

Approved April 26, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Lana Oleen at
Chairperson

1:35 ~~xxx~~/p.m. on April 1, 1991 in room 531-N of the Capitol.

~~Members~~ members ~~were~~ present ~~at~~: Senators Oleen, Doyen, Francisco, Moran and Strick.

Committee staff present:

Julian Efird, Kansas Legislative Research Department
Fred Carman, Revisor of Statutes Office
Mary Allen, Committee Secretary

Conferees appearing before the committee:

Orion Jordan, Department of Administration
Gary Stotts, Department of Transportation

The meeting of the Senate Committee on Governmental Organization was called to order at 1:35 p.m. by the Chairman, Senator Lana Oleen, who opened the hearing on SB 412.

Senate Bill 412 - Concerning the scheduling of public concerts and public ceremonies in the state capitol building.

Staff presented an overview of SB 412 and noted that the bill was requested by Senator Bogina and introduced by the Senate Committee on Ways and Means. He stated that the bill provides that the scheduling of public concerts and ceremonies, which take place in the capitol building, be made under the supervision of the Legislative Coordinating Council (LCC).

Orion Jordan, Director of the Division of Facilities Management in the Department of Administration (DOA), addressed the Committee on SB 412 and observed that current law provides that the Secretary of Administration is responsible for the maintenance, repair and upkeep of the Statehouse under the instruction and approval of the LCC. This bill, he said, would take that same concept and apply it to ceremonies and concerts. He stated that the DOA feels that perhaps the language in SB 412 should be modified so that the ceremonies to be conducted in the Governor's Office, the Lt. Governor's Office and the Secretary of State's Office would not need to be scheduled with the LCC.

The Chairman observed that many legislators have complained of noise levels from activities such as musical programs in the hallways and rotunda while committee hearings and Sub-Committees are being conducted. Mr. Jordan said that the DOA welcomes any instructions or guidance from the Legislature to help with this problem and would meet with the LCC to attempt to resolve it.

The Chairman called on Gary Stotts, Secretary of the Department of Transportation (KDOT), to present information, which had been previously requested by the Committee, concerning the procedures set up by KDOT to be used in the issuance of highway bonds. (Attachment 1) The Secretary said that the first step is the appointment, under a contract, of a special counsel, Jon Small. He emphasized that Mr. Small is not acting as bond counsel but rather will help in the drafting of the Requests for Proposals and in analyzing KDOT's financial status as it relates to the issuance of freeway bonds. Secretary Stotts stated that it is his desire that the bond issuance process be as open to the public and the Legislature as possible. He said that the second step in the bond issuance procedure will be the appointment of a financial advisor, under contract, to be KDOT's primary advisor, not only in financial matters but also in dealing with the bond market. The Secretary said that he will be aided in the selection of this financial advisor by a Financial Services Negotiating Committee consisting of the Director

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,
room 531-N, Statehouse, at 1:35 ~~am~~/p.m. on April 1, 1991.

of Accounts and Reports, the Director of Purchases and KDOT's Director of Administration. He emphasized that the financial advisor cannot be the underwriter and his or her compensation shall not be contingent upon the actual issuance of bonds. He gave the Committee a copy of a draft Request for Proposal for the position of financial advisor. (Attachment 2) In addition, he provided copies of some Bond Resolutions prepared to set the intent and purpose of the bond issue. (Attachment 3) Secretary Stotts pointed out that the third stage in the procedure for the issuance of bonds is the appointment of a Bond and Investment Task Force to serve as the primary working group in this area.

A member of the Committee asked the Secretary why KDOT does not offer a salary of \$250,000 and hire an in-house bond counsel instead of paying a fee, estimated to be approximately \$15 million, on this bond issue. Secretary Stotts answered he is concerned about the bond issue process and he wants as much input into that process as possible. He stated that before the bond counsel issue is addressed, a good financial adviser must be hired. He said that, at this time, he does not know whether the bond counsel agreement will be part of the underwriting service agreement or whether these will be handled in two separate agreements. He pointed out that underwriting fees will be paid on the issuance of the bonds regardless of whether there is a separate bond counsel. In answer to a question concerning how a good bond rate can be secured considering the possibility that some of the money for highway financing might not be available, Secretary Stotts stated that he has been advised that the bond market is such that the highway bonds are considered to be marketable and it is thought that there is a fairly good likelihood that a good rate on the bonds can be secured.

A member pointed out that if the full amount of \$890 million in bonds is issued at around 6%, when the first payment is due the interest and principal will take eight cents of the eighteen cent motor fuel tax to retire the bonds in an orderly fashion; thus leaving only ten cents of the motor fuel tax to maintain and improve the highways. The Secretary observed that in FY 1998 and FY 1999 the State will be facing a situation where the ability to maintain the highway system which is in place will again be impaired unless the federal government comes through with releasing more of the Highway Trust Fund than it has in the past.

House Bill 2439 - Concerning the Citizens' utility ratepayers board, membership, budgeting, management, finance of operation.

Chairman Oleen called on Senator Francisco to present the report of the Sub-Committee on HB 2439. Senator Francisco reported that the Sub-Committee is recommending the following: (1.) That the current structure of the Board of five members, be kept; (2.) That the budgeting process be kept under the Kansas Corporation Commission (KCC); (3.) That the Committee concur with striking the repealer provisions in the bill; (4.) That next year CURB and the KCC be put on the same sunset review schedule so that they will sunset at the same time; and, (5.) That CURB's funding be through assessment. (See Attachment 4 for balloon version of HB 2439 containing Sub-Committee recommendations.)

Senator Francisco moved that the Sub-Committee report on HB 2439, containing its suggested amendments, be adopted. Senator Strick seconded the motion. The motion carried.

Senator Strick moved that HB 2439, as amended, be recommended favorably for passage. Senator Francisco seconded the motion. The motion carried.

Senate Bill 114 - Kansas sunset law; continue in existence the state corporation commission.

Senator Francisco also presented the Sub-Committee report on SB 114. He noted that it recommends that the bill, as presently amended with a provision for a 1992 sunset, be recommended favorably for passage.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,

room 531-N, Statehouse, at 1:35 ~~am~~/p.m. on April 1, 1991.

Chairman Oleen pointed out that the Senate Governmental Organization Committee meets only twice a week but has a full schedule of bills to be heard in addition to various sunset reviews. She said that she plans to recommend to the President of the Senate that, in the future, sunset reviews be done during the Interim. She will also recommend that the sunset reviews of the Kansas Corporation Commission and the Department of Administration, set for review during the 1992 Legislative Session, be set for Interim study.

The Chairman called on staff to explain a trailer bill to SB 114, bill draft 1 RS 1466, which has been recommended by the Sub-Committee for introduction. (Attachment 5) This proposed bill, she said, contains the codification of the Kansas Corporation Commissions' (KCC) organizational chart.

Senator Strick moved that the Committee introduce bill draft 1 RS 1466. Senator Francisco seconded the motion. The motion carried.

Senator Francisco moved that SB 114, as amended, be recommended favorably for passage. Senator Strick seconded the motion. The motion carried.

Senator Francisco moved that the minutes of the March 19, 1991, March 20, 1991, and March 25, 1991, meetings of the Committee be approved. Senator Strick seconded the motion. The motion carried.

The meeting was adjourned at 2:30 p.m. by Chairman Oleen.

PROCEDURE

- I. Appoint Special Counsel (contract).
- II. Appoint Financial Advisor (contract).
 - A. Use the Financial Services Negotiating Committee to select the Financial Advisor.
 1. Committee members
 - a. James R. Cobler, Director of Accounts and Reports
 - b. Nicholas B. Roach, Director of Purchases
 - c. Robert Haley, Director of Administration, representing the Secretary of Transportation
 2. Support for the Secretary's Representative
 - . The Bond and Investment Task Force will support the Secretary's Representative.
 - B. The Financial Advisor cannot be the underwriter.
 - C. The Financial Advisor's compensation shall not be contingent upon the actual issuance of bonds.
- III. Appoint Bond and Investment Task Force
 - A. Members
 1. Director of Administration, KDOT
 2. Chief Counsel, KDOT
 3. Chief of the Bureau of Fiscal Services, KDOT
 4. Chief of the Bureau of Management and Budget, KDOT
 5. President, Kansas Development Finance Authority
 6. Special Counsel (contract)
 7. Financial Advisor (contract)
 - B. Duties
 1. The Bond and Investment Task Force will function as the primary working group. The Task Force will conduct research, perform analysis, and perform administrative task as necessary to support the Secretary of Transportation.
 2. The Bond and Investment Task Force will prepare and recommend to the Secretary of Transportation a Financial Plan for the Comprehensive Highway Program.

Senate Committee on Governmental Organization
4-1-91
Attachment 1

3. The initial recommendations will be prepared and presented to the Secretary of Transportation in time for the Secretary to have an opportunity to proceed with a bond issue by competitive process in the first part of Fiscal Year 1992 if the Secretary determines that such an issue is desirable.
4. Revisions to the Financial Plan for the Comprehensive Highway Program will be recommended to the Secretary of Transportation as the Bond and Investment Task Force deems necessary or as requested by the Secretary of Transportation.

STATE OF KANSAS
REQUEST FOR PROPOSAL

SUBMIT PROPOSAL TO

DIVISION OF PURCHASES
900 S.W. JACKSON, ROOM 102N
TOPEKA, KANSAS 66612-1286

Proposal # 28441
Date Mailed April 11, 1991
Closing 2:00 PM April 23, 1991

1. When communicating always refer to the above proposal number.
2. This is a negotiated procurement.
3. Attach the requested information and materials as outlined in the instructions and specifications.
4. The State reserves the right to change any criteria set forth herein as deemed in the best interest of the State.
5. Bidder will, as required by law, comply with the Kansas Act Against Discrimination, K.S.A. 44-1030 et. seq.

