

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson August Bogina at 11:00 a.m. on February 1, 1995 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Leah Robinson, Legislative Research Department
Eric Milstead, Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Dr. Bill Wolff, Principal Analyst, Kansas Legislative Research Department

Others attending: See attached list

A motion was made by Senator Salisbury and seconded by Senator Morris that bill drafts 5 RS 0662, 5 RS 0685, 5 RS 0687, 5 RS 0667, and 5 RS 0684 be introduced as requested by the University of Kansas Medical Center. The motion carried on a voice vote.

The Chairman requested Committee authorization to introduce a pay bill that would incorporate the Governor's FY 96 salary adjustments. It was moved by Senator Vancrum and seconded by Senator Salisbury that the Committee authorize the introduction of the pay plan bill. The motion carried on a voice vote.

SB 95: Claims against the state

Dr. Wolff appeared before the Committee to review claims that had been recommended for payment by the Joint Committee on Special Claims Against the State. Historical background regarding each of these claims can be found in the minutes of that committee. Members of the Senate Committee on Ways and Means discussed in greater detail the following sections of SB 95:

Sec. 3. Dr. Wolff provided historical background concerning the legislative creation of the Investment Certificate Guaranteed Act and the supervisory and regulatory responsibilities of the Consumer Credit Commissioner's Office in regard to investment certificate companies. He pointed out that the Consumer Credit Commission is not covered by the state's tort claim act, and brought to the attention of the Committee conclusions reached by a post audit team. (These can be found in the performance audit report titled "Reviewing State Regulation of Bankers' Thrift and Loan Company" dated November 1992 which is on file in the Division of Post Audit). Dr. Wolff pointed out Attorney General Robert Stephen's opinion that though the State may have not have a legal responsibility to the victims of the failure of Bankers Thrift, the State has a moral duty to meet the terms of State-created guarantees on which people relied. Dr. Wolff told members that those persons whose claims were recommended for payment are those who actually met the language of the guarantee statute and are out of pocket money based on the \$10,000 guarantee.

There was lengthy discussion regarding whether Kansas taxpayers should pay for risks that were taken by individual investors. Senator Moran informed members that this "disaster" had been a very emotional event in his district and based his support for payment on the conclusions reached by the Post Audit team (page 20 of the November 1992 report) that cited the Consumer Credit Commissioner's Office with failure to enforce the rules that had been put in place to protect the investing public from financial harm. He noted that the State required that the certificate be permitted even though it was known that the Guarantee Fund could not cover the guarantee investments. He stated his opinion that when the State assumes the responsibility of protecting

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on February 1, 1995.

consumers, it needs to do a better job.

Senator Vancrum brought to the attention of the Committee that several names appeared multiple times for payment of a claim and queried whether the Joint Committee on Special Claims Against the State was certain that no one was being paid above the \$10,000 threshold. Dr. Wolff explained that investors could have made multiple investments which did not total \$10,000 and also commented that the calculations had been made by the Consumer Credit Commissioner. He explained to members that the Joint Committee had twice contacted all investors; the second time with a list of those who were recommended for payment.

In answer to Senator Kerr, it was noted that 87% of the original investment was repaid to individual investors through the bankruptcy proceedings and payment from the Guarantee Fund brought the payment up to 97%. The amount which is recommended in SB 95 is the difference between the 97% and the \$10,000 threshold.

There was some discussion of whether payment of these claims would set a precedent or provide an opening for others to submit claims.

Senator Moran moved, Senator Salisbury seconded, that lines 19-22 of section 3 of SB 95 be amended by the balloon (Attachment 1-1). The motion carried on a voice vote.

Sec. 5 Dr. Wolff explained to members that the 1994 Legislature had passed a law prohibiting the Joint Committee from considering claims regarding expired warrants which were over 5 years old. However, the five claims which were recommended for payment were more than 5 years old but were received prior to the effective date of the legislation. He brought to the attention of the Committee a sixth claim which was no different than the five which were recommended for payment except that, because of misdirection, it was not received prior to the effective date of the legislation which prohibited the Joint Committee from its consideration. Because the claimant initiated the recovery process prior to the effective date of the legislation, Senator Vancrum moved, Senator Morris seconded, that section 4 of SB 95 be conceptually amended to include the claim of Henry Insurance Limited. The motion carried on a voice vote.

