinate groups or administrative units thereof, receiving or expend-
28 ing and supported, in whole or in part, by public funds.

29 (o) "Pooled bonds" means bonds of the authority, the interest on
30 which is subject to federal income taxation, which are issued for the pur-
31 pose of acquiring bonds issued by two or more political subdivisions.

32 (p) "Project of statewide as well as local importance" means a project
33 as to which the secretary of commerce and housing has made a finding
34 that at least: (i) Capital improvements costing not less than \$300,000,000
35 will be built in the state for such project; ~~(ii)~~ (ii) not less than 1,500
36 permanent and seasonal employment positions as defined by K.S.A. 74-
37 50114, and amendments thereto, will be created in the state by such
38 project;

39 (q) "State" means the state of Kansas.

40 (r) "State agency" means any office, department, board, commis-
41 sion, bureau, division, public corporation, agency or instrumentality of
42 this state.

43 Sec. 2. K.S.A. 1997 Supp. 74-8905 is hereby amended to read as

(iii) is to be located outside the city limits of any city; and (iv) is to be located at a site designated as a federal enclave as of January 1, 1998.

SB 675

3

1 follows: 74-8905. (a) The authority is hereby authorized and empowered
2 to issue bonds, either for a specific activity or on a pooled basis for a series
3 of related or unrelated activities or projects duly authorized by a political
4 subdivision or group of political subdivisions of the state in such amounts
5 as shall be determined by the authority for the purpose of financing cap-
6 ital improvement facilities, educational facilities, health care facilities and
7 housing developments. Nothing in this act shall be construed to authorize
8 the authority to issue bonds or use the proceeds thereof to (1) purchase,
9 condemn, or otherwise acquire a utility plant or distribution system
10 owned or operated by a regulated public utility or (2) finance any capital
11 improvement facilities, educational facilities, or health care facilities
12 which are authorized under the laws of the state to be financed by the
13 issuance of general obligation or utility revenue bonds of a political sub-
14 division, except that the acquisition by the authority of general obligation
15 or utility revenue bonds issued by political subdivisions with the proceeds
16 of pooled bonds shall not violate the provisions of the foregoing. Nothing
17 in this subsection (a) shall prohibit the issuance of bonds by the authority
18 when any statute specifically authorizes the issuance of bonds by the au-
19 thority or approves any activity or project of a state agency for purposes
20 of authorizing any such issuance of bonds in accordance with this section
21 and provides an exemption from the provisions of this subsection (a).

22 (b) The authority is hereby authorized and empowered to issue bonds
23 for activities and projects of state agencies as requested by the secretary
24 of administration. No bonds may be issued pursuant to this act for any
25 activity or project of a state agency unless the activity or project either
26 has been approved by an appropriation or other act of the legislature or
27 has been approved by the state finance council acting on this matter which
28 is hereby characterized as a matter of legislative delegation and subject
29 to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and
30 amendments thereto. When requested to do so by the secretary of ad-
31 ministration, the authority is further authorized and empowered to issue
32 bonds for the purpose of refunding, whether at maturity or in advance of
33 maturity, any outstanding bonded indebtedness of any state agency. The
34 revenues of any state agency which are pledged as security for any bonds
35 of such state agency which are refunded by refunding bonds of the au-
36 thority may be pledged to the authority as security for the refunding
37 bonds.

38 (c) The authority is hereby authorized and empowered to issue bonds
39 for the purpose of financing industrial enterprises, agricultural business
40 enterprises, educational facilities, health care facilities and housing de-
41 velopments, or any combination of such facilities, or any interest in facil-
42 ities, including without limitation leasehold interests in and mortgages on
43 such facilities. No less than 30 days prior to the issuance of any bonds

1 authorized under this act with respect to any project or activity which is
 2 to be undertaken for the direct benefit of any person or entity which is
 3 not a state agency or a political subdivision, written notice of the intention
 4 of the authority to provide financing and issue bonds therefor shall be
 5 given by the president of the authority to the governing body of the city
 6 in which the project or activity is to be located, or, if the project or activity
 7 is not proposed to be located within a city, such notice shall be given to
 8 the governing body of the county. No bonds for the financing of the
 9 project or activity shall be issued by the authority for a one-year period
 10 if, within 15 days after the giving of such notice, the governing body of
 11 the political subdivision in which the project or activity is proposed to be
 12 located shall have duly enacted an ordinance or resolution stating express
 13 disapproval of the project or activity and shall have notified the president
 14 of the authority of such disapproval.

15 (d) The authority is hereby authorized and empowered to issue bonds
 16 for the purpose of establishing and funding one or more series of venture
 17 capital funds in such principal amounts, at such interest rates, in such
 18 maturities, with such security, and upon such other terms and in such
 19 manner as is approved by resolution of the authority. The proceeds of
 20 such bonds not placed in a venture capital fund or used to pay or reim-
 21 burse organizational, offering and administrative expenses and fees nec-
 22 essary to the issuance and sale of such bonds shall be invested and rein-
 23 vested in such securities and other instruments as shall be provided in
 24 the resolution under which such bonds are issued. Moneys in a venture
 25 capital fund shall be used to make venture capital investments in new,
 26 expanding or developing businesses, including, but not limited to, equity
 27 and debt securities, warrants, options and other rights to acquire such
 28 securities, subject to the provisions of the resolution of the authority. The
 29 authority shall establish an investment policy with respect to the invest-
 30 ment of the funds in a venture capital fund not inconsistent with the
 31 purposes of this act. The authority shall enter into an agreement with a
 32 management company experienced in venture capital investments to
 33 manage and administer each venture capital fund upon terms not incon-
 34 sistent with the purposes of this act and such investment policy. The
 35 authority may establish an advisory board to provide advice and consulting
 36 assistance to the authority and the management company with respect to
 37 the management and administration of each venture capital fund and the
 38 establishment of its investment policy. All fees and expenses incurred in
 39 the management and administration of a venture capital fund not paid or
 40 reimbursed out of the proceeds of the bonds issued by the authority shall
 41 be paid or reimbursed out of such venture capital fund.

42 (e) The authority is hereby authorized and empowered to issue bonds
 43 for the purpose of financing ~~facilities and capital improvements in con-~~

in one or more series

a project of statewide as well as local importance

in connection

sections 4 and 5 of this act.

1 ~~section with a redevelopment plan that is approved by the authority in~~
2 ~~accordance with K.S.A. 74-8921 and 74-8922 and amendments thereto~~
3 ~~and to a project of statewide as well as local importance.~~
4 (e) (f) The authority is hereby authorized and empowered to use the
5 proceeds of any bond issues herein authorized, together with any other
6 available funds, for venture capital investments or for purchasing, leasing,
7 constructing, restoring, renovating, altering or repairing facilities as
8 herein authorized, for making loans, purchasing mortgages or security
9 interests in loan participations and paying all incidental expenses there-
10 with, paying expenses of authorizing and issuing the bonds, paying inter-
11 est on the bonds until revenues thereof are available in sufficient amounts,
12 purchasing bond insurance or other credit enhancements on the bonds,
13 and funding such reserves as the authority deems necessary and desirable.
14 All moneys received by the authority, other than moneys received by
15 virtue of an appropriation, are hereby specifically declared to be cash
16 funds, restricted in their use and to be used solely as provided herein.
17 No moneys of the authority other than moneys received by appropriation
18 shall be deposited with the state treasurer.
19 (f) (g) Any time the authority is required to publish a notification
20 pursuant to the tax equity and fiscal responsibility act of 1982, the au-
21 thority shall further publish such notification in the Kansas register.
22 (g) (h) Any time the authority issues bonds pursuant to this section,
23 the authority shall publish notification of such issuance of bonds 14 days
24 prior to any bond hearing in the official county newspaper where such
25 bonds will be used and in the Kansas register.
26 Sec. 3. K.S.A. 74-8907 is hereby amended to read as follows: 74-
27 8907. (a) The bonds may be sold in such manner, either at public or
28 private sale, and upon such terms as the authority shall determine to be
29 reasonable and expedient for effectuating the purposes for which the
30 authority was created. The bonds may be sold at such price as the au-
31 thority may accept, including sale at discount or premium.
32 (b) The bonds shall be executed by manual or facsimile signatures of
33 the chairperson of the board of directors and the president of the au-
34 thority or of any other director or officer of the authority authorized to
35 make such signature by resolution of the board of directors. In case any
36 of the officers whose signatures appear on the bonds or coupons shall
37 cease to be such officers before delivery of such bonds or coupons, their
38 signatures, nevertheless, shall be valid and sufficient for all purposes. The
39 authority shall adopt and use a seal in the execution and issuance of the
40 bonds, and each bond shall be impressed or imprinted with the seal of
41 the authority.
42 (c) It shall be plainly stated on the face of each bond that it has been
43 issued under this act, that the bonds shall be obligations only of the au-

approves

has been designated by the secretary of commerce and housing as

To establish a redevelopment district, the authority shall adopt a resolution stating its intent to establish the redevelopment district, describing the boundaries of the proposed district, identifying any proposed projects to be considered as a part of the redevelopment district, and stating the time, place, and manner that the authority will receive public written comment on the proposed redevelopment district. The resolution shall be published once each week for two consecutive weeks in a newspaper of general circulation within the County in which the redevelopment district may be established. A copy of the resolution shall be mailed to the governing bodies of the County and the school district in which the proposed redevelopment district is located. Upon conclusion of a public comment period of not less than ten (10) days following the second publication, the authority may adopt a resolution establishing the redevelopment district. Any addition of area to the redevelopment district shall be subject to the same procedure as the original resolution that established the redevelopment district.

