

MESSAGE FROM THE GOVERNOR

TO: THE KANSAS HOUSE OF REPRESENTATIVES

I am returning House Bill 1568 unsigned, which I veto for the following reasons:

1. Section 1, House Bill 1568, authorizes and directs the State Director of Architectural Services to acquire the New England building title by negotiation to certain tracts of land and improvement thereon in the city of Topeka. In all negotiations for purchasing property, freedom of the parties to negotiate is vital to arriving at a fair price for the purchase of the property. House Bill 1568 would shackle the State Director of Architectural Services' ability to negotiate.

2. The State Director of Architectural Services and the State Fire Marshal have estimated that it would cost between \$473,200 and \$882,800 to renovate the New England Building.

3. Control of the purchase negotiations and the determination as to who would occupy this property is in the hands of four legislators to whom the legislature has given a \$1.3 million blank check. Placing in the hands of four legislators the control of the property's purchase and the department and agency relocations is an invasion of the constitutional functions and responsibilities of the executive branch of state government.

4. House Bill 1568 does not provide for the state to procure a property appraisal for the taxpayer protection. Sound business practice dictates that, in the public interest, an independent appraisal be conducted.

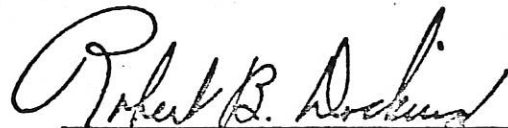
5. Purchasing the property will remove the property from Shawnee County property tax rolls. Property tax revenue losses will then be spread over the remaining property in Shawnee County -- including Shawnee County homeowners. Constructing a building on property already owned by the state will not remove property from the tax rolls. The state owns property directly south of the Capitol on which an office building is planned.

6. Purchasing this property to relocate a state agency of department is unnecessary. The obvious purpose of House Bill 1568 is to move agencies and departments out of the state capitol in order to provide offices for legislators.

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If the legislature proceeds with the purchase of this property, it should consider doing so by condemnation which would let a jury decide the fair market value of the property specifically described in House Bill 1568.

I am requesting that a special legislative investigative committee be formed with the attorney general's cooperation. The committee should make a thorough investigation of all facts surrounding the proposed sale of the property as specified in House Bill 1568. I urge each legislator to inspect thoroughly the property described in the bill before any further action is taken on House Bill 1568.



ROBERT B. DOCKING
Governor of Kansas



Approved: Tuesday, April 3, 1973 at 3:45 p.m.

HOUSE CONCURRENT RESOLUTION NO. 1056

By Messrs. Everett and Loux

A CONCURRENT RESOLUTION providing for a select committee to make a legislative investigation concerning alleged impropriety by any member of the Kansas legislature and alleged influence upon the governor, all in relation to the subject of House Bill No. 1568 and the veto thereof.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislative coordinating council shall appoint a select committee to investigate the following: (1) Any alleged impropriety by any member of the Kansas legislature or employee of the legislative branch concerning the subject of House Bill No. 1568, and (2) any alleged influence exerted upon the governor to veto said House Bill, by the landlord or property owner of any property in which any state agency is now located in the city of Topeka, or by the state agency heads of the executive branch, appointees thereof or appointees of the governor, whether such appointees have an official title or not. Such select committee shall consist of seven members of the house of

representatives of whom two shall be members of the minority party, and four members of the senate of whom one shall be a member of the minority party. Such select committee shall meet not later than April 8, 1973, and elect from its membership a chairman and vice chairman not of the same house. Such select committee shall make its report to the governor and each house of the legislature not later than April 17, 1973. The attorney general shall provide such assistance to the committee as its chairman may request in connection with matters of compulsory process, and shall aid and advise the legislative research department and office of revisor of statutes in connection with matters of compulsory process and any other matters needing legal consultation. Such select committee is hereby authorized to exercise compulsory process in connection with the investigation provided for herein. Members of such select committee shall be paid compensation and subsistence expenses and allowances as provided in K. S. A. 75-3212 and amendments thereto.

