

Approved April 29, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

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

12:40 ~~am~~/p.m. on April 25, 1991 in room 522-S of the Capitol.

~~Members~~ members ~~present~~ present: Senators Oleen, Bogina, Francisco and Kanan.

Committee staff present:

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

Conferees appearing before the committee:

Gary Stotts, Secretary of the Department of Transportation

The meeting of the Senate Committee on Governmental Organization was called to order at 12:40 p.m. by the Chairman, Senator Lana Oleen, who called on Gary Stotts, Secretary of the Department of Transportation (KDOT), to address several questions which had been raised at previous meetings of the Committee.

Secretary Stotts provided an Organizational Chart of KDOT (Attachment 1). He said that the only organizational change he has made to date concerns the Office of Management and Budget which formerly was within the Division of Administration. He noted that this office now reports directly to the Secretary as opposed to reporting through the Division of Administration. He reported that currently being reviewed for possible change are the Comprehensive Highway Program Office and the Office of Inspector General. The Secretary said that he has the authority statutorily to appoint a Special Assistant, an unclassified secretary, a Chief Attorney, Division Directors of Aviation, Planning, Administration, Engineering and Design and Operations, and a State Transportation Engineer.

Secretary Stotts noted that the Chairman had requested that he discuss codification or any suggested changes in KDOT's organizational structure. He observed that one item which needs to be addressed concerns the area of planning to make certain that planning is multi-modal - including highways, rails and aviation together. He stated that currently rail and highway planning are together under the Division of Planning; however, aviation, by virtue of statute, is a separate Division which primarily functions in the area of coordinating aviation matters and assisting local communities with federal grants and airport planning.

The Secretary told the Committee that K.S.A. 75-7015 gives the Secretary of Transportation the authority to organize the Department as he deems most efficient as long as it does not conflict with the statutes. In addition, K.S.A. 75-5018 gives him the authority to create advisory boards. He observed that at the current time there are three such bodies which have been established. The first, he said, is the Highway Advisory Commission, created by statute, which is composed of representatives from the six highway districts appointed by the Governor for four-year staggered terms. He noted that members of this Commission cannot hold any other public office. The other advisory committees, he said, are the Aviation Advisory Committee which is appointed by the Secretary, and the State Advisory Committee on Rail Planning which is not currently active. He observed that there is a bill pending in the Legislature which contains a provision for a rail advisory committee. He said that if this bill passes, he would consider abolishing the State Advisory Committee on Rail Planning for he does not feel that two such committees are needed. In answer to a question from Chairman Oleen concerning a KDOT minority advisory group, the Secretary stated that DEB, which addressed disadvantaged business, is currently inactive due to a lack of interest on the part of some of its members. He noted, however, that a group such as this is needed and may be resurrected

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,
room 522-S, Statehouse, at 12:40 ~~xxx~~/p.m. on April 25, 1991

due to federal legislation on set-asides for certain projects. Observing that Kansas is fourth in the nation in the number of people serving on advisory groups, Chairman Oleen stated that she would like to see these advisory groups in state government streamlined.

Secretary Stotts reported on KDOT's loan funds including the Mid States Port Authority Fund, the Highway Bond Proceeds Fund and the State Freeway Fund. (See Attachment 2 for Secretary Stott's outline of his testimony.)

The Chairman discussed KDOT's organizational structure and observed that although the Division of Public Affairs and the Office of Inspector General are not currently referenced in the statutes the Committee would like all of the Divisions to be so referenced.

The meeting was adjourned at 1:20 p.m. by Chairman Oleen.

GUEST LIST

NAME

REPRESENTING

Gregory STOTTS

KDOT

Tom Love

Leg.