Type or print Company Name and Address in this space

DRAFT

THIS IS NOT AN ORDER

Delivered FOB Destination: Kansas Department of Transportation
Docking State Office Building
Topeka, Kansas 66612-1568

For additional information contact

Jerry Merryman (913) 296-2376

ITEMS AND SPECIFICATIONS

Financial Advisory Services

I/we propose to provide financial advisory services for the issuance of bonds and investment of bond proceeds and other assets for the Department of Transportation in accordance with the attached specifications.

NOTICE TO BIDDERS:

This signature page should be made Page 1 of your Cost Proposal. Cost proposals must be submitted in the format and manner prescribed herein. Note Submission of Proposals, Section 2, Page 9 of the Specifications.

SUBMIT Fifteen (15) Copies

DRAFT

*Senate committee on Governmental Organization
4-1-91
Attachment 2*

Signed by _____ Address _____

Title _____

Phone _____ Date _____

**REQUEST FOR PROPOSALS
FOR A
FINANCIAL ADVISOR**

**SECTION I
STATEMENT OF WORK**

A. PREFACE:

The Kansas Department of Transportation is authorized by K.S.A. 1990 Supp. 68-2301 et seq. to finance the Comprehensive Highway Program in part, by the sale of bonds.

B. PURPOSE OF RFP:

The purpose of this RFP, issued pursuant to K.S.A. 75-3799, is to secure specialized professional expertise to assist the Kansas Department of Transportation in the development of a strategy for the issuance of the bonds and the investment of bond proceeds and other revenues.

C. BACKGROUND:

1. COMPREHENSIVE HIGHWAY PROGRAM OBJECTIVES.

The Comprehensive Highway Program, hereinafter referred to as the Program, which was established by the passage of 1989 House Bill 2014, will allow Kansas to protect its investment in the State Highway System by maintaining driving surfaces at a adequate level of service, reconstructing major portions of the highway system, and making selected improvements to meet the needs for traffic, safety, and economic development. It is the largest capital improvement program in the history of the State. Legislative intent is for the Program to provide, as nearly as possible, for the following:

- a. A substantial maintenance program sufficient to arrest and reverse the decline in the surface condition of highways and bridges;
- b. A major modification program sufficient to address the top 16 percent of existing State Highway System needs and increase priority bridge projects by 20 percent;
- c. A number of system enhancement projects to improve safety, relieve congestion, improve access, and enhance economic development;
- d. An increase in support to local governments through both an approximate 54 percent increase in the Special City and County Highway Fund and an increase in the city connecting link payments; and
- e. A limited amount of dedicated state funds to improve the mobility of elderly and handicapped citizens.

All major modification and system enhancement projects should be under contract for construction by June 30, 1997. Construction on all of the projects authorized as part of the Program should be completed by June 30, 2000, hereinafter referred to as the period.

During the period, the Kansas Department of Transportation expects to contract in excess of \$3 billion for substantial maintenance and construction work. Much of the expenditures for agency operations, including routine maintenance, are in addition to these amounts.

2. FUNDING OF THE PROGRAM.

The Program is primarily funded from dedicated revenues and other sources. These are:

a. Motor Fuel Taxes.

Motor fuel taxes are expected to produce approximately \$988 million to the Kansas Department of Transportation during the period of Fiscal Year 1991 through Fiscal Year 1997. This represents approximately 21 percent of the funds available during said period.

b. Vehicle Registration Fees.

Vehicle registration fees are expected to produce approximately \$703 million during the period of Fiscal Year 1991 through Fiscal Year 1997. This represents approximately 15 percent of the funds available during the period.

c. Sales Taxes.

Two of the major sources of funds relate to the state sales tax. The Kansas Department of Transportation receives ten percent of the revenue that is available for distribution from the basic four cent sales tax. This reflects the approximate sales tax collected from the sale of new and used vehicles. This tax is expected to produce approximately \$590 million or 12 percent of the funds available during the period. The Kansas Department of Transportation also receives the revenue from an additional quarter cent sales tax which is expected to produce approximately \$421 million or nine percent of the funds available during the period.

d. Federal Aid Reimbursement.

The fifth major source of funds is federal aid reimbursement. While there is uncertainty of future federal programs, the Kansas Department of Transportation anticipates that federal reimbursement can be conservatively estimated at \$958 million or 20 percent of the funds available during the period.

e. Net Proceeds from Bond Sales.

Net proceeds from bond sales and interest on bond proceeds are the last major source of funds during the period. The Kansas Department of Transportation is authorized to issue \$890 million of bonds. This amount if issued would produce approximately 19 percent of the funds available during the period. Cash flow analysis by the Kansas Department of Transportation indicates that bond proceeds will not be required to be used to pay for construction expenditures until Fiscal Year 1994.

f. Interest on Highway Fund and Miscellaneous Revenues.

Interest from non-arbitrage restricted fund sources, and other miscellaneous revenues are expected to produce approximately \$165 million or four percent of the available funds during the period. The investments of the State Highway Fund are primarily United States Government Agency and Instrumentalities Securities. Earnings were approximately eight percent in Fiscal Year 1990. Additionally, corporate debt instruments are currently being purchased. The primary investment restriction, other than the prudent person rule, is that the funds cannot be invested in common stock. The same restriction will apply to the bond proceeds fund.

3. POST FY 1997

No later than Fiscal Year 1997, when all of the Program projects are scheduled to be under contract, the state will have to consider if additional funding will be provided for future projects. The revenue streams established prior to and as part of the Program will continue after the program and will be available for debt service.

4. BOND COMPONENT OF THE PROGRAM.

The Secretary of the Kansas Department of Transportation is authorized to issue revenue bonds in an aggregate principal amount not to exceed \$890 million. Authority to issue the bonds starts on July 1, 1991. The term of the bonds cannot exceed 20 years from the date of issue. These bonds will be a limited obligation of the State which will be secured solely by a pledge of revenues accruing to the State Highway Fund.

The Secretary of Transportation has broad authority to establish the bond structure, the terms of sale, and the manner of sale. Sale by either sealed bid or negotiation is allowed under the statute.

5. AGENCY CASH FLOW PROJECTIONS.

Agency revenues and expenditures projections for the life of the Program are provided at Appendix A.

6. PRIOR LIEN.

The motor fuel tax revenue portion of the State Highway Fund is presently subject to a prior lien created by the issuance of the State of Kansas Highway Refunding Bonds, Series 1985A (1985A Refunding Bonds). So long as these refunding bonds are outstanding, all motor fuel tax revenues are first deposited to the State Freeway Fund, which secures this refunding issue as part of the Freeway System funding. Most monies not needed for the freeway debt service, are transferred to the State Highway Fund.

The remaining \$117 million principal amount of the 1985A Refunding Bonds will mature by July 1, 1998. They are currently callable at par.

Bonds issued to refund the 1985A Refunding Bonds will not count against the \$890 million bond limitation. However, because the Series 1985A Bonds refunded a previous series of refunding bonds, using a "high - to - low" refunding technique, a subsequent refunding of the 1985A Refunding Bonds could be subject to a transfer of proceeds penalty under current treasury regulations.

D. SCOPE OF SERVICES:

1. BOND AND INVESTMENT TASK FORCE.

The Secretary of Transportation has established the Bond and Investment Task Force. It is chaired by Robert Haley, Director of Transportation Administration and will consist of certain Kansas Department of Transportation employees. These are the Chief Counsel, the Chief of the Bureau of Fiscal Services, and the Chief of the Bureau of Management and Budget. In addition to the Kansas Department of Transportation employees, the Special Counsel, the President of the Kansas Development Finance Authority, and the Financial Advisor will be members of the Task Force.

The Bond and Investment Task Force will conduct research, perform analysis, perform administrative tasks and contract those services as may be necessary to support the Secretary of Transportation.

2. FINANCIAL PLAN FOR THE PROGRAM.

The Financial Advisor shall assist the Bond and Investment Task Force in developing a Financial Plan for the Program. This Financial Plan shall establish a strategy for the issuance of the bonds and the investment of financial resources available to the Secretary of Transportation. The primary objective being to provide adequate resources for the completion of the program as established in K.S.A. Supp. 68-2314 subject to the judgment and care which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering both probable income as well as the probable safety of their capital. However, to the extent that it is consistent with the primary objective, the broader economic policies and goals of the State of Kansas may be supported.

The initial Financial Plan shall be presented by the Bond and Investment Task Force to the Secretary of Transportation in time for the Secretary to proceed with a bond issue by competitive process shortly after July 1, 1991, if the Secretary determines that such an issue is desirable. It is anticipated that the decision whether to proceed with such an issue will be made by approximately June 1, 1991. Revisions to the Financial Plan shall be recommended to the Secretary of Transportation as the Bond and Investment Task Force deems necessary or as requested by the Secretary of Transportation.

The strategy must at least address whether the 1985A Highway Refunding Bonds should be refunded or otherwise called and if so, when. Additionally, the strategy must address when the Comprehensive Highway Program bonds should be sold, the sizing of the issues, and how the proceeds should be invested. The strategy in the Financial Plan must also recommend whether the bonds should be sold by sealed bid or by negotiation.

The Financial Advisor will review the projections and assumptions used in the Financial Plan to assure reasonableness. The degree of uncertainty concerning these projections should be considered in developing the Financial Plan.

3. DOCUMENTATION AND EXPLANATION.

The Kansas Department of Transportation may request the Financial Advisor to appear and/or assist the Department in appearing before or responding to any oversight body, financial rating agency, or other interested body. The Financial Advisor may be requested to explain the Financial Plan and any other work products and the assumptions and projections used in their development. The Financial Advisor shall document the development of the work products so that an objective third party can verify that appropriate care was exercised in their development.

4. PREPARATION OF DOCUMENTS.

At the direction of the Secretary the Financial Advisor will assist and participate in the preparation of all necessary documents, and may serve as a clearinghouse for bond documentation. The extent of involvement in document preparation will be dependent on the nature and form of the bond sales.