(c) Subject to the provisions of section 8, any

1 thorty, and that, in no event, shall the bonds constitute an indebtedness
2 of the state of Kansas or an indebtedness for which the faith and credit
3 or taxing powers of the state of Kansas are pledged. The payment of the
4 principal of, redemption premium, if any, or interest on the trustee's and
5 paying agent's fees in connection with the bonds may be secured by a
6 lien on and security interest in facilities financed by bonds issued here-
7 under, by lien or pledge of loans made or mortgages purchased by the
8 authority and any collateral security received by the authority, including
9 without limitation the authority's interest in and any revenue derived from:
10 any loan, *lease or other financing* agreements. It shall not be necessary,
11 to the perfection of the lien and pledge for such purposes that the trustee
12 in connection with such bond issue or the holders of the bonds take
13 possession of the loans, mortgages and, *leases or* collateral security.

14 New Sec. 4. (a) In addition to the other requirements of this act,
15 bonds issued by the authority under subsection (e) of K.S.A. 74-8905 and
16 amendments thereto, shall be issued only after the authority establishes
17 a redevelopment district and ~~adopts~~ a redevelopment plan for a project
18 of statewide as well as local importance in accordance with subsections
19 (b) and (c).

20 (b) The authority may establish a district to be known as a "redevelop-
21 opment district" within the state that is-

22 ~~(1) Suitable for the construction of facilities for a project of statewide
23 as well as local importance,~~

24 ~~(2) is then located outside the city limits of any city; and
25 (3) as of January 1, 1998, was designated as a federal enclave within
26 the meaning of army regulation 405-20.~~

27 (c) A project of statewide as well as local importance may be under-
28 taken by ~~the authority or a developer on behalf of the authority~~, in one
29 or more phases, within a redevelopment district after the redevelopment

30 district has been established by the authority. ~~To establish a redevelop-
31 ment district the authority shall adopt a resolution that describes the
32 boundaries of the redevelopment district and makes the findings required
33 by this subsection. Any addition of area to the redevelopment district shall
34 be subject to the adoption of a resolution of the authority supplementing
35 or amending the original resolution establishing the redevelopment dis-
36 trict.~~

37 (d) Any redevelopment plan undertaken within the redevelopment
38 district may be in separate development stages. Each plan shall be
39 adopted according to the provisions of section 5, and shall fix a date for
40 completion. Any project constituting a part of an approved redevelopment
41 plan shall be completed within 20 years from the date of the establish-
42 ment of the redevelopment district.

43 (e) ~~Any~~ increment in ad valorem property taxes resulting from a re-

the redevelopment bond fund created pursuant to section 16

1 development district undertaken in accordance with the provisions of this
2 act, shall be apportioned to a special fund for the payment of the costs
3 of the project of statewide as well as local importance, including the pay-
4 ment of principal and interest on any bonds issued to finance such project
5 pursuant to this act and may be pledged to the payment of principal and
6 interest on such bonds. The maximum maturity on bonds issued to fi-
7 nance projects of statewide as well as local importance pursuant to this
8 section and subsection (e) of K.S.A. 74-8905 and amendments thereto
9 shall not exceed 20 years. For the purposes of this act, "increment" means

from the date of establishment of the redevelopment district.

10 that amount of ad valorem taxes collected from real property located
11 within the redevelopment district that is in excess of the amount which
12 is produced from such property and attributable to the assessed valuation
13 of such property prior to the date the redevelopment district was estab-
14 lished, as determined under the provisions of section 8.

by the developer and submitted to the secretary of commerce and housing and the authority and an agreement between the authority and the developer with respect to implementing the redevelopment plan shall have been executed.

15 (f) Before any project of statewide as well as local importance is un-
16 dertaken, a comprehensive feasibility study, which shows the benefits
17 derived from such project will exceed the costs and that the income there-
18 from will be sufficient to pay for the project, shall be prepared. Such
19 feasibility study shall be an open public record.

A copy of the proposed redevelopment plan shall be delivered by the developer to the authority, the secretary of housing and commerce and the board of county commissioners of the county in which the redevelopment district is located, and the board of county commissioners shall determine, within 30 days after receipt of the plan, whether the plan as proposed is consistent with the comprehensive general plan for the development of the area. If the proposed redevelopment plan is not consistent with the comprehensive general plan, the board of county commissioners shall provide its comments and objections to the authority, which shall modify, approve or deny the plan. If the redevelopment plan is consistent with the comprehensive general plan of the county, then the authority may adopt the redevelopment plan by resolution passed by a majority of the board of directors of the authority. Any substantial changes to the plan as adopted shall be made in the same manner, with notice and approval of the board of county commissioners and adoption of a resolution by the authority. A redevelopment plan may be adopted by the authority, pursuant to these procedures, at the same time that the authority establishes the redevelopment district under section 4.

20 New Sec. 5. (a) If the authority or a developer proposes to undertake
21 a project of statewide as well as local importance within a redevelopment
22 district established pursuant to section 4, the authority or the developer
23 shall prepare a redevelopment plan. The redevelopment plan shall in-
24 clude:

- 25 (1) A summary of the feasibility study required by section 4;
- 26 (2) a reference to the redevelopment district established under sec-
27 tion 4;
- 28 (3) a comprehensive description of the project of statewide as well as
29 local importance;
- 30 (4) a description and map of the area to be redeveloped;
- 31 (5) detailed description of the buildings and facilities proposed to be
32 constructed or improved in such area; and
- 33 (6) any other information the authority deems necessary to advise the
34 public of the intent of the plan.

35 (b) ~~A copy of the redevelopment shall be delivered to the authority.~~
36 ~~The authority may adopt the redevelopment plan by resolution passed by~~
37 ~~a majority of the board of directors of the authority. Any substantial~~
38 ~~changes to the plan as adopted shall be subject to further review and~~
39 ~~approval by the authority. A redevelopment plan may be adopted by the~~
40 ~~authority at the same time the authority establishes a redevelopment dis-~~
41 ~~trict under section 4.~~

42 New Sec. 6. The authority may use the proceeds of bonds issued
43 subsection (e) of K.S.A. 74-8905 and amendments thereto, or any uncom-

pursuant to

1 mitted funds derived from those sources set forth in section 7, to imple-
2 ment the redevelopment plan including, the payment or reimbursement
3 of all costs of the project of statewide as well as local importance.

4 New Sec. 7. Any bonds issued by the authority under subsection (e)
5 of K.S.A. 74-8905 and amendments thereto to finance the undertaking
6 of any project of statewide as well as local importance in accordance with
7 the provisions of this act, shall be made payable, both as to principal and
8 interest:

9 (a) From property tax increments allocated to, and paid into a special
10 fund of the authority under the provisions of section 8;

11 (b) from revenues of the authority or the developer derived from or
12 held in connection with the undertaking and carrying out of any rede-
13 velopment plan under this act;

14 (c) from any private sources, contributions or other financial assis-
15 tance from the state or federal government;

16 (d) from a pledge of a portion or all of the revenue received by the
17 state from transient guest sales and use taxes collected pursuant to K.S.A.
18 12-187 et seq., 12-1696 et seq., 70-3601 et seq. and 70-3701 et seq., and
19 amendments thereto, and which are collected from taxpayers doing busi-
20 ness within that portion of the redevelopment district established pur-
21 suant to section 4 occupied by a project of statewide as well as local
22 importance;

23 (e) (1) from a pledge of a portion or all increased revenue received
24 by any city from franchise fees collected from utilities and other busi-
25 nesses using public right-of-way within the redevelopment district;

26 (2) from a pledge of a portion or all of the revenue received by any
27 city from sales taxes collected pursuant to K.S.A. 12-187, and amend-
28 ments thereto; or

29 (3) by any combination of these methods.

30 (f) The authority may pledge such revenue to the repayment of such
31 special obligation bonds prior to, simultaneously with, or subsequent to
32 the issuance of such special obligation bonds.

33 New Sec. 8. (a) For the purposes of this act, the term "taxing sub-
34 division" shall include the county, the city, the unified school district and
35 any other taxing subdivision levying real property taxes, the territory or
36 jurisdiction of which includes any currently existing or subsequently cre-
37 ated redevelopment district. The term "real property taxes" includes all
38 taxes levied on an ad valorem basis upon land and improvements thereon.

39 (b) All tangible taxable property located within a redevelopment dis-
40 trict shall be assessed and taxed for ad valorem tax purposes pursuant to
41 law in the same manner that such property would be assessed and taxed
42 if located outside such district, and all ad valorem taxes levied on such
43 property shall be paid to and collected by the county treasurer in the

1

collected

under section 16 for a period not to exceed 20 years
after the date of establishment of the redevelopment
district;

(e)

and paid by the county treasurer according to specified percentages of the tax increment expressly agreed upon and consented to by the governing bodies of the county and school district in which the redevelopment district is located. The amount of the real property taxes allocated and payable to the authority under the agreement shall be paid by the county treasurer to the treasurer of the state. The remaining amount of the real property taxes not payable to the authority shall be allocated and paid in the same manner as other ad valorem taxes. Any real property taxes paid to the state treasurer under this section shall be deposited

1 same manner as other taxes are paid and collected. Except as otherwise
 2 provided in this section, the county treasurer shall distribute such taxes
 3 as may be collected in the same manner as if such property were located
 4 outside a redevelopment district. Each redevelopment district established
 5 under the provisions of this act shall constitute a separate taxing unit for
 6 the purpose of the computation and levy of taxes.

7 (c) Beginning with the first payment of taxes which are levied follow-
 8 ing the date of approval of any redevelopment district established pur-
 9 suant to K.S.A. 74-3921, and amendments thereto, real property taxes
 10 received by the county treasurer resulting from taxes which are levied
 11 subject to the provisions of this act by and for the benefit of a taxing
 12 subdivision, as herein defined, on property located within such redevel-
 13 opment district constituting a separate taxing unit under the provisions
 14 of this section, shall be divided as follows:

15 (1) From the taxes levied each year subject to the provisions of this
 16 act by or for each of the taxing subdivisions upon property located within
 17 a redevelopment district constituting a separate taxing unit under the
 18 provisions of this act, the county treasurer first shall allocate and pay to
 19 each such taxing subdivision all of the real property taxes collected which
 20 are produced from that portion of the current assessed valuation of such
 21 real property located within such separate taxing unit which is equal to
 22 the total assessed value of such real property on the date of the estab-
 23 lishment of the redevelopment district.

