

**MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.**

The meeting was called to order by Senator August "Gus" Bogina, Chairperson, at 11:10 a.m. on March 25, 1992 in Room 123-S of the Capitol.

All members were present except:

Senator Harder

Conferees appearing before the committee:

None

**INTRODUCTION OF BILLS**

It was moved by Senator Doyen and seconded by Senator Gaines that 1 RS 2907 be introduced. The motion carried.

HB 2721 - Appropriations for FY93, for Kansas public employees retirement system, commission on governmental standards and conduct, human rights commission, corporation commission, citizens' utility ratepayer board and department of administration.

**KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM**

Senator Salisbury reviewed the FY92 subcommittee report, Attachment 1. She noted that it is the intent of the subcommittee that the special projects employee recommended in item 3 would become the Chief Fiscal Officer in FY93, She stated that the special projects position would allow the agency to hire an individual in FY92.

Senator Salisbury continued the review of the FY93 subcommittee report, Attachment 2. In answer to Senator Gaines, Meredith Williams, Executive Director of KPERS, told the Committee that the Chief Fiscal Officer will be a CPA responsible for maintaining the books and assuring that the financial systems and controls are in place. Senator Gaines moved, Senator Rock seconded that item 1 of the FY93 report be amended to provide \$60,000 as the total salary for the new internal auditor position.

There was discussion about whether the agency could hire a real estate manager, a direct placement manager, and a chief fiscal officer within the amounts appropriated by the House and Senate subcommittees. In answer to a question, Mr. Williams stated that the direct placement and real estate management positions are crucial to the effort mandated in SB 526 that the Board appear before the Legislature with a plan to manage a portion of the KPERS assets on an in-house basis. He stated that the addition of these 2 positions in no way indicates the Board's intent to make more real estate and direct placement investments. Mr. Williams explained that the firms which currently do the direct placement management will gradually place portions of the portfolio in-house and, thus, those firms will eventually work themselves out of the job.

There was discussion regarding the advisability of recommending a pool of money for salaries for the three positions. Senator Rock noted that salaries for these individuals is dependent upon whether their responsibilities are that of oversight or management.

Senator Winter offered a substitute motion to amend the report by adding \$25,000 (rather than \$10,000) to item 1 (Attachment 2-3), by deleting any reference to the anticipated salary for the direct placement manager, the real estate manager, or the chief fiscal officer, and by including language directing the agency to hire well qualified and experienced personnel. Senator Kerr seconded the motion. Senator Winter explained that by deleting the reference to anticipated salaries, it was his intent to negate the subcommittee report's direction to hire individuals for the specific amounts listed for these three positions. The motion carried on a voice vote.

Senator Salisbury moved, Senator Rock seconded, that the FY92 subcommittee report and the FY93 subcommittee report as amended be adopted. The motion carried on a voice vote.

It was moved by Senator Gaines and seconded by Senator Doyen that HB 2721 as amended be recommended favorable for passage. The motion carried on a roll call vote.

**HB 2791 - Claims against the state.**

Dr. Wolff appeared before the Committee to explain claims that had been reviewed and recommended by the Joint Committee of Special Claims Against the State.

The Committee discussed Attachment 3 which was distributed at the request of the Department of Corrections. It was moved by Senator Rock and seconded by Senator Winter that HB 2791 be amended by striking Section 3, subsection (b). The motion carried.

Dr. Wolff indicated that Section 9, subsection (a) was the only claim that would be paid by state general fund monies and noted that the Committee recommended payment of the claim because there was no demonstration that the Department of Corrections contributed to the extended confinement.

There was lengthy discussion regarding Section 9, subsection (b). (For the Department's comments, see Attachment 3.) It was noted that the inmate had been injured as a result of being ordered to work with poorly maintained equipment. Dr. Wolff indicated that, according to testimony by the Department of Corrections, the inmate would have been "written up" had he not complied. It was noted by some members of the Committee that the Department should take internal responsibility for this incident and that the payment would not be in compliance with Workmen's Compensation. In answer to a question, Dr. Wolff stated that the \$12,462.46 represents the amount that a person in the private sector would have been eligible to receive for temporary disability. It was pointed out by Chairman Bogina that temporary disability compensates for medical expenses, loss of salary, etc. which was not experienced by this individual because of his inmate status. Senator Winter moved, Senator Gaines seconded, that HB 2791 be amended by deleting Section 9, subsection (b). The motion failed on a show of hands.