Article 10.—LEGISLATIVE COMPULSORY PROCESS

Law Review and Bar Journal References:

Mentioned; broad powers of compulsory process granted to legislative committees, Robert F. Bennett, 39 J. B. A. K. 107, 186 (1970).

46-1001. Investigating committee; definition of. As used in this act, unless the context otherwise requires, "investigating committee" means any of the following:

(a) A standing or select committee of either the house of representatives or the senate or an authorized subcommittee of such a committee; or

(b) A joint committee of both houses of the legislature or an authorized subcommittee thereof; or

(c) The legislative coordinating council, or the legislative budget committee, or any special committee, or any select committee; or

(d) The joint committee on claims and accounts, the legislative post-audit committee, the joint committee on legislative services and facilities or any authorized subcommittee of any of such committees; or

(e) Any committee, commission or board created by the legislature by concurrent resolution or enactment when, as one or all of its duties, it is to perform an inquiry, study or investigation for the legislature, except that an advisory committee is not an investigating committee; or

(f) Any committee heretofore or hereafter created by law or resolution of either house of the legislature or by joint or concurrent resolution, when all of the members of such committee, who are authorized to vote on actions of the committee, are legislators. [L. 1970, ch. 201, § 1; L. 1971, ch. 184, § 30; May 1.]

46-1002. Same; when powers exercised; rules; minimum size of subcommittee; open or closed meetings; secrecy or publication of testimony. An investigating committee may exercise its powers during sessions of the legislature, and also at or in connection with authorized meetings in the interim between sessions. Each investigating committee may adopt rules, not inconsistent with law or applicable rules of the legislature, governing its procedures, including the conduct of hearings. Whenever a subcommittee is exercising the powers of an investigating committee, such subcommittee shall be comprised of at least three (3) persons. An investigating committee may meet publicly or in executive session, and exercise powers of compulsory process in either. All or any part of testimony received by an investigating committee may be published or retained secret in accordance with the determination of such committee. [L. 1970, ch. 201, § 2; March 26.]

46-1003. "Compulsory process," defined. "Compulsory process" as used in this act means any one or any combination of the following:

(a) Exercise of the power of subpoena or subpoena *duces tecum*;

(b) Administration of oath or affirmation;

(c) Taking of testimony under oath;

(d) Referral of any contempt of legislature for prosecution;

(e) Referral of any perjury for prosecution;

(f) Any other act related to any of the foregoing. [L. 1970, ch. 201, § 3; March 26.]

Section 1. K. S. A. 1972 Supp. 46-1004 is hereby amended to read as follows: 46-1004. (a) The following investigating committees are authorized to exercise the powers of compulsory process in connection with any authorized subject of inquiry, study or investigation at any time without further authorization:

~~(a) Any standing or select committee of either the house of representatives or senate; or~~

~~(b) Any special committee or any select committee; or~~

~~(c) (1) The legislative coordinating council or the legislative budget committee; or~~

~~(d) (2) The joint committee on claims and accounts committee on ways and means of either house or the joint committee on legislative services and facilities or the legislative post-audit committee; or~~

~~(e) Any subcommittee of any of the foregoing when authorized by resolution adopted by a majority of all of the members of any of the foregoing; or~~

~~(f) Any investigating committee as described in either subsection (e) or subsection (f) of K. S. A. 1970 Supp. 46-1001, as amended when a statute or resolution authorizes the exercise by such committee of compulsory process~~

(b) When the legislature is in session, the following investigating committees are authorized to exercise the powers of compulsory process in connection with any authorized subject of inquiry, study or investigation:

(1) Any standing committee (except the committee on ways and means) of the house of representatives, when authorized by the speaker; or

(2) Any standing committee (except the committee on ways and means) of the senate, when authorized by the president.

(c) The following investigating committees are authorized to exercise the powers of compulsory process in connection with any authorized subject of inquiry, study or investigation only when specifically authorized to do so by the legislative coordinating council:

(1) Any special committee appointed by the legislative coordinating council, except the committee on legislative budget; or

(2) Any select committee appointed by the legislative coordinating council; or

(3) The joint committee on claims and accounts; or

(4) Any investigating committee as described in subsection (e) or subsection (f) of K. S. A. 1972 Supp. 46-1001 when a statute or resolution of the legislature authorizes the exercise by such committee of compulsory process.