24 (2) Any real property taxes produced from that portion of the current
 25 assessed valuation of real property within the redevelopment district con-
 26 stituting a separate taxing unit under the provisions of this section in
 27 excess of an amount equal to the total assessed value of such real property
 28 on the effective date of the establishment of the district shall be allocated
 29 and paid by the county treasurer to the treasurer of the state and depos-

30 ~~ited~~ in the redevelopment bond finance fund of the authority which is
 31 hereby created to pay the costs of the project of statewide as well as local
 32 importance, including the payment of principal of and interest on any
 33 bonds issued by the authority to finance, in whole or in part, such project.
 34 When such bonds and interest thereon have been paid, all moneys there-
 35 after received from real property taxes within such redevelopment district
 36 shall be allocated and paid to the respective taxing subdivisions in the
 37 same manner as are other ad valorem taxes. If such bonds and interest
 38 thereon have been paid before the completion of a project, the authority
 39 may continue to use such moneys for any purpose authorized by this act
 40 until such time as the project costs are paid or reimbursed, but for a
 41 period not to exceed 20 years from the date of the establishment of the
 42 redevelopment district.

43 (d) In any redevelopment plan or in the proceedings for the issuing

pursuant to section 16 hereof

1 of any bonds by the authority to finance a project of statewide as well as
2 local importance, the property tax increment portion of taxes provided
3 for in paragraph (2) of subsection (c) may be irrevocably pledged for the
4 payment of the principal of and interest on such bonds. The authority
5 may adopt a redevelopment plan in which only a specified percentage of
6 the tax increment realized from taxpayers in the redevelopment district
7 is pledged to the payment of costs of the project of statewide as well as
8 local importance. ~~The county treasurer shall allocate the specified per-
9 centage of the tax increment to the treasurer of the state for deposit in
10 the redevelopment bond finance fund of the authority to finance the cost
11 of the project if the authority has other available revenues and pledges
12 the revenues to the project in lieu of the tax increment. Any portion of
13 such tax increment not allocated to the authority for the project shall be
14 allocated and paid in the same manner as other ad valorem taxes.~~

15 New Sec. 9. (a) No later than 30 days prior to a meeting of the board
16 of directors of the authority at which a redevelopment plan that contains
17 the provisions authorized by section 5 is to be considered by the authority,
18 the secretary of the authority shall transmit a copy of the proposed re-
19 development plan to be considered by the authority to the clerk, assessor
20 and treasurer of the county in which the redevelopment district is located
21 and to the governing bodies of the county and school district which levy
22 taxes upon any property in the redevelopment district. A representative
23 of each office or jurisdiction receiving a copy of the proposed redevel-
24 opment plan under this subsection shall have the right to be present and
25 heard at the meeting of the board of directors of the authority at which
26 the redevelopment plan is first considered by the authority.

27 (b) For any year in which taxes are to be paid to the redevelopment
28 bond finance fund established under subsection (c)(2) of section 8, any
29 increase in assessed valuation of taxable tangible real property within the
30 redevelopment district in excess of an amount equal to the total assessed
31 value of such real property on the date of the establishment of the re-
32 development district shall not be considered by any taxing subdivision in
33 computing any debt limitation or for any other purpose except for the
34 levy of taxes and in determining the amount to be paid to such fund.

35 (c) The appraiser of any county in which a redevelopment district is
36 authorized by the authority shall certify the amount of such increase in
37 assessed valuation of real and personal property within the redevelopment
38 district to the county clerk on or before July 1 of each year.

39 New Sec. 10. As used in sections 10 through 13 of this act, the fol-
40 lowing words and phrases shall have the meanings respectively ascribed
41 to them herein:

42 (a) "Person" means an individual, firm, partnership, corporation, join
43 venture or other association of persons:

1 (b) "Hotel, motel or tourist court" means any structure or building
 2 which contains rooms furnished for the purposes of providing lodging,
 3 which may or may not also provide meals, entertainment or various other
 4 personal services to transient guests, and which is kept, used, maintained,
 5 advertised or held out to the public as a place where sleeping accom-
 6 modations are sought for pay or compensation by transient or permanent
 7 guests and having more than eight bedrooms furnished for the accom-
 8 modation of such guests;

9 (c) "Transient guest" means a person who occupies a room in a hotel,
 10 motel or tourist court for not more than 28 consecutive days;

11 (d) "Business" means any person engaged in the business of renting,
 12 leasing or letting living quarters, sleeping accommodations, rooms or a
 13 part thereof in connection with any motel, hotel or tourist court.

14 New Sec. 11. (a) Upon notification to the director of taxation that
 15 the Kansas development finance authority has established a redevelop-
 16 ment district pursuant to section 4, there is hereby imposed a tax at the
 17 rate of 5% upon the gross receipts derived from or paid by transient guests
 18 for sleeping accommodations, exclusive of charges for incidental services
 19 or facilities, in any hotel, motel or tourist court located in a redevelopment
 20 district established pursuant to section 4 ~~for so long as such district is not~~
 21 ~~located within a city which imposes such a tax.~~

22 (b) Any transient guest tax levied pursuant to this section shall be
 23 based on the gross rental receipts collected by any business.

24 (c) The taxes levied pursuant to this section shall be paid by the con-
 25 sumer or user to the business and it shall be the duty of each and every
 26 business to collect from the consumer or user the full amount of any such
 27 tax, or an amount equal as nearly as possible or practicable to the average
 28 equivalent thereto. Each business collecting any of the taxes levied here-
 29 under shall be responsible for paying over the same to the state depart-
 30 ment of revenue in the manner prescribed by section 12 and the state
 31 department of revenue shall administer and enforce the collection of such
 32 taxes.

33 New Sec. 12. (a) The tax levied and collected pursuant to section 11
 34 shall become due and payable by the business monthly, on or before the
 35 last day of the month immediately succeeding the month in which it is
 36 collected, but any person filing an annual or quarterly return under the
 37 Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amend-
 38 ments thereto, shall, upon such conditions as the secretary of revenue
 39 may prescribe, pay the tax required by this act on the same basis and at
 40 the same time such person pays the retailers' sales tax. Each business

41 shall make a true report to the department of revenue, on a form pre-
 42 scribed by the ~~secretary of revenue~~, providing such information as may
 43 be necessary to determine the amounts to which any such tax shall apply

director of taxation

1 for all gross rental receipts for the applicable month or months, which
2 report shall be accompanied by the tax disclosed thereby. Records of gross
3 rental receipts shall be kept separate and apart from the records of other
4 retail sales made by a business in order to facilitate the examination of
5 books and records as provided herein.

6 (b) The secretary of revenue or the secretary's authorized represen-
7 tative shall have the right at all reasonable times during business hours
8 to make such examination and inspection of the books and records of a
9 business as may be necessary to determine the accuracy of such reports.

director of taxation

10 (c) The ~~secretary of revenue~~ is hereby authorized to administer and
11 collect the transient guest tax levied pursuant to this act and to adopt such
12 rules and regulations as may be necessary for the efficient and effective
13 administration and enforcement of the collection thereof. Whenever any
14 business liable to pay any transient guest tax refuses or neglects to pay
15 the same, the amount, including any penalty, shall be collected in the
16 manner prescribed for the collection of the retailers' sales tax by K.S.A.
17 79-3617, and amendments thereto. All of the taxes collected under the
18 provisions of this act shall be paid into the state treasury daily by the
19 ~~secretary of revenue~~, and all moneys shall be credited at least quarterly
20 by the state treasurer as directed in section 15. 16

director of taxation

21 New Sec. 13. (a) If any taxpayer shall fail to pay the tax levied pur-
22 suant to section 11 at the time required by or under the provisions of
23 section 12 there shall be added to the unpaid balance of the tax, interest
24 at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and
25 amendments thereto, from the date the tax was due until paid.

26 (b) If any taxpayer due to negligence or intentional disregard fails to
27 file a return or pay the tax due at the time required by or under the
28 provisions of section 12 there shall be added to the tax a penalty in an
29 amount equal to 10% of the unpaid balance of tax due.

30 (c) If any person fails to make a return, or to pay any tax, within 30
31 days after notice from the director, except in the case of an extension of
32 time granted by the director, there shall be added to the tax due a penalty
33 equal to 25% of the amount of such tax.

34 (d) If any taxpayer, with fraudulent intent, fails to pay any tax or make,
35 render or sign any return, or to supply any information, within the time
36 required by or under the provisions of section 12 there shall be added to
37 the tax a penalty in an amount equal to 50% of the unpaid balance of tax
38 due.

of taxation

39 (e) Penalty or interest applied under the provisions of subsections (a)
40 and (d) shall be in addition to the penalty added under any other provi-
41 sions of this section, but the provisions of subsections (b) and (c) shall be
42 mutually exclusive of each other.

