

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on February 26, 1996 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Kathy Porter, 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:

Attorney General Carla Stovall
Secretary of Corrections, Charles Simmons
Ken Gorman, State Lodge for Fraternal Order of Police
Ted Ayres, Board of Regents
Helen Stephens, Kansas Peace Officers Association and Kansas Sheriffs
Association
Secretary of Transportation, Dean Carlson
Bobbi Mariani, Assistant Director, Division of Personnel Services
Shirley A. Moses, Director of Accounts & Reports, Dept. of Administration

Others attending: See attached list

SB 552: Appropriations for FY 96 through FY 2001, capital improvements for various state agencies

The Chairman noted that one pending issue of the capital improvements bill centers around the Attorney General's and Kutak Rock's opinion regarding the constitutionality of the bond proposal. A letter regarding the Attorney General's opinion on the constitutionality of the bonding proposal was distributed to members (Attachment 1). (The Kutak Rock opinion had previously been made available). Senator Petty voiced her opinion that the bill was structured in such a way as to make it constitutional by making an annual appropriation. It was noted that the issue of constitutionality was considered with the issuance of bonds to construct the Ellsworth and El Dorado prisons.

Senator Kerr noted that the capital improvements subcommittee had questioned the proposal's underlying assumption that the interest rate on the bonds would be lower than the rate of inflation on construction. He stated that the Regents had based projections on historical trends and on estimates from contractors. Senator Rock mentioned that two other problems with "pay as you go" versus bonding are that bonding is not often productive for smaller, maintenance type projects and that it might be more cost effective to raze some buildings rather than renovate them to comply with ADA requirements. Members discussed the \$21 million price tag associated with improvements to meet ADA requirements and stated that these improvements have not been at the top of the Regents' priority list in the past. Senator Petty noted that the proposal also funds some discretionary programs and questioned funding recommended for the nurses' building at the University of Kansas Medical Center. Senator Karr noted that the Committee could consider establishing an amount of debt service and then commit a portion from the revenue stream to pay off the debt. Senator Morris commented that he believes there are problems throughout the system which this plan addresses and which would "save fighting over pieces each year disregarding questions about inflation."

Senator Morris moved, Senator Burke seconded that the subcommittee report be amended to include the bond issue as recommended by the Governor. The motion carried on a voice vote.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on February 26, 1996.

The Chairman noted that the Committee would need to make a policy decision based on the Governor's proposal to hold harmless the EBF from the effect of reducing property taxes on automobiles last year. Chairman Kerr stated that that was not a commitment made by the Legislature, and if the Committee does not adopt the presumption of holding harmless the EBF, monies appropriated for repair and rehabilitation of Regents' institutions would have to be reduced by an **average** of \$300,000 each year from FY 97 through FY 2001 in order to have a positive balance in the fund. He added that the Governor's way of holding the fund harmless is by adding monies from the SGF. He explained that the Committee's other option was to reverse the subcommittee's recommendation that the deficit not be made up with SGF monies. In answer to Senator Salisbury, the Chairman stated that there are sufficient dollars in the EBF to cover the debt service. The fiscal analyst told members that the current projection of transfers to the EBF would increase from \$139,000 in FY 97 to nearly \$900,000 in FY 2001, subject to the value of automobiles in the state. Senator Burke stated that he would not support the proposition of not making up the deficit because of the state's responsibility for maintaining the facilities, though he expressed reservations about using the SGF as a funding source.

Senator Salisbury moved that the Regents' repair and rehabilitation account be reduced by \$300,000 each year from FY 97 to FY 2001. The motion died for lack of a second.

Senator Burke moved, Senator Vancrum seconded that the action taken by the subcommittee be reversed and the subcommittee report be amended to maintain the transfer of \$139,000 from the SGF to the EBF in FY 97 to hold it harmless from the effect of the reduction in the assessment rate. It was noted that the motion would be a one year appropriation and would probably set a precedent, but would not lock the Legislature into using the SGF as a funding source. In answer to Senator Vancrum, Warren Corman, Board of Regents, stated that for the last seven years the Legislature has appropriated \$10 million from the EBF for repair and rehabilitation. The motion carried on a voice vote.

The revisor pointed out that the Attorney General's wording for Sec. 26 (b)(a) was different from that proposed by Kutak-Rock. It was moved by Senator Vancrum and seconded by Senator Burke that Sec. 26 (b)(a) of SB 552 be amended as proposed by the Attorney General (Attachment 1-5) except the words "or from any other source and transferred to a special revenue fund of the state board of regents specified by statute..." be included as proposed by Kutak-Rock (Attachment 2). The motion carried on a voice vote.

