

Approved _____ Date 4-24-84

MINUTES OF THE House COMMITTEE ON Ways and Means

The meeting was called to order by Bill Buntten at _____
Chairperson

12:00 ~~xx~~ a.m./p.m. on Thursday, March 29, 1984 in room 514-S of the Capitol.

All members were present except: Representative Duncan (excused)

Committee staff present: Lyn Goering, Legislative Research
Gloria Timmer, Legislative Research
Bill Gilmore, Legislative Research
Jim Wilson, Office of the Revisor
Dave Hanzlick, Administrative Assistant
Nadine Young, Committee Secretary

Conferees appearing before the committee:
Representative Ben Foster
Barbara Sabol, Department of Health & Environment
Representative Dale Sprague
Senator Francis Gordon
Representative Douville
Jim Maag, Kansas Bankers Association
Arden Ensley, Office of the Revisor
Harland Priddle, Secretary of Department of Agriculture

Chairman Buntten called the meeting to order at 12:10 P.M.

HB 2628 -- an act concerning hazardous wastes; requiring notification of groundwater contamination relating to the operation of a hazardous waste disposal facility.

Representative Ben Foster explained the bill. It provides a method of holding public hearings at the request of the people. Secretary of H&E Barbara Sabol appeared and asked the committee to support the bill.

Representative Hamm moved that HB 2628 be reported favorably for passage. Seconded by Representative Farrar. Motion carried.

HB 2943 -- an act concerning life insurance; providing for the nonforfeiture value of life insurance policies to be subject to certain claims; amending K.S.A. 40-414 and repealing the existing section.

Representative Sprague passed out a copy of a proposed amendment to the bill. (Attachment 1). Representative Louis moved that the amendment be adopted. Seconded by Representative Dyck. Motion carried.

Representative moved that HB 2943 be amended to cause the new legislation to take effect in the State Registry rather than by statute. Seconded by Representative Louis. Motion carried.

Representative Chronister moved that HB 2943, as amended, be reported favorably for passage. Seconded by Representative Louis. Motion carried.

HB 3090 -- an act concerning taxes imposed on insurance premiums; imposing a tax on certain insurance premiums for the purposes of firefighters relief and directing the disposition thereof; disallowing certain credits based on such tax; prescribing certain duties for the commissioner of insurance; creating the state firefighters relief fund; amending K.S.A. 40-252 and 40-1701 to 40-1707, inclusive, and repealing the existing sections.

Jim Wilson passed out a proposed amendment which was explained by Representative Mainey (Attachment 2). The amendment creates a floating tax situation and also clarifies language on Lines 231 and 232. Representative Mainey moved the amendment be adopted. Seconded by Representative Turnquist. Motion carried.

Representative Mainey moved that HB 3090 be reported favorably for passage, as amended. Seconded by Representative Farrar. Motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Ways and Means,
 room 514-S, Statehouse, at 12:00 a.m./p.m. on Thursday, March 29, 1984

SB 696 -- an act relating to purchases and sales of property by state agencies; concerning sales of retired highway patrol and central motor pool vehicles; amending K.S.A. 1983 Supp. 75-3739 and repealing the existing section.

Senator Gordon presented an amendment (Attachment 3), which was explained by Jim Wilson. Representative Louis moved the amendment be adopted. Seconded by Representative Rolfs. Motion carried.

Representative Chronister moved that SB 696, as amended, be reported favorably for passage. Seconded by Representative Rolfs. Motion carried.

SB 828 -- an act concerning the sale of highway patrol vehicles; amending K.S.A. 1983 Supp. 74-2124 and repealing the existing section.

Jim Wilson explained the bill, saying it was introduced by Ways and Means as a technical clean-up bill. Representative Rolfs moved that SB 828 be recommended favorably for passage and be placed on the Consent Calendar. Seconded by Representative Meacham. Motion carried.

SB 727 -- an act relating to the construction defects recovery fund; amending K.S.A. 1983 Supp. 75-3785 and repealing the existing section.

Art Griggs explained the bill. Representative Shriver moved that SB 727 be reported favorably for passage. Representative Turnquist seconded. Motion carried.

SB 721 -- an act concerning unemployment compensation; relating to disqualification for benefits; relating to the compensation of members of the board of review; concerning classification of employers; relating to claims against the state; relating to processing and auditing thereof; prescribing certain powers, duties and functions for the secretary of administration; establishing the state agency unemployment claims audit fund; authorizing certain fees and prescribing the disposition thereof; amending K.S.A. 1983 Supp. 44-706, 44-709, 44-710 and 44-710a and repealing the existing sections.

Representative Douville explained that SB 721 is the same type of bill as HB 2981, this bill contains additional items. Representative Hamm moved that SB 721 be reported favorably for passage. Seconded by Representative Shriver. Motion carried.

SB 675 -- an act concerning state moneys; relating to security requirements for state bank accounts; amending K.S.A. 75-4218 and repealing the existing section.

Jim Maag, Kansas Bankers Association, testified in support of the bill (Attachment 4). Representative Dyck moved that SB 675, as amended by the first committee, be reported favorably for passage. Seconded by Representative Louis. Motion carried.

Arden Ensley presented a proposed draft bill relating to the state board of education (Attachment 5). Representative Lowther moved that the draft bill be introduced and referred to the Education Committee. Seconded by Representative Hoy. Motion carried.

SB 851 -- an act amending the self-service storage act; concerning the procedure for sale of certain property stored; amending K.S.A. 58-817 and repealing the existing section.

Jim Wilson explained the bill. Representative Rolfs moved that SB 851 be reported favorably for passage and be placed on the Consent Calendar. Seconded by Representative Chronister. Motion carried.

SB 849 -- an act repealing K.S.A. 1983 Supp. 74-5605a relating to qualification for applicants for admission to courses conducted by the law enforcement training center.

Jim Wilson explained the bill. Representative Heinemann moved that SB 849 be reported favorably for passage and be placed on the Consent Calendar. Seconded by Representative Chronister. Motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Ways and Means,
room 514-S, Statehouse, at 12:00 ~~x.m.~~/p.m. on Thursday, March 29, 1984

HB 3119 -- an act concerning the state board of agriculture; providing for the regulation of large-capacity scales and liquefied petroleum gas meters; requiring certain tests; establishing certain licensure and inspection fees and prescribing the disposition thereof; prescribing certain powers, duties and functions for the state sealer of weights and measures; amending K.S.A. 83-145 and K.S.A. 1983 Supp. 83-123 and repealing the existing sections.

Representative Arbuthnot explained the bill, which changes the method of testing and certifying large scales. The elevator owner will be responsible to secure the services of a large scale service company, cutting back on the activity of the State testing service, resulting in monetary savings for the State.

Representative Hamm questioned Section 5 relating to the state sealer. Harland Priddle, Secretary of Board of Agriculture spoke to the question. (testimony by Mr. Priddle is Attachment 6). Representative Hamm moved that Section 5 be deleted from the bill, and Representative Luzzati seconded.

It was also suggested that the word "shall" on Line 153 in Section 5 be changed to "may". Representative Mainey moved to change "shall" to "may" and strike the words "60 days". Representatives Hamm and Luzzati agreed to the new motion. The motion carried.

Representative Arbuthnot moved that HB 3119 be reported favorably for passage, as amended. Seconded by Representative Farrar. Motion carried.

HB 3118 -- an act concerning the health care provider insurance availability act; relating to state institutions for the mentally retarded; amending K.S.A. 1983 Supp. 40-3401 and 40-3414 and repealing the existing sections.

Representative Shriver explained the bill and moved that HB 3118 be reported favorably for passage. Seconded by Representative Heinemann. Motion carried.

Chairman Bunten announced that we would take up HB 3080 and HB 3081 at the next meeting, Friday, March 30, 8:00 a.m. He urged the committee to read the fiscal notes on these two bills.

SB 646 -- concerning compensation of certain district court personnel; relating to reduced compensation upon termination in certain cases.

Representative Lowther explained the bill and moved that SB 646 be reported favorably for passage. Seconded by Representative Dyck. Motion carried.

Meeting adjourned at 1:30 P.M.

Attachment 7 -- SB 696, by Senator Gordon.

HOUSE BILL No. 2943

By Representative Sprague

2-8

6 AN ACT concerning life insurance; providing for the nonforfeit-
7 ure value of life insurance policies to be subject to certain
8 claims; amending K.S.A. 40-414 and repealing the existing
9 section.