43 (f) Whenever, in the judgment of the director, the failure of the tax-

1 payer to comply with the provisions of subsections (b) and (c) was due to
 2 reasonable causes and not willful neglect, the director may waive or
 3 reduce any of the penalties upon making a record of the reasons therefor.
 4 (g) In addition to all other penalties provided by this section, any
 5 person who willfully fails to make a return or to pay any tax imposed
 6 under section 11 or who makes a false or fraudulent return, or fails to
 7 keep any books or records necessary to determine the accuracy of the
 8 person's reports, or who willfully violates any regulations of the secretary
 9 of revenue, for the enforcement and administration of the provisions of
 10 sections 10 through 12, or who aids and abets another in attempting to
 11 evade the payment of any tax imposed by section 11 or who violates any
 12 other provision of sections 10 through 12, upon conviction thereof, shall
 13 be fined not less than \$100 nor more than \$1,000, or be imprisoned in
 14 the county jail not less than one month nor more than six months, or be
 15 both so fined and imprisoned, in the discretion of the court.

there is hereby levied and there shall be collected
 and paid an additional tax at the rate of 1%

the earlier of: (1) the date

; or (2) 20 years after establishment of the
 redevelopment district

16 Sec. 14. K.S.A. 79-3603 is hereby amended to read as follows: 79-
 17 3603. For the privilege of engaging in the business of selling tangible
 18 personal property at retail in this state or rendering or furnishing any of
 19 the services taxable under this act, there is hereby levied and there shall
 20 be collected and paid a tax at the rate of 4.9%, ~~except that within a~~
 21 ~~redevelopment district established pursuant to section 4, the tax shall be~~
 22 ~~paid at the rate of 5.9%, but only until such time as the bonds issued to~~
 23 ~~finance or refinance the redevelopment project undertaken in the district~~
 24 ~~have been paid in full.~~

25 (a) The gross receipts received from the sale of tangible personal
 26 property at retail within this state;

27 (b) (1) the gross receipts from intrastate telephone or telegraph serv-
 28 ices and (2) the gross receipts received from the sale of interstate tele-
 29 phone or telegraph services, which (A) originate within this state and
 30 terminate outside the state and are billed to a customer's telephone num-
 31 ber or account in this state; or (B) originate outside this state and ter-
 32 minate within this state and are billed to a customer's telephone number
 33 or account in this state except that the sale of interstate telephone or
 34 telegraph service does not include: (A) Any interstate incoming or out-
 35 going wide area telephone service or wide area transmission type service
 36 which entitles the subscriber to make or receive an unlimited number of
 37 communications to or from persons having telephone service in a speci-
 38 fied area which is outside the state in which the station provided this
 39 service is located; (B) any interstate private communications service to
 40 the persons contracting for the receipt of that service that entitles the
 41 purchaser to exclusive or priority use of a communications channel or
 42 group of channels between exchanges; (C) any value-added nonvoice
 43 service in which computer processing applications are used to act on the

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- ... 1 form, content, code or protocol of the information to be transmitted; (D)
2 any telecommunication service to a provider of telecommunication serv-
3 ices which will be used to render telecommunications services, including
4 carrier access services; or (E) any service or transaction defined in this
5 section among entities classified as members of an affiliated group as
6 provided by federal law (U.S.C. Section 1504);
- 7 (c) the gross receipts from the sale or furnishing of gas, water, elec-
8 tricity and heat, which sale is not otherwise exempt from taxation under
9 the provisions of this act, and whether furnished by municipally or pri-
10 vately owned utilities;
- 11 (d) the gross receipts from the sale of meals or drinks furnished at
12 any private club, drinking establishment, catered event, restaurant, eating
13 house, dining car, hotel, drugstore or other place where meals or drinks
14 are regularly sold to the public;
- 15 (e) the gross receipts from the sale of admissions to any place pro-
16 viding amusement, entertainment or recreation services including admis-
17 sions to state, county, district and local fairs, but such tax shall not be
18 levied and collected upon the gross receipts received from sales of ad-
19 missions to any cultural and historical event which occurs triennially;
- 20 (f) the gross receipts from the operation of any coin-operated device
21 dispensing or providing tangible personal property, amusement or other
22 services except laundry services, whether automatic or manually operated;
- 23 (g) the gross receipts from the service of renting of rooms by hotels,
24 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
25 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto;
- 26 (h) the gross receipts from the service of renting or leasing of tangible
27 personal property except such tax shall not apply to the renting or leasing
28 of machinery, equipment or other personal property owned by a city and
29 purchased from the proceeds of industrial revenue bonds issued prior to
30 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
31 12-1749, and amendments thereto, and any city or lessee renting or leas-
32 ing such machinery, equipment or other personal property purchased
33 with the proceeds of such bonds who shall have paid a tax under the
34 provisions of this section upon sales made prior to July 1, 1973, shall be
35 entitled to a refund from the sales tax refund fund of all taxes paid
36 thereon;
- 37 (i) the gross receipts from the rendering of dry cleaning, pressing,
38 dyeing and laundry services except laundry services rendered through a
39 coin-operated device whether automatic or manually operated;
- 40 (j) the gross receipts from the rendering of the services of washing
41 and washing and waxing of vehicles;
- 42 (k) the gross receipts from cable, community antennae and other sub-
43 scriber radio and television services;

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1 (l) the gross receipts received from the sales of tangible personal
2 property to all contractors, subcontractors or repairmen of materials and
3 supplies for use by them in erecting structures for others, or building on,
4 or otherwise improving, altering, or repairing real or personal property.
5 of others;

6 (m) the gross receipts received from fees and charges by public and
7 private clubs, drinking establishments, organizations and businesses for
8 participation in sports, games and other recreational activities, but such
9 tax shall not be levied and collected upon the gross receipts received from:
10 (1) Fees and charges by any political subdivision, or any youth recreation
11 organization exclusively providing services to persons 18 years of age or
12 younger which is exempt from federal income taxation pursuant to section
13 501(c)(3) of the federal internal revenue code of 1986, for participation
14 in sports, games and other recreational activities; and (2) entry fees and
15 charges for participation in a special event or tournament sanctioned by
16 a national sporting association to which spectators are charged an admis-
17 sion which is taxable pursuant to subsection (e);

18 (n) the gross receipts received from dues charged by public and pri-
19 vate clubs, drinking establishments, organizations and businesses, pay-
20 ment of which entitles a member to the use of facilities for recreation or
21 entertainment;

22 (o) the gross receipts received from the isolated or occasional sale of
23 motor vehicles or trailers but not including: (1) The transfer of motor
24 vehicles or trailers by a person to a corporation solely in exchange for
25 stock securities in such corporation; or (2) the transfer of motor vehicles
26 or trailers by one corporation to another when all of the assets of such
27 corporation are transferred to such other corporation; or (3) the sale of
28 motor vehicles or trailers which are subject to taxation pursuant to the
29 provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an
30 immediate family member to another immediate family member. For the
31 purposes of clause (3), immediate family member means lineal ascendants
32 or descendants, and their spouses. In determining the base for computing
33 the tax on such isolated or occasional sale, the fair market value of any
34 motor vehicle or trailer traded in by the purchaser to the seller may be
35 deducted from the selling price;

36 (p) the gross receipts received for the service of installing or applying
37 tangible personal property which when installed or applied is not being
38 held for sale in the regular course of business, and whether or not such
39 tangible personal property when installed or applied remains tangible
40 personal property or becomes a part of real estate, except that no tax shall
41 be imposed upon the service of installing or applying tangible personal
42 property in connection with the original construction of a building or
43 facility or the construction, reconstruction, restoration, replacement or

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1 repair of a bridge or highway.

2 For the purposes of this subsection:

3 (1) "Original construction" shall mean the first or initial construction
4 of a new building or facility. The term "original construction" shall include
5 the addition of an entire room or floor to any existing building or facility,
6 the completion of any unfinished portion of any existing building or fa-
7 cility and the restoration, reconstruction or replacement of a building or
8 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
9 or earthquake, but such term shall not include replacement, remodeling,
10 restoration, renovation or reconstruction under any other circumstances:

11 (2) "building" shall mean only those enclosures within which individ-
12 uals customarily live or are employed, or which are customarily used to
13 house machinery, equipment or other property, and including the land
14 improvements immediately surrounding such building; and

15 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
16 well, feedlot or any conveyance, transmission or distribution line of any
17 cooperative, nonprofit, membership corporation organized under or sub-
18 ject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto,
19 or of any municipal or quasi-municipal corporation, including the land
20 improvements immediately surrounding such facility;

21 (q) the gross receipts received for the service of repairing, servicing,
22 altering or maintaining tangible personal property, except computer soft-
23 ware described in subsection (s), which when such services are rendered
24 is not being held for sale in the regular course of business, and whether
25 or not any tangible personal property is transferred in connection there-
26 with. The tax imposed by this subsection shall be applicable to the services
27 of repairing, servicing, altering or maintaining an item of tangible personal
28 property which has been and is fastened to, connected with or built into
29 real property;

30 (r) the gross receipts from fees or charges made under service or
31 maintenance agreement contracts for services, charges for the providing
32 of which are taxable under the provisions of subsection (p) or (q);

33 (s) the gross receipts received from the sale of computer software,
34 and the sale of the services of modifying, altering, updating or maintaining
35 computer software. As used in this subsection, "computer software"
36 means information and directions loaded into a computer which dictate
37 different functions to be performed by the computer. Computer software
38 includes any canned or prewritten program which is held or existing for
39 general or repeated sale, even if the program was originally developed
40 for a single end user as custom computer software. The sale of computer
41 software or services does not include: (1) The initial sale of any custom
42 computer program which is originally developed for the exclusive use of
43 a single end user; or (2) those services rendered in the modification of

there is hereby levied and there shall be collected and paid an additional tax of 1%

the earlier of: (1) the date

; or (2) 20 years after the establishment of the redevelopment district

Until the earlier of: (1) the date the bonds issued to finance or refinance the redevelopment undertaken in the redevelopment district have been paid in full, or (2) 20 years after the establishment of the redevelopment district,

any revenue from a county or countywide retailers' sales tax levied or collected under section 20,

which is hereby established

New Sec. 17. The secretary of commerce and housing, the state treasurer, the board of county commissioners, the director of taxation, any bond trustee or fiscal agent are authorized to enter into agreements in connection with the implementation of any redevelopment project with a redevelopment district established pursuant to section 4 of this act.

New Sec. 18.—See Insert.

New Sec. 19.—See Insert.

New Sec. 20.—See Insert.