Senator Kerr moved, Senator Winter seconded, that Section 10 of HB 2791 be amended by language contained in Attachment 4. Senator Kerr explained that the Turon Mill changed suppliers of fuel in 1988 and, as a result, began double paying their excise tax. The Department has refunded them for the most recent two years, but cites the statute that does not allow them to review records beyond two years as a statute of limitations. He noted that the circumstances were the same for the full period of time and stated that \$8,801.28 equals the amount of the remaining claim. The motion carried.

In answer to a question regarding Section 11, subsection (d), Dr. Wolff stated that because removing sand and gravel from the bed of the Neosho River would be considered harassment of the Neosho Madtom, state licenses for the extraction could not be issued without the agencies being in violation of the Federal Endangered Species Act. He noted that although the Committee recommended payment of the claim, the House Appropriations Committee determined that the state could do nothing but follow the federal standards and deleted the claim.

In answer to a question regarding the claims sought by the community mental health centers, Paul Klotz, Association of Community Mental Health Centers, stated that an agreement had been reached in the House subcommittee on SRS which would be place in the SRS appropriations bill.

Staff noted that several technical changes would be made to the bill.

It was moved by Senator Winter and seconded by Senator Hayden that HB 2791 as amended be recommended favorable for passage. The motion carried.

**HB 2979 - State board of regents authorized to sell certain real property on behalf of Kansas state university.**

Attachment 5 was submitted on behalf of Dr. Walter Woods, College of Agriculture, Kansas State University. It was moved by Senator Feleciano and seconded by Senator Winter that HB 2979 be recommended favorable for passage. The motion carried on a roll call vote.

The meeting was adjourned at 12:28 p.m. by the Chairman.



**SUBCOMMITTEE REPORT**

**Agency:** Kansas Public Employees Retirement System (KPERs)

**Bill No.** 2729

**Bill Sec.** 7

**Analyst:** Conroy

**Analysis Pg. No.** 616

<u>Expenditure Summary</u>	<u>Agency Req. FY 92</u>	<u>Gov. Rec. FY 92</u>	<u>Subcommittee Adjustments</u>
<b>All Funds:</b>			
State Operations	\$ 3,425,876	\$ 3,362,309	\$ (77,331)
Aid to Local Units	48,622,540	48,472,717	--
Other Assistance	200,227,915	200,227,915	--
<b>TOTAL</b>	<u>\$ 252,276,331</u>	<u>\$ 252,332,941</u>	<u>\$ (77,331)</u>
<b>State General Fund:</b>			
State Operations	\$ 5,940	\$ 5,940	\$ --
Aid to Local Units	48,622,540	48,472,717	--
<b>TOTAL</b>	<u>\$ 48,628,480</u>	<u>\$ 48,478,657</u>	<u>\$ --</u>
<b>FTE Positions</b>	67.0	67.0	(1.0)

**Agency Request/Governor's Recommendation**

**FY 1992.** The agency's FY 1992 estimate totals \$252,276,331. The revised FY 1992 estimate for operating expenses is \$3,425,876. The agency's FY 1992 estimate for state aid to local units of government for public school employers' contributions of \$48,622,540, which includes a State General Fund supplemental request of \$315,903. The FY 1992 revised estimate for other assistance of public employee benefits is \$200,227,915 or \$7,280,031 above the original FY 1992 amount.

The Governor's recommendation for FY 1992 is \$252,062,941 which includes a reduction of \$63,567 in state operations, most notably for a higher salary and wage shrinkage rate, decreased travel and subsistence, and data processing charges. The Governor recommends a State General Fund supplemental for public school employers' contributions of \$166,080 in the current year which is \$149,823 less than the agency requested. The Governor concurs with the agency request of \$200,227,915 for employee benefits.

**House Subcommittee Recommendation**

The House Subcommittee concurs with the Governor's recommendation with the following adjustments:

1. Delete \$70,000 for Division of Information Systems and Communications (DISC) data processing charges for development of an on-line claims system. The

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Attachment 1*

Subcommittee recommendation would discontinue the development of the claims system in the current year. DISC began working on the claims system, which once completed would record monitor and verify claim payment requests, in mid-1988 and currently has no scheduled completion date. The Subcommittee shares the frustration of the agency that DISC has not completed the development of the system, cannot give a clear status report on system, and has no concise date for the completion of the system. The Subcommittee does recommend in FY 1993 resources for the agency to conduct a comprehensive review and study of the KPERS data processing needs and its options for addressing those needs.