5. OPTION TO SELL BONDS BY SEALED BID

If the Secretary of Transportation elects to issue bonds by sealed bid, the Financial Advisor will assist the Department in the actual structuring of the issue and other tasks necessary to issue the bonds. This may include assisting with the selection process necessary to acquire services (underwriters, bond counsel, paying agents, printers, etc.).

6. OPTION TO SELL BONDS BY NEGOTIATION.

If the Secretary of Transportation elects to issue bonds by negotiation, the Financial Advisor will assist the Department with the selection process for the underwriters and for other services (bond counsel, paying agents, printers, etc.). The Financial Advisor may also be requested to review the work of the firms selected and to advise the agency as necessary or as requested.

7. BOND CLOSING ACTIVITIES.

The financial advisor may be requested to coordinate all closing events, including signature details, pre-closing and closing formalities, the wire transfer of proceeds, necessary communication with State officials, and the review of closing documents. The extent of involvement will be dependent on the type of sale.

8. OPTION TO EXTEND CONTRACT.

While the basic contract is anticipated to expire January 1, 1992, the Secretary of Transportation may renew the contract for six additional one year terms upon mutual consent of both parties.

9. PARTICIPATION AS AN UNDERWRITER.

The Financial Advisor shall not participate or be affiliated with the underwriter for the bonds in either a negotiated or sealed bid sale.

10. COMPENSATION.

Compensation for the basic Financial Advisor contract shall not be contingent upon the actual issuance of bonds. The advisor will be reimbursed at a fixed labor rate per hour plus materials. Materials will be reimbursed at actual cost.

E. TECHNICAL PROPOSAL AND FORMAT:

Each offeror shall provide their technical proposal in a tabular format in the order specified, failure to provide all of the information or failure to provide information in the order specified may result in the rejection of the proposal. Response material shall be provided in the following order:

SECTION

CONTENT

- 1. The offeror shall acknowledge an understanding of the content of the required work and illustrate why his firm or talent should be enlisted for this project.
- 2. A copy of the firms most recent annual report including an audited financial statement.

SECTIONCONTENT

3. Qualifications of anticipated staffing will be a significant consideration in the selection process. Provide the names of the principals of the firm including partners, junior partners, president, vice-presidents, and other significant personnel along with a detailed qualification statement of the firm and of each individual that will be assigned to carry out the charges of the resulting contract. If in the event staff members are unable to fulfill the term of the contract substitutions of equal skill levels will be entertained subject to the approval of the Secretary.
4. Provide the scope of services the firm offers in the municipal bonding field and the years of continuous performance in each category of service. Provide sufficient description of experience to indicate the firm's qualifications in a given category. List any prior experience or capabilities which distinguish the firm from competitors.
5. List all clients served in the municipal bond area during the last five years and indicate those that are currently under contract. Indicate if the issues were sealed bid, negotiated or a combination thereof. Include the names and phone numbers of appropriate individuals in the client firms so that the Department may contact them as references, if necessary. Specify for each client listed: (1) underwriter used; (2) bond counsel used; (3) role of your firm, i.e., financial advisor only or financial advisor and underwriter.
6. Provide the number of sales and amounts, if any, of transportation bond issues handled as a financial advisor. Describe how the firm is organized, within and outside Kansas.
7. Provide a copy of at least two recent Offering Statements in which the firm served as financial advisor and which are closely related to the Department's proposed financings.
8. Include a plan covering the services to be provided and an outline of the respective roles and responsibilities of the financial advisor and the underwriting team with respect to the activities associated with a bond sale.
9. The support capabilities the firm would provide in the areas of research and publications, and computer resources.
10. Sale and Investment Techniques.
 - a. Summarize your assessment of any tax legislation at the national level pertaining to municipal finance and its potential impact on the Department's authorized bonding program through FY 1991-97.

SECTION

CONTENT

10.
 - b. Discuss the advantages and disadvantages of selling bonds prior to the actual need of the proceeds for construction payments. Include in your response specific case studies where bonds were sold early and on demand.
 - c. Discuss the advantages and disadvantages of sealed bid and negotiated bond sales including a combination of the two methods as they relate to the proposed Department issues. Include in your response specific case studies of where you have used various methods.
 - d. Discuss any innovative financing techniques you have used within the last year which may be relative to the Departments outstanding issues or to the proposed bond issues.
 - e. Discuss the considerations of refunding or otherwise calling the 1985A Refunding Issue.
 - f. Discuss strategies for reconciling the primary objectives of funding the program with the desire to support other economic goals of the State of Kansas. Provide examples of how you reconciled these goals in the past.
 - g. Discuss strategies for dealing with uncertainties of highway construction scheduling and provide case studies of how you have addressed this issue in the past.
 - h. Discuss the potential impact of providing state prepared GAAP basis financials as a supplement to the Department's annual GAAP basis financial statements.
11. Any additional information about the firm which would be informative, such as experience with special revenue bonds, highway department offerings, knowledge of the transportation area, etc.

F. COST PROPOSAL AND FORMAT.

Each offeror shall provide their cost proposal separate from the technical proposal and clearly marked as such. The cost information shall be provided in a tabular format in the order specified, failure to provide all cost information and in the order specified may result in the rejection of the proposal.

SECTION

CONTENT

1. Include the Request for Proposal signature return page with a total cost summary.

SECTION

CONTENT

2. Outline the cost for your personnel services reducing those costs to an hourly rate for your personnel (including overhead and profit). These hourly rates are to be separately identified by employee classification, i.e., managing partner, senior level professional, professional, sub-or para-professional, certified public accountant and clerical.
3. Outline the rates you would charge for travel expenses (meals, lodging and vehicle expenses, etc.).
4. Indicate your best estimate of the total elapsed time that would be required to complete the financial plan including the detail of the associated cost structure.
5. Indicate your best estimate of the total associated costs if the Secretary elects to sell bonds by way of sealed bid.
6. Indicate your best estimate of the total associated costs if the Secretary elects to negotiate the sale of bonds.
7. Since this is a renewable contract provide itemized multistep pricing for each succeeding year. This may be shown as a percentage increase to the previous cost information.

**SECTION II
GENERAL INFORMATION AND INSTRUCTION FOR BIDDING**

A. ISSUING OFFICE.

This Request for Proposals (RFP) is being issued by the Kansas Division of Purchases on behalf of the Kansas Department of Transportation. Unless otherwise specified, the Division of Purchases is the sole point of contact in the State for the purposes of this RFP and subsequent responses.

B. SCOPE OF ENGAGEMENT.

The Department of Transportation is requesting bids to secure the services of a Financial Advisor. A more detailed discussion of scope is contained in Section I of this RFP.

C. QUESTIONS CONCERNING RFP CONTENT.

Requests for clarification to RFP content will be accepted in writing only. Responses to all substantive questions will be provided in the form of an addendum and will be sent to all offerors who have received a copy of this proposal. Questions should be submitted to:

DIVISION OF PURCHASES
ATTENTION: PROPOSAL # 28441
900 S.W. JACKSON, ROOM 102N
TOPEKA, KANSAS 66612-1286

The deadline for submission of questions is April 17, 1991.

D. ADDENDUM TO THE REQUEST FOR PROPOSAL.

The state reserves the right to amend the Request for Proposal prior to the due date of responses. If it becomes necessary to revise any part of the RFP, an addendum shall be provided to all potential offerors who have requested a copy of RFP. All offerors shall include acknowledgement of all addenda as part of their proposal. Failure to acknowledge addenda may be grounds for disqualification of the proposal.

E. COST OF PREPARING PROPOSAL.

The cost of developing and submitting the proposal is entirely the responsibility of the offeror. This includes costs to determine the nature of this engagement, preparation of proposal, submission of proposal, negotiation for the contract, and all other costs associated with this request for proposal. All responses will become the property of the State of Kansas and will be a matter of public record subsequent to award of the contract or rejection of all bids.

F. SUBMISSIONS OF PROPOSALS.

Fifteen (15) copies of the offerors proposal(s) shall be submitted to the Kansas Department of Administration, Division of Purchases, 900 S.W. Jackson Street, Room 102 North, Topeka, Kansas 66612 no later than 2:00 p.m., _____, 1991.

Technical proposals and cost proposals shall be submitted in separate sealed envelopes. The outside envelopes/packages shall be clearly identified as "Technical Proposal" or "Cost Proposal" along with the Proposal identifying number and closing date. The State is relieved of any responsibility if the bidder fails to comply with this requirement.

In order to be considered for selection, responses must arrive at the Division of Purchases on or before the date and time specified. Offerors mailing responses should allow for normal mail delivery time to ensure receipt by the Division of Purchases. Proposals received after the stated time shall be returned unopened.

Each copy of the proposal shall be signed by an authorized representative of the firm or individual responding.

G. FINANCIAL SERVICES NEGOTIATING COMMITTEE.

Final evaluation and award is made by the Financial Services Negotiating Committee, which shall consist of the following or their designees:

Secretary, Department of Transportation, represented by:
the Director of Administration for the Department of Transportation
Director, Division of Purchases
Director, Division of Accounts and Reports

H. ACCEPTANCE OF PROPOSAL CONTENT.

The content of the proposal of the successful offeror, this RFP and addenda will become part of any contract awarded as a result of these specifications.

I. PREPARATION.

Responses should provide a straightforward, concise description of offeror capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Repetition of the terms and conditions of the RFP, without additional explanation, will not be considered sufficiently responsive.

J. ERRORS IN PREPARATION.

The Financial Services Negotiating Committee has the right to rely on any price quotes provided by offerors. The offeror may be responsible for any mathematical error or incorrect extension of any calculations leading to the offeror's price quotes. The Financial Services Negotiating Committee reserves the right to reject proposals which contain errors.

K. EVALUATION OF PROPOSALS.

All proposals submitted in response to the RFP will be evaluated by a committee made up of the Financial Services Negotiating Committee or their designees, with consideration focused toward, but not limited to, the following:

1. Adequacy and completeness of the proposal with regard to the information specified in the RFP.
2. Offeror's understanding of the approach to the project as defined in Section I.