Sec. 2. K. S. A. 1972 Supp. 46-1005 is hereby amended to read as follows: 46-1005. Subject to the limitations of K. S. A. 1972 Supp. 46-1004, as amended, a subject of inquiry, study or investigation of an investigating committee is authorized when:

(a) The same concerns any bill or resolution referred to and under consideration during any legislative session by such committee in accordance with either rules of the house of representatives or the senate; or

(b) The subject of inquiry, study or investigation has been authorized and directed by a resolution of the house of representatives or the senate, or by a concurrent resolution, joint resolution or statute; or

(c) The subject of inquiry, study or investigation is within the statutorily prescribed purview of the investigating committee; or

(d) Subject to subsection (e) of this section, in the case of a subcommittee of an investigating committee, the subject of inquiry, study or investigation has been delegated to such subcommittee by a resolution adopted by a majority vote of all the members of an investigating committee for which such subject of inquiry, study or investigation is authorized; or

~~(e) In the case of a special committee (except the committee on legislative budget), or a select committee, or a standing committee meeting when the legislature is not in session, the subject of inquiry, study or investigation is contained in a study which has been referred to such committee with authority from the legislative coordinating council to exercise powers of compulsory process.~~

46-1006. Subpoenas; payment of witness fees. (a) Every investigating committee which is authorized to exercise compulsory process may, by majority vote, issue subpoenas and subpoenas *duces tecum* with reference to any matter pertinent to any subject under inquiry, study or investigation by such committee.

(b) A person subpoenaed to attend a hearing of an investigating committee shall receive the same fees and allowances as a person subpoenaed to give testimony in an action pending in a district court. Such fees and allowances shall be paid from funds appropriated for the use of the investigating committee issuing the subpoena or from funds appropriated for legislative expense. [L. 1970, ch. 201, § 6; March 26.]

46-1007. Administration of oaths. The chairman or vice-chairman of any investigating committee (or any member thereof so authorized by such committee) may administer oaths or affirmations for the purpose of receiving testimony. [L. 1970, ch. 201, § 7; March 26.]

46-1008. Subpoenas; time of issuance; service; contents. (a) Service of a subpoena or subpoena *duces tecum* requiring the attendance of a person at a hearing of an investigating committee shall be made at least three (3) days prior to the date of the hearing unless a shorter period of time is authorized by majority vote of all of the members of the investigating committee in a particular instance when, in their opinion, the giving of three (3) days notice is not practicable. Subpoenas and subpoenas *duces tecum* issued hereunder shall be served by such person as is designated by the investigating committee issuing such subpoena.

(b) Every subpoena or subpoena *duces tecum* issued under authority of this act shall cite this act and give general information in the subpoena, or by attachments thereto, of the subject under inquiry, study or investigation concerning which testimony is required. [L. 1970, ch. 201, § 8; March 26.]

46-1009. Pertinency of questions; explanation thereof, when required. Whenever a witness is testifying before an investigating committee which is exercising powers of compulsory process, and the witness questions the pertinency of a question he is required to answer or information he is required to supply, such witness shall be informed of the subject under inquiry, study or investigation and the connective reasoning whereby such question or requirement of information is pertinent thereto. [L. 1970, ch. 201, § 9; March 26.]

46-1010. Information to witness of committee's authorization. Whenever a witness is testifying before an investigating committee which is exercising powers of compulsory process, and the witness requests information concerning the manner in which the subject under inquiry, study or investigation has been authorized, such witness shall be informed of such authorization and such information may include reference to appropriate legislative documents or proceedings. [L. 1970, ch. 201, § 10; March 26.]

46-1011. Record of testimony; preservation thereof. Whenever testimony given under oath is received by an investigating committee, a verbatim record shall be made thereof by a certified court reporter, and the transcript of such record shall be filed with the secretary of state and be preserved for at least five (5) years. [L. 1970, ch. 201, § 11; March 26.]