2. Delete \$7,331 and 1.0 FTE position for a vacant Office Assistant II. The deletion is part of an agency restructuring that will be completed in FY 1993.
3. The Subcommittee notes that the expenditures required for the public school employers' contributions (financed entirely from the State General Fund) may exceed the Governor's recommendation in the current year. The Subcommittee recommends that this item be reviewed further for possible inclusion in the omnibus appropriation bill when more recent expenditure patterns will be available.

#### **House Committee Recommendation**

The House Committee concurs with the Subcommittee's recommendation.

#### **House Recommendation**

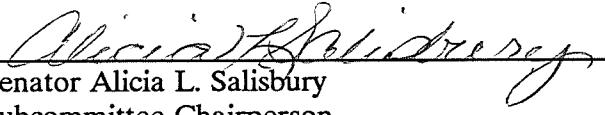
The House concurs with the Committee's recommendation.

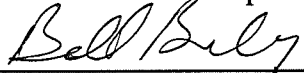
**Senate Subcommittee Recommendation**

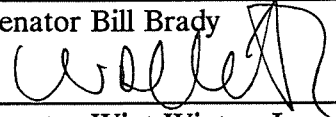
<u>Expenditure Summary</u>	<u>House Adj. FY 92</u>	<u>House Rec. FY 92</u>	<u>Senate Subcommittee Adjustments</u>
<b>All Funds:</b>			
State Operations	\$ (77,331)	\$ 3,284,978	\$ --
Aid to Local Units	--	48,472,717	--
Other Assistance	--	200,227,915	--
<b>TOTAL</b>	<b>\$ (77,331)</b>	<b>\$ 251,985,610</b>	<b>\$ --</b>
<b>State General Fund:</b>			
State Operations	\$ --	\$ 5,940	\$ --
Aid to Local Units	--	48,472,717	--
<b>TOTAL</b>	<b>\$ --</b>	<b>\$ 48,478,657</b>	<b>\$ --</b>
<b>FTE Positions</b>	<b>(1.0)</b>	<b>66.0</b>	<b>1.0</b>

The Senate Subcommittee concurs with the House recommendations with the following adjustments:

1. Restore 1.0 FTE classified Office Assistant II position deleted by the House. The Subcommittee notes that the reduction in clerical staffing is part of the agency's request for a major computer equipment enhancement in the budget year. In FY 1993 the agency will conduct a major comprehensive study of KPERS' data processing needs and potential options for addressing those needs. The Subcommittee recommends that the reduction in clerical FTE not take place until the completion of the data processing study and further review of the issue by the 1993 Legislature.
2. The Subcommittee also notes that the expenditures required for the public school employers' contributions (financed entirely from the State General Fund) may exceed the Governor's recommendation in the current year. The Subcommittee recommends that this item be reviewed further for possible inclusion in the omnibus appropriation bill more when more recent expenditure patterns will be available.
3. The Subcommittee would urge the agency to hire the Chief Fiscal Officer, which is recommended for FY 1993, in the current year as a special projects employee. The Subcommittee would suggest that the agency take whatever immediate steps are necessary to achieve a firm handle on the investment accounting needs of the retirement system. KPERS has in excess of \$4.5 billion in assets and the agency should have the necessary staff to provide the accounting oversight for the investment portfolio.

  
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Senator Alicia L. Salisbury  
Subcommittee Chairperson

  
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Senator Bill Brady

  
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Senator Wint Winter, Jr.

**SUBCOMMITTEE REPORT**

**Agency:** Kansas Public Employees Retirement System (KPERs)

**Bill No.** 2721

**Bill Sec.** 2

**Analyst:** Conroy

**Analysis Pg. No.** 616

**Budget Page No.**

<u>Expenditure Summary</u>	<u>Agency Req. FY 93</u>	<u>Gov. Rec. FY 93</u>	<u>Subcommittee Adjustments</u>
All Funds:			
State Operations	\$ 3,636,026	\$ 3,448,713	\$ 89,049
Aid to Local Units	52,038,297	49,508,574	--
Other Assistance	213,302,081	213,302,081	--
Total	<u>\$ 268,976,404</u>	<u>\$ 266,259,368</u>	<u>\$ 89,049</u>
State General Fund:			
Aid to Local Units	\$ 52,038,297	\$ 49,508,574	\$ --
FTE Positions	69.0	68.0	3.0