3. Compliance with the terms, conditions and other provisions of the RFP.
4. Offeror's qualifications to provide the required services as defined in Section I.
5. Personnel qualifications to provide the required services as defined in Section I.
6. Cost of project.

L. APPEARANCE BEFORE THE NEGOTIATING COMMITTEE.

Any or all offerors may be required to appear before the Financial Services Negotiating Committee to explain the offeror's understanding and approach to the project and/or respond to any questions from the Committee in regard to the proposal submitted. The project manager shall be responsible for making any requested oral presentations before the Committee.

Offerors selected to participate in negotiation sessions will be given the opportunity to submit a best and final offer to the Financial Services Negotiating Committee prior to a specified cut-off time.

Prior to the time specified, offerors, may submit revisions to their technical and cost proposals as well as any other items contained in the proposal. All information received prior to the stated cut-off time will be considered as offeror's best and final offer.

NO ADDITIONAL REVISIONS SHALL BE MADE AFTER THE SPECIFIED CUT-OFF TIME UNLESS REQUESTED BY THE FINANCIAL SERVICES NEGOTIATING COMMITTEE.

M. AWARDS.

Awards will be made by the Financial Services Negotiating Committee based upon the best interest of the State. The successful offeror will be notified by the Financial Services Negotiating Committee.

N. REJECTION OF PROPOSALS.

The Financial Services Negotiating Committee reserves the right to reject any or all proposals, or to award in whole or in part if deemed to be in the best interest of the State to do so.

O. PAYMENTS.

Payments will be made on a schedule mutually agreeable to the Department of Transportation and the successful offeror.

P. PROPERTY.

All program reports, documents and materials generated for the purpose of the project shall become the property of the Department of Transportation.

Q. MODIFICATIONS AND AMENDMENTS TO THE CONTRACT.

Changes in contractual provisions of services to be furnished under the contract may be made only in writing and must be approved mutually by an authorized agent of the Contractor and the Department of Transportation, subject to the approval of the Financial Services Negotiating Committee.

R. INDEPENDENT CONTRACTOR.

Both parties hereto, in the performance of this contract, will be acting in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

S. CONTRACT.

The successful offeror will be required to enter into a formal contract acceptable to the KDOT which shall include the RFP and any addenda issued, the proposal submitted in response to the RFP, and such other documents developed in the bid process. In addition, the following statement must be made a part of said contract:

"The provisions found in Contractual Provisions Attachment (Form DA-146a), which is attached hereto and executed by the parties to this agreement, are hereby incorporated in this contract and made a part thereof."

SECTION III
CONTRACT REQUIREMENTS & CLAUSES

A. GENERAL.

The purpose of this section is to indicate the type of contract contemplated and to set forth contract clauses that may be contained in any resultant contract(s).

B. CONTRACT DOCUMENTS.

1. The contract between the KDOT and the consultant shall consist of:
 - a. The Request for Proposal and any amendments thereto
 - b. The Consultant's Proposal submitted in response to the Request
 - c. Contractual Provision Attachment form DA-146(a), (APPENDIX B)
2. The Financial Services Negotiating Committee reserves the right to clarify any contractual relationship in writing with the concurrence of the consultant, and such written clarification shall govern in case of conflict with the applicable requirements stated in the Request or the consultant's proposal. In all other matters not affected by the written clarification, the Request shall govern.

C. CONTRACT MODIFICATIONS.

The contract may be modified in writing by the parties at the option of the Financial Services Negotiating Committee due to changes in policy, regulation, statute, judicial interpretations, or by mutual agreement provided that the changes can be construed to be within the scope of the original contract.

D. COMPLIANCE WITH LAWS.

The consultant agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances; and are hereby incorporated by reference. The consultant agrees to indemnify and hold the Kansas Department of Transportation harmless from any loss, damage or liability resulting from the violation on the part of the contract of such laws, rules, regulations or ordinances.

E. SEVERABILITY.

Each paragraph and provision of the Request is severable from the entire Request, and if any provision(s) is determined to be invalid, the remaining provisions shall nevertheless remain in effect.

F. EQUAL EMPLOYMENT OPPORTUNITIES.

The consultant shall comply with the provisions of federal, state and local regulations to insure that no employee or applicant for employment is discriminated against because of race, religion, color, sex, national origin, age or handicap.

G. WARRANTY AGAINST CONTINGENT FEES.

The consultant shall identify all companies or persons retained (other than a bona fide employee working solely for the consultant) to solicit or secure this contract, and warrants that it has not paid or agreed to pay any person or entity (other than a bona fide employee working solely for the consultant) any fee, commission, percentage, brokerage fee, gift, or other consideration on a basis that is contingent upon the award of this contract. For breach or violation of this warranty, KDOT shall have the right to annul the contract without liability or in its discretion, to deduct from the contract price the full amount of such commission, percentage, brokerage, or contingent fee.

H. GOVERNING LAWS.

This contract shall be constructed in accordance with and governed by the laws of the State of Kansas including the Uniform Commercial Code.

I. ASSIGNMENT.

The consultant is prohibited from assigning, transferring, conveying, subletting, delegating, or otherwise disposing of this agreement or its rights, title or interest therein or its power to execute such agreement to any other person, without previous consent and approval in writing by the Kansas Department of Transportation.

J. OWNERSHIP OF MATERIALS.

All materials, including programs and data and reports, produced for KDOT under a contract resulting from Request shall be wholly and solely owned by KDOT.

K. INSPECTION.

The Secretary or his authorized representative has the right at all times to inspect or otherwise evaluate all phases of performance under this contract and the premises in which it is being performed. All books, records, correspondence, instruction, receipts and memoranda of every description shall be retained for three years following contract completion and shall be available for inspection by KDOT staff.

L. CONSULTANT PERSONNEL.

KDOT may request replacement of any consultant personnel believed unable to carry out the responsibilities of this contract and KDOT shall have the right to approve the assignment of personnel. The consultant shall warrant that personnel assigned to perform tasks in response to this Request will remain assigned, for the agreed upon length of time, and will not be replaced or reassigned except by mutual agreement and written notice of the Kansas Department of Transportation.

M. PAYMENT.

Payment will be made monthly upon receipt of invoice, in accordance with the schedule mutually agreed upon between the consultant and the Department of Transportation. There will be retainage held in the amount of five percent, until satisfactory completion of the contract.

N. COMMUNICATIONS AND NOTICES.

Any written notice to the consultant shall be deemed sufficient when sent by the U.S. Mail addressed to the consultant at their address listed on the signature page of the contract, by Facsimile, or by telegram, fee prepaid, addressed to the consultant at their address as listed in the contract, and/or hand carried and presented to an authorized employee of the consultant at their address as listed on the signature page of the contract.

O. DISPUTES.

Should any disputes arise with respect to this contract, the consultant and KDOT agree to act immediately to resolve such dispute. The consultant agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under the contract of all non-disputed work; any additional costs incurred by the consultants or KDOT as a result of such failure to proceed shall be borne by the consultant, and the consultant shall make no claim against KDOT for such costs.

P. TERMINATION.

1. Termination of Convenience: KDOT retains the option to terminate the contract or any part of the contract at its convenience. KDOT shall insure no liability if it terminates for convenience. In such an event, at the request of KDOT, the consultant shall furnish all materials related to performance hereunder, whether finished or in preparation, at the time of termination. The consultant will be reimbursed for work which has been accomplished and is acceptable to KDOT. Reimbursement will be an amount decided upon by KDOT and will be consistent with the contract pricing/payment provisions.
2. Termination for Cause: KDOT may terminate the contract(s) or any part of the contract(s) resulting from this Request at any time that the consultant fails to carry out its provisions or to make meaningful progress under the terms specified in this Request and the resulting proposal and contract.
3. Termination of Lack of Governmental Appropriations: Notwithstanding any other provisions of this contract, if funds anticipated for the continued fulfillment of the contract are at any time not forthcoming, KDOT shall have the right to terminate the contract without penalty by giving not less than thirty (30) days written notice documenting the lack of funding.

Q. WAIVER.

In the event of a breach of contract, the failure of KDOT to exercise any of its rights or remedies under this contract shall not be construed as a waiver of any such provision of the contract breached or as an acquiescence in the breach. The remedies herein reserved shall be cumulative and additional to any other remedies at law or in equity.

R. INSURANCE.

The consultant shall furnish certificates of insurance in the types and amounts listed prior to commencement of work described herein. These shall remain in force throughout the term of the contract.