Glenn Coulter

Ks Good Roads

George Barbee

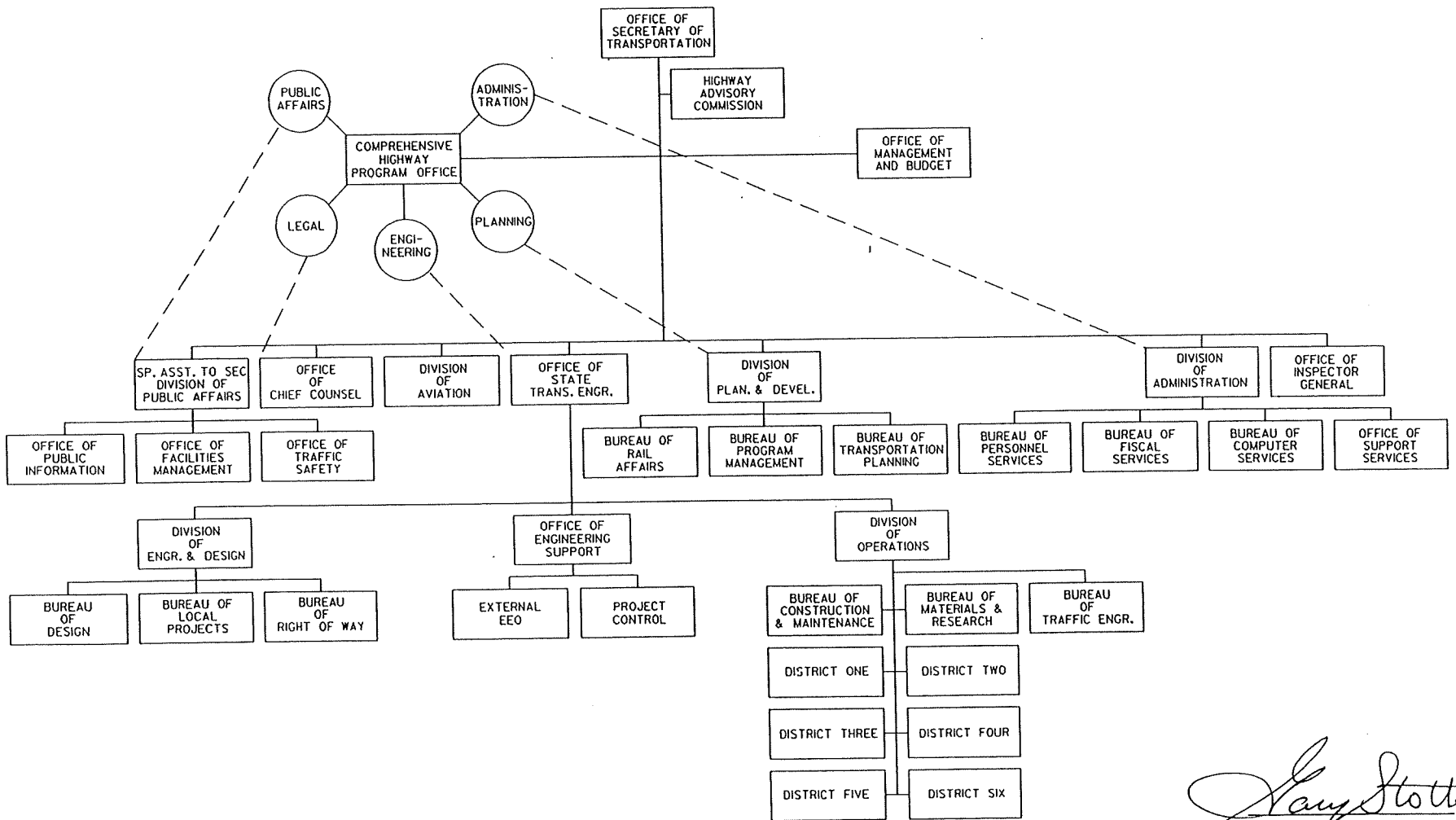
Ks Consulting Engrs.

Tom Whitaker

Ks Motor Carriers Assn

ORGANIZATIONAL CHART KANSAS DEPARTMENT OF TRANSPORTATION

Rev. APRIL 1991



Ray Stotts
SECRETARY OF TRANSPORTATION

APRIL 18, 1991

Attachments 1
 4-25-91
 Ad-hoc committee on Departmental Organization

April 25, 1991

KANSAS DEPARTMENT OF TRANSPORTATION
STATUTORY PROVISIONS RELATED TO THE ORGANIZATION
OF THE DEPARTMENT

Authority for specific positions in organization chart order:

K.S.A. 75-5002 Establishes the Highway Advisory Commission

K.S.A. 75-2935(t) Gives the Secretary authority to appoint a
Special Assistant (and a secretary)

K.S.A. 75-5016 Provides for a Chief Attorney

K.S.A. 75-5010 Provides for the Division/Director of Aviation

K.S.A. 75-5005 Provides for the State Transportation Engineer

K.S.A. 75-5009 Provides for the Division/Director of Planning

K.S.A. 75-5006 Provides for the Division/Director of
Administration

K.S.A. 75-5008 Provides for the Division/Director of
Engineering and Design

K.S.A. 75-5007 Provides for the Division/Director of
(Transportation) Operations

Other statutes related to the organization of the Department:

K.S.A. 75-7015 Gives the Secretary of Transportation authority
to organize the Department as he or she deems
most efficient, as long as it doesn't conflict
with statutes.