**Agency Request/Governor's Recommendation**

FY 1993. The KPERs operating budget request for FY 1993 totals \$268,976,404. The agency request for state operations of \$3,636,026 is 6.1 percent, or \$210,150, above the agency's revised FY 1992 estimate. In state operations the agency is proposing two new positions, increased staff development, travel, and capital outlay for the budget year. An increase of \$3,415,757 or 7.0 percent is reflected in the local aid amount for public school employers' contributions above the FY 1992 amount. Public employees retirement and disability benefits are estimated to increase by 6.5 percent or \$13,074,166.

For FY 1993 the Governor recommends a total budget of \$266,259,368 or \$2,717,036 less than the agency requested. The Governor's recommendation for state operations is \$3,448,713, or \$187,313 less than the agency requested. The Governor does recommend the requested new auditor position in FY 1993. The Governor recommends \$49,508,574 or \$2,529,723 less than the agency requested for public school employers' contributions. The Governor concurs with the agency's request for public employee benefits.

**House Subcommittee Recommendation.**

The House Subcommittee concurs with the Governor's recommendation with the following adjustments:

1. The Subcommittee notes that the last 12 months for KPERs have been the most difficult for the retirement system since its inception in 1961. Actual and estimated losses in the direct placement portfolio have topped \$225.3 million or 57 percent of that portfolio. Criminal and civil charges have been filed against former money managers and KPERs Trustees. The long-time investment consultant and KPERs Executive Secretary have resigned. A moratorium has

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Attachment 2*



been placed on new direct placement and real estate investments. New direct placement managers have been hired to sort through the portfolio to see what may still be salvaged. A new Executive Secretary was hired on July 15, 1991. By that time much of the FY 1993 budget request was already formulated and neither the new Executive Secretary or the new KPERS Board of Trustees had much of an opportunity to determine a plan of action to address the pressing KPERS investment problems within the original FY 1993 budget submission. The KPERS Board of Trustees at their February, 1992 meeting requested that the 1992 Legislature consider several additional budgetary items focused on preventing any similar occurrence in the future. The Subcommittee in general looks favorably on the request, all of which would be financed with KPERS funds.

2. Addition of \$211,932 and five FTE positions. The new positions include a Real Estate Manager and a Direct Placement Manager, both in the unclassified service, and both receiving a base salary of \$45,000; an Accountant I (\$21,372) to monitor the books of the real estate portfolio. These three positions would assist the KPERS' Investment Officer and Investment Analyst in monitoring and managing over \$550 million in direct placement and real estate investments. The Subcommittee also recommends that the accounting capabilities of KPERS be enlarged by the addition of an Accountant III (\$26,616) to assist in the recording and monitoring of KPERS' investment transactions. The Subcommittee notes that savings will be generated in the future as some management functions of the money managers are moved internally within KPERS.

The Subcommittee also recommends the addition of an internal unclassified auditor position (\$40,000). This position would report directly to the Executive Secretary and Board of Trustees and would oversee the new field auditor recommended in the Governor's budget. This independent position would develop and maintain oversight procedures to ensure that local units of government are remitting the appropriate levels of employer and employee contributions.

3. Delete \$39,323 and two vacant Office Assistant II positions. One of the positions was recommended for deletion in FY 1992 by the Subcommittee. The Subcommittee suggests that the positions may be abolished through increased efficiencies within the agency.
4. Delete \$150,000 for continued data processing development by the Division of Information Systems and Computers (DISC) on a claims system for the agency. The on-line claims system will record, monitor and verify claim payment requests. The system have been under development by DISC since mid-1988 and is currently without any completion date. The recommendation will halt further development on the system for the foreseeable future.
5. Add \$70,000 for a comprehensive study of KPERS' data processing needs and potential options for addressing those needs. The contracted study would be completed in time for presentation to the 1993 Legislature.
6. Delete \$44,310 for the acquisition of two direct access computer storage devices and related hardware, based on first completing the recommended comprehensive data processing study.