1. **Public Liability and Property Damage insurance in an amount not less than ten million (\$10,000,000.00) dollars per occurrence.**
2. **Professional Liability insurance in the maximum amount reasonably available, but not less than ten million (\$10,000,000.00) dollars.**
3. **Valuable Papers insurance in an amount sufficient to assure the restoration of any documents, memoranda, reports or other similar data relating to the work of the consultant used in the completion of this contract.**

KDOT
STATE HIGHWAY FUND including
Highway Bond Proceeds & Highway Bond Debt Service Funds

HB 2014 AS PASSED
 With Revisions

PROJECTED CASH FLOW
 REVISED REVENUES PER CONSENSUS ESTIMATES OF 11/15/90 AND
 "MINI-CONSENSUS" OF 12/03/90
 CONSTRUCTION EXPENDITURES REVISED AS OF 1/30/91
 FY 91 & 92 ADJUSTED TO GOVERNOR'S BUDGET

Assumptions:	Growth in OOE & Salaries:	5.00%
	Growth in Sub Maint:	5.20%

(\$000)	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	TOTAL FY 90-2000
BEGINNING BALANCE	48,500	125,894	121,194	156,823	96,147	30,109	32,540	39,828	75,014	(57,039)	(118,035)	48,500
REVENUES:												
Motor Fuel Taxes	113,792	126,000	135,000	143,900	145,900	145,900	145,900	145,900	145,900	145,900	145,900	1,539,992
Motor Fuel Taxes from Freeway Fund									18,800	18,800	18,800	56,400
Registration Fees	91,859	100,384	100,384	100,384	100,384	100,384	100,384	100,384	100,384	100,384	100,384	1,095,699
SGF (Sales Tax) Transfer	63,489	74,468	78,100	81,220	84,266	87,426	90,704	94,106	97,635	101,296	105,094	957,803
Sales & Compensating Tax	46,545	53,813	55,688	57,776	59,942	62,190	64,522	66,942	69,452	72,057	74,759	683,685
Interest on State Highway Fund	7,859	8,908	10,023	9,120	9,062	9,349	7,612	6,684	648			69,265
Drivers Licences Fees	4,380	4,424	4,424	4,424	4,424	4,424	4,424	4,424	4,424	4,424	4,424	48,622
Oil, Gas, Mineral & Sand	602	602	602	602	602	602	602	602	602	602	602	6,624
Sales of Land & Buildings	838	500	500									1,838
Useable Condemned Equipment	460	458	458	458	458	458	458	458	458	458	458	5,043
Insurance Reimbursement	433	373	373	373	373	373	373	373	373	373	373	4,159
Special Vehicle Permits	277	270	270	270	270	270	270	270	270	270	270	2,978
Publications	118	121	125	125	125	125	125	125	125	125	125	1,365
Misc. Revenues	953	333	334	334	334	334	334	334	334	334	334	4,293
Transfers:												
State Vehicle Registration	393	400	400	400	400	400	400	400	400	400	400	4,393
Motor Carrier Fund Excess	3,176	3,100	3,100	3,100	3,100	3,100	3,100	3,100	3,100	3,100	3,100	34,176
Maintenance Transfer SFF	7,150	8,607	9,055	9,526	2,336				876			37,550
Construction Transfer	1,992	919	900									3,811
Subtotal	344,318	383,679	399,736	412,012	411,976	415,335	419,209	424,103	443,781	448,523	455,024	4,557,697
Federal & Local Aid Reimb.												
FY90 and prior	99,400	74,919	11,954									186,273
FY91 to FY95		44,636	103,261	134,614	112,705	107,569	70,106	19,653	1,135			593,679
FY96 and FY97							37,314	84,105	68,078	19,568	1,435	210,500
FY98 and subsequent		9,653	8,996	13,499	14,481	15,487	11,887	38,425	1,086	397		113,911
System Enhancement											94,050	197,600
Miscellaneous	7,917	9,287	7,316	7,597	7,892	8,203	8,530	8,875	9,237	9,618	10,018	94,490
Subtotal	107,317	138,496	131,527	155,710	135,078	131,259	127,837	151,058	105,186	107,483	105,503	1,396,453
Total before Bonding	451,635	522,175	531,263	567,722	547,055	546,595	547,046	575,160	548,967	556,006	560,527	5,954,150
Bond Sales (net)	98.5%				125,095	251,175	261,025	239,355				876,650
Interest on bond proceeds	7.50%					1,970	4,419	6,101				12,490
Net from Bond Sales:					125,095	253,145	265,444	245,456				889,140
TOTAL REVENUES	451,635	522,175	531,263	567,722	672,150	799,740	812,490	820,616	548,967	556,006	560,527	6,843,290

APPENDIX A

(\$000)	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	FY 90-2000
EXPENDITURES:												
Maintenance												
Routine Maintenance:												
Agency Operations	(76,102)	(81,249)	(85,285)	(92,409)	(97,230)	(102,665)	(105,188)	(105,226)	(105,841)	(108,498)	(112,631)	(1,072,322)
City Connecting Links	(1,750)	(2,240)	(2,240)	(2,240)	(2,240)	(2,240)	(2,240)	(2,240)	(2,240)	(2,240)	(2,240)	(24,150)
Total Routine Maintenance	(77,852)	(83,489)	(87,525)	(94,649)	(99,470)	(104,905)	(107,428)	(107,466)	(108,081)	(110,736)	(114,871)	(1,096,471)
Contract (Substantial) Maintenance:												
Program Years FY 1990 and prior	(49,912)	(44,219)										(94,131)
FY 1991 Program		(22,907)	(45,813)									(68,720)
FY 1992 - FY 1997 Program			(23,687)	(72,294)	(76,053)	(80,008)	(84,168)	(88,545)	(61,042)			(485,797)
FY 1998 and subsequent									(32,108)	(97,993)	(103,089)	(233,190)
Total Contract Maintenance	(49,912)	(67,126)	(69,501)	(72,294)	(76,053)	(80,008)	(84,168)	(88,545)	(93,149)	(97,993)	(103,089)	(881,838)
Total Maintenance	(127,763)	(150,615)	(157,026)	(166,943)	(175,523)	(184,913)	(191,596)	(196,011)	(201,230)	(208,729)	(217,960)	(1,978,310)
Construction												
Major Modifications												
Program Years FY 1990 and prior	(132,477)	(121,857)	(13,106)									(267,440)
FY 1991 - FY 1995 Program		(50,857)	(169,876)	(259,733)	(317,693)	(282,297)	(182,760)	(50,893)	(2,711)			(1,316,820)
FY 1996 - FY 1997 Program							(61,632)	(168,566)	(156,481)	(51,576)	(4,854)	(443,109)
FY 1998 and subsequent									(34,056)	(105,458)	(125,628)	(265,143)
Agency CE & PE	(40,073)	(41,307)	(36,382)	(38,716)	(35,730)	(32,307)	(32,432)	(39,116)	(49,183)	(56,367)	(60,548)	(462,161)
Contract CE & PE	(4,908)	(25,697)	(21,600)	(17,313)	(15,751)	(14,278)	(11,487)	(3,165)	(2,060)	(500)	(500)	(117,260)
Buildings	(3,641)	(5,423)	(2,723)	(5,754)	(3,319)	(6,733)	(3,000)	(3,000)	(3,000)	(3,000)	(3,000)	(42,592)
Total Major Modifications	(181,099)	(245,141)	(243,687)	(321,516)	(372,493)	(335,615)	(291,311)	(264,739)	(247,492)	(216,902)	(194,531)	(2,914,525)
System Enhancements												
System Enhancements		(7,060)	(18,354)	(37,193)	(78,567)	(142,752)	(166,221)	(148,456)	(51,573)	(13,105)		(663,281)
Agency CE & PE		(4,410)	(9,466)	(10,961)	(16,539)	(22,884)	(24,115)	(17,452)	(7,715)	(1,958)		(115,500)
Total System Enhancements		(11,470)	(27,820)	(48,154)	(95,106)	(165,636)	(190,336)	(165,908)	(59,288)	(15,063)		(778,781)
Total Construction	(181,099)	(256,611)	(271,507)	(369,670)	(467,599)	(501,251)	(481,647)	(430,647)	(306,780)	(231,965)	(194,531)	(3,693,306)
Local Support												
Agency Operations	(1,993)	(2,375)	(2,491)	(2,699)	(2,840)	(2,999)	(3,072)	(3,073)	(3,091)	(3,169)	(3,290)	(31,092)
Categorical Grants	(5,180)	(6,087)	(4,777)	(4,994)	(5,223)	(5,464)	(5,718)	(5,984)	(6,265)	(6,560)	(6,870)	(63,123)
Total Local Support	(7,173)	(8,462)	(7,268)	(7,693)	(8,063)	(8,463)	(8,790)	(9,058)	(9,356)	(9,729)	(10,160)	(94,215)
Management	(30,621)	(32,916)	(29,924)	(52,789)	(47,953)	(43,401)	(36,861)	(36,874)	(37,088)	(38,014)	(39,455)	(425,897)
Transfers Out	(27,584)	(78,272)	(29,909)	(31,304)	(32,869)	(34,512)	(36,238)	(38,050)	(39,953)	(41,950)	(44,048)	(434,688)
TOTAL before Debt Service	(374,241)	(526,875)	(495,633)	(628,399)	(732,007)	(772,541)	(755,132)	(710,640)	(594,407)	(530,387)	(506,154)	(6,626,415)
New Debt Service @ 7.50%					(6,180)	(24,768)	(50,071)	(74,790)	(86,614)	(86,614)	(86,614)	(415,649)
Term = 20												
TOTAL EXPENDITURES	(374,241)	(526,875)	(495,633)	(628,399)	(738,187)	(797,308)	(805,202)	(785,430)	(681,021)	(617,001)	(592,767)	(7,042,064)
ANNUAL SURPLUS (DEFICIT)	77,394	(4,700)	35,629	(60,677)	(66,038)	2,431	7,288	35,186	(132,054)	(60,995)	(32,240)	(198,775)
ENDING FUND BALANCE:	125,894	121,194	156,823	96,147	30,109	32,540	39,828	75,014	(57,039)	(118,035)	(150,275)	(150,275)
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	TOTAL
												FY 90-2000

NOTES:

Program expenditures for program years FY 1990 and earlier are based on data provided by Engineering Support
 Program expenditures for program years FY 1991 and subsequent are based on information provided by Program Management
 Program expenditures to match available federal aid and the maintenance program including contract maintenance is assumed to continue beyond FY 1997
 Growth Rate in Sales Tax for FY 1993 and subsequent is 3.75%
 Interest Rates for FY 1991 & FY 1992 per Consensus of 11/15/00

AS OF
 20-Mar-01
 09:56 AM

2-20

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The provisions found in Contractual Provisions Attachment (form DA-146a), which is attached hereto and executed by the parties to this agreement, are hereby incorporated in this contract and made a part hereof."

The undersigned parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the ___ day of _____, 19___.

1. **TERMS HEREIN CONTROLLING PROVISIONS**

It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.