K.S.A. 75-5018 Empowers the Secretary to create advisory
boards, commissions, or committees (with
approval of the Governor), and to appoint their
members and pay allowances and expenses. (See
Rail, Aviation, attached.)

Senate Committee on Governmental Organization
4-25-91
Attachment 2

KANSAS DEPARTMENT OF TRANSPORTATION
ADVISORY COMMISSIONS AND COMMITTEES

The Department of Transportation has three advisory bodies: the State Highway Advisory Commission, the Aviation Advisory Committee, and the State Advisory Committee on Rail Planning. The Rail Advisory Committee is not currently active.

STATE HIGHWAY ADVISORY COMMISSION

The State Highway Advisory Commission is provided for by K.S.A. 75-5002. That statute divides the state into six districts and provides that the Governor may appoint two members from each district to staggered four-year terms. No member may hold any other public office except military or notary public. Senate confirmation is not required, and compensation is set by statute. The Commission meets monthly.

The Commission is responsible for reviewing the status of the state's highways and for recommending plans for improvement to the Secretary. Since 1985, the Secretary has delegated the Commission authority to evaluate and select Economic Development and City Connecting Link Geometric Improvement projects, for which applications are solicited from local entities. The Commission has authority, by a vote of two-thirds of its members, to disapprove the location of a highway or its construction.

AVIATION ADVISORY COMMITTEE

The Aviation Advisory Committee was established by the Secretary of Transportation with approval from the Governor, under the provisions of K.S.A. 75-5018. The group consists of thirty members plus five corporate members and ten resource persons with special skills. Members are appointed by the Secretary of Transportation from nominations by the Committee. Travel and expenses are provided for by statute. The Committee meets four times each year.

The purpose of the Aviation Advisory Committee is to provide recommendations to the Secretary of Transportation concerning aviation matters pertaining to the State of Kansas. For each concern addressed, the Committee is required to provide a stated problem and a recommended solution to that problem.

STATE ADVISORY COMMITTEE ON RAIL PLANNING

The State Advisory Committee on Rail Planning, or "Rail Advisory Committee," was created by the Secretary of Transportation as authorized by K.S.A. 75-5018, with approval of the Governor. The group currently includes seventeen members, although the membership has varied since the Committee was established in 1976. One of the original functions of the group was to provide public participation and policy guidance in the State's rail planning process, which was a requirement in order for the State to receive rail planning funds under the Railroad Revitalization and Regulatory Reform Act of 1976. In later years, the committee served as a sounding board and a forum for discussion of state rail issues. The Committee has not met since September 1989.

In December 1988, Governor Hayden convened a Governor's Railroad Working Group to conduct a six-month study of the rail abandonment issue. The Group was reconvened in August 1989 to address the pending abandonment or sale of additional Santa Fe lines in Kansas. The Working Group recommended that the Rail Advisory Committee be reorganized. However, no definitive resolution of the Committee's future status has been made.

KANSAS DEPARTMENT OF TRANSPORTATION

NEW FUNDS RELATED TO BONDING

The following funds have been established to receive and pay debt service on any bonds that may be issued under K.S.A. 68-2320. The attached chart shows the relationship of these two new funds to other key Department of Transportation funds.

These funds were included in the Governor's Budget Amendment to be established as no-limit funds in the FY 1992 Budget.