21

22

1 computer software when the modification is developed exclusively for a
2 single end user only to the extent of the modification and only to the
3 extent that the actual amount charged for the modification is separately
4 stated on invoices, statements and other billing documents provided to
5 the end user. The services of modification, alteration, updating and main-
6 tenance of computer software shall only include the modification, alter-
7 ation, updating and maintenance of computer software taxable under this
8 subsection whether or not the services are actually provided; and

9 (t) the gross receipts received for telephone answering services, in-
10 cluding mobile phone services, beeper services and other similar services.

11 Sec. 15. K.S.A. 79-3703 is hereby amended to read as follows: 79-
12 3703. There is hereby levied and there shall be collected from every
13 person in this state a tax or excise for the privilege of using, storing, or
14 consuming within this state any article of tangible personal property. Such
15 tax shall be levied and collected in an amount equal to the consideration
16 paid by the taxpayer multiplied by the rate of 4.9%, ~~except that within a~~
17 ~~redemption district established pursuant to section 4, the rate shall be~~

18 ~~5.0%, but only until such time as the bonds issued to finance or refinance~~
19 ~~the redevelopment project undertaken in the district have been paid in~~
20 ~~full~~ All property purchased or leased within or without this state and
21 subsequently used, stored or consumed in this state shall be subject to
22 the compensating tax if the same property or transaction would have been
23 subject to the Kansas retailers' sales tax had the transaction been wholly
24 within this state.

25 New Sec. 16. ~~All~~ revenues collected or received from the state tran-
26 sient guest tax established pursuant to sections 10 through 13, the state
27 retailers' sales tax pursuant to K.S.A. 79-3603 and amendments thereto
28 and the state compensating use tax, pursuant to K.S.A. 79-3703 and
29 amendments thereto, which have been certified by the director of taxation
30 to have been derived from taxpayers located in a redevelopment district
31 shall be remitted to the state treasurer. The state treasurer shall credit
32 all such revenues to the redevelopment bond fund established pursuant
33 to ~~section 4~~. The state treasurer shall make such biannual distributions
34 on dates mutually agreed upon by the treasurer and the authority. The
35 authority shall use all such moneys received pursuant to this section to
36 pay the costs of a redevelopment project of statewide as well as local
37 importance as described in K.S.A. 74-8902, and amendments thereto.

38 ~~Sec. 17.~~ K.S.A. 74-8907, 79-3603 and 79-3703 and K.S.A. 1997 Supp.
39 74-8902 and 74-8905 are hereby repealed.

40 Sec. ~~18.~~ This act shall take effect and be in force from and after its
41 publication in the Kansas register.

[Bold language is new language]

Section 18. K.S.A. 1997 Supp. 12-189 is hereby amended to read as follows: 12-189. Same; rates; administration and collection by state; refunds; remittance to cities and counties; monthly reports. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A or class C city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class B city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75%, 1%, 1.25%, 1.5%, 1.75% or 2%. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75%, 1%, 1.25%, 1.5% or 1.75%. The rate of any countywide retailers' sales tax shall be fixed in an amount of either .25%, .5%, .75% or 1% which amount shall be determined by the board of county commissioners, except that:

(a) The board of county commissioners of Cherokee, Crawford, Saline, Seward or Wyandotte county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, and the board of county commissioners of Barton, Jefferson or Ottawa county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(b) the board of county commissioners of Jackson county, for the purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(c) the boards of county commissioners of Finney and Ford counties, for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at .25%;

(d) the board of county commissioners of any county for the purposes of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by a board of county commissioners on the effective date of this act plus .25%, .5%, .75% or 1%, as the case requires; or

(e) the board of county commissioners of Dickinson county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%.

Any county or city levying a retailers' sales tax is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such local sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

Upon receipt of a certified copy of an ordinance or resolution authorizing the levy of a local retailers' sales tax, the state director of taxation shall cause such taxes to be collected within or without the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state retailers' sales tax. All moneys collected by the director of taxation under the provisions of this section shall be credited to a county and city retailers' sales tax fund which fund is hereby established in the state treasury. Any refund due on any county or city retailers' sales tax collected pursuant to this act shall be

paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of local retailers' sales tax revenue. **Except for local retailers' sales tax revenue required to be deposited in the redevelopment bond fund established under section 16, [a]ll local retailers' sales tax revenue collected within any county or city pursuant to this act shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county or city.** The director of taxation shall provide, upon request by a city or county clerk or treasurer of any city or county levying a local retailers' sales tax, a monthly report identifying each retailer having a place of business in such city or county and setting forth the amount of such tax remitted by each retailer during the preceding month. Such report shall be made available to the clerk or treasurer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner. Any violation of this paragraph by a city or county officer or employee is a class B misdemeanor, and such officer or employee shall be dismissed from office.

Section 19. K.S.A. 1997 Supp. 12-192 is hereby amended to read as follows: 12-192. ~~Same; apportionment of revenue from countywide retailers' sales tax; notification of state sales tax collected in county for preceding year; county clerks to provide secretary information necessary for apportionment.~~ (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers' sales tax shall be apportioned among the county and each city located in such county in the following manner: (1) One-half of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year, and (2) except as provided by paragraph (3), 1/2 of all revenue received by the director of taxation from such countywide retailers' sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county, or (3) one-half of all revenue received by the director of taxation from countywide retailers' sales taxes levied in Geary county in any year shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county less the population residing on a military reservation bears to the total population of the county less the population residing on a military reservation, and second to the cities in the proportion that the population of each city bears to the total population of the county less the population residing on a military reservation. All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) As an alternative and in lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers' sales tax imposed within Johnson county at the rate of .75% or 1% after the effective date of this act may be apportioned among the county and each city located in such county in the following manner: (A) The revenue received from the first .5% rate of tax shall be apportioned in the manner prescribed by subsection (a) and (B) the revenue received from the rate of tax exceeding .5% shall be apportioned as follows: (i) One-fourth shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies

made in the preceding year and (ii) one-fourth shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county and (iii) one-half shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue apportioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term "total tangible property tax levies" means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term "total tangible property tax levies" for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.

(d) (1) All revenue received from a countywide retailers' sales tax imposed pursuant to paragraphs (2), (6) or (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(2) Except as otherwise provided in paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy countywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

(h) The provisions of subsection (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under section 20. All such revenue collected under section 20 shall be deposited into the redevelopment bond fund established by section 16 for the period of time set forth in section 16.

New Section 20

(a) Whenever a redevelopment district is proposed to be established pursuant to section 4, the governing body of the county in which the redevelopment district is proposed to be located may, in addition to any countywide retailers' sales tax authorized by K.S.A. 12-187, and amendments thereto, or other specific statutory provisions, adopt and impose a county retailers' sales tax at a rate of .5% within the redevelopment district, without submitting the question to an election and all revenue derived from the county retailers' sales tax levied under this subsection shall be pledged for the purposes of financing the redevelopment plan.

(b) Notwithstanding any other statutory provision to the contrary, whenever the governing body of a county adopts and imposes the county retailers' sales tax authorized under subsection (a), then all revenue that is derived from a countywide retailers' sales tax imposed by such county pursuant to K.S.A. 12-187, and amendments thereto, from taxpayers within the redevelopment district, except those portions of such taxes which have otherwise been expressly dedicated for other purposes by a prior pledge of such county or by authorizing statute or voter approval, shall be considered to be dedicated for purposes of the redevelopment district and upon collection by the director of taxation, such revenues shall be remitted to the state treasurer for deposit in the redevelopment bond funds established by section 16.

(c) All revenue derived from a county retailers' sales tax imposed under subsection (a) and collected under subsection (b) shall upon collection, be remitted to the state treasurer, as provided by section 16, and may be pledged and used by the authority in like manner as other revenues collected or received under section 16. Whenever the authority has proposed to issue bonds pursuant to subsection (e) of K.S.A. 74-8905 and amendments thereto, the county retailers' sales tax imposed under subsection (a) and the revenue collected under subsection (b) shall remain in effect and may not be reduced or rescinded by the governing body of the county until such time as the bonds have been fully paid. When such bonds have been fully paid, then (1) the county retailers' sales tax imposed under subsection (a) shall expire, unless otherwise renewed by action of the governing body of the county for purposes of implementing additional projects authorized under the redevelopment plan for the redevelopment district; and (2) the revenues to be collected under subsection (b) may be rededicated for other purposes by resolution of the governing body of such county and if not so rededicated then the revenues thereafter collected shall be used only for approved and authorized costs in the redevelopment district in accordance with the redevelopment plan. Upon rededication of the revenues under subsection (b), or in the event that no future redevelopment projects or authorized costs remain for the redevelopment district, the revenues derived from the countywide retailers' sales tax covered under subsection (b) shall thereafter be distributed to the county treasurer as required under K.S.A. 12-192, and amendments thereto.



MEMORANDUM

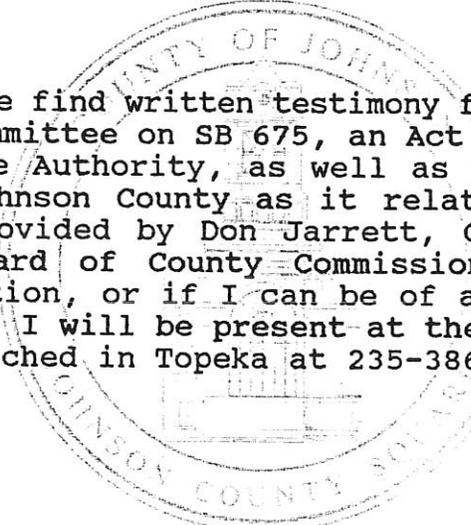
TO: SENATE COMMERCE COMMITTEE
SENATOR ALICIA SALISBURY, CHAIR

FROM: MICHELLE MILLER
INTERGOVERNMENTAL RELATIONS COORDINATOR
JOHNSON COUNTY GOVERNMENT

RE: WRITTEN TESTIMONY ON SB 675, for THURSDAY, MARCH 19, 1998

DATE: MARCH 17, 1998

Enclosed please find written testimony for presentation to the Senate Commerce Committee on SB 675, an Act concerning the Kansas Development Finance Authority, as well as county-wide sales tax information for Johnson County as it relates to the bill. This information was provided by Don Jarrett, Chief Counsel for the Johnson County Board of County Commissioners. If you require additional information, or if I can be of any further assistance please let me know. I will be present at the hearing on the bill, and/or I can be reached in Topeka at 235-3862.