Senator Rock moved, Senator Morris seconded, that the bill be amended with any necessary technical adjustments. The motion carried on a voice vote.

Senator Karr offered a motion that SB 552 be amended to include prevailing wage requirements of the federal Davis-Bacon Act for the Regents bond issue. The motion was seconded by Senator Petty and failed on a voice vote.

It was moved by Senator Burke and seconded by Senator Lawrence that SB 552 as amended be recommended favorably for passage. The motion carried on a roll call vote.

SB 580: Law enforcement officers, educational benefits for dependents

Attorney General Carla Stovall appeared before the Committee as a proponent of the bill. She testified that **SB 580** would convey appreciation to law enforcement officers for the risks they take every day on the job.

Secretary of Corrections, Charles Simmons, testified in support of the bill, but requested that the bill be amended to include corrections officers and parole officers. (Attachment 3)

Mr. Ken Gorman, Lieutenant in the Topeka Police Department, distributed written testimony on behalf of the Kansas State Lodge of the Fraternal Order of Police in support of **SB 580** (Attachment 4).

Helen Stephens appeared before the Committee on behalf of the Kansas Peace Officers Association and the Kansas Sheriffs Association in support of **SB 580**. She submitted written testimony (Attachment 5).

Written testimony from Julie Patterson, widow of Topeka police officer Tony Patterson, was distributed to members (Attachment 6).

Ted Ayres, General Counsel and Director of Governmental Relations for the Kansas Board of Regents, appeared on behalf of the Board to request that the program be funded as a scholarship or by increased appropriations for the value of the tuition waivers. (Attachment 7).

Senator Brady noted that he had not sponsored the bill because he questioned whether the purchase of

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on February 26, 1996.

insurance for the purpose of providing this benefit could be provided at less cost to the state than the tuition waivers.

The Chairman told members that though the cause is worthy, legislators need to remember where the waivers come from and that the Legislature is moving toward a tuition accountability environment. He noted that the bill could be amended to say the institution "may" provide for enrollment without charge of tuition or fees and advised that the bill would be held pending information regarding insurance as requested by Senator Brady.

SB 492: Reimbursement of moving expenses for state officers and employees

Secretary of Transportation, Dean Carlson, appeared before the Committee in support of **SB 492** and reviewed his written testimony (Attachment 8). Secretary Carlson told members that the bill would authorize reimbursement of moving expenses for current employees and for applicants in certain positions and that the Department would prefer a taxable benefit to no benefit. He requested two amendments to the bill: one which addressed direct payment of lodging (Attachment 9) and another to reflect technical adjustments (Attachment 10). It was moved by Senator Rock and seconded by Senator Morris that SB 492 be conceptually amended to include the provisions for direct payment to lodging institutions. The motion carried on a voice vote.

In answer to questions regarding the technical adjustments referred to in Attachment 10, Secretary Carlson stated that three other agencies have the ability to limit or modify moving expenses now and they rely on the sections of the bill which would be repealed under **SB 492** as it is now written.

Shirley Moses, Director of Accounts and Reports, Department of Administration, appeared before the Committee in support of **SB 492** and reviewed her written testimony (Attachment 11).

Bobbi Mariani, Assistant Director, Division of Personnel Services, distributed copies of her written testimony in support of **SB 492** (Attachment 12).

Senator Vancrum inquired about payment of in-state moving expenses "...when a transfer results in the new official duty station being less than 25 miles from the old station," (line 30). Secretary Carlson stated that that is 1993 language and would work the same way as IRS requirements. He told members that the Department would not authorize payment of moving expenses for someone to move across town.

Senator Brady noted that payment of moving expenses would count as personal income and would impact social security.

Senator Rock moved, Senator Morris seconded, that SB 492 be amended to include the technical adjustments recommended by the Secretary (Attachment 10). The motion carried on a voice vote.

The Chairman stated that the bill would be held for action at a later date.

It was moved by Senator Rock and seconded by Senator Lawrence that the minutes of February 21 stand approved as read. The motion carried on a voice vote.

The Chairman adjourned the meeting at 12:25 P.M. The next meeting is scheduled for February 27, 1996.