7. Add \$10,000 for investment related travel. The funds would permit the KPERS investment staff the flexibility of on-site inspections of money manager operations and KPERS properties and investments.
8. Add \$30,750 for the replacement of the agency's phone system. KPERS current phone system is obsolete and repair parts when available, are only found in the used market. The existing phone system is often overloaded which prevents KPERS members and retirants from being able to reach the retirement system. The new system would place the agency on the state KANSAN system and the wiring for the phone system would also serve to connect the agency's micro-computers. Costs associated with the new phone system include \$1,300 for installation charges, \$22,700 for KANSAN service, and \$6,750 for one-time costs of the phone themselves.
9. The Subcommittee recommends introduction of legislation that would permit the agency to have a total of six unclassified positions. The unclassified positions include the Executive Secretary, Investment Officer, Investment Analyst, Real Estate Manager, Direct Placement Manager, and an Internal Auditor. The agency currently has statutory authorization for two unclassified positions, the Executive Secretary and the Investment Officer. The State Finance Council in December, 1991 approved the addition of an Investment Analyst position. However, since the agency currently does not have the authority to hire the individual in an unclassified position, the position is being recruited as a temporary special projects position. The Subcommittee recommends that statutory change to enable the agency to recruit and retain key individuals for the successful operation of the \$4.4 billion pension fund.

<u>Expenditure Summary</u>	<u>House Adj. FY 93</u>	<u>House Rec. FY 93</u>	<u>Senate Subcommittee Adjustments</u>
All Funds:			
State Operations	\$ 89,049	\$ 3,537,762	\$ 18,318,586
Aid to Local Units	--	49,508,574	--
Other Assistance	--	213,302,081	--
Total	<u>\$ 89,049</u>	<u>\$ 266,348,417</u>	<u>\$ 18,318,586</u>
State General Fund:			
Aid to Local Units	\$ --	\$ 49,508,574	\$ --
FTE Positions	3.0	71.0	2.0

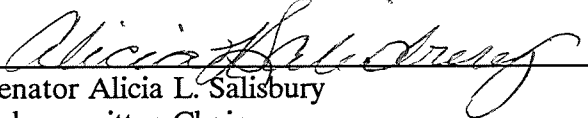
#### Senate Subcommittee Recommendations

The Senate Subcommittee concurs with the House recommendations, with the following adjustments:

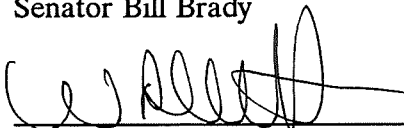
1. Add \$10,000 for salaries and wages for the new internal auditor position recommended by the House. The agency, after further review, would like the

new unclassified position to become the Chief Fiscal Officer for the agency. The Subcommittee concurs with this shift in the position title and duties. The KPERS system, with assets in excess of \$4.5 billion, is in great need of additional key accounting staff. The new position would assist KPERS in correcting the errors of the past and implement practices and procedures that ensure accurate, effective, and timely disclosure and accountability of financial information. The total salary for the new position would be \$50,000.

2. Add \$39,323 for two Office Assistant II positions. The Subcommittee notes that the agency had offered to delete the positions if additional microcomputers were approved. However, the House deleted the positions and did not approve the new microcomputers. The Subcommittee recommends that the positions be restored until a data processing needs study is completed to determine the exact need for the requested microcomputers.
3. Add \$25,000 for five microcomputers and software for key professional staff within the agency. The equipment will permit the professional staff to provide greater oversight, particularly in the area of investments. The Subcommittee notes that although the agency in 1990 acquired a minicomputer, the application has not improved the day-to-day efficiencies of the retirement system staff, especially in the areas of membership and accounting services. The Subcommittee concurs with the House that a full data processing needs study for the entire agency should be completed first before the agency acquires 32 additional microcomputers.
4. Add \$18,233,763 for the agency's expenditures associated with the KPERS investment managers, custodians, and consultants' fees, plus litigation expenses. These expenditures have previously been "off-budget." However, as recommended by the Joint Committee on KPERS Investment Practices and contained in S.B. 526 (currently in the House Committee of the Whole) the shift of such investment related expenditures should provide for greater legislative oversight in the KPERS investment area to help prevent a reoccurrence of the recent investment losses.
5. Add \$10,500 for modular office furniture and equipment for three of the new positions that were recommended by the House.

  
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 Senator Alicia L. Salisbury  
 Subcommittee Chair

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 Senator Bill Brady

  
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 Senator Wint Winter, Jr.