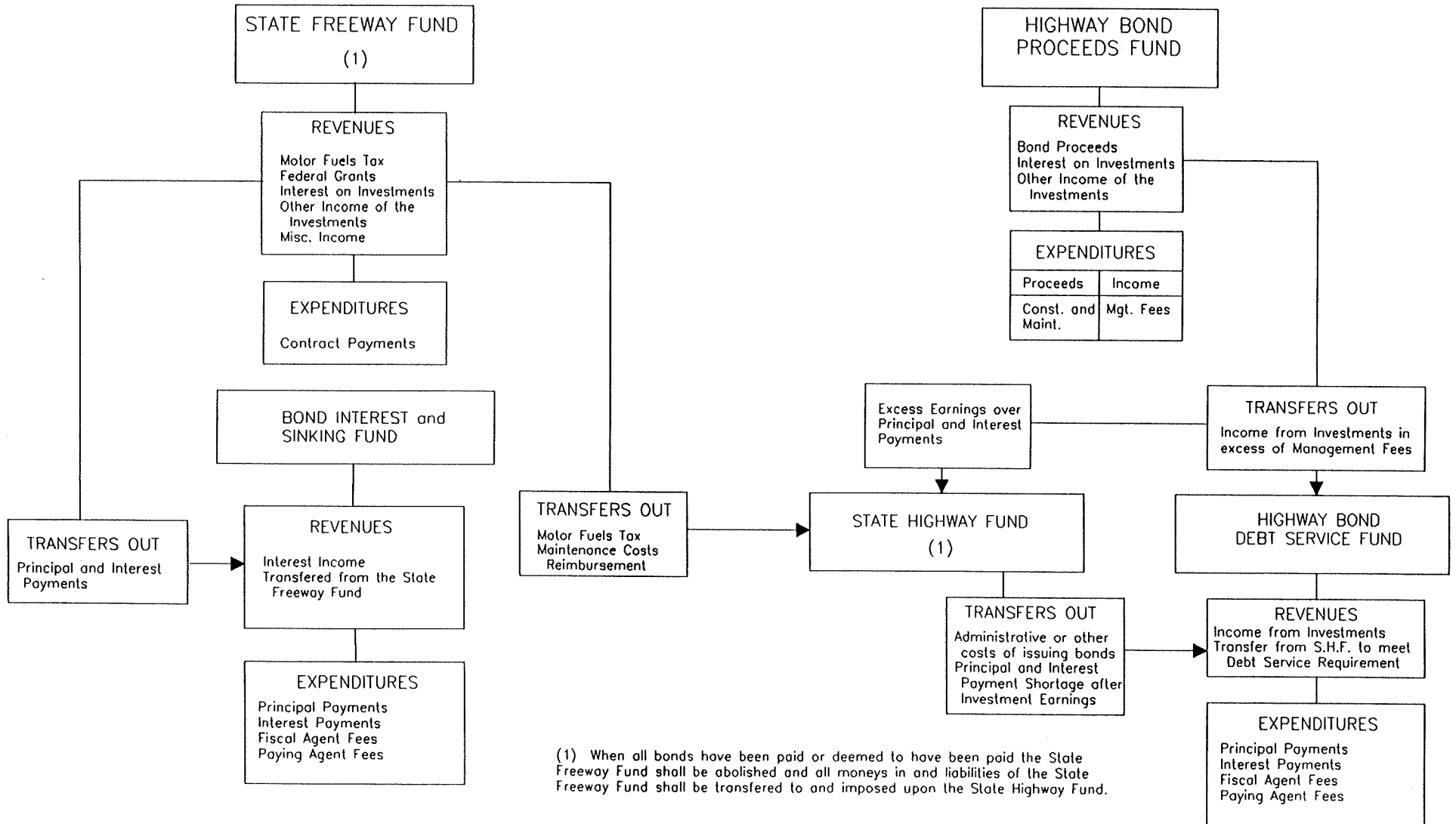
HIGHWAY BONDS PROCEEDS FUND

The Highway Bond Proceeds Fund was established by K.S.A. 68-2321 for the deposit of highway bond proceeds and income earned from the investment of the proceeds. The purpose of the fund is for financing of preconstruction, reconstruction, maintenance, and improvement activities on state highways administered by KDOT as well as costs incidental to the issuance of authorized bonds including interest thereon.

HIGHWAY BOND DEBT SERVICE FUND

The purpose of this fund, established by K.S.A. 68-2325, is to service the debt from the sale of the highway bonds and any administrative costs incidental thereto. The revenue sources for this fund are money transferred from the State Highway Fund, the Highway Bond Proceeds Fund, and income from investments.

STATE FREEWAY FUND AND HIGHWAY BOND PROCEEDS FUND FUND STRUCTURE OVERVIEW



**STATE LOAN GUARANTEE TRANSACTIONS
MID STATES PORT AUTHORITY**

The Department has provided loan guarantees for Mid States Port Authority's acquisition and rehabilitation of specific rail lines in the State of Kansas. When the Department unconditionally guaranteed a term loan for MSPA on April 21, 1989, there was no reason to believe that the Department would be required to make any payments under the guarantee. This continues to be the case.