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: FEBRUARY 26, 1996

| NAME | REPRESENTING |
|-------------------|------------------------------|
| Kelly Jennings | KAPE |
| Ken Bahr | Ks. Governmental Consulting |
| STEVE KEARNEY | STATE LODGE FOR |
| Ken Gorman | " " |
| Meggan Griggs | " " |
| Glenn D. Cogswell | Kan. Assn of Prof. Societies |
| Dean Carlson | KDOT |
| Nancy Bogina | KDOT |
| DAVE JOST | KDOT |
| Charles Simmons | DOC |
| TED D. AYRES | REGENTS STAFF |
| WARREN CORMAN | " " |
| Lain Jones | KDOT |
| SHIRLEY MOSES | DoA AVR |
| Walt Branton | " " |
| B. Manami | DoA DRS |
| SUPREANSON | KIRKSTES SMILE |
| Jon Jossand | KU |
| Bucky Label | AG |

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: FEBRUARY 26, 1996

| NAME | REPRESENTING |
|-----------------|--------------|
| Carla Stovall | AG |
| Tate Spencer | SPS |
| Chris Starfield | KATHE |
| Marty Kennedy | KID |
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State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

February 22, 1996

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ATTORNEY GENERAL OPINION NO. 96-15

Mr. Ted D. Ayres
General Counsel and Director
of Governmental Relations
Kansas Board of Regents
700 S.W. Harrison, Suite 1410
Topeka, Kansas 66603-3760

Re: Constitution of the State of Kansas—Finance and Taxation--State Tax Levies
for Buildings; Bonds and Warrants

Synopsis: The plan of finance proposed in 1996 senate bill no. 552 in conjunction with K.S.A. 76-6b01 and 76-6b02 would not create a debt within the meaning of article 11, section 6 of the Kansas constitution. While this precise issue has not previously been addressed by the Kansas Supreme Court, principles set forth in earlier cases indicate that unless the state obligates itself to a faith and credit pledge and levies a property tax in support thereof, no constitutional violation exists. Cited herein: Kan. const., art. 11, sec. 6; K.S.A. 76-6b01; 76-6b02; 1996 senate bill no. 552.

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Dear Mr. Ayres:

As general counsel for the Kansas board of regents you have requested our opinion on the proposed Kansas development finance authority (hereafter, KDFA) revenue bond issue for the Kansas board of regents capital improvement project (hereafter, the project). The project and bonds would be authorized pursuant to existing statutory authorization provided by K.S.A. 74-8901 *et seq.*, and pursuant to legislation in 1996 senate bill no. 552 (hereafter, SB 552).

Your specific concern is whether revenue bonds issued by KDFA, the debt service on which is to be paid by annual appropriations pursuant to subsections (c) through (f) of

*Senate Ways & Means
February 26, 1996
Attachment 1*

section 5 and section 26 of SB 552, would create a debt of the state of Kansas within the meaning of article 11, section 6 of the Kansas constitution. You request that our opinion be based upon the present version of SB 552, introduced into the committee on ways and means of the Kansas state senate on January 29, 1996, a copy of which you provided for our information.

Article 11, section 6 of the Kansas constitution states:

"For the purpose of defraying extraordinary expenses and making public improvements, the state may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished, until the interest and principal of such debt shall have been wholly paid."

This section of the constitution has historically been interpreted by the Kansas Supreme Court to mean that the state may not contract or create public debt, except as specifically provided. *State, ex rel., v. School Fund*, 4 Kan. 261 (1868); *Hicks v. Davis*, 97 Kan. 312, 315 (1916), ("[n]o money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law, and no appropriation shall be for a longer term than two years.") It is then essential to determine whether in fact SB 552 actually creates a "debt" that the state is obligated to pay.

The Kansas Supreme Court examined the question of what constitutes a state debt in *State ex rel. Fatzer, Attorney General, v. Board of Regents*, 167 Kan. 587 (1949). In this case, the court was presented with a constitutional challenge to a plan by the board of regents to issue and sell revenue bonds to finance the construction of school dormitories at a state school. The principal and interest on the bonds was to be paid from revenues generated by the dormitories. The board of regents was acting pursuant to a legislative enactment which authorized the board to issue bonds for this purpose. As with the issue at hand, the court decided it was first necessary to determine whether the dormitory bonds constituted an indebtedness of the state. The court quoted the following language from section 4 of the challenged act:

"Revenue bonds issued hereunder shall not be an indebtedness of the state of Kansas, or of the board of regents, or of the individual members of said

board, and shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness."

The court went on to note that the "endorsement on the bond plainly states the bond is a contract between the board and the holder thereof. The bond and the publication notice, in substance, clearly disclose the bond is not and shall not become, an obligation of the state. . . ." The court further stated that "in view of the act itself and the plain terms of the bond, a contract between the board and bond purchaser, we think no bondholder could logically contend the state, the college, the board or any official member or employee of the board becomes obligated to pay the indebtedness represented by the bond. The legislature by this act, as previously indicated, prohibited the state from incurring a debt under the act. The contract between the board and the bond purchaser is in express harmony with that statutory prohibition. Such an agreement between a creditor and debtor violates no rule of constitutional law." 167 Kan. at 591.