2. **AGREEMENT WITH KANSAS LAW**

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

3. **TERMINATION DUE TO LACK OF FUNDING APPROPRIATION**

If, in the judgment of the Director of Accounts and Reports, State Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **DISCLAIMER OF LIABILITY**

Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*)

5. **ANTI-DISCRIMINATION CLAUSE**

The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and to not discriminate against any person who performs work hereunder, because of race, religion, color, sex, physical handicap unrelated to such person's ability to engage in this work, national origin or ancestry, or age; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such act by the Kansas Commission on Civil Rights, shall constitute a breach of the contract and it may be cancelled, terminated or suspended in whole or in part by the Director of Purchases, State Department of Administration.

Parties to this contract understand that subsections (b) through (e) of this paragraph number 5 are not applicable to a contractor who employs fewer than four employees or whose contract with this agency of the Kansas state government total less than \$5,000 during this fiscal year.

6. **ACCEPTANCE OF CONTRACT**

This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **ARBITRATION, DAMAGES, WARRANTIES**

Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

8. **REPRESENTATIVE'S AUTHORITY TO CONTRACT**

By signing this document, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this document on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **RESPONSIBILITY FOR TAXES**

The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **INSURANCE**

The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the state to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

Vendor/Contractor:

Agency Head/Authorized Representative:

Date Signature

Date Signature

Title

Title

KANSAS DEPARTMENT OF TRANSPORTATION

Gary Stotts
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566

Joan Finney
Governor of Kansas

**KANSAS DEPARTMENT OF TRANSPORTATION
COMPREHENSIVE HIGHWAY PROGRAM
BOND RESOLUTION NO. 91-1**

A RESOLUTION by the Secretary of the Kansas Department of Transportation authorizing the employment of Special Counsel.

WHEREAS, the planning and execution of the bond issues authorized by K.S.A. Supp. 68-2320 requires specialized professional expertise concerning relevant federal and state laws; and

WHEREAS, the required specialized professional expertise is not available within the Kansas Department of Transportation and it is not necessary or practical to develop or establish such expertise within the Kansas Department of Transportation; and

WHEREAS, K.S.A. Supp. 68-2320 provides that "in accordance with procurement statutes, the Secretary may contract with ... attorneys ... as the Secretary deems necessary to carry out the provisions of the act, and to do all things necessary or convenient to carry out the powers expressly granted in this act"; and

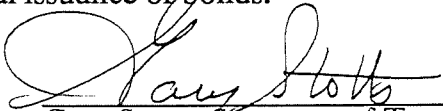
WHEREAS, an agency is authorized to contract for the professional services of attorneys.

THEREFORE, BE IT RESOLVED BY THE SECRETARY OF THE KANSAS DEPARTMENT OF TRANSPORTATION THAT: The Kansas Department of Transportation shall enter into a contract for the specialized professional legal expertise necessary to carry out the powers granted to the Secretary of Transportation. The Special Counsel shall provide guidance and assistance directly to the Secretary of Transportation and to those designated by the Secretary.

BE IT FURTHER RESOLVED THAT: The Chief Counsel of the Kansas Department of Transportation is directed to retain, in accordance with procurement statutes, the services of an attorney qualified to provide such specialized professional services.

BE IT FURTHER RESOLVED THAT: The compensation for the Special Counsel shall not be contingent upon the actual issuance of bonds.

3-13-91
Date



Gary Stotts, Secretary of Transportation

Senate Committee on Governmental Organization
4-1-91
Attachment 3

Gary Stotts
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION
Docking State Office Building
Topeka 66612-1568
(913) 296-3566

Joan Finney
Governor of Kansas

**KANSAS DEPARTMENT OF TRANSPORTATION
COMPREHENSIVE HIGHWAY PROGRAM
BOND RESOLUTION NO. 91-2**

A **RESOLUTION** by the Secretary of the Kansas Department of Transportation authorizing the employment of a Financial Advisor.

WHEREAS, the planning and execution of the bond issues authorized by K.S.A. Supp. 68-2320 requires specialized professional financial expertise; and

WHEREAS, the required specialized professional expertise is not available within the Kansas Department of Transportation, and it is not necessary or practical to develop or establish such expertise within the Kansas Department of Transportation; and

WHEREAS, K.S.A. Supp. 68-2320 provides that "in accordance with procurement statutes, the Secretary may contract with ... financial advisors ... as the Secretary deems necessary to carry out the provisions of the act, and to do all things necessary or convenient to carry out the powers expressly granted in this act"; and

WHEREAS, K.S.A. 75-3799 establishes a procedure for obtaining financial services.

THEREFORE, BE IT RESOLVED BY THE SECRETARY OF THE KANSAS DEPARTMENT OF TRANSPORTATION THAT: It is the desire of the Secretary of the Kansas Department of Transportation to enter into a contract for the specialized professional financial expertise necessary to carry out the powers granted to the Secretary of Transportation. The Financial Advisor shall provide guidance and assistance directly to the Secretary of Transportation and to those designated by the Secretary.

BE IT FURTHER RESOLVED THAT: The Secretary of Administration is hereby respectfully requested to approve the convening of the Financial Services Negotiating Committee to obtain the services of a Financial Advisor.

BE IT FURTHER RESOLVED THAT: The Director of Purchases of the Kansas Department of Administration is hereby respectfully requested to convene the Financial Services Negotiating Committee to obtain the services of a Financial Advisor. The contract for the Financial Advisor must be executed on or before May 1, 1991.

BE IT FURTHER RESOLVED THAT: The Director of Transportation Administration is designated to represent the Secretary of Transportation on the Financial Services Negotiating Committee. The Bond and Investment Task Force is authorized and directed to provide guidance to the designated representative of the Secretary of Transportation.

BE IT FURTHER RESOLVED THAT: The compensation for the Financial Advisor shall not be contingent upon the actual issuance of bonds.

BE IT FURTHER RESOLVED THAT: The Financial Advisor shall not participate as an underwriter for the bonds authorized in K.S.A. Supp. 68-2320.

3-29-91
Date



Gary Stotts, Secretary of Transportation

Gary Stotts
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION
Docking State Office Building
Topeka 66612-1568
(913) 296-3566

Joan Finney
Governor of Kansas

**KANSAS DEPARTMENT OF TRANSPORTATION
COMPREHENSIVE HIGHWAY PROGRAM
BOND RESOLUTION NO. 91-3**

A RESOLUTION by the Secretary of the Kansas Department of Transportation establishing the Bond and Investment Task Force and defining the duties and responsibilities.

WHEREAS, K.S.A. Supp. 68-2314 states that the intent of the Kansas Legislature was to provide for the construction and reconstruction of a modern and efficient system of highways and directs the Secretary of Transportation to initiate a program (henceforth referred to as the "Comprehensive Highway Program") to accomplish certain specified objectives; and

WHEREAS, as a part of the funding for the Comprehensive Highway Program, K.S.A. Supp. 68-2320 provides that "on and after July 1, 1991, the Secretary of Transportation is ... authorized and empowered to issue bonds ... the total principal of which shall not exceed \$890,000,000"; and

WHEREAS, K.S.A. Supp. 68-2321(b) provides that the Secretary of Transportation is responsible for the management and control of the Highway Bond Proceeds Fund, for the issuance of a resolution which shall specify both the amounts and duration of investments and which may recommend investment and reporting policies, and for consulting with the Pooled Money Investment Board; and

WHEREAS, K.S.A. Supp. 68-2324 provides that the Secretary of Transportation is responsible for the management and control of the State Highway Fund, for the issuance of a resolution which shall specify both the amounts and duration of investments and which may recommend investment and reporting policies, and for consulting with the Pooled Money Investment Board; and

WHEREAS, it is reasonable and necessary for the Secretary of Transportation to establish prior to July 1, 1991, a "Financial Plan for the Comprehensive Highway Program" which shall establish a strategy for the issuance of the bonds and the investment of financial resources available to the Secretary of Transportation; and

WHEREAS, it is the policy of the Secretary of Transportation that the Financial Plan for the Comprehensive Highway Program shall have as its primary objective the provision of adequate resources for the completion of the objectives established in K.S.A. Supp. 68-2314 subject to the judgment and care which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering both probable income as well as the probable safety of their capital; and

WHEREAS, it is also the policy of the Secretary of Transportation that, to the extent reasonably consistent with the primary objective, the Financial Plan for the Comprehensive Highway Program shall have as a secondary objective the support of broader economic policies and goals of the State of Kansas; to the extent that this objective is reasonably consistent with the primary objective; and

WHEREAS, the development of the Financial Plan for the Comprehensive Highway Program can best be done through a cooperative effort of individuals sharing perspectives and insights concerning the financial needs of the Comprehensive Highway Program, relevant federal and state laws, financial markets and practices, and the economic policies and goals of the State of Kansas; and

WHEREAS, it is the policy of the Secretary of Transportation that bond and investment transactions must be accomplished so the propriety, purpose, or intent cannot be reasonably questioned; and


WHEREAS, K.S.A. 75-5015 provides that the Secretary of Transportation may organize the Department of Transportation in the manner that the Secretary deems to be most efficient so long as it is consistent with statutory provisions.

THEREFORE, BE IT RESOLVED BY THE SECRETARY OF THE KANSAS DEPARTMENT OF TRANSPORTATION THAT: The Bond and Investment Task Force is hereby established. It will be chaired by Robert Haley, Director of Transportation Administration and will consist of the Chief Counsel, KDOT; the Chief of the Bureau of Fiscal Services, KDOT; the Chief of the Bureau of Management and Budget, KDOT; the President of the Kansas Development Finance Authority; the Special Counsel; and the Financial Advisor.

The Bond and Investment Task Force is authorized and directed to conduct research, perform analysis, perform administrative tasks and contract those services as may be necessary to support the Secretary of Transportation.

The Bond and Investment Task Force shall recommend to the Secretary of Transportation a Financial Plan for the Comprehensive Highway Program. The initial recommendations shall be presented to the Secretary of Transportation in time for the Secretary to have an opportunity to execute a bond issue by competitive process in the first part of Fiscal Year 1992 if the Secretary determines that such an issue is desirable. The revision to the Financial Plan for the Comprehensive Highway Program shall be recommended to the Secretary of Transportation as the Bond and Investment Task Force deems necessary or as requested by the Secretary of Transportation.