Background

The Chicago Rock Island and Pacific Railroad Company (Rock Island) declared bankruptcy on March 17, 1975, and thereafter operated under trusteeship until September 1979. The disruption of rail freight service that resulted had wide impacts and affected many areas, including counties along the northern boundary of Kansas.

On May 29, 1980, the Mid States Port Authority (MSPA) was officially created to restore rail service on the bankrupt Rock Island railroad in northern Kansas. Following its formation, the MSPA leased the former Rock Island line until 1984.

In 1984 the federal government agreed to loan the MSPA \$18 million to purchase and rehabilitate specified sections of the Rock Island line. However, finalization of the loan was subject to the State of Kansas conditionally guaranteeing the loan. Under this conditional loan guarantee, the State was obligated to a maximum liability of 50% of the note amount.

On May 10, 1984, the Secretary of Transportation signed a conditional guarantee agreement with the Federal Railroad Administration (FRA) for the loan of \$18 million. The loan provided the MSPA \$12 million to use in the purchase of certain railroad lines from the Trustee in Bankruptcy of the Rock Island and \$6 million to perform major rehabilitation work on the rail lines.

Unconditional Loan Guarantee

In 1988 the MSPA notified the Kansas Department of Transportation that the federal government was in the process of divesting itself of a number of its receivables, including notes held on loans issued through the railroad loan program. As part of the disposal, the federal government appeared willing to offer substantial discount rates to purchasers of the outstanding notes. In order to secure and improve its position, MSPA sought State assistance in its efforts to refinance its property through a lender of its own choosing.

On April 21, 1989 the Secretary of Transportation signed the documents to unconditionally guarantee a \$6.575 million term loan from Bank IV of Wichita to MSPA. The proceeds from the loan were used by MSPA to repurchase the notes held by the federal government.

Status of the Loan

As of March 31, 1991 the outstanding balance of principal and interest on the loan was \$6.20 million and the balance in the MSPA's Rail Escrow Reserve Fund, which serves as a source of payment to Bank IV and an offset to the State's contingent liability, was \$.5 million. On March 4, 1991, the Department received notice that, at its quarterly meeting, MSPA's Board of Directors authorized a prepayment of \$100,000 to be applied to the principal of the loan from Bank IV to MSPA. This principal payment will be in addition to the scheduled monthly principal and interest payments made on the loan by MSPA.

Under the terms of the loan, the chief financial or accounting officer or general counsel of the borrower (MSPA) must quarterly sign a certification to the effect that no Event of Default, or event which might mature into an Event of Default, has occurred and is continuing, or, if there is any such event, describing it. For the quarter ending December 31, 1990, the general counsel of MSPA certified that to the best of his knowledge and belief, there existed no event of default, as defined by the term loan agreement, and that there is not an event which might mature into an event of default.

Kansas Department of Transportation

BUREAU OF RAIL AFFAIRS

April 11, 1991

MEMORANDUM TO: Dale Jost
Chief, Bureau of Fiscal Services

William Watts
Director, Staff Office of Management and Budget

RE: State of Kansas Contingent Liability on Bank IV
Loan to Mid-States Port Authority.


Attached for your information is a summary report with supporting documents of the state's contingent liability on the Bank IV loan to MSPA.

Based on the information provided by Mr. Charles I. Moyer of the First National Bank, Phillipsburg, the State of Kansas had a contingent liability to Bank IV as of March 31, 1991, as follows:

Principal balance on Bank IV Note (Wichita)	\$6,147,459.20
Accrued interest through 3/31/91	<u>56,351.71</u>
	6,203,810.91
Less Rail Escrow Reserve Fund as of 3/31/91	<u>509,554.64</u>
Net Contingent Liability, 3/31/91	5,694,256.27

At its last board meeting held February 12, 1991, the MSPA board of directors took action to transfer \$50,000 from its operating fund to the Rail Escrow Resesrve Fund preliminary to submitting another advance payment of \$100,000 to Bank IV. Under terms of the Bank IV loan, the MSPA is permitted to make advance payments for the first five years of the loan with a prepayment penalty fee of 0.5 percent.

If you have any questions, please advise.



John R. Scheirman
Chief, Bureau of Rail Affairs

JRS:OWA:rem
Attachments