The court in **Board of Regents** determined that because neither the authorizing legislation or the terms of the bond contract obligated the state to pay the indebtedness, that in fact no debt in violation of the constitution was created. The state's argument that dormitory revenues might prove insufficient to pay the bonds resulting in a judgment against the state as the only source of funds to satisfy the unpaid portion of debt was found by the court to be without merit. The court noted that the bonds were not and could not become a valid indebtedness of the state, citing its holding in **State ex rel. Beck v. Kansas City**, 148 Kan. 623 (1938) and **State ex rel. Beck v. Kansas City**, 149 Kan. 252, 257-258 (1939), that the statutory and contractual language limiting any liability of the general credit of the governmental entity issuing revenue bonds would be effective in protecting against such a judgment. 167 Kan. at 591.

The Kansas Supreme Court revisited these issues in **State ex rel. Fatzer, Atty. Gen. v. Armory Board et. al.**, 174 Kan. 369 (1953). In **Armory Board**, the court extended the reasoning in **Board of Regents** and held that bonds to be issued by the newly created Kansas armory board which would be secured and payable solely by the rents and profits of the buildings to be built with the bond proceeds, did not violate article 11, sections 6 and 7 of the constitution. The stated source of rental income and revenues from such buildings was to be a lease from the state which provided for annual payments of rent for the armory buildings contingent upon and subject to annual appropriations of the necessary funds by the legislature. Here again, the court placed significant emphasis on the legislative enactment which provided that the bonds would never be an obligation of the state, and to the corresponding limitation language in the bonds themselves. The court stated:

"As we remarked in **State ex rel. Fatzer v. Board of Regents, supra**: these bonds do not pledge the faith and credit of the state. They do precisely the contrary. The bondholder knows he may look only to the revenue and income from the building, or buildings, for payment." 174 Kan. at 380.

As in prior decisions, the court in *Armory Board* relied heavily on the principle that debts prohibited within the meaning of article 11, sections 6 and 7 of the constitution are those "to be paid by a general property tax and not from funds to be raised in some other manner." 174 Kan at 380. The court distinguished *Armory Board* from *Board of Regents* noting that the underlying revenue source for the building rental was not rent paid by the students but rather from rent to be paid by the state stating that "we see no distinction, however, as far as the application of article 11, sections 6 and 7 are concerned. Under neither statute is the faith and credit of the state involved. These bonds, just as the dormitory bonds, are to be paid by other than a tax on property." 174 Kan. at 380.

This suggests that the court found it acceptable for the state to use whatever funds it had available from the general fund to make the rental payments. The court has consistently reiterated the principle that a debt within the meaning of article 11, sections 6 and 7 of the constitution is one *required* to be paid by a general property tax, backed by a full faith and credit pledge, rather than an obligation for which moneys perhaps originally derived by the state from property tax revenues are at some point tapped by the legislature for appropriations. In theory, once funds become available to the legislature for appropriation purposes, their provenance is no longer significant.

In fact, one can legitimately raise the question that when funds are available and subject to appropriation by the legislature at its discretion, whether it matters if the funds are directed to meet debt service on revenue bonds or, *e.g.*, are paid directly to a contractor for building repairs. Assuming the funds are available for legislative appropriation, it should be within the legislature's power to appropriate or not appropriate, whichever it chooses. The key becomes, then, whether the legislature is entitled to appropriate such funds in the first place.

With these principles in mind we now turn our attention to the proposed scheme of finance for the capital improvement project. As discussed briefly, herein, the project would be financed by revenue bonds issued by K DFA pursuant to its authority under the provisions of K.S.A. 74-8901 *et seq.* The debt service on the revenue bonds would be paid from annual appropriations made by the legislature pursuant to subsections (c) through (f) of section 5, and section 26 of SB 552. Section 5(c) provides for an unlimited appropriation from a special revenue fund for the state board of regents for fiscal years 1997 through 2000:

"The state board of regents is hereby authorized to transfer moneys from the comprehensive rehabilitation and repair fund of the state board of regents to any account or accounts of a comprehensive rehabilitation and repair fund of any state educational institution under the control and supervision of the state board of regents for expenditure by the institutions for one or more capital improvement projects for major remodeling and new construction approved by the state board of regents for payment of debt service on revenue bonds issued to finance such projects. . . ."

Subsections (d) and (e) of section 5 of SB 552 provide for appropriations from the Kansas educational building fund to go to the regents for a specified period, and subsection (f) stipulates that the appropriations made in the foregoing sections are not subject to the provisions of K.S.A. 46-155.