Michelle

Senate Commerce Committee

Date 3-19-98

Attachment # 2-1 thru 2-6

POSITION STATEMENT
OF THE
BOARD OF COUNTY COMMISSIONERS
JOHNSON COUNTY, KANSAS
ON
SENATE BILL 675
PRESENTED TO
SENATE COMMERCE COMMITTEE
MARCH 16, 1998

The Board of County Commissioners of Johnson County, Kansas, appreciates the opportunity to address this committee on proposed Senate Bill 675. As indicated in our brief comments to the committee on March 12, Johnson County has not actively participated in sponsoring this bill, nor does the County have any agreement, commitment, or understanding with Oz Entertainment Company concerning its proposed project.

The interest of Johnson County in generally supporting the passage of Senate Bill 675, as now drafted and amended, is two-fold: (1) provisions of the bill may substantially impact the County; and, (2) the bill would provide a major economic development mechanism which may be beneficial to the County for use at the Sunflower Army Ammunition Plant, if the United States Army proceeds with disposal of the property. For those reasons, we have attempted to ensure that the language adopted under the bill is carefully considered and addresses our major issues, which are that:

1. the proposed redevelopment district mechanism at the Sunflower site can be used, with or without the Oz Entertainment project;
2. some form of public participation and comment is available prior to establishing the redevelopment district;
3. any redevelopment plan is subject to review by the County and must be consistent with the County's comprehensive plan;
4. any tax increment financing requires agreement by the County and the school district; and,
5. any commitment of tax revenues, including sales tax, must be authorized by the County.

We believe that these concerns have been reasonably accommodated in the present revision of the bill.

In particular, as stated on March 12, the County wants to ensure that sales taxes are not captured for a redevelopment district without agreement of the County; that portions of the existing sales tax levies which are dedicated to express purposes by statute, pledge, or voter approval are not compromised; and, that the share of sales tax revenues distributed to cities is considered. The County recognizes that a redevelopment district will require contributions of revenue or other assistance from government, and the County is willing to provide for the contribution of revenues from taxes generated in the district if done appropriately and with consideration for the County's concerns.

Following the hearing on March 12, counsel for the county did participate with other counsel in drafting the language which now appears as New Section 20 in the bill.

That section contains three parts. Subsection (a) authorizes the County to impose a new one-half cent sales tax, without an election, within the redevelopment district. All revenue generated from that sales tax is committed to the redevelopment district and redevelopment plan. Subsection (b) provides that the revenue generated within the redevelopment district from the County's existing countywide sales tax is also committed to the redevelopment district and plan. However, those portions of the countywide sales tax which are dedicated for specific purposes are not captured. That subsection as drafted, would still capture the share of sales taxes distributable to cities. Finally, subsection (c) covers use of the revenues, the ultimate expiration of the new additional sales tax, and rededication of the revenues from the existing sales tax.

Johnson County will generally support the bill as now drafted and amended as it applies to the County and to its share of sales tax revenue. The County can not speak for the cities in the county, nor will the county offer any position on the capture of that portion of the countywide sales taxes which would be distributable to the cities.

We thank the Committee for its consideration on this bill and our comments.

JOHNSON COUNTY, KANSAS
SALES TAX INFORMATION

Johnson County currently imposes a countywide retailers' sales tax at the rate of .975%. That sales tax is levied in four (4) separate portions:

1. A countywide sales tax of .50%. The revenue from this sales tax is not expressly dedicated to any particular purpose, but is shared with all of the cities in the county according to a statutory formula. This formula generally provides that half of the revenue is divided amongst the county and each city on the basis of proportionate property tax rates and half of the revenue is divided proportionately by population;
2. a countywide sales tax at the rate of .25%. The revenue is expressly dedicated to public safety purposes and construction of the jail. One half of the revenue goes directly to the county for that purpose. The other half is divided between the county and the cities as outlined above in paragraph one (1) for the one-half cent portion;
3. a countywide sales tax at the rate of .125% which is not shared with the cities. All of the revenue is dedicated to the Bi-State Culture District;
4. a countywide sales tax at the rate of .10% which is not shared with the cities. All of the revenue is dedicated to stormwater management projects.

Under the provisions of new Section 20 in Senate Bill 675, the sales tax imposed within a redevelopment district created under the bill would total 7.375%, which would include the following portions:

- A. A sales tax of 4.9%, which is the current sales tax for the State of Kansas;
- B. a sales tax of 1.00%, which is an added portion to the State sales tax rate imposed only in the redevelopment district and is based on comparability with a standard city sales tax rate;
- C. a sales tax of .50% which is a special county sales tax imposed only within the redevelopment district;
- D. a sales tax of .50%, which is the current countywide general sales tax rate;
- E. a composite sales tax of .475% which includes the current county sales tax for jail/public safety (.25%); for Bi-State Culture District (.125%); and, for stormwater (.10%).

All revenue generated under the provisions of new Section 20 and identified in paragraphs A, B, C, and D above within the redevelopment district must be used for costs of the redevelopment projects and stay within the district.

The revenue generated under paragraph E (totaling .475%) within the redevelopment district will be distributed to the county and must be used for the purposes for which those taxes are imposed—the jail, bi-state, and stormwater.

Thus, of the total sales tax of 7.375%, the revenue from 6.9% is committed to the district and the revenue from .475% is not.

Testimony of Jack Selzer in support of House Bill No. 2742

My name is Jack Selzer and I am here today on behalf of the Western Retail Implement and Hardware Association as their legal counsel to testify in support of House Bill No. 2742.

First, some background on the association. The association members consists of farm equipment dealers, outdoor power equipment dealers, lawn and garden equipment dealers and hardware dealers in the states of Missouri and Kansas. There are approximately 300 association members that do business throughout the State of Kansas.

Turning to house Bill No. 2742, I point out that our Kansas members requested this legislation. It is directed at this kind of situation -- an implement dealer wants to transfer part or all of his ownership interest in his business to his son for estate planning purposes; or the same dealer may want to sell his dealership to someone interested in purchasing dealership. His dealership agreement with the manufacturing company, such as John Deere or Case IH, requires this dealer to obtain written permission from the manufacturer before he can make such a transfer.

In the past, manufacturing companies have not promptly responded to these requests or have denied the request without any explanation. This legislation meets this problem by first requiring the dealer to submit to the manufacturer information concerning the transfer such as the financial background, the personal background, character references and work histories of the person the dealer intends to transfer his dealership to. The manufacturer then has 90 days in which to respond to this request with either an approval or denial. If the manufacturer denies the request, the manufacturer is required to give the dealer written notice of its determination with the stated reasons for the denial.

The association has furnished a copy of this legislation to the major manufacturers and we are not aware of any opposition by them. Moreover, John Deere Company supports it and so does FEMA--Farm Equipment Manufactures Association.

This legislation is similar to legislation that you already have in place for your Kansas automobile dealers.

Senate Commerce Committee

Date 3-19-98

Attachment # 3



214 SW 6th St., Suite 206
Topeka, KS 66603-3719
785-357-5256
785-357-5257 fax
kmha@cjnetworks.com

**TESTIMONY BEFORE THE
SENATE
COMMITTEE ON
COMMERCE**

TO: Senator Alicia Salisbury, Chairwoman and
Members of the Committee

FROM: Martha Neu Smith
Executive Director

DATE: March, 1998

RE: House Bill 2754

Madam Chair and members of the committee, my name is Martha Neu Smith and I am the executive director of the Kansas Manufactured Housing Association, and I appreciate the opportunity to comment. KMHA is a statewide trade association representing all facets of the manufactured housing industry.

I became aware that there may be a problem with K.S.A. 75-1231 (b) this past summer, when a KMHA member approached the Secretary of Administration with a request for approval of a pier that differed from current statute. Initially we were turned down due to the fact that the Secretary's legal counsel felt that since K.S.A. 75-1231 (b) does not specifically state that the Secretary has the authority to approve alternative materials and designs for piers as it does in K.S.A 75-1230 (tie downs) and K.S.A. 75-1231 (a) (pier foundations), he could not approve my members request. But, in preparation for the hearing in the House, I went through KMHA's archives and discovered that in 1978 the Kansas Legislature **did** give the Secretary of Administration the authority to approve alternative piers. **But**, because of a technical error in the printing of the bill the sentence that gave the Secretary approval authority was mistakenly left out. This error has been documented by the Office of Revisor of Statutes and is attached to my testimony. Consequently, the bill Governor Bennett signed was not the bill the Senate and the House of Representatives passed in February, 1978, and according to our attorney, Mark Burkhart and Bob Nugent of the

Senate Commerce Committee

Date 3-19-98

Attachment # 4-1 thru 4-4

Revisor's Office, the error in 1978 makes K.S.A. 75-1230 and K.S.A. 75-1231 void.

While this ~~Substitute~~ bill looks drastically different from the Secretary's original bill (HB2754), the only change is to re-instate the two statutes which were voided by the error in 1978.

With that explanation, I respectfully ask for your support of Sub. for HB 2754.

Thank you for the opportunity to comment and I would be happy to try to answer any questions.