46-1012. Counsel of witnesses. Every witness required by compulsory process to testify before an investigating committee shall be entitled to receive the advice of, and be accompanied by, counsel of his own choice while giving such testimony. By leave of the chairman of the investigating committee, such counsel may address such committee. [L. 1970, ch. 201, § 12; March 26.]

46-1013. Written statements of witness; receipt of documents; inclusion in record. (a) Every witness required by compulsory process to testify before an investigating committee may file a preliminary written statement with such committee before giving his testimony. Any such written statement shall be included in the record.

(b) When a witness required by compulsory process to testify before an investigating committee desires or is requested by such committee to file additional written testimony or documents with the committee after his appearance and oral testimony, such committee shall specify the matters which may be so filed, if any, and the time when such filing shall be made. Any statement permitted to be filed at the conclusion of a witness's testimony shall be verified, and any document so filed shall be identified by affidavit stating the authenticity of such document. Any statement or document received under authority of this subsection shall be included in the record by the committee by reference or otherwise. [L. 1970, ch. 201, § 13; March 26.]

46-1014. Contempt of legislature; class A misdemeanor. (a) Contempt of legislature is:

(1) Willfully making default when summoned as a witness by subpoena or subpoena *duces tecum* issued by an investigating committee or either house of the legislature; or

(2) Willfully failing to produce books, papers, documents or other records when required to do so by an investigating committee or either house of the legislature; or

(3) Having appeared as required by a subpoena or subpoena *duces tecum* of an investigating committee or either house of the legislature, refusing to answer, under oath or affirmation, any question pertinent to the matter under inquiry.

(b) Contempt of legislature is a class A misdemeanor. [L. 1970, ch. 201, § 14; March 26.]

Law Review and Bar Journal References:

Subsection (a) mentioned in "The 1970 Kansas Legislature in Review," Robert F. Bennett, 39 *J. B. A. K.* 107, 186 (1970). SENATE BILL No. 69—page 3

Sec. 7. K. S. A. 1972 Supp. 46-1015 is hereby amended to read as follows: 46-1015. (a) Whenever a violation of K. S. A. 1970 1972 Supp. 46-1014 or perjury is believed to have occurred in relation to the exercise by an investigating committee of compulsory process, upon a majority vote of the members of such investigating committee, such fact shall be referred to the speaker of the house of representatives or the president ~~pro tem~~ of the senate, except as is herein otherwise provided.

(b) Subject to subsection (c) of this section, whenever a violation of K. S. A. 1970 1972 Supp. 46-1014 or perjury is believed to have occurred in relation to the exercise by an investigating committee of compulsory process, and such investigating committee is a subcommittee of an investigating committee, upon a majority vote of the members of such subcommittee, the fact of such violation shall be referred to the parent investigating committee, and upon a majority vote of the members of such investigating committee, such fact shall be referred to the speaker of the house of representatives or the president ~~pro tem~~ of the senate.

(c) Whenever a violation of K. S. A. 1970 1972 Supp. 46-1014 or perjury is believed to have occurred in relation to the exercise by an investigating committee of compulsory process, and such investigating committee is a special committee other than the legislative budget committee, or a select committee, or a standing committee meeting when the legislature is not in session, upon a majority vote of the members of such special committee, select committee or standing committee, such fact shall be referred to the legislative coordinating council, and upon a majority vote of the members of the legislative coordinating council, such fact shall be referred to the speaker of the house of representatives or the president ~~pro tem~~ of the senate.

(d) Whenever facts are referred under this section to the speaker of the house of representatives or the president ~~pro tem~~ of the senate, such officer shall certify such facts to the attorney general, and the attorney general shall prosecute any such violation in the district court.

46-1016. Inherent legislative power not limited. Nothing in this act shall limit the legislature or either house thereof in their inherent powers, nor limit powers or procedures for impeachment. [L. 1970, ch. 201, § 16; March 26.]

46-1017. Severability. If any word, phrase, sentence or provision of this act is determined to be invalid, such invalidity shall not affect the other provisions of this act and they shall be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable. [L. 1970, ch. 201; § 2; March 26.]