Section 26 of SB 552 states:

"On July 1, 1996, K.S.A. 76-6b02 is hereby amended to read as follows: 76-6b02.(a) All moneys received by the state treasurer under K.S.A. 76-6b01, and amendments thereto, shall be credited to the Kansas educational building fund to be appropriated by the legislature as needed for the construction, reconstruction, equipment and repair of buildings and grounds at the state educational institutions under the control and supervision of the state board of regents **and for payment of debt service on revenue bonds issued to finance such projects.**

"(b) Subject to any restrictions imposed by appropriation acts, the state board of regents is authorized to pledge funds appropriated to it from the Kansas educational building fund for the payment of debt service on revenue bonds issued for the purposes set forth in subsection (a). Subject to any restrictions imposed by appropriation acts, the state board of regents is also authorized to pledge any funds appropriated to it from the Kansas educational building fund as a priority for the payment of debt service on such revenue bonds. Revenue bonds issued for the purposes set forth in subsection (a) shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas." (Emphasis added.)

K.S.A. 76-6b01 provides for an annual permanent property tax levy for institutions of higher education. SB 552 in conjunction with K.S.A. 76-6b01 and 76-6b02, as amended, would in effect provide a finance structure whereby moneys received by the annual tax levy authorized in K.S.A. 76-6b01 would be credited to the educational building fund, then appropriated by the legislature as needed for debt service payments on any revenue bonds issued to finance the capital improvement projects.

The finance structure proposed in SB 552 contains both similarities and distinctions from the finance methods examined by the Kansas Supreme Court in the **Board of Regents** and **Armory Board** cases. The proposed financing is similar in the sense that like **Regents** and **Armory** the state is not the issuer of the bonds and makes no pledge of its faith and credit. The proposed financing is distinct, however, in that the identifiable underlying source of revenue to pay the indebtedness is, undeniably, a property tax. The issue becomes, therefore, whether the property tax utilized to support the debt is one prohibited by article 11, section 6 of the constitution.

The issue is an original one, not previously addressed by the Kansas Supreme Court. Based on the reasoning set forth in the *Board of Regents* and *Armory Board* cases, however, we believe it probable that the court would determine that the finance structure does not create an impermissible debt as characterized in article 11, section 6. The court appears to place the greatest emphasis on the contractual provisions in the issuing documentation accompanying the debt. In both *Board of Regents* and *Armory Board*, the court focused on the premise that so long as the state makes clear in the contractual agreements that it is not obligated to levy a property tax or make a pledge of the faith and credit to pay off debt, then no constitutional conflict could exist. In *Armory* the court suggests that the source of funds identified by the legislature as subject to appropriation for debt service payments, which would presumably include moneys derived from property taxes, as well as any other available revenues, is within the legislature's discretion, so long as the state does not obligate itself to levy a property tax to support a debt obligation outside of constitutional parameters.

It is our belief that the court would use a similar rationale if presented with a challenge to the proposed project. While it is possible the court could determine that the proposed plan is unconstitutional because, pursuant to SB 552, the underlying source of revenue to be relied on for payment of much of the bond debt is a statewide property tax that will be allocated to the educational building fund and be subject to appropriation by the legislature to meet debt service requirements, the principles espoused in the court's previous decisions touching on these issues suggests otherwise. K.S.A. 76-6b01 and K.S.A. 76-6b02 authorize the legislature to appropriate all moneys received in the educational building fund for capital improvements. Given the appropriation authority exists, it would appear that it is within the legislature's discretion to determine how they wish to utilize this authority. Payment of debt service would appear to be a legitimate exercise of the legislature's discretionary appropriation authority. The court's primary expressed principle in both *Board of Regents* and *Armory Board* is that so long as the state does not *obligate* itself to levy a property tax or pledge its faith and credit to support a debt, then no conflict exists with article 11, section 6.

Based upon our analysis of the proposed legislation and applicable case law, we believe it is imperative to clarify that the state is in no way obligated to either levy a tax or appropriate funds to the project accounts to support debt service payments on any bonds. Neither the proposed legislation or the bond contractual provisions should be susceptible to any interpretation which suggests that the state is obligated to levy a property tax or pledge its faith and credit to pay off the bonds. We believe this is determinative.

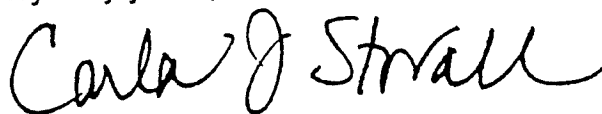
The