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building  
900 S.W. Jackson—Suite 400-N  
Topeka, Kansas 66612-1284  
(913) 296-3317

Joan Finney  
Governor

Gary Stotts  
Secretary

To: Senate Ways and Means Committee  
From: Gary Stotts, *Gary Stotts* Secretary of Corrections  
Re: House Bill No. 2791  
Date: March 25, 1992

During the summer and fall the Joint Committee on Special Claims Against the State considered a number claims involving the Department of Corrections. The purpose of this memorandum is to bring to your attention two of the claims which were approved by the Claims Committee for payment.

In Section 3, subsection (b), payment of \$525.00 to Janice Thomas of Kansas City, Kansas is recommended. Ms. Thomas' car was damaged while parked in a parking lot at the Lansing Correctional Facility. The vehicle striking Ms. Thomas' car was not identified. No evidence was discovered to indicate that a state vehicle was in any way involved in the incident. All of the state vehicles at the facility were inspected and no damage to any of them was found. Investigation by facility staff and the Lansing Police Department listed the incident as a hit and run accident. Since there was no evidence of negligence on the part of facility staff, the Department recommended that the claim be denied. The Committee's recommendation, however, was to pay \$500.00 in damages to Ms. Thomas plus \$25.00 in travel expenses to attend the Claims Committee hearing. I have a concern with establishing a precedent for state liability in situations such as this. In the absence of some indication of negligence on the part of the State, you may wish to review the advisability of paying claims of this nature, particularly since one other claim involving a damaged vehicle at a correctional facility was denied. Although the amount is small, there is also the question of the possible precedent of paying travel expenses to attend the Committee hearing.

In Section 9, subsection (b), the Claims Committee recommended payment of \$12,462.46 to an inmate at Hutchinson Correctional Facility who was injured while on a work assignment. Medical records did not indicate a permanent injury to this inmate. However, the Claims Committee felt there was negligence in the

*SWAM*  
*March 25, 1992*  
*Attachment 3*

Senate Ways and Means Committee  
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Page Two  
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incident and awarded compensation to the inmate. The issue concerning this action is that the rules of the Claims Committee provide that an inmate injured on a work assignment will be compensated if the inmate sustained a permanent disability. Since a permanent disability was not indicated in this case, approval of the claim is questionable.

The House Committee struck the provision for the payment of the \$525.00 claim to Janice Thomas (Section 3, subsection (b)) but took no action to amend or strike the claim of Victor Cecil in Section 9, subsection (b). The full house restored the claim of Janice Thomas and left the Cecil claim unchanged.

If you desire further information please let me know.

GS:CES/pa

Proposed Amendment to HB 2791  
(As Amended by House Committee of the Whole)

On page 11, after line 26, by inserting a new subsection to read as follows:

"(b) The department of revenue is hereby authorized and directed to pay the following amount from the motor-vehicle fuel tax refund fund for the refund of motor fuel taxes allowable but for the expiration of the applicable statute of limitations, to the following claimant:

Turon Mill and Elevator, Inc., P.O. Box 68, Turon,  
KS 67583..... \$8,801.28"

SWAM  
March 25, 1992  
Attachment 4

Presentation to the  
Senate Ways and Means Committee  
March 24, 1992

Walter R. Woods, Dean  
College of Agriculture  
Kansas State University

I am pleased to support House Bill 2979, which would authorize the State Board of Regents to sell certain real property that is identified as from the estate of Francis W. ImMasche. This land is the result of a gift to the University and is greatly appreciated, but the specific property is separated from the main part of the property by a deep ravine, and the University is unable to utilize the property unless we travel a significant number of miles and access it through other private property. The land area is not sufficient for a viable research program, and the expense of building a bridge or other connection cannot be justified because of the small acreage involved. Thus, I am recommending that this authorization be approved.

**Legislative history of HB 2979**

- 02-12-92: House introduced - HJ 1338.
- 02-13-92: House referred to Appropriations - HJ 1347.
- 02-28-92: House CR: be passed and placed on consent calendar by Appropriations - HJ 1474.
- 03-04-92: House FA: passed; yeas 120, nays 2 - HJ 1510.
- 03-04-92: Senate received and introduced - SJ 1340
- 03-05-92: Senate referred to Ways and Means - SJ 1347.

*SWAM*  
*MARCH 25, 1992*  
*Attachment 5*