20 *Enacted by the Legislature of the State of Kansas:*

21 Section 1. K.S.A. 40-414 is hereby amended to read as fol-
22 lows: 40-414. ~~In case any~~ (a) *If a life insurance company or*
23 *fraternal benefit society shall have issued or shall hereafter issue*
24 ~~any policy or policies issues any policy~~ of insurance or benefi-
25 ciary certificates upon the life of an individual and payable at the
26 death of the ~~assured insured~~, or in any given number of years, to
27 any person or persons having an insurable interest in the life of
28 the ~~assured~~; ~~all such policies and their insured, the policy and its~~
29 ~~reserves, or the their present value thereof~~, shall inure to the sole
30 and separate use and benefit of the beneficiaries named therein;
31 *in the policy and shall be free from:*

32 (1) *The claims of the assured, and shall also be free from the*
33 *claims of the person or persons effecting such insurance, their*
34 *insured or the insured's creditors and representatives;*

35 (2) *the claims of any policyholder or the policyholder's*
36 *creditors and representatives, and shall be free from subject to*
37 *the provisions of subsection (b);*

38 (3) *all taxes, subject to the provisions of subsection (d); and*

39 (4) *the claims and judgments of the creditors and represent-*
40 *atives of the person or persons named as beneficiaries in said*
41 ~~policy or policies any person named as beneficiary in the policy~~
42 ~~of insurance; Provided, That nothing herein.~~

43 (b) *The nonforfeiture value of a life insurance policy shall*
44 *not be exempt from:*

①

0045 (1) Claims of the creditors of a policyholder who files a
0046 bankruptcy petition under 11 U.S.C. §101 et seq. on or within
0047 one year after the date the policy is issued; or

0048 (2) the claim of any creditor of a policyholder if execution on
0049 judgment for the claim is issued on or within one year after the
0050 date that the policy is issued.

0051 (c) Nothing in this section shall be construed as restricting
0052 the right of the assured insured to change the beneficiary where
0053 if the policy reserves such a that right to the assured; *Provided*
0054 further, ~~G That nothing herein insured.~~

0055 (d) Nothing in this section shall be construed as exempting
0056 from taxation; any real estate which may at any time be carried by
0057 any life insurance company as a part of its legal reserve.

0058 Sec. 2. K.S.A. 40-414 is hereby repealed.

0059 Sec. 3. This act shall take effect and be in force from and
0060 after its publication in the statute book.

if the policy was obtained by the debtor for the purpose of defrauding one or more of the debtor's creditors

0514	Continuation of certificate of authority	10.00
0516	3. Mutual fire, hail, casualty and multiple line insurers and	
0517	reciprocal or interinsurance exchanges:	
0519	Admission fees:	
0521	Examination of charter and other documents	\$55.00
0523	Filing annual statement	100.00
0525	Certificate of authority	10.00
0527	Annual fees:	
0529	Filing annual statement	100.00
0531	Continuation of certificate of authority	10.00
0533	4. Burial insurance companies:	
0535	Filing application for sale of stock	\$25.00
0537	Annual fees:	
0539	Filing annual statement	100.00
0541	Continuation of certificate of authority	10.00

0543 In addition to the above fees and as a condition precedent to
 0544 the continuation of the certificate of authority provided in this
 0545 code, all such companies shall pay a fee of \$2 for each agent
 0546 certified by the company and shall also pay a tax annually upon
 0547 all premiums received on risk located in this state at the rate of
 0548 1% per annum less (1) for ~~calendar~~ years prior to 1984, any taxes
 0549 paid on business in this state pursuant to the provisions of K.S.A.
 0550 40-1701 to 40-1707, inclusive, and 75-1508, and any amendments
 0551 thereto and (2) for ~~calendar~~ years 1984 and thereafter, any taxes
 0552 paid on business in this state pursuant to the provisions of
 0553 K.S.A. 75-1508 and amendments thereto. In the computation of
 0554 the gross premiums all such companies shall be entitled to
 0555 deduct any premiums returned on account of cancellations, all
 0556 premiums received for reinsurance from any other company
 0557 authorized to do business in this state, dividends returned to
 0558 policyholders and premiums received in connection with the
 0559 funding of a pension, deferred compensation, annuity or profit-
 0560 sharing plan qualified or exempt under sections 401, 403, 404,
 0561 408, 457 or 501 of the United States internal revenue code.
 0562 Should any such company remove or maintain, or both, either
 0563 their home, principal or executive office or offices from this state,
 0564 every such company shall be subject to the provisions of sub-
 0565 section D of this section.

B

0567 Fraternal benefit societies organized under the laws of this
 0568 state:

0570	Admission fees:	
0572	Examination of charter and other documents	\$55.00
0574	Filing annual statement	100.00
0576	Certificate of authority	10.00

tax

tax

and the amount of the firefighters relief tax credit determined by the commissioner of insurance. The amount of the firefighters relief tax credit for a company for the current tax year shall be determined by the commissioner of insurance by dividing (A) the total amount of credits against the 1% tax imposed by this section for taxes paid by all such companies on business in this state under K.S.A. 40-1701 to 40-1707, inclusive, and amendments thereto for tax year 1983, by (B) the total amount of taxes paid by all such companies on business in this state under K.S.A. 40-1703 and amendments thereto for the tax year immediately preceding the current tax year, and by multiplying the result so obtained by (C) the amount of taxes paid by the company on business in this state under K.S.A. 40-1703 and amendments thereto for the current tax year.

2

0231 shall determine for the nonreceiving association from such in-
0232 formation as is available to the commissioner, the amount the
0233 nonreceiving association would most probably have received if
0234 it had actually received such a payment from the taxes collected
0235 for calendar year 1982, with appropriate adjustments based on
0236 payments to firefighters relief associations of fire departments
0237 providing fire protection services within geographic areas hav-
0238 ing similar populations and assessed tangible property valua-
0239 tion as the geographic area provided fire protection services by
0240 the fire department of each such nonreceiving association, and,
0241 upon making such determination, the commissioner of insur-
0242 ance shall include the amount so determined within the com-
0243 putations prescribed by this paragraph (5) for payments here-
0244 under, and (B) one or more firefighters relief associations may
0245 apply to the commissioner of insurance for a redetermination of
0246 the proportionate amounts payable to all firefighters relief
0247 associations under this paragraph (5) and, upon receipt of such
0248 application, the commissioner of insurance shall hold a hearing
0249 and may redetermine such proportionate amounts based upon
0250 such information as is presented to or otherwise made available
0251 by the applicants to the commissioner and may make a finding
0252 of changed circumstances and, upon making such finding, the
0253 commissioner of insurance may include such redetermination
0254 within the computations prescribed by this paragraph (5) for
0255 payments hereunder, except that such applications may not be
0256 made by such firefighters relief associations more often than
0257 once every three years.

0258 (d) Except as otherwise provided herein in this section,
0259 whenever any firemen's firefighters relief association shall fail
0260 fails to qualify for funds, as provided in this the firefighters relief
0261 act, for a period of two (2) consecutive years, the funds on deposit
0262 with such association shall be returned by the county attorney to
0263 the commissioner of insurance who shall disburse said. The
0264 commissioner of insurance shall remit all such funds to the state
0265 treasurer. Upon receipt of any such remittance, the state trea-
0266 surer shall deposit the entire amount thereof in the state trea-
0267 sury to the credit of the state firefighters relief fund. The

1

made

by the nonreceiving association,

ASS
S

SENATE BILL No. 696

By Senators Gordon and Doyen

2-8

0017 AN ACT relating to purchases and sales of property by state
0018 agencies; concerning sales of retired ~~highway patrol and cen-~~
0019 ~~tral motor pool vehicles~~; amending K.S.A. 1983 Supp. 75-3739
0020 and repealing the existing section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 1983 Supp. 75-3739 is hereby amended to
0023 read as follows: 75-3739. In the manner as provided in this act
0024 and rules and regulations established thereunder:

0025 ~~(A)~~ (a) All contracts for construction and repairs, and all
0026 purchases of and contracts for supplies, materials, equipment
0027 and contractual services shall be based on competitive bids, and
0028 sales of property shall be to the highest responsible bidder, at an
0029 advertised public auction or after advertising for sealed bids in
0030 the same manner provided for purchase of property herein as
0031 may be determined by the director of purchases, except that
0032 competitive bids need not be required: ~~(A)~~ (1) For contractual
0033 services where no competition exists; or ~~(B)~~ (2) sales in an
0034 established market; or ~~(C)~~ (3) when, in the judgment of the
0035 director of purchases, chemicals and other material for use in
0036 laboratories, shop and like experimental studies by state educa-
0037 tional institutions may be purchased to the best advantage of the
0038 state, or where rates are fixed by law or ordinance; or ~~(D)~~ (4) for
0039 items traded in on like items; or ~~(E)~~ (5) when, in the judgment of
0040 the director of purchases, an agency emergency requires imme-
0041 diate delivery of supplies, materials or equipment, or immediate
0042 performance of services.