Sec. 8 (a) In answer to a question, Lisa Mendoza, Department of Corrections, stated that the Department has no authority to pay any claim over \$500.

Sec. 13 (b) In answer to a question, Dr. Wolff stated that the Joint Committee will investigate the potential for recovery and, if that occurs, the University would be reimbursed.

In answer to Senator Karr's concern regarding a claim for wrongful incarceration that had been denied, Dr. Wolff stated that the claim had not been denied but recommended for further consideration during the interim. He stated that the claimant's attorney had been notified.

It was moved by Senator Rock and seconded by Senator Salisbury that SB 95 be amended by the balance of the technical amendments found in the balloon (Attachment 1, 2-4). The motion carried on a voice vote.

Senator Moran moved, Senator Vancrum seconded, that SB 95 as amended be recommended favorable for passage. The motion carried on a roll call vote.

The Chairman adjourned the meeting at 12:15 P.M. The next meeting is scheduled for February 2, 1995.

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: FEBRUARY 1, 1995

NAME	REPRESENTING
Lion Mendez	KDOC
Tim Emera	Senate

SWAM
February 1, 1995
Attachment 1

1	Torneden, Monte, 24426 Loring Road, Lawrence, KS 66044	60.60
2	Trivoli Twp., 2215 Ave. U, Geneseo, KS 67444	18.40
3	True, Lynn M., Box 658, Gaylord, KS 67638	37.20
4	U.S.D. #450, 4401 SE Shawnee Heights Road, Tecumseh, KS 66542 ...	20,367.45
5	U.S.D. #473, P O Box 249, Chapman, KS 67431	1,556.33
6	Voth, Otto B., Route 2, Box 80, Newton, KS 67114	45.30
7	Wade Agricultural Prod., Box 38, La Cygne, KS 66040	3,222.18
8	Walter, Douglass, Route 1, Box 18, Cawker City, KS 67430	324.00
9	Walz, Robert E., HC 1, Box 12, St. Francis, KS 67756	81.30
10	Wheeler, Warren, Route 3, Box 48, Lawrence, KS 66044	604.75
11	Wickstrum Farms, Inc., 11870 Hwy 13, #69, Westmoreland, KS 66549	45.84
12	Wiley, Lloyd E., Route 2, Box 93, Fort Scott, KS 66701	132.72
13	Zillinger, Fred E., Route 2, Box 140, Phillipsburg, KS 67661	213.84
14	Zimmerman, Ywain, Route 2, Box 102, Sterling, KS 67579	101.28
15	Zirnhelt, Dan, Route 1, Box 31, Forman, ND 58032	256.50
16	Zwegardt, Willard H., Route 2, Box 51, St. Francis, KS 67756	465.10
17		
18	Total	\$48,667.23
19	Sec. 3. The consumer credit commissioner is hereby authorized and	
20	directed to pay the following amounts from the state general fund for	
21	reimbursement of monetary losses incurred as a result of the failure of	
22	certain financial institutions, to the following claimants	
23	Akers, Michael or Dr. Jerold E. Akers, Custodian, P.O. Box 738, Hays,	
24	KS 67601	\$178.54
25	Akers, Michael or Ellen, Custodian/Guardian P.O. Box 738, Hays, KS	
26	67601	148.91
27	Akers, Scott M., Guardian Ellen, Box 738, Hays, KS 67601	179.30
28	Akers, Scott M., Dr. Jerold Akers, Guardian, Box 738, Hays, KS 67601	24.46
29	Allen, Shanty N. or Debrae A. or Ashley, 2502 Nevada, Hutchinson, KS	
30	67501	8.59
31	Annala, Kathy or Virjean Reeh, 805 Page Street, Atwood, KS 67730	21.59
32	Applehans, S. J. or Doris, 1309 Toulon Ave., Hays, KS 67601	127.41
33	Armbrister, Marie K., 400 Dorrance Street, Ellis, KS 67637	208.39
34	Armbrister, William, 400 Dorrance Street, Ellis, KS 67637	208.39
35	Armbrister, William or Marie K., 400 Dorrance Street, Ellis, KS 67637	208.39
36	Augustine, Laura or Clarence I., 305 East 15th, Hays, KS 67601	55.74
37	Augustine, Philip J. or Clara A., 2301 Walnut, Hays, KS 67601	169.35
38	Baier, Vernon J. or Irene, 1911 McArthur, Hays, KS 67601	33.45
39	Baker, Lyle or Rhonda Baker P.O.D., 118 W. 36th, Hays, KS 67601	122.93
40	Baker, Teckla or Vitus Brungardt, 2007 Eisenhower, Hays, KS 67601 ...	46.50
41	Barnett, Gary D/B/A, The Flower Man, 7500 Metcalf, Overland Park, KS	
	66204	18.23
	Barnett, Arthur or Nevada, 16220 W. 14th, Olathe, KS 66062	23.20