3-29-91
Date


Gary Stotts, Secretary of Transportation

[As Amended by House Committee of the Whole]

Session of 1991

HOUSE BILL No. 2439

By Committee on Governmental Organization

2-22

11 AN ACT concerning the citizens' utility ratepayers board; increasing
12 the membership thereof; relating to budgeting, management and
13 finance of operation; amending K.S.A. 66-1503 and K.S.A. 1990
14 Supp. 66-1222, 66-1225 and 66-1502, and repealing the existing
15 sections.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 1990 Supp. 66-1222 is hereby amended to read
19 as follows: 66-1222. (a) There is hereby established a citizens' utility
20 ratepayer board which shall consist of five ~~eight~~ members appointed
21 by the governor. ~~At least one member [two members] [one mem-~~
22 ~~ber] shall be appointed from each of the congressional districts [until~~ ✓
23 ~~such time as there are four congressional districts after which two~~
24 ~~members shall be appointed from each of the congressional dis-~~
25 ~~tricts].~~ The members of the board shall serve for a term of four
26 years, except that ~~the additional three members of the first board~~ ✓
27 ~~authorized to be appointed under this section shall serve for the~~
28 ~~following terms: (a) Two members shall serve terms of two years~~
29 ~~following the date of appointment; and (b) three members one~~
30 ~~member shall serve terms a term of four years following the date~~
31 ~~of appointment].~~ All vacancies in office of members so appointed shall
32 be filled by appointment by the governor for the unexpired term of
33 the member creating the vacancy.

five

34 (b) The board shall organize at its first meeting annually by
35 the election from its membership of a chairperson and by the adop-
36 tion of shall adopt such rules of procedure as it the board deems
37 necessary for conducting its business.

38 (c) The board shall hold such meetings as in its judgment may
be necessary for the performance of its powers, duties and functions.
Appointive members of the board shall receive compensation, sub-
41 sistence allowances, mileage and other expenses for attending meet-
42 ings of the board as provided by K.S.A. 75-3223, and amendments
43 thereto.

members of the board serving on the effective
date of this act shall serve for the term for
which they were appointed

Senate Committee on Governmental Organization
4-1-91
Attachment 4

1 (d) The state corporation commission shall provide such technical
2 and clerical staff assistance as may be requested by the board in the
3 administration of the provisions of this act.

4 (e) The board shall administer this act and shall have and may
5 exercise the following powers, duties and functions:

6 (1) Employ an attorney as a consumer counsel;

7 (2) guide the activities of the consumer counsel;

8 (3) recommend legislation to the legislature which in the board's
9 judgment would positively affect the interests of utility consumers.

10 Sec. 2. K.S.A. 1990 Supp. 66-1225 is hereby amended to read
11 as follows: 66-1225. ~~The provisions of K.S.A. 1989 Supp. 66-1222~~
12 ~~through 66-1225 shall expire on July 1, 1991. All budgeting,~~
13 ~~purchasing and related management functions of the citizens' utility~~
14 ~~ratepayers board shall be administered under the direction and su-~~
15 ~~perision of the board. All vouchers for expenditures from appro-~~
16 ~~riations made for the use of the board shall be approved by the~~
17 ~~chairperson of the board or by a person or persons designated by~~
18 ~~the chairperson for such purpose. The budget of the board shall be~~
19 ~~financed in the same manner as the budget of the state corporation~~
20 ~~commission is financed, except that no assessments for financing the~~
21 ~~budget of the board shall be levied against electric or telephone~~
22 ~~cooperatives specified in K.S.A. 1990 Supp. 66-1224, and amend-~~
23 ~~ments thereto.~~

24 Sec. 3. K.S.A. 1990 Supp. 66-1502 is hereby amended to read
25 as follows: 66-1502. Whenever, in order to carry out the duties
26 imposed upon it by law, the state corporation commission, in a
27 proceeding upon its own motion, on complaint, or upon an appli-
28 cation to it, shall deem it necessary to investigate any public utility
29 or common carrier or make appraisals of the property of any public
30 utility, such public utility or common carrier, in case the expenses
31 reasonably attributable to such investigation or appraisal exceed the
32 sum of \$100, including both direct and indirect expenses incurred
33 by the commission or its staff *or by the citizens' utility ratepayers*
34 *board*, shall pay such expenses which shall be assessed against such
35 public utility or common carrier by the commission, except that no
36 such public utility or common carrier shall be assessed for payment
37 of such expenses, unless prior to the incurring of any such expense
38 the state corporation commission shall give such public utility or
39 common carrier notice and opportunity for a hearing in accordance
40 with the provisions of the Kansas administrative procedure act. At
41 such hearing, the public utility or common carrier may be heard as
42 to the necessity of such investigation or appraisal and may show
43 cause, if any, why such investigation or appraisal should not be made

1 or why the costs thereof should not be assessed against such public
2 utility or common carrier. The finding of the commission as to the
3 necessity of the investigation or appraisal and the assessment of the
4 expenses thereof shall be conclusive, except that no such public
5 utility or common carrier shall be liable for payment of any such
6 expenses incurred by such state corporation commission *or citizens'*
7 *utility ratepayers board* in connection with any proceeding before
8 or within the jurisdiction of the interstate commerce commission or
9 other federal regulatory body.

10 The commission shall ascertain the expenses of any such inves-
11 tigation or appraisal and by order assess such expenses against the
12 public utility or common carrier investigated or whose property is
13 appraised in such proceeding, and shall render a bill therefor, by
14 registered mail, to the public utility or common carrier, either at
15 the conclusion of the investigation or appraisal, or from time to time
16 during such investigation or appraisal. Such bill shall constitute notice
17 of such assessment and demand of payment thereof. Upon a bill
18 rendered to such public utility or common carrier, within 15 days
19 after the mailing thereof, such public utility or common carrier shall
20 pay to the commission the amount of the assessment for which it is
21 billed. Such payment when made shall be transmitted by the com-
22 mission to the state treasurer, who shall credit the same to the
23 appropriations made for the use of such commission *or for the use*
24 *of the citizens' utility ratepayers board*. The total amount, in any
25 one calendar year for which any public utility or common carrier
26 shall be assessed under the provisions of this section shall not exceed
27 $\frac{3}{5}$ of 1% of its gross operating revenues derived from intrastate
28 operations in the last preceding calendar year. The commission may
29 render bills in one calendar year for costs incurred within a previous
30 year.

31 Sec. 4. K.S.A. 66-1503 is hereby amended to read as follows:
32 66-1503. (a) (1) The state corporation commission shall determine
33 within 90 days after the close of fiscal year 1983 for that fiscal
34 year, and within 15 days after October 1, 1983, for the quarter-
35 year period from July 1, 1983, to October 1, 1983, and within
36 15 days after each quarter-year thereafter for each such quarter-
37 year, the total amount of its expenditures during such period of time
38 *and the total amount of expenditures of the citizens' utility ratepayers*
board during such period of time. The total amount shall include
41 the salaries of members and employees and all other lawful ex-
42 penditures of the commission *and the board*, including all expend-
43 itures in connection with investigations or appraisals made under the
provisions of K.S.A. 66-1502, and amendments thereto except that

1 there shall not be included in such total amount of expenditures for
2 the purpose of this section the expenditures during such period of
3 time which are otherwise provided for by fees and assessments made
4 under other existing laws for the regulation of motor carriers or for
5 administering the oil proration and the oil and gas conservation laws.

6 (2) From the amount determined under paragraph (1) of this
7 subsection, the commission shall deduct (A) all amounts collected
8 under K.S.A. 66-1502, and amendments thereto, during such period
9 of time and (B) the amounts of all fees collected during such period
10 of time under the provisions of subsection (b)(1) of K.S.A. 66-1a01,
11 and amendments thereto.

12 (3) To the remainder after making the deductions under para-
13 graph (2) of this subsection, the commission shall add such amount
14 as in its judgment may be required to satisfy any deficiency in the
15 prior assessment period's assessment and to provide for anticipated
16 increases in necessary expenditures for the current assessment
17 period.

18 (b) The amount determined under subsection (a) shall be assessed
19 by the commission against the several public utilities and common
20 carriers subject to the jurisdiction of the commission in proportion
21 to their respective gross operating revenues during the last assess-
22 ment period, derived from intrastate operations, except that such
23 assessment shall not exceed .2% of such gross operating revenues.
24 Such assessment shall be paid to the commission within 15 days
25 after the notice of assessment has been mailed to such public utilities
26 and common carriers, which notice of assessment shall constitute
27 demand of payment thereof.

28 (c) The commission shall remit all moneys received by or for it
29 for the assessment imposed under this section to the state treasurer
30 at least monthly. Upon receipt of each such remittance, the state
31 treasurer shall deposit the entire amount thereof in the state treasury.
32 Twenty percent of each such deposit shall be credited to the state
33 general fund and the balance shall be credited to the public service
34 regulation fund.

35 Sec. 5. K.S.A. 66-1503 and K.S.A. 1990 Supp. 66-1222, 66-1225
36 and 66-1502 are hereby repealed.

37 Sec. 6. This act shall take effect and be in force from and after
38 its publication in the statute book.

SENATE BILL NO. _____

By Committee on Governmental Organization

AN ACT concerning the state corporation commission.

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

Section 1. The state corporation commission created by K.S.A. 74-601 and amendments thereto shall be the appointing authority for the executive director, general counsel and the division directors of the department of state corporation commission.

Sec. 2. There is hereby created the department of state corporation commission, the head of which shall be the executive director of the state corporation commission. The state corporation commission shall appoint the executive director, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto, and the executive director shall serve at the pleasure of the state corporation commission. The department of state corporation commission shall be administered under the direction and supervision of the executive director, subject to orders and directives of the state corporation commission. The executive director shall be in the unclassified service and shall receive an annual salary fixed by the state corporation commission with the approval of the governor.