0043 The director of purchases shall make a detailed report at least
0044 once in each calendar quarter to the legislative coordinating
0045 council and the chairpersons of the senate and the house of

PROPOSED AMENDMENTS
(Technical and Clarifying)
SB 696

motor vehicles and highway machinery and
equipment

3

0120 tional institutions, without competitive bids only if the director
0121 of purchases determines that comparable services are not rea-
0122 sonably available from responsible sources other than such
0123 agencies at a lower cost.

0124 (8) (h) Except as otherwise specifically provided by law, no
0125 state agency shall enter into any lease of real property without
0126 the prior approval of the secretary of administration. Such state
0127 agency shall submit to the secretary of administration such
0128 information relating to any such proposed lease as the secretary
0129 may require. The secretary of administration shall either ap-
0130 prove, modify and approve or reject any such proposed lease.

0131 (i) Notwithstanding anything ~~herein~~ to the contrary, sales of
0132 retired motor vehicles, mowers, graders and other highway
0133 machinery and equipment of the highway patrol, central motor
0134 pool and department of transportation shall be to the highest
0135 responsible bidder at either an advertised public auction or
0136 sealed competitive bids. Nothing in this subsection shall pre-
0137 clude a state agency from trading in ~~vehicles~~ when authorized to
0138 do so by the director of purchases. The ~~vehicle sales fee fund~~ is
0139 hereby created and shall be utilized by the director of purchases
0140 to pay all or part of the expenses of ~~vehicle~~ sales authorized by
0141 this subsection. Fees for such expenses shall be deducted from
0142 the proceeds received from such sales.

0143 Sec. 2. K.S.A. 1983 Supp. 75-3739 is hereby repealed.

0144 Sec. 3. This act shall take effect and be in force from and
0145 after its publication in the Kansas register.

in this section

Kansas

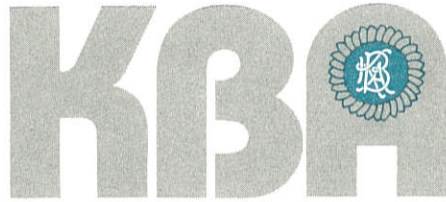
by

or as otherwise authorized by
this section

such vehicles and equipment

motor vehicle and highway equipment

and shall be deposited in the state treasury
to the credit of the motor vehicle and highway
equipment sales fee fund



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 29, 1984

TO: House Committee on Ways and Means

RE: SB 675

Mr. Chairman and members of the Committee:

We appreciate the opportunity to appear before your committee on SB 675. The Kansas Bankers Association does endorse the provisions of SB 675 as passed by the Senate and believes that the first priority of the state and Kansas banks is to assure the safety and soundness of all revenues deposited in those institutions. Therefore, the requirement of 100% pledging on such deposits rather than the current 70% is an acceptable change in the existing statutes.

We would like to recommend an amendment to SB 675 which would allow for the pledging of loans under the Guaranteed Student Loan Program as collateral on the deposits of state monies in Kansas banks. As the attached sheets show such loans are currently acceptable as collateral on deposits of the federal government in banks at the face value of the loans. In the attached Attorney General Opinion of February 1, 1984, it should be noted that the General does not imply that such loans would not be acceptable securities for pledging against state monies, but that under the definition of what constitutes a federal agency, the Guaranteed Student Loan Program does not technically qualify as a federal agency.

Because such loans are guaranteed by a guaranty agency and further by the federal government, we believe they are every bit as sound for pledging purposes as participation certificates of other federally sponsored agencies such as Freddie Mac or Ginnie Mae.

It should also be noted that a number of Kansas banks maintain a rather sizeable portfolio of such loans and making such loans available is of enormous value to students throughout the state of Kansas and to the Kansas educational institutions. Therefore, we believe it is in the best interest of Kansas education and state government that this amendment be made to the pledging statutes for the deposit of state monies.

We appreciate very much the opportunity to appear and would request your favorable consideration of this amendment and of SB 675.

James S. Maag
Director of Research

4

75-4201. Definitions. As used in this act, unless the context otherwise requires:

(p) "Securities" means any one or more of the following:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof.

(2) Kansas municipal bonds which are general obligations of the municipality issuing the same.

(3) Revenue bonds of any agency or arm of the state of Kansas.

(4) Revenue bonds of any municipality, as defined by K.S.A. 10-101, within the state of Kansas or bonds issued by a public building commission as authorized by K.S.A. 12-1761 if approved by the state bank commissioner, except (A) bonds issued under the provisions of K.S.A. 12-1740 *et seq.* unless such bonds are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp. and (B) bonds secured by revenues of a utility which has been in operation for less than three years. Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

(5) Temporary notes of any municipal corporation or quasi-municipal corporation within the state of Kansas which are general obligations of the municipal corporation or quasi-municipal corporation issuing the same.

(6) Warrants of any municipal corporation or quasi-municipal corporation within the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy.

(7) Bonds of any municipal or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America. A copy of such escrow agreement shall be furnished to the treasurer.

(8) *Notes representing loans to students in colleges or vocational schools which are insured either by Federal insurance or by a State agency or private nonprofit institution or organization administering a student loan insurance program in accordance with a formal agreement with the Commissioner of Education under the provisions of the Higher Education Act of 1965 or the National Vocational Student Loan Insurance Act of 1965.*

(9) All of such securities shall be current as to interest according to the terms thereof.

(10) Whenever a bond is authorized to be pledged as a security under this section, such bond shall be accepted as a security if (i) in the case of a certificated bond, it is assigned, delivered or pledged to the holder of the deposit for security; (ii) in the case of an uncertificated bond, registration of a pledge of the bond is authorized by the system and the pledge of the uncertificated bond is registered or (iii) in a form approved by the attorney general, which assures the availability of the bond proceeds pledged as a security for public deposits.

Subpart C—Interest and Compensation

§ 203.13 Rate of interest.

The rate of interest to be used in connection with the Note Option and the Remittance Option will be equal to the Federal funds rate less twenty-five basis points (i.e., $\frac{1}{4}$ of 1 percent). Details about the computation are included in the Procedural Instructions for Treasury Tax and Loan Depositories.

§ 203.14 Compensation for services rendered.

(a) *General*. Depositories will not be separately compensated for servicing the tax and loan account, but the bookkeeping costs of maintaining that account are considered in establishing the per-item fee for each Federal tax deposit, as prescribed at § 214.6(b) of this chapter.

(b) *Remittance Option—Class 2 depositories*. Fees payable to Remittance Option—Class 2 depositories for Federal tax deposits will be reduced by an analysis credit representing the value of the balances in tax and loan accounts in excess of a current day's credits. Specific details regarding the determination of the amount of compensation due are discussed in the Procedural Instructions for Treasury Tax and Loan Depositories.

Subpart D—Collateral Security

§ 203.15 Collateral security requirements.

(a) *Note Option*. (1) Before crediting deposits to its Treasury tax and loan account, a Note Option depository shall pledge collateral security in accordance with the requirements of paragraphs (c)(1), (d) and (e) of this section in an amount that is sufficient to cover the sum of 100 percent of the amount of the note balance and the closing balance in its Treasury tax and loan account which exceeds recognized insurance coverage, minus the amount of the note balance attributable to special direct investments.

(2) Before special direct investments are credited to a depository's note account, a Note Option depository shall pledge collateral security in accord-

ance with the requirements of paragraphs (c)(2) and (e) of this section, and in accordance with the valuations of paragraphs (d)(4) through (d)(8) of this section, as applicable, to cover 100 percent of the amount of the special direct investments to be received.

(b) *Remittance Option*. Prior to crediting deposits to its Treasury tax and loan account, a Remittance Option depository shall pledge collateral security in accordance with the requirements and valuations of paragraph (d) of this section in an amount which is sufficient to cover the maximum balance in the tax and loan account at the close of business each day, less recognized insurance coverage.