There is appropriated for the following claimants

the amounts specified as follows

1 (b) The department of corrections is hereby authorized and directed
 2 to pay the following amount from the treatment and programs account
 3 of the state general fund for payment for services purchased, the invoice
 4 for which was submitted or processed in an untimely manner, to the
 5 following claimant:

6 St. Francis Hospital, c/o Trans Union Corporation, Attn: Earl Childs, 212
 7 S. Market, #101, Wichita, KS 67202 339.53

8 Sec. 7. The ~~Kansas~~ board of accountancy is hereby authorized and
 9 directed to pay the following amount from the board of accountancy fee
 10 fund for refund of application fees, to the following claimant:

11 Raymond H. Schmitz, CPA, 6400 Glenwood, Suite 120, Overland Park,
 12 KS 66202 \$240.00

13 Sec. 8. (a) The El Dorado Correctional Facility is hereby authorized
 14 and directed to pay the following amount from the facilities operations
 15 account of the state general fund for reimbursement of funeral expenses
 16 incurred as a result of an accidental drowning of claimant's son while in
 17 custody of the facility, to the following claimant:

18 Darlene A. Rogers, 1321 Lawrence Drive, Hays, KS 67601 \$2,500.00

19 (b) The El Dorado Correctional Facility is hereby authorized and
 20 directed to pay the following amount from the facilities operations ac-
 21 count of the state general fund for reimbursement for loss of or damage
 22 to claimant's personal property which was in the care, custody and control
 23 of the personnel at such facility, to the following claimant:

24 James Nance, #42089, P.O. Box 311, El Dorado, KS 67042 \$9.95

25 Sec. 9. The Hutchinson Correctional Facility is hereby authorized
 26 and directed to pay the following amount from the facilities operations
 27 account of the state general fund for payment as compensation for a
 28 personal injury sustained in the course and the scope of the claimant's
 29 activity during a facility work detail, to the following claimant:

30 Richard Benedict, #35152, P.O. Box 1568, Hutchinson, KS 67504-1568 \$1,000.00

31 Sec. 10. The Lansing Correctional Facility is hereby authorized and
 32 directed to pay the following amounts from the facilities operations ac-
 33 count of the state general fund for reimbursement for loss of or damage
 34 to the claimant's personal property which was in the care, custody and
 35 control of the personnel at such facility, to the following claimants:

36 David Hause, Jr., #48219, P.O. Box 69, Osawatomie, KS 66064 \$7.50

37 Tracy Sherrick, #60136, P.O. Box 2, Lansing, KS 66043 9.85

38 Total \$17.35

39
 40 Sec. 11. The Norton Correctional Facility is hereby authorized and
 41 directed to pay the following amount from the facilities operations ac-
 42 count of the state general fund for reimbursement for loss of or damage
 43 to the claimant's personal property which was in the care, custody and

1 control of the personnel at such facility, to the following claimant:
 2 Melvin Kirk, #30473, P.O. Box 1568, Hutchinson, KS 67504-1568 \$16.17