NORMAN J. FURSE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

ASSISTANT REVISORS

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MARY ANN TORRENCE, ATTORNEY
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BRUCE W. KINZIE, ATTORNEY
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JILL A. WOLTERS, ATTORNEY
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COORDINATING COUNCIL
SECRETARY—KANSAS COMMISSION
ON INTERSTATE COOPERATION
KANSAS STATUTES ANNOTATED
EDITING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

COMPUTER INFORMATION STAFF
MARY O. CHENG, M.S.
RICHARD M. CHAMPNEY, B.S.

March 4, 1998

Martha Neu Smith
Executive Director
Kansas Manufactured Housing Assn.
214 SW 6th St., Ste. 206
Topeka, KS 66603-3719

Dear Ms. Smith:

Following is a portion of the legislative history concerning Senate Bill No. 361, chapter 340 of the Session Laws of 1978, culminating in the signature of the wrong version thereof:

1978 House Journal, p. 1304 (1-24-78) -- Reports of standing committees recommends that S.B. 361 be amended in accordance with the committee report and be passed as amended. The committee report recommended inserting on page 4....in line 133, before the period, " or shall be of such other material and design as approved by the director".

1978 House Journal, p. 1326, (1-30-78) -- Committee report is adopted.

1978 House Journal, p. 1340, (1-31-78) -- Bill is bulked for roll call vote and passed by the House 125 to 0.

1978 Senate Journal, p. 852, (2-2-78) -- Senator Reilly moved the Senate concur in the House amendments to S.B. 361; roll call vote was 40 to 0.

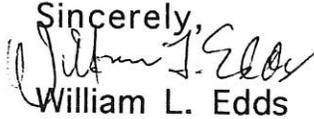
1978 Senate Journal, p. 880, (2-8-78) -- S.B. 361 reported correctly enrolled, properly signed and presented to the governor.

1978 Senate Journal, P. 903, (2-13-78) -- Message from governor that S.B. 361 approved on February 10, 1978. Examination of the enrolled

bill furnished from the official records of the Kansas State Historical Society finds a version signed by President Doyen, Speaker Carlin and Governor Bennett absent the language quoted above. Thus, the bill passed by both houses of the legislature was not the bill approved and signed by the governor. In addition to the foregoing, the 1978 Session Laws of Kansas have the same version of S.B. 361 as signed by the governor, president and speaker.

If I may be of further information, please let me know.

Sincerely,



William L. Edds

Assistant Revisor of Statutes

**TESTIMONY BEFORE SENATE COMMERCE COMMITTEE
HOUSE BILL 3005**

March 19, 1998

By Philip S. Harness, Director of Workers Compensation

This bill is mostly a compilation of cleanup measures due in large part to the fact that the Boiler Safety Act has not been substantially amended in approximately 20 years. However, the bill does embrace a new concept, i.e. the inclusion of "pressure vessels" within the act so that those are now regulated. The necessity for this is that all the states surrounding Kansas have legislation regulating pressure vessels; since Kansas did not, the boiler inspection staff has found that the state has become the new dumping ground for non-code pressure vessels. These 1998 amendments are three-fold:

1. Clarify that 20 percent of the inspection fees only are to be credited to the state general fund. Currently, the statute is somewhat ambiguous in that the Department of Administration has interpreted it to mean that 20 percent of all funds collected including inspection and certificate fees, and reimbursed travel expenses, are to be credited to the state general fund.
2. Technical cleanup of various statutes concerning boiler inspections.
3. Institution of a new program to inspect the construction and installation of newly installed pressure vessels (after January 1, 1999).

As to the first, it is important to recognize the distinction between certificate fees and inspection fees. Inspection fees, defined on Page 2, Line 9, mean essentially those fees collected by the state boiler inspector pursuant to a boiler inspection. The amount of those fees are currently set by regulation. A certificate fee is a regulatory fee used to record that the boiler is in safe operating condition. Certificate fees may be collected by the state even though a boiler has been inspected by an insurance company inspector (in which case the state would not collect the inspection fee). Twenty percent of inspection fees yield approximately \$25,000 per year; 20 percent of certificate fees yield approximately \$40,000 per year. To become, and stay, self-sustaining, the certificate fees need to be dedicated completely to the operation of the section.

As to the second and third points, i.e. technical corrections concerning boiler inspections as well as the addition of construction and installation of newly installed pressure vessels, it is important to note the following:

- a. Section 3 alters the volume of inspected hot water supply boilers to 85 gallons, but 120 gallons for electrical utilities. Inspection of private residences or

apartment houses with five or more units is required (previously it was six units). Those pressure vessels which will be inspected (concerning construction and installation after January 1, 1999,) contained various exclusions on Page 3, Lines 15-42. Essentially, those pressure vessels which would be inspected, for new installation, would be those exceeding 15 cubic feet and a designed pressure of 250 pounds per square inch of pressure or 1½ cubic feet and 600 pounds per square inch of pressure.

- b. It is the intention of Section 4 of the bill to provide for the authority to pass rules and regulations for the inspection of construction and installation of newly installed pressure vessels, as well as boilers. Since some individuals may prefer to buy used boilers and pressure vessels, it is important to note that what is requested is the ability to inspect the construction and installation of newly installed pressure vessels, not presently installed pressure vessels (those would be essentially “grandfathered” in). Those grandfathered in would not be inspected until such time as they were replaced; thence, it would be a new installation subject to inspection. The Secretary of Human Resources could still issue a variance for those pressure vessels or boilers to be installed which were not constructed pursuant to the American Society of Mechanical Engineers Code, but could still meet the National Board of Boiler and Pressure Vessel Inspectors Code. (Section 5.)
- c. The intent of Section 8 is to define different levels of certificates of competency to allow the state to issue one type of competency certificate to those individuals inspecting antique or hobby boilers, another type to those individuals inspecting insured boilers, or commercial boilers.
- d. Section 11 requires that hot water supply boilers greater than 400,000 BTUH shall require an annual inspection, as opposed to the otherwise three-year inspection. Certain units will be registered with the national board.
- e. Section 12 contains new language concerning the ability of the state to shut down or suspend the operation of certain boiler or pressure vessel units if they do not comply with regulations. Relief would be offered under the Kansas Administrative Procedure Act or, if the owner/operator demonstrates that the danger has been abated, then a re-inspection would occur to ensure safe operation.
- f. Section 14 (c) clarifies that 20 percent of the inspection fees only shall be credited to the state general fund with the balance still credited to the boiler inspection fee fund.

U. L. "RIP" GOOCH

SENATOR, 29TH DISTRICT
SEDGWICK COUNTY

STATE CAPITOL BUILDING
ROOM 404-N

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12 CRESTVIEW LAKES ESTATE
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TOPEKA

SENATE CHAMBER

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RANKING MINORITY MEMBER: ELECTIONS & LOCAL
GOVERNMENT

MEMBER: COMMERCE
FEDERAL & STATE AFFAIRS
JOINT COMMITTEE ON RULES &
REGULATIONS
JOINT COMMITTEE ON ECONOMIC
DEVELOPMENT

March 18, 1998

TO: Commerce Committee Members

From: Senator Rip Gooch

Re: Senate bill 653

The attached was forwarded to me by Roy H. Worthington, Legislative
Chairman.

He was unable to appear to testify because he thought the bill was going
to be heard tomorrow.

Senate Commerce Committee

Date 3-19-98

Attachment # 6-1 thru 6-2

PRESENTATION TO SENATE COMMERCE COMMITTEE

RE: Senate Bill 653 - Subcontractors/suppliers mechanics liens

Date: February 24, 1998

**From: Kansas Land Title Association
Roy H. Worthington, Legislative Chairman**

The Kansas Land Title Association supports passage of this version of SB 653 for the following reasons, to wit:

- 1. The proposed law would protect homeowners, and persons hiring contractors to build a custom home, from the risk of having to pay for improvements to their home twice. Under current law a homeowner runs the risk of double payment if the general contractor fails to pay the subcontractors and material suppliers.**
- 2. Subcontractors and suppliers of materials are more qualified to assess the financial condition of the general contractor and can take steps to insure that they are paid. The homeowner does not have the same information and usually learns of a general contractors financial problems after they have paid the general contractor in full.**
- 3. Subcontractors and suppliers of materials are extending credit to a general contractor and therefore should bear the risk of default by the contractor. Under current law the homeowner bears the risk of default, because the homeowner must pay the subcontractors, even if they have paid the general contractor in full, in order to keep the property.**

Sincerely,



**Roy H. Worthington
Legislative Chairman**

KRMCA

Kansas Ready Mixed
Concrete Association

Edward R. Moses
Managing Director

Testimony

By The

Kansas Ready Mixed Concrete Association

Before the

Senate Commerce Committee

Regarding SB 653

March 18, 1998

Good morning, Madame Chair and members of the committee. My name is Edward R. Moses, Managing Director of the Kansas Ready Mixed Concrete Association.

The Kansas Ready Mixed Concrete Association (KRMCA) is an industry-wide trade association comprised of over two hundred fifty (250) members located in all one hundred and sixty five (165) legislative districts in this state, providing basic building materials to all Kansans.

We thank you for the opportunity to come before you today with our comments on SB 653. Unfortunately, the genesis of this bill is the result of a supplier or subcontractor failing to receive payment for goods and services rendered in the course of a construction project. While we sympathize with any owner who must pay for the errors of others this problem should not result in the creation of an even greater unfavorable consequence. Such would be the case if SB 653 were to become law.

If approved, SB 653 may lead to some of the following unintended outcomes:

1. SB 653 would have negative impacts in the construction community, as it would essentially prevent any means of recovery by either subcontractor or material suppliers. Obviously, conscientious business people will not provide goods and services without some reasonable expectations of receiving payment.

Senate Commerce Committee

Date *3-19-98*

Attachment # *7-1 thru 7-2*

2. SB 653 creates two different classes of creditors within the construction community, in that it allows contractors to file liens while denying lien rights to those that supply them.
3. SB 653, due to its broad legal construction, affects all forms of construction, both commercial and residential throughout the state. Thus, upsetting a good body of real estate lien law that has been developed and used over the many years.