(c) *Deposits of securities*. (1) Collateral security required under paragraphs (a)(1) and (b) of this section shall be deposited with the Federal Reserve Bank of the district, or with a custodian or custodians within the United States designated by the Federal Reserve Bank, under terms and conditions prescribed by the Federal Reserve Bank.

(2)(i) Collateral security required under paragraph (a)(2) of this section shall be pledged under a written security agreement on a form provided by the Federal Reserve Bank of the district. The collateral security pledged to satisfy the requirements of paragraph (a)(2) of this section may remain in the pledging depository's possession and the fact that it has been pledged shall be evidenced by advices of custody to be incorporated by reference in the written security agreement. The written security agreement and all advices of custody covering collateral security pledged under that agreement shall be provided by the depository to the Federal Reserve Bank of the district. Collateral security pledged under the agreement shall not be substituted for or released without the advance written approval of the Federal Reserve Bank of the district, and any collateral security subject to the security agreement shall remain so subject until an approved substitution is made. No substitution or release shall be approved until an advice of custody containing the description required by the writ-

ten security agreement is received by the Federal Reserve Bank of the district.

(ii) Treasury's security interest in collateral security pledged by a depository in accordance with paragraph (c)(2)(i) of this section to secure special direct investments is perfected without the Treasury's taking possession of the collateral security for a period of not to exceed 21 days from the day of receipt of the special direct investment.

(d) *Acceptable securities*. Unless otherwise specified by the Secretary of the Treasury, collateral security pledged under this section may be transferable securities of any of the following classes:

(1) Obligations issued or fully insured or guaranteed by the United States or any U.S. Government agency, and obligations of Government-sponsored corporations which under specific statute may be accepted as security for public funds: At face value.

(2) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank or the Asian Development Bank: At face value.

(3) Obligations partially insured or guaranteed by any U.S. Government agency: At a value equal to the amount of the insurance or guaranty.

(4) Notes representing loans to students in colleges or vocational schools which are insured either by Federal insurance or by a State agency or private nonprofit institution or organization administering a student loan insurance program in accordance with a formal agreement with the Commissioner of Education under the provisions of the Higher Education Act of 1965 or the National Vocational Student Loan Insurance Act of 1965: At face value.

(5) Obligations issued by States of the United States: At 90 percent of face value.

(6) Obligations of Puerto Rico: At 90 percent of face value.

(7) Obligations of counties, cities, and other governmental authorities and instrumentalities which are not in

default as to payments on principal or interest: At 80 percent of face value.

(8) Obligations of domestic corporations which may be purchased by banks as investment securities under the limitations established by Federal bank regulatory agencies: At 80 percent of face value.

(9) Commercial and agricultural paper and bankers' acceptances approved by the Federal Reserve Bank of the district and having a maturity at the time of pledge not to exceed 2 years: At 90 percent of face value.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

February 1, 1984

ATTORNEY GENERAL OPINION NO. 84- 6

The Honorable Joan Finney
Treasurer, State of Kansas
700 Harrison
Topeka, Kansas 66601

Re: State Departments -- State Moneys -- Deposit of
State Moneys; Use of Notes Representing Loans Under
the Federal Guaranteed Student Loan Program as
Securities Therefor

Synopsis: Pursuant to K.S.A. 75-4201 et seq., the Pooled Money
Investment Board may designate state or national banks
located in Kansas to receive active and inactive
accounts of state moneys. As provided in K.S.A. 75-
4218, all state bank accounts shall be secured by
pledge of securities, which are held by the state
treasurer, an approved Kansas bank or the federal
reserve bank in Kansas City, Missouri. The term
"securities" is defined at K.S.A. 1983 Supp. 75-4201(p)
to include [at paragraph (1)] obligations that are in-
sured as to principal and interest by the federal
government or any agency thereof. While the federal
Guaranteed Student Loan Program involves the partici-
pation of a guarantee agency which insures the repay-
ment of one hundred percent of the principal and inter-
est due on such loans which are not repaid, such an
agency is not an agency of the federal government.
Therefore, notes representing loans under the federal
Guaranteed Student Loan Program cannot be pledged as
securities to secure the deposit of state moneys.
Cited herein: K.S.A. 1983 Supp. 75-4201, 75-4208,
K.S.A. 75-4218, 20 U.S.C.A. §1071, 34 C.F.R. §§
682.100, 682.200, 682.400, 682.406.

* * *

Dear Mrs. Finney:

As Treasurer for the State of Kansas, you request our opinion

on a question concerning the deposit of state moneys in banks located in this state. Specifically, you refer us to K.S.A. 75-4201 et seq., which act provides the procedures for placing active and inactive state accounts in Kansas banks, both state and nationally chartered. In that banks which are selected by the Pooled Money Investment Board (which you, as State Treasurer, chair) must pledge securities to guarantee such deposits, a question has arisen as to whether certain types of notes fall under the definition of securities, and therefore qualify for the purpose of pledging. Before turning to the specifics of the instruments involved, it would be helpful to set out the pertinent statutes.

The Pooled Money Investment Board (Board) meets each July for the purpose of initiating the process of designating banks to receive accounts of active and inactive state moneys. (K.S.A. 1983 Supp. 75-4208). Those banks which are interested in obtaining such accounts may submit sealed proposals which are considered by the Board no later than September 1. At that time, awards of active and inactive accounts of state and special moneys are made, after which time each bank securing an account is notified of its award and "that the same is subject to approval of securities to be pledged as prescribed in the act." [K.S.A. 1983 Supp. 75-4208(c)].

Requirements for the pledging of securities are set out by K.S.A. 75-4218 as follows:

"(a) All state bank accounts shall be secured by pledge of securities as provided in this section.

(b) The bank receiving or having a state bank account shall deposit securities owned by it, in one of the following ways:

(1) Deposit with the treasurer.

(2) Deposit with a bank having adequate modern facilities for the safekeeping of securities and doing business in the state of Kansas, and which facilities shall have had the prior approval of the board. Any such bank receiving securities for safekeeping shall be liable to the state for any loss suffered by the state in the event such bank relinquishes the custody of any such securities contrary to the provisions of this act or rules and regulations adopted thereunder. No such deposit of securities shall be made in any facility owned or controlled directly or indirectly by the bank depositing the same.

(3) Deposit with the federal reserve bank of Kansas City, Missouri.

(4) Any combination of (1), (2) and (3)."

*

*

*

"(e) Active accounts, time deposit, open ac-

counts, inactive accounts, fee agency accounts and custodial accounts shall be secured in an amount equal to seventy percent (70%) thereof, less so much of any such account as is protected by the federal deposit insurance corporation. Any agency responsible for a fee agency account shall transfer immediately all moneys not so secured to the state treasurer for deposit in the state treasury."

In turn, the term "securities" is defined by K.S.A. 1983 Supp. 75-4201(p) to include a variety of municipal bonds, revenue bonds, temporary notes and warrants, as well as any "[d]irect obligations of, or obligations that are insured as to principal and interest by, the United State government or any agency thereof."

The question you present concerns the possible use of notes which represent loans made under the Guaranteed Student Loan Program (GSLP) as securities for the purposes of the above statutes. In that you have provided us with a thorough and lengthy memorandum which sets forth the way in which the GSLP operates, accompanied by numerous attachments, we will not attempt to repeat everything that you have set out. However, in that the central issue presented by your request concerns the nature of such loans and the agencies which guarantee their repayment, some description of the program should be given.

The GSLP was created by Title IV, Part B of the Higher Education Act of 1965, as amended. (20 U.S.C.A. §1071 et seq.). The program makes low interest loans available to eligible students attending post-secondary schools, and functions as a "partnership" between four different entities: The federal government, by way of the Department of Education; private lenders; the educational institution; and a state guarantee agency or a private, non-profit organization which serves as guarantor. The lender advances its funds to the student, with the guaranty agency insuring against loss. 34 C.F.R. §682.100. The agency, in turn, is protected through agreements with the Department of Education, which result in full payment of default claims, as long as those claims are held to a rate of five percent or less a year. 34 C.F.R. §682.400, et seq. For higher default rates, compensation decreases to less than one hundred cents on the dollar. This has the effect of leaving the federal government ultimately responsible, although the loans themselves are not guaranteed by the government.

The Higher Education Assistance Foundation (HEAF) was incorporated in 1976 as a Minnesota non-profit corporation, and currently serves as a private guarantee agency for GSLP loans made in Kansas and four other states, plus the District of Columbia. HEAF has entered into a number of agreements with the Department of Education, copies of which you attached to your letter and memorandum, by which the agency may be reimbursed by the federal

government for those amounts on which it cannot collect. From the agreements, it is apparent that primary collection duties rest with the agency, which assists lenders with initial efforts to collect amounts in arrears and then undertakes its own efforts after it has had to pay out on a default. It is given an incentive to do so by the federal government, for if defaults rise to more than nine percent, only 80% of the amount paid to lenders is reimbursed to the agency. 34 C.F.R. 682.406.

From our review of the GSLP and the relationship between the federal government and HEAF, it is our opinion that the latter agency cannot be said to be an agency of the United States government. It was not created by the Department of Education, nor any other branch of the federal government, nor are its officers or directors appointed by or accountable to the federal government. While it must meet certain requirements in order to participate in the GSLP, participating educational institutions and lenders must do so as well. 34 C.F.R. §682.200 et seq. Therefore, in that it is HEAF which guaranteed 100 percent repayment to the lender, not the federal government, paper representing GSLP loans is not insured as to principal and interest by the federal government, but by a private agency, which may or may not receive full repayment depending on the percentage of defaulted loans. Accordingly, GSLP loan notes are not "securities" for the purposes of K.S.A. 1983 Supp. 75-4201(p), and may not be pledged by a bank for the receipt of state accounts. This situation is clearly distinguishable from that presented by a previous opinion of this office, No. 83-96, which involved the use as security of participation certificates (under K.S.A. 9-1402) issued by the Federal Home Loan Mortgage Corporation. There, the facts indicated that the FHLMC was a federally sponsored corporation, without the degree of independence possessed by HEAF.

In conclusion, pursuant to K.S.A. 75-4201 et seq., the Pooled Money Investment Board may designate state or national banks located in Kansas to receive active and inactive accounts of state moneys. As provided in K.S.A. 75-4218, all state bank accounts shall be secured by pledge of securities, which are held by the state treasurer, an approved Kansas bank or the federal reserve bank in Kansas City, Missouri. The term "securities" is defined at K.S.A. 1983 Supp 75-4201(p) to include [at paragraph (1)] obligations that are insured as to principal and interest by the federal government or any agency thereof. While the federal Guaranteed Student Loan Program involves the participation of a guarantee agency which insures the repayment of one hundred percent of the principal and interest due on such loans which are not repaid, such an agency is not an agency of the federal government. Therefore, notes representing loans under the federal Guaranteed Student Loan Program cannot be pledged as secur-

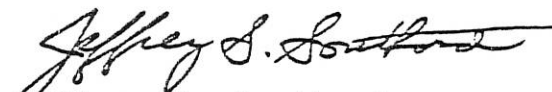
The Honorable Joan Finney
Page Five

ities to secure the deposit of state moneys.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JJS:crw

HOUSE BILL NO. _____

By Committee on Ways and Means

AN ACT relating to the state board of education; concerning the membership, organization, powers, duties and authority thereof; amending K.S.A. 25-101, 25-212, 25-213, 25-611, 25-617, 25-1116, 25-1118, 25-2503, 25-2505, 25-3903, 25-3905, 25-3906, 25-4153, 25-4304, 72-7502, 72-7503, 72-7509 and 72-7514 and repealing the existing sections and also repealing K.S.A. 25-1901 through 25-1906, 25-1910, 25-1911, 25-3902a, 25-3904a, 72-7504, 72-7505 and 72-7514a and K.S.A. 1983 Supp. 72-7514b.

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

Section 1. K.S.A. 72-7502 is hereby amended to read as follows: 72-7502. Unless the context otherwise requires, as used in this act:

(a) "State board" means the state board of education created by ~~sections 2 and 3 of~~ pursuant to article 6 of the constitution and ~~provided for by~~ K.S.A. 72-7503, and amendments thereto.

(b) "Board member" and "member" mean a member of the state board of education.

(c) "Board member position" means one of the numbered positions used to identify the ~~ten--(10)~~ members of the state board of education.

(d) "Commissioner" means the commissioner of education created by section 4 of article 6 of the constitution and provided for by K.S.A. 72-7601, and amendments thereto.

(e) "State department" means the state department of education established by K.S.A. 72-7701, and amendments thereto.

~~(f)--"Board--member-district"--or--"member-district"--means--one--of--ten--(10)--districts--from--which--a--board--member--is--elected,--as--is--prescribed--in--article--6,--section--3--(a)--of--the--constitution--of~~

Kansas:

Sec. 2. K.S.A. 72-7503 is hereby amended to read as follows: 72-7503. (a) In compliance with sections 2 and 3 of article 6 of the constitution of this state, provisions are hereby made for the state board of education. The board shall be comprised of ~~ten-(10)~~ nine members. ~~The board shall have ten-(10) board member positions, which are numbered one-(1) to ten-(10).~~ ~~The state is divided into ten-(10) board member districts, which are numbered one-(1) to ten-(10).~~ ~~Each board member position shall correspond to the respectively numbered board member district.~~ ~~Each board member position shall be occupied by a resident of the board member district having the same number.~~

~~(b) Members of the state board of education shall be elected as provided by law, except that vacancies occurring on the board shall be filled by appointment under the conditions herein specified.~~

~~(c) The state board of education shall have the powers that it is specified to have in the constitution as such powers are more specifically described and defined by law. At the general election in 1984, five members shall be elected for terms of four years commencing on January 14, 1985, and ending on the second Monday in January 1989. On the second Monday in January in 1985, the governor shall appoint four members for terms of two years, and until a successor is appointed and qualified. On the Tuesday succeeding the second Monday in January in 1987, and on the Tuesday succeeding the second Monday in January in each fourth year thereafter the governor shall appoint four members for terms of four years, and until a successor is appointed and qualified. On the second Monday in January in 1989, and on the Tuesday succeeding the second Monday in January in each fourth year thereafter the governor shall appoint five members for terms of four years, and until a successor is appointed and qualified. All members of the board shall be residents of the state of Kansas. All members of the board appointed by the governor shall be subject to confirmation by the senate as provided by K.S.A. 1983~~

Supp. 75-4315b, and amendments thereto. All members of the board appointed by the governor shall be selected from among the members of the two political parties casting the highest and second highest number of votes respectively for secretary of state at the last preceding general election at which a secretary of state was elected. All vacancies in the board shall be filled by appointment by the governor for the unexpired term subject to confirmation by the senate.

(b) Except when otherwise specifically prohibited by law, any elective or appointive state officer or state employee and any officer or employee of any school district, community college or other political or taxing subdivision of the state may be appointed to and serve upon the state board of education.

(c) All of the powers, duties and functions authorized or imposed by statute and all records and property of the state board of education as constituted prior to the amendment of section 3 of article 6 of the Kansas constitution effective on January 14, 1985, and the effective date of this act are hereby conferred and imposed upon the board of education as constituted pursuant to this act and the board of education as constituted pursuant to this act shall be the successor in every way to the powers, duties and functions authorized or imposed by statute upon the state board of education as constituted prior thereto.

Sec. 3. K.S.A. 72-7509 is hereby amended to read as follows: 72-7509. A quorum of the state board shall be ~~six-(6)~~ five members and no meeting shall commence until a quorum is present, but any number of members less than a quorum may recess a meeting to a later time. Official actions of the state board shall be adopted by a favorable vote of ~~six-(6)~~ five or more members. A record vote shall be taken and made a part of their public record.

Sec. 4. K.S.A. 72-7514 is hereby amended to read as follows: 72-7514. The state board is hereby authorized to adopt rules and regulations ~~not-in-conflict-with-law--on--any--and--all~~ matters---within---its---jurisdiction,--except--as--is--otherwise

specifically-provided-by-law necessary for the administration of all powers and duties prescribed by law. All rules and regulations adopted by the state board of education pursuant to statute or to authority granted under section 2 of article 6 of the constitution prior to the effective date of this act shall remain in force and effect and constitute rules and regulations of the board constituted pursuant to this act until amended or revoked by such board.

Sec. 5. K.S.A. 25-101 is hereby amended to read as follows:
25-101. On the Tuesday succeeding the first Monday in November of each even-numbered year, there shall be held a general election to elect officers as follows:

At each alternate election, prior to the year in which the term of office of the president and vice-president of the United States will expire, there shall be elected the electors of president and vice-president of the United States to which the state may be entitled at the time of such election;

at each such election, when the term of a United States senator for this state shall expire during the next year, there shall be elected a United States senator;

at each such election there shall be elected the representatives in congress to which the state may be entitled at the time of such election;

at each alternate election, prior to the year in which their regular terms of office will expire, there shall be elected a governor, lieutenant governor, secretary of state, attorney general, state treasurer and state commissioner of insurance;

~~at each such election there shall be elected such members of the state board of education as provided by law;~~

at each such election, when the term of any district judge, in any judicial district which has not approved the proposition of nonpartisan selection of district court judges as provided in K.S.A. 20-2901, and amendments thereto, shall expire during the next year, or where a vacancy in any such judgeship has been filled by appointment more than ~~thirty-(30)~~ 30 days prior to the

election, there shall be elected such judge or judges of the district court of such judicial district;

at each such election, when the term of any associate district judge or district magistrate judge in any judicial district which has not approved the proposition of nonpartisan selection of district court judges as provided in K.S.A. 20-2901, and amendments thereto, shall expire during the next year, or where a vacancy in any such judgeship has been filled by appointment more than ~~thirty-(30)~~ 30 days prior to the election, there shall be elected such judge or judges of the district court of such judicial district;

at each alternate election, prior to the year in which the regular term of office of state senators shall expire, there shall be elected a state senator in each state senatorial district;

at each election there shall be elected a representative from each state representative district;

at each alternate election there shall be elected, in each county, a county clerk, county treasurer, register of deeds, county or district attorney, sheriff and such other officers as provided by law;

at each alternate election, in counties that may by law be entitled to elect such officer, there shall be elected a county surveyor;

at each election, when the term of county commissioner in any district in any county shall expire during the next year, there shall be elected from such district a county commissioner.

This section shall apply to the filling of vacancies only so far as is consistent with the provisions of law relating thereto.

Sec. 6. K.S.A. 25-212 is hereby amended to read as follows:
25-212. In case there are nomination petitions or declarations of intention to become a candidate on file for more than one candidate or for more than one pair of candidates for governor and lieutenant governor, of the same party for any national or state office, the secretary of state shall divide the state or

appropriate part thereof, into as many divisions as there are names to go on such party ballot for that office. Such divisions shall be as nearly equal in number of members of such party as is convenient without dividing any one county. In making such division the secretary of state shall take the alphabetical list of counties in regular order until ~~he-or-she~~ the secretary gets the required proportion of party members of such party based upon the party affiliation lists as shown by the certificates of the respective county election officers, and so on through the list of counties until ~~he--or--she~~ the secretary gets the proper proportion of party members in each division. The secretary of state shall also take the alphabetical list of candidates or pairs of candidates in regular order and in certifying to the county election officer the list of names for whom nomination petitions or declarations of intent to become a candidate have been filed, shall place one name or pair of candidates at the head of the list in the first division of counties, another in the second division, and so on with all the candidates for any particular office, so that every candidate or pair of candidates for any office shall be at the head of the list in one division of the state and second in another division thereof, and so forth. When, in the case of candidates for the office of congressman, district judge, associate district judge, district magistrate judge, state senator, or state representative ~~or-state board-of-education-member~~, the secretary of state finds that ~~he or--she~~ the secretary cannot get a fair proportion of party members to give each candidate for congressman, district judge, associate district judge, district magistrate judge, state senator, or state representative ~~or--state--board--of--education member~~ in any given district an equitable or fair opportunity to have ~~his-or-her~~ the candidate's name first on the ballot in the respective counties of the district, the secretary of state shall order the county election officers in the various counties of the district to rotate the names of the candidates for such district offices according to precinct. If voting machines are used the

arrangement of names of candidates or pair of candidates for all offices on the voting machines shall be rotated, as near as may be, according to precinct.

The arrangement of the names certified by the secretary of state shall govern the county election officer in arranging the primary election ballot, and the county election officer in preparing the ballot for ~~his-or-her~~ such county shall follow the same arrangement as provided in this section for the secretary of state, for the candidates nominated for county offices, using the township and precincts of the county in making ~~his-or-her~~ such division.

Sec. 7. K.S.A. 25-213 is hereby amended to read as follows: 25-213. At all national and state primary elections, the national and state offices as specified for each in this section shall be printed upon the official primary election ballot for national and state offices and the county and township offices as specified for each in this section shall be printed upon the official primary election ballot for county and township offices. The official primary election ballots shall have the following heading:

OFFICIAL PRIMARY ELECTION BALLOT

_____ Party

To vote for a person whose name is printed on the ballot make a cross or check mark in the square at the right of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space, if any is provided, and make a cross or check mark in the square to the right.

The words national and state or the words county and township shall appear on the line preceding the part of the form shown above.

The form shown shall be followed by the names of the persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections, and for the national and state offices in the following order:

United States senator, United States representative from _____ district, governor and lieutenant governor, secretary of state, attorney general, state treasurer, commissioner of insurance, senator _____ district, representative _____ district, district judge _____ district, associate district judge _____ district, district magistrate judge _____ district, and district attorney _____ judicial district, ~~and member state board of education~~ ~~district~~. For county and township offices the form shall be followed by the names of persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections in the following order: commissioner _____ district, county clerk, treasurer, register of deeds, county attorney, sheriff, surveyor, township trustee, township treasurer, township clerk. When any office is not to be elected, it shall be omitted from the ballot. Other offices to be elected but not listed, shall be inserted in the proper places. For each office there shall be a statement of the number to vote for.

To the right of each name there shall be printed a square. Official primary election ballots may be printed in one or more columns. The names certified by the secretary of state or county election officer shall be printed on official primary election ballots and no others. In case there are no nomination petitions or declarations on file for any particular office, the title to the office shall be printed on the ballot followed by a blank line with a square, and such title, followed by a blank line, may be printed in the list of candidates published in the official paper. No blank line shall be printed following any office where there are nomination petitions or declarations on file for the office except following the offices of precinct committeeman and precinct committeewoman. Except as otherwise provided in this section, no person's name shall be printed more than once on either the official primary election ballot for national and state offices or the official primary election ballot for county and township offices. If a person is a candidate for the

unexpired term for an office, the person's name may be printed on the same ballot as a candidate for the next regular term for such office. The name of any candidate on the ballot may be printed on the same ballot as such candidate and also as a candidate for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for national and state offices shall be printed or written in elsewhere on such ballot or on the official primary election ballot for county and township offices except for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for county and township offices shall be printed or written in on the official primary election ballot for national and state offices or elsewhere on such county and township ballot except for precinct committeeman or committeewoman.

No person shall be elected to the office of precinct committeeman or precinct committeewoman where no nomination petitions or declarations have been filed, unless the person receives at least five write-in votes. As a result of a primary election, no person shall receive the nomination and no person's name shall be printed on the official general election ballot when no nomination petitions or declarations were filed, unless the person receives votes equal in number to not less than 10% of the total vote cast for all candidates for such party's nomination for governor in the state, county or district in which the office is sought at the primary election preceding the last general election of governor, except that a candidate for township office may receive the nomination and have such person's name printed on the ballot where no nomination petitions or declarations have been filed if such candidate receives three or more write-in votes.

Sec. 8. K.S.A. 25-611 is hereby amended to read as follows:
25-611. (a) The arrangement of offices on the official general ballot for national and state offices for those offices to be elected shall be in the following order: Names of candidates for

the offices of president and vice-president, United States senator, United States representative _____ district, governor and lieutenant governor running together, secretary of state, attorney general, (and any other officers elected from the state as a whole), state senator _____ district, state representative _____ district, district judge _____ district, associate district judge _____ district, district magistrate judge _____ district, and district attorney _____ judicial district, ~~and state board of education member _____ district.~~

(b) The arrangement of offices on the official general ballot for county and township offices for those offices to be elected shall be in the following order: Names of candidates for county commissioner _____ district, county clerk, county treasurer, register of deeds, county attorney, sheriff, county surveyor, township trustee, township treasurer, township clerk.

Sec. 9. K.S.A. 25-617 is hereby amended to read as follows: 25-617. The state offices part of the official general ballot for national and state offices shall follow the national offices part as is shown in this section.

STATE OFFICES

To vote for the pair of candidates, make a cross or check mark in the square at the right of the names of the candidates for governor and lieutenant governor.

FOR GOVERNOR AND LIEUTENANT

GOVERNOR

Vote for One Pair

Sam Jones, Wichita

Bob Smith, Arkansas City Republican []

Carol Johnson, Mahaska

Roger Wright, PenolosaDemocrat []

To vote for a person, make a cross or check mark in the

square at the right of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space and make a cross or check mark in the square to the right.

FOR SECRETARY OF STATE

Vote for One

ELIZABETH JUANITA MOORE, Zoomer

Republican []

RUSSEL ADAM, Topeka

Democrat []

JOAN SAYLOR, Goodland

Prohibition []

CHARLES (CHUCK) BROWNING, Kansas City

Independent []

Nomination

[]

FOR ATTORNEY GENERAL

Vote for One

[]

[]

[]

(and continuing in like manner for any other officers elected from the state as a whole)

FOR STATE SENATOR

_____ DISTRICT

Vote for One

[]

[]

[]

FOR STATE REPRESENTATIVE

_____ DISTRICT

Vote for One

[]

[]

[]

FOR DISTRICT JUDGE

_____ DISTRICT

Vote for One

[]

_____ []
_____ []

FOR ASSOCIATE DISTRICT JUDGE

_____ DISTRICT Vote for One
_____ []
_____ []
_____ []

FOR DISTRICT MAGISTRATE JUDGE

_____ DISTRICT Vote for One
_____ []
_____ []
_____ []

FOR DISTRICT ATTORNEY

_____ JUDICIAL DISTRICT Vote for One
_____ []
_____ []
_____ []

FOR STATE BOARD OF EDUCATION MEMBER

-----DISTRICT-----Vote for One
-----[-]-
-----[-]-
-----[-]-

When any office is not to be elected, it shall be omitted from the ballot.

When a voting machine does not provide sufficient space to accommodate the full names of the candidates for governor and lieutenant governor, only the surname of such candidates shall be required to be printed on the ballot label unless surnames of one or more of the candidates are the same.

Sec. 10. K.S.A. 25-1116 is hereby amended to read as follows: 25-1116. (a) "National election" means the election of

members of the United States house of representatives, members of the United States senate and members of the United States presidential electoral college.

(b) "State election" means the election of state officers elected on a statewide basis, members of the house of representatives and state senators, ~~members-of-the-state-board-of education~~, district judges, associate district judges, district magistrate judges and district attorneys.

(c) "County election" means the election of such county officers as are provided by law to be elected.

(d) "City election" means the election of such city officers as are provided by law to be elected.

(e) "School election" means the election of members of the governing body of a school district or a community junior college.

Sec. 11. K.S.A. 25-1118 is hereby amended to read as follows: 25-1118. (a) "National office" or "national officer" means the office of members of the United States house of representatives, members of the United States senate and members of the United States presidential electoral college.

(b) "State office" or "state officer" means the state officers elected on a statewide basis, members of the house of representatives and state senators, ~~members-of-the-state-board-of education~~, district judges, associate district judges, district magistrate judges and district attorneys.

(c) "County office" or "county officer" means such county officers as are provided by law to be elected.

(d) "City office" or "city officer" means such city officers as are provided by law to be elected.

(e) "School office" or "school officer" means members of the governing body of any school district or community junior college.

Sec. 12. K.S.A. 25-2503 is hereby amended to read as follows: 25-2503. (a) "National election" means the election of members of the United States house of representatives, members of

the United States senate or members of the United States presidential electoral college.

(b) "State election" means the election of state officers elected on a statewide basis, members of the house of representatives and state senators, ~~members-of-the-state-board-of education~~, district judges, associate district judges, district magistrate judges and district attorneys.

(c) "County election" means the election of such county officers as are provided by law to be elected.

(d) "City election" means the election of such city officers as are provided by law to be elected.

(e) "School election" means the election of members of the governing body of a school district or a community junior college.

(f) "Township election" means the election of such township officers as are provided by law to be elected.

(g) "Question submitted election" means any election at which a special question is to be voted on by the electors of the state or a part of them.

Sec. 13. K.S.A. 25-2505 is hereby amended to read as follows: 25-2505. (a) "National office" or "national officer" means the office or members of the United States house of representatives, members of the United States senate and members of the United States presidential electoral college.

(b) "State office" or "state officer" means the state officers elected on a statewide basis, members of the house of representatives and state senators, ~~members-of-the-state-board-of education~~, district judges, associate district judges, district magistrate judges and district attorneys.

(c) "County office" or "county officer" means such county officers as are provided by law to be elected.

(d) "City office" or "city officer" means such city officers as are provided by law to be elected.

(e) "School office" or "school officer" means members of the governing body of any school district or community junior

college.

(f) "Township office" or "township officer" means the trustee, treasurer and clerk of a township.

Sec. 14. K.S.A. 25-3903 is hereby amended to read as follows: 25-3903. Whenever a vacancy occurs in the office of state representative or state senator such vacancy shall be filled by appointment by the governor of the person elected to be so appointed by a district convention held as provided in K.S.A. 1975 Supp. 25-3902, and amendments thereto. ~~Whenever a vacancy occurs in the office of member of the state board of education, such vacancy shall be filled in the manner provided for in K.S.A. 1975 Supp. 25-3902a.~~

Sec. 15. K.S.A. 25-3905 is hereby amended to read as follows: 25-3905. (a) Whenever a vacancy occurs after a primary election in a party candidacy, such vacancy shall be filled by the party committee of the congressional district, county or state, as the case may be, except if the vacancy is in a party candidacy for a district office ~~or for the office of member of the state board of education,~~ it shall be filled by district convention held as provided in K.S.A. 25-3904, ~~or as provided in K.S.A. 25-3904a,~~ and amendments thereto, and except as otherwise provided in subsection (c). If only one political party nominates a candidate at the primary election and thereafter a vacancy occurs in such party candidacy, any political party may fill such vacancy in the manner specified in this section.

(b) In addition to other vacancies in party candidacies to which this section applies, this section shall also apply whenever a vacancy occurs in an office, and it is provided by law that such vacancy shall be filled by appointment until the next general election at which time a person is to be elected to fill the unexpired term, or words of like effect, and such vacancy occurs after the primary election.

(c) Whenever a vacancy occurs after a primary election in a party candidacy for governor or lieutenant governor, a vacancy shall thereby also occur for the other of such two offices. Such

vacancies shall be filled by a state party delegate convention. The convention shall be called by the state party chairman. The delegates to the convention shall be the state party committee members, and the officers of the convention shall be the officers of the state party committee. At such convention the vote to fill such vacancies shall be taken such that each convention vote shall be for a candidate for governor and lieutenant governor running together. If the initial vacancy that has occurred is for the office of lieutenant governor, the person who is the candidate for governor of such pair of candidates shall be the only governor candidate at such convention.

Sec. 16. K.S.A. 25-3906 is hereby amended to read as follows: 25-3906. (a) Whenever a vacancy in a party candidacy for any national, state, district or county elective office occurs under the circumstances specified in this section, such vacancy shall be filled by the party committee of the congressional district, county or state, as the case may be, except that if such vacancy is in a party candidacy for a district office ~~or for the office of member of the state board of education~~, it shall be filled by district convention held as provided in K.S.A. 25-3904, ~~or as provided in K.S.A. 25-3904a~~, and amendments thereto, and except as otherwise provided in subsection (d) and (e).

(b) This section shall apply to any vacancy in a party candidacy which occurs after the closing time for filing to be a candidate specified in K.S.A. 25-205, and amendments thereto, and prior to or on the day of the primary election, if such occurrence results in a political party not having a primary candidate for such office.

(c) This section shall apply whenever a vacancy occurs in an office, and it is provided by law that such vacancy shall be filled by appointment until the next general election at which time a person is to be elected to fill the unexpired term, or words of like effect, and such vacancy occurs during the period specified in subsection (b) of this section.

(d) Whenever a vacancy occurs during the period specified in subsection (b) in a party candidacy for governor or lieutenant governor, and the occurrence results in a political party not having a pair of primary candidates for governor and lieutenant governor, a vacancy shall thereby also occur for the other of such two offices. Such vacancies shall be filled by a state party delegate convention. The convention shall be called by the state party chairman. The delegates to the convention shall be the state party committee members, and the officers of the convention shall be the officers of the state party committee. At such convention the vote to fill such vacancies shall be taken such that each convention vote shall be for a candidate for governor and lieutenant governor running together. If the initial vacancy that has occurred is for the office of lieutenant governor, the person who is the candidate for governor of such pair of candidates shall be the only governor candidate at such convention.

(e) Whenever there is more than one pair of candidates for governor and lieutenant governor of the same party, and a vacancy occurs during the period specified in subsection (b) in a candidacy for lieutenant governor of such party, and the occurrence results in a governor candidate not having a lieutenant governor candidate, such vacancy shall be filled by the candidate for governor of such pair of candidates designating a candidate for lieutenant governor to be his--or-her such candidate's running mate.

Sec. 17. K.S.A. 25-4153 is hereby amended to read as follows: 25-4153. (a) The aggregate amount contributed to a candidate and such candidate's candidate committee and to all party committees and political committees and dedicated to such candidate's campaign, by any person, except a party committee, the candidate or the candidate's spouse, shall not exceed the following:

(1) For the pair of offices of governor and lieutenant governor and for other state officers elected from the state as a

whole, \$3,000 for each primary election (or in lieu thereof a caucus or convention of a political party) and an equal amount for each general election;

(2) for the office of state senator, member of the house of representatives, district judge, associate district judge, district magistrate judge, or district attorney ~~or member of the state board of education~~, \$750 for each primary election (or in lieu thereof a caucus or convention of a political party) and an equal amount for each general election.

(b) For the purposes of this section, the face value of a loan at the end of the period of time allocable to the primary or general election is the amount subject to the limitations of this section. A loan in excess of the limits herein provided may be made during the allocable period if such loan is reduced to the permissible level, when combined with all other contributions from the person making such loan, at the end of such allocable period.

Sec. 18. K.S.A. 25-4304 is hereby amended to read as follows: 25-4304. (a) K.S.A. 25-4305 to 25-4317, inclusive, and amendments thereto, apply only to recall of the governor, members of the legislature, and any public officials elected by the electors of the entire state ~~and members of the state board of education~~. For the purpose of this act, officers mentioned in this subsection are "state officers."

(b) The provisions of this act do not apply to any judicial officer.

(c) K.S.A. 25-4318 to 25-4331, inclusive, and amendments thereto, apply only to recall of all elected public officials who are provided by law to be elected at an election conducted by one or more county election officers, except those officers specified in subsections (a) and (b). For the purpose of this act, officers to which this subsection apply are "local officers."

(d) Any person appointed or otherwise designated or elected to fill a vacancy in an office to which subsection (a) applies shall be a state officer for the purpose of this act. Any person

appointed or otherwise designated or elected to fill a vacancy in an office to which subsection (c) applies shall be a local officer for the purpose of this act.

Sec. 19. K.S.A. 25-101, 25-212, 25-213, 25-611, 25-617, 25-1116, 25-1118, 25-1901 through 25-1906, 25-1910, 25-1911, 25-2503, 25-2505, 25-3902a, 25-3903, 25-3904a, 25-3905, 25-3906, 25-4153, 25-4304, 72-7502, 72-7503, 72-7504, 72-7505, 72-7509, 72-7514 and 72-7514a and K.S.A. 1983 Supp. 72-7514b are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after the date upon which the revision of article 6 of the Kansas constitution as contained in 1984 House Concurrent Resolution No. 5077 is approved by the electors of the state and becomes effective and after January 14, 1985, and its publication in the statute book.

PRESENTATION TO HOUSE WAYS AND MEANS COMMITTEE

ON HOUSE BILL 3119

BY HARLAND E. PRIDDLE, SECRETARY
KANSAS STATE BOARD OF AGRICULTURE

MARCH 29, 1984

LARGE SCALES REVIEW

Personnel in Program:	3
Scales Tested Each Year:	1,200
Total Large Scales in Kansas (Approximate)	3,500
Five Year Average Cost of Program (30% of Budget)	\$ 96,533

Five Year Costs for Operating Trucks

1979	16,282 miles	47 cents per mile
1980	24,818 miles	38 cents per mile
1981	25,574 miles	41.7 cents per mile
1982	14,933 miles	72.8 cents per mile
1983	16,263 miles	58.8 cents per mile

6

LARGE SCALES

CURRENT PROGRAM/PROCEDURES AND CONCEPTS

- a. Randomly test approximately one-third of total scales per year (1,200).
- b. Approximately 70% of scales tested are accurate.
- c. Scales out of tolerance (more than 2 pounds per 1,000) are retested within 30 days of initial testing.
- d. No fees or licensing currently assessed.

COMMENTS ON CURRENT PROGRAM

- a. 70% of inspections are not necessary.
- b. No responsibility on operator or scale companies to be accurate.
- c. Places responsibility for integrity of weights and measures on government action and not on industry or private sector.

HOUSE BILL 3119

- a. Annually license and register all scale service or testing companies performing in the State of Kansas for a fee of \$50.
 - (1) As a part of the licensing procedure, require certification of company guaranteeing capability to perform.
 - (2) Require all companies to have weights tested by the State Laboratory at least every two years.
- b. Require annual testing of all scales with a weighing capability of 5,000 pounds or more. This annual testing to be accomplished by scale companies.
- c. Scale testing and service companies will provide owner/operator results of test and provide a copy of each test report to the State Sealer.
- d. Weights and Measures, Large Scales Section, Kansas State Board of Agriculture will test all scales out of tolerance as reported by the scale companies within thirty days of original testing. A validation fee of \$50 will be charged to the owner/operator.
- e. The Large Scales Section will randomly test other large scales as time and funds permit.

RESOURCES ANALYSIS OF POSSIBLE NEW CONCEPT

The possible new concept can be implemented with two existing vehicles and two currently authorized positions. The third vehicle would be used as a standby.

COST COMPARISONS:

Old Concept
(3 trucks, 3 men
plus 1 new truck)

\$224,000

New Concept
(2 trucks, 2 men
no new truck)

\$80,000 (\$25,000 for Anhydrous
Ammonia)

SUMMARY OF RESULTS OF PROPOSED NEW CONCEPT AND HOUSE BILL 3119

- a. Eliminates immediate need for new vehicle
- b. Allows targeting of resources against inaccurate scales
- c. Provides a system to insure large scales in the state are adequately checked at least annually.
- d. Places responsibility on the private sector leaving state with oversight.
- e. Permits the transfer of one individual to urgent requirements in anhydrous ammonia safety program.
- f. Provides a more efficient and cost effective program.



*Hearing
3-21-84*

DEPARTMENT OF ADMINISTRATION
Division of Purchases

JOHN CARLIN,
Governor
NICHOLAS B. ROACH,
Director of Purchases

Room 165-173 N.
State Office Building
Topeka, Kansas 66612-1573
(913) 296-2376

TO: Senator Francis Gordon

FROM: Nicholas B. Roach, Director of Purchases

DATE: March 21, 1984

RE: **Senate Bill 696**

As per our conversation, we view the above-captioned proposed legislation as pertinent to the sale of equipment.

Based upon its acquisition cost, the leather items purchased by the Highway Patrol would not be considered as equipment, but rather as consumable supplies. As such, they would not come within the scope of this legislation.

Thank you for the opportunity to clarify this concern on the part of the Highway Patrol.

7

REPORTS OF STANDING COMMITTEES

3/29/84

Your committee on HOUSE WAYS & MEANS

Recommends that HB 2628

"AN ACT concerning hazardous wastes; requiring notification of groundwater contamination relating to the operation of a hazardous waste disposal facility.

be passed.

Tom C. Austin Chairman.

REPORTS OF STANDING COMMITTEES

3/29/84

Your committee on HOUSE WAYS AND MEANS

Recommends that SB 727

"AN ACT relating to the construction defects recovery fund;
amending K.S.A. 1983 Supp. 75-3785 and repealing the existing section;

be passed.

Tom W. Benton Chairman.

REPORTS OF STANDING COMMITTEES

3/29/84

Your committee on HOUSE WAYS AND MEANS

Recommends that HB 3118

"AN ACT concerning the health care provider insurance availability act; relating to state institutions for the mentally retarded; amending K.S.A. 1983 Supp. 40-3401 and 40-3414 and repealing the existing sections; be passed.

James D. Denton Chairman.

REPORTS OF STANDING COMMITTEES

3/29/84

Your committee on HOUSE WAYS AND MEANS

Recommends that SB 721

"AN ACT concerning unemployment compensation; relating to disqualification for benefits; relating to the compensation of members of the board of review; concerning classification of employers; relating to claims against the state; relating to processing and auditing thereof; prescribing certain powers, duties and functions for the secretary of administration; establishing the state agency unemployment claims audit fund; authorizing certain fees and prescribing the disposition thereof; amending K.S.A. 1983 Supp. ~~44-710~~ 44-706, 44-709, 44-710 and 44-710a and repealing the existing ~~section~~ sections;

be passed.

Tom L. Austin Chairman.