3 Sec. 12. (a) The Kansas department of human resources is hereby
 4 authorized and directed to pay the following amount from the occupa-
 5 tional health and safety-federal fund for payment for services purchased,
 6 the invoice for which was submitted or processed in an untimely manner,
 7 to the following claimant:

8 U.S. Department of Labor — OSHA, c/o Paula White, 200 Constitution
 9 Ave. NW, Room N 3419, Washington D.C. 20210 \$26,072.00

10 (b) The Kansas department of human resources is hereby authorized
 11 and directed to pay the following amount from the special employment
 12 security fund for payment as compensation for unlawful arrest of the
 13 claimant resulting from mistaken information provided by the depart-
 14 ment, to the following claimant:

15 Dave E. Weibert, 803 West Grand, Hillsboro, KS 67063, c/o Keith Col-
 16 lett, Attorney at Law, 403 E. Main, Marion, KS 66861 \$1,000.00

17 Sec. 13. (a) The University of Kansas is hereby authorized and di-
 18 rected to pay the following amount from the restricted fees fund for
 19 services purchased, the invoice for which was submitted or processed in
 20 an untimely manner, to the following claimant:

21 Kansas Health and Environmental Laboratory, Building 740, Forbes
 22 Field, Topeka, KS 66620-0001 \$960.00

23 (b) The University of Kansas is hereby authorized and directed to pay
 24 the following amount from the operating expenditures account of the
 25 state general fund for payment of damages to a motor vehicle, to the
 26 following claimants:

27 Berry Ruth Clemens and Enterprise Rent-A-Car, 1137 Cynthia Street,
 28 Lawrence, KS 66049 \$5,537.73

29 Sec. 14. The Kansas animal health department is hereby authorized
 30 and directed to pay the following amount from the animal disease control
 31 fund for payment for materials purchased, the invoice for which was sub-
 32 mitted or processed in an untimely manner, to the following claimant:

33 Coffeyville Stockyards, Inc., P.O. Box 291, Coffeyville, KS 67337 \$1,900.50

34 Sec. 15. (a) The department of social and rehabilitation services is
 35 hereby authorized and directed to pay the following amount from the
 36 youth services and assistance account of the state general fund for pay-
 37 ment for services, the invoice for which was submitted or processed in
 38 an untimely manner, to the following claimant:

39 Bert Nash Community Mental Health Center, 336 Missouri, Suite 202,
 40 Lawrence, KS 66044 \$41,240.87

41 (b) The department of social and rehabilitation services is hereby au-
 42 thorized and directed to pay the following amount from the state oper-
 43 ations account of the state general fund for payment for services, the

safety--federal

(including official hospitality)

aid

1 invoice for which was submitted or processed in an untimely manner, to
2 the following claimant:

3 Kansas Foundation for Medical Care, Inc., 2947 SW Wanamaker Drive,
4 Topeka, KS 66614-4193 \$9,060.94

5 (c) The department of social and rehabilitation services is hereby au-
6 thorized and directed to pay the following amount from the federal for-
7 mula grants ~~fund-assistance~~ programs for payment for services, the in-
8 voice for which was submitted or processed in an untimely manner, to
9 the following claimant:

fund--assistance

10 Kansas Foundation for Medical Care, Inc., 2947 SW Wanamaker Drive,
11 Topeka, KS 66614-4193 \$23,650.04

12 Sec. 16. (a) Except as otherwise provided by this act, the director of
13 accounts and reports is hereby authorized and directed to draw warrants
14 on the state treasurer in favor of the claimants specified in this act, upon
15 vouchers duly executed by the state agencies directed to pay the amounts
16 specified in such sections to the claimants or their legal representatives
17 or duly authorized agents, as provided by law.

18 (b) The director of accounts and reports shall secure prior to the
19 payment of any amount to any claimant, other than amounts authorized
20 to be paid pursuant to section 2 as motor-vehicle fuel tax refunds or as
21 transactions between state agencies as provided by this act, a written
22 release and satisfaction of all claims and rights against the state of Kansas
23 and any agencies, officers and employees of the state of Kansas regarding
24 their respective claims.

25 Sec. 17. This act shall take effect and be in force from and after its
26 publication in the Kansas register.