The KRMCA would like to point out that there are already many safeguards to protect owners in Kansas's lien law. Among them are time limits imposed on contractors, subcontractors and material suppliers by which liens for unpaid bills must be filed. Further, in the case of residential construction or remodel, potential lien filers are required to notify owners of intent to file a lien against residential property.

As title passes to the owner when goods and services provided to real property, the ability to file a lien against said owner of property is the only protection provided in law. This is the reason why all 50 states in the union have such provision in their statutes. As the safeguards for the owner are already provided in current law, we stand opposed to SB 653.

Once again, thank you for the opportunity to come before you today. I will be happy to respond to any questions you may have.

RE: PROPOSAL NO. 34 — MECHANICS' LIEN LAWS*

Proposal No. 34 directed the Special Committee Judiciary to:

review the area of mechanics' liens, including issues that relate to the priority of claims, the rights of subcontractors, the rights of homeowners, provisions for holding moneys in trust until all lienable claims are paid, provisions for the termination of liens against real estate, provisions for an expanded definition of residential property, and other related issues.

Senate Commerce Committee

Date 3-19-98

Attachment # 8-1 thru 8-4

Background

Proposal No. 34 was requested by Representative Kenneth Francisco and the Kansas Association of Realtors. During the 1985 Legislative Session, Representative Francisco sponsored H.B. 2296 which would have amended the current law by expanding the definition of residential property. The bill would also provide for the establishment of a trust fund for the payment of all lienable claims. Another provision of H.B. 2296 would have imposed criminal penalties for wrongful conduct on the part of a contractor.

H.B. 2494, requested by the Kansas Association of Realtors, would also amend the current lien law by modifying the time for filing a lien statement. Under this bill the lien statement must be filed before the date on which title to property, subject to the lien, passes to a bona fide purchaser for value or three months following the date on which supplies, materials, or equipment were last furnished or labor performed, whichever occurs first.

* S.B. 413 accompanies this report.

The Kansas mechanics' lien laws have been the subject of prior interim studies. This topic was studied in 1972, 1973, 1977, and 1979.

Origin

Mechanics' liens are rights that have been statutorily created since they were unknown at common law. As originally enacted, the mechanics' lien laws were introduced to protect and promote the construction industry early in our nation's history. Since that time, mechanics' lien legislation has been the subject of great interest among various parties with competing interests.

Kansas Statutes

The Kansas mechanics' lien laws related to residential property are found in Article 11 of Chapter 60. K.S.A. 60-1101 provides for liens against a homeowner that have priority over all other subsequent liens. K.S.A. 60-1102 requires claimants to file a lien within four months after material, equipment, or supplies used or consumed were last furnished or labor last performed. Currently there is no statutory provision that requires contractors to issue a warning statement informing a homeowner of a possible lien that may be attached to their property. There is no requirement that the contractor inform the homeowner of the identity of subcontractors.

K.S.A. 60-1103, the subcontractor's lien statute, requires that the lien statement contain the name of the contractor and be filed within three months after the date materials, supplies, or equipment were last furnished or labor last performed. In order for liens to be effective under this statute, the subcontractor must issue a warning statement that notifies the homeowner that the subcontractor has a right to file a lien against the homeowner's property, for claims over \$250. K.S.A. 60-1103 has been the focal point of dissatisfaction in the past. Instances have occurred in which the homeowner has paid a contractor for labor, materials, and all other services

performed and the contractor has not paid the subcontractor(s). Under the provisions of this statute, the subcontractor may place a lien on the homeowner's property with the result that the homeowner could be required to pay twice for the same materials, labor, or services. At issue is which of two innocent parties should bear the burden, the homeowner or the unpaid subcontractor.

On one hand, homeowners have exhibited concern that such liens can affect clear title to their real estate which can restrict their ability to freely alienate such property. On the other hand, subcontractors are equally concerned about the implementation of mechanics' lien legislation. Contractors and subcontractors are concerned about getting paid for material and equipment supplied as well as for services performed. The liens do provide a practical and inexpensive method of securing payment for materials provided and services performed. Liens can also facilitate the extension of credit between materialmen and contractors, which can have a stabilizing effect on the construction industry. Special protection is also afforded the subcontractor and the materialmen who are not in privity of contract with the homeowner and would have no other recourse against the homeowner for nonpayment if the lien statutes did not exist.

Another area of concern relates to the innocent purchaser of new or improved property. It is possible for the property to be sold to an unknowing buyer during the statutory lien filing time frame for either contractors or subcontractors. There is no notice provision under K.S.A. 60-1101 and the notice provision of K.S.A. 60-1103 only applies to homeowners. An unknowing buyer who purchases residential property during the three- or four-month filing period could be subject to subsequently filed liens.

Equally noteworthy are the interests of the public sector in general. Those interests include: (1) protecting legitimate creditors' claims, (2) maintaining an effective recording system to protect innocent purchasers, and (3) protecting the construction industry.

8-2

A recent Attorney General Opinion No. 85-124 has been issued regarding K.S.A. 60-1103 wherein the Attorney General addresses the extent to which a homeowner can be required to pay more than the original amount for work done on residential property. According to the opinion, 1982 amendments to this statute give the residential property owner greater protection than had previously existed. Under the 1982 amended provision, K.S.A. 60-1103(d)(2) the owner is subject to double liability for work done only in the amount of payments made to the general contractor after receipt of the statutory warning statement set out in K.S.A. 60-1103(c)(2). The statement is designed to put owners on notice of the possibility of double liability and also to alert homeowners to the fact that: (1) by obtaining lien waivers they may avoid double liability and that, (2) if a claim is filed they have the right to withhold further payments from the contractor until the dispute is settled.

Committee Activity

The Committee held hearings and discussions on Proposal No. 34 on three separate occasions. Representative Kenneth Francisco addressed the Committee on behalf of 1985 H.B. 2296, discussed earlier, which he introduced in response to the plight of several constituents who had encountered double liability as a result of wrongdoing on the part of an unscrupulous contractor. Representative Francisco stated that the bill was specifically designed for those situations in which individuals act as their own contractor, build their house, and plan to live in it upon completion.

A spokesperson for the Kansas Association of Realtors (KAR) expressed concern over a new homeowner who, under current law, buys a house before the statutory time limit for filing liens has expired. Due to subsequently filed liens, the homeowner in this situation can end up paying an additional amount that could run as high as 50 to 60 percent of the cost of the home. KAR had requested 1985 H.B. 2494, discussed above, designed to prevent homeowners from being exposed to double liability and possibly being forced to give up their new

8-30

The conferee made three recommendations regarding possible remedies to the mechanics' lien problem regarding transfers of titles. The first suggestion was that a lien must be filed when closing before the consumer becomes the owner. A second suggestion provided that all persons who contract to perform work must file an intent to perform. This would create a list of all persons who have an interest in the property. Lastly, a combination of the first two was suggested whereby the title company or abstractor must send, ten days before closing, a certified letter to all persons who have filed the intent to perform notification that the closing will be on a particular date and that liens to be effective must be filed by the time of closing.

Two private citizens recounted their experiences with contractors in which subcontractors had not been paid. In one instance, the homeowner ended up paying several thousand dollars more than the original remodeling price. The second homeowner was sued by subcontractors after the contractor failed to pay them and also failed to complete the work on the project in question.

The Johnson County District Attorney appeared before the Committee to suggest two amendments to the current law. Both suggestions involve notice requirement. The first suggestion is that the notice required in K.S.A. 60-1103(c) be made more understandable to the homeowner. A second suggestion was that a time be specified within which notice must be mailed to the owner.

Various conferees representing the commercial construction industry appeared in opposition to the trust fund provisions of H.B. 2296. These included spokespersons from the Associated General Contractors of Kansas, the Kansas City Builders Chapter of Associated General Contractors of Kansas, Columbian Title Insurance, Home Builders Association of Kansas, and Kansas League of Savings Institutions.

Several of the spokespersons who endorsed the notice requirements embodied in H.B. 2494, include Columbian Title Insurance, Kansas Land Title Association, Mid-America

Lu men's Association, Kansas League of Savings Institutions, the Assistant District Attorney in Sedgwick County, and the Home Builders Association of Kansas.

A spokesperson from the National Electrical Contractors Association spoke on behalf of retaining liens for subcontractors as a guarantee of payment. According to the conferee from the Mechanical Contractors Association of Kansas, the root of the problem is allowing fiscally irresponsible prime contractors to operate as contractors. Licensing and bonding of contractors was proposed as the correct approach, similar to the practice in California. Contractors should also be required to give warning statements, according to the spokesperson.

Conclusions and Recommendations

The Committee concludes that there should be legislative changes enacted to rectify the situation whereby a homeowner who buys new property must pay more than once for the property. The Committee recommends amending K.S.A. 60-1103 regarding subcontractors' liens by adding the requirement of a notice of intent to perform on new structures defined as new residential property. A subcontractor lien may be claimed after the passage of title only if the notice of intent to perform has been filed prior to passage of title. Notice shall be filed in the office of the clerk of the district court of the county where the property is located. Such notice shall contain the name of the owner of the property, the name and address of the claimant, and a description of the real property. A docket fee of \$5 shall be assessed for filing an intent to perform. These recommended changes are contained in S.B. 413 which accompanies this report.

Respectfully submitted,

November 1, 1985

Rep. Robert Wunsch,
Vice-Chairperson
Rep. Stephen Cloud
Rep. Wanda Fuller
Rep. Bill Roy, Jr.
Rep. Jack Shriver

Sen. Robert Frey, Chairperson
Special Committee on Judiciary

Sen. Paul Feleciano, Jr.
Sen. Jeanne Hoferer
Sen. Nancy Parrish
Sen. Eric Yost

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