Sec. 3. (a) All of the powers, duties and functions of the existing secretary of the state corporation commission (sometimes referred as the executive director) are hereby transferred to and conferred and imposed upon the executive director of the state corporation commission created by this act.

(b) The executive director of the state corporation commission created by this act shall be the successor in every way to the powers, duties and functions of the secretary of the state corporation commission (sometimes referred to as the executive director) in which the same were vested prior to the

Senate Committee on Governmental Organization
4-1-91
Attachment 5

effective date of this act, except as herein otherwise provided. Every act performed under authority of the executive director of the state corporation commission created by this act shall be deemed to have the same force and effect as if performed by the secretary of the state corporation commission (sometimes referred to as executive director) in which such functions were vested prior to the effective date of this act.

(c) Whenever the secretary of the state corporation commission (sometimes referred to as executive director), or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the executive director of the state corporation commission created by this act.

(d) All orders and directives of the secretary of the state corporation commission (sometimes referred to as executive director) in existence on the effective date of this act, shall continue to be effective and shall be deemed to be orders and directives of the executive director of the state corporation commission until revised, amended or nullified pursuant to law.

(e) The executive director of the state corporation commission created by this act shall be a continuation of the secretary of the state corporation commission (sometimes referred to as executive director) referred to in K.S.A. 74-605 and 79-2935 and amendments thereto.

Sec. 4. There is hereby established, within and as a part of the department of state corporation commission, a division of utilities, the head of which shall be the director of utilities. Under the supervision of the executive director, the director of utilities shall administer the division of utilities. The state corporation commission shall appoint the director of utilities, and the director shall serve at the pleasure of the state corporation commission. The director of utilities shall be in the unclassified service and shall receive an annual salary fixed by the state corporation commission and approved by the governor.

Sec. 5. (a) All of the powers, duties and functions of the

existing utilities division and the existing director of utilities are hereby transferred to and conferred and imposed, respectively, upon the division of utilities and the director of utilities created by this act, except as is herein otherwise provided.

(b) The division of utilities and the director of utilities created by this act shall be the successors in every way, respectively, to the powers, duties and functions of the utilities division and the director of utilities in which the same were vested prior to the effective date of this act, except as herein otherwise provided. Every act performed in the exercise of such powers, duties and functions by or under the authority of the division of utilities or director of utilities created by this act, respectively, shall be deemed to have the same force and effect as if performed by the utilities division or the director of utilities, respectively, in which such functions were vested prior to the effective date of this act.

(c) Whenever the utilities division, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of utilities created by this act.

(d) Whenever the director of utilities, or words of like effect, is referred to or designated by law, contract or other document, such reference shall be deemed to apply to the director of utilities created by this act.

(e) All orders and directives of the director of utilities in existence on the effective date of this act, shall continue to be effective and shall be deemed to be orders and directives of the director of utilities created by this act until revised, amended or nullified pursuant to law.

(f) The division of utilities and director of utilities created by this act, respectively, shall be continuations of the existing utilities division referred to in K.S.A. 74-614 and amendments thereto.

Sec. 6. There is hereby established, within and as a part of

the department of state corporation commission, a division of transportation, the head of which shall be the director of transportation. Under the supervision of the executive director, the director of transportation shall administer the division of transportation. The state corporation commission shall appoint the director of transportation, and the director shall serve at the pleasure of the state corporation commission. The director of transportation shall be in the unclassified service and shall receive an annual salary fixed by the state corporation commission and approved by the governor.

Sec. 7. (a) All of the powers, duties and functions of the existing director of the transportation division and the existing transportation division are hereby transferred to and conferred and imposed, respectively, upon the division of transportation and the director of transportation created by this act, except as is herein otherwise provided.

(b) The division of transportation and the director of transportation created by this act shall be the successors in every way, respectively, to the powers, duties and functions of the division of transportation and the director of the transportation division in which the same were vested prior to the effective date of this act, except as herein otherwise provided. Every act performed in the exercise of such powers, duties and functions by or under the authority of the division of transportation or director of transportation created by this act, respectively, shall be deemed to have the same force and effect as if performed by the division of transportation and the director of the transportation division, respectively, in which such functions were vested prior to the effective date of this act.

(c) Whenever the transportation division, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of transportation created by this act.

(d) Whenever the director of the transportation division, or

words of like effect, is referred to or designated by law, contract or other document, such reference shall be deemed to apply to the director of transportation created by this act.

(e) All orders and directives of the director of the transportation division and all orders and directives of the transportation division in existence on the effective date of this act, shall continue to be effective and shall be deemed to be orders and directives of the director of transportation created by this act until revised, amended or nullified pursuant to law.

(f) The division of transportation and director of transportation created by this act, respectively, shall be continuations of the division of transportation and the director of the transportation division referred to in K.S.A. 74-615 and amendments thereto.

Sec. 8. There is hereby established, within and as a part of the department of state corporation commission, a division of conservation, the head of which shall be the director of conservation. Under the supervision of the executive director, the director of conservation shall administer the division of conservation. The state corporation commission shall appoint the director of conservation, and the director shall serve at the pleasure of the state corporation commission. The director of conservation shall be in the unclassified service and shall receive an annual salary fixed by the state corporation commission and approved by the governor.

Sec. 9. (a) All of the powers, duties and functions of the existing conservation division and the existing director of the conservation division are hereby transferred to and conferred and imposed, respectively, upon the division of conservation and the director of conservation created by this act, except as is herein otherwise provided.

(b) The division of conservation and the director of conservation created by this act shall be the successors in every way, respectively, to the powers, duties and functions of the

conservation division and the director of the conservation division in which the same were vested prior to the effective date of this act, except as herein otherwise provided. Every act performed in the exercise of such powers, duties and functions by or under the authority of the division of conservation or director of conservation created by this act, respectively, shall be deemed to have the same force and effect as if performed by the conservation division and the director of the conservation division, respectively, in which such functions were vested prior to the effective date of this act.

(c) Whenever the conservation division, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of conservation created by this act.

(d) Whenever the director of the conservation division, or words of like effect, is referred to or designated by law, contract or other document, such reference shall be deemed to apply to the director of conservation created by this act.

(e) All orders and directives of the conservation division and all orders and directives of the director of the conservation division in existence on the effective date of this act, shall continue to be effective and shall be deemed to be orders and directives of the director of conservation created by this act until revised, amended or nullified pursuant to law.

(f) The division of conservation and director of conservation created by this act, respectively, shall be continuations of the conservation division and director of the conservation division referred to in K.S.A. 74-606 and amendments thereto.

Sec. 10. There is hereby established, within and as a part of the department of state corporation commission, a division of administrative services, the head of which shall be the director of administrative services. Under the supervision of the executive director, the director of administrative services shall administer the division of administrative services. The state

corporation commission shall appoint the director of administrative services, and the director shall serve at the pleasure of the state corporation commission. The director of administrative services shall be in the unclassified service and shall receive an annual salary fixed by the state corporation commission and approved by the governor.

New Sec. 11. (a) All of the powers, duties and functions of the existing part of the state corporation commission referred to as G & A administration & management services is hereby transferred to and conferred and imposed upon the division of administrative services and the director of administrative services created by this act, except as is herein otherwise provided.

(b) The division of administrative services and the director of administrative services created by this act shall be the successors in every way, respectively, to the powers, duties and functions of the G & A administration & management services in which the same were vested prior to the effective date of this act, except as herein otherwise provided. Every act performed in the exercise of such powers, duties and functions by or under the authority of the division of administrative services or director of administrative services created by this act, respectively, shall be deemed to have the same force and effect as if performed by the G & A administration & management services in which such functions were vested prior to the effective date of this act.

(c) Whenever the G & A administration & management services, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of administrative services created by this act.

(d) Whenever the G & A administration & management services, or words of like effect, is referred to or designated by law, contract or other document, such reference shall be deemed to apply to the director of administrative services created by this act.

(e) All orders and directives of the G & A administration & management services in existence on the effective date of this act, shall continue to be effective and shall be deemed to be orders and directives of the director of administrative services created by this act until revised, amended or nullified pursuant to law.

(f) The division of administrative services and director of administrative services created by this act, respectively, shall be continuations of the G & A administration & management services.

Sec. 12. There is hereby established, within and as a part of the department of state corporation commission, a legal division, the head of which shall be the general counsel. Under the supervision of the executive director, the general counsel shall administer the legal division. The state corporation commission shall appoint the general counsel, and the general counsel shall serve at the pleasure of the state corporation commission. The general counsel shall be in the unclassified service and shall receive an annual salary fixed by the state corporation commission and approved by the governor.

Sec. 13. (a) All of the powers, duties and functions of the existing legal division and the existing general counsel are hereby transferred to and conferred and imposed, respectively, upon the legal division and the general counsel created by this act, except as is herein otherwise provided.

(b) The legal division and the general counsel created by this act shall be the successors in every way, respectively, to the powers, duties and functions of the legal division and the general counsel in which the same were vested prior to the effective date of this act, except as herein otherwise provided. Every act performed in the exercise of such powers, duties and functions by or under the authority of the legal division or general counsel created by this act, respectively, shall be deemed to have the same force and effect as if performed by the legal division or the general counsel, respectively, in which

such functions were vested prior to the effective date of this act.

(c) Whenever the legal division, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the legal division created by this act.

(d) Whenever the general counsel, attorney, or words of like effect, is referred to or designated by law, contract or other document, such reference shall be deemed to apply to the general counsel created by this act.

(e) All orders and directives of the general counsel in existence on the effective date of this act, shall continue to be effective and shall be deemed to be orders and directives of the general counsel created by this act until revised, amended or nullified pursuant to law.

(f) The legal division and general counsel created by this act, respectively, shall be continuous of the existing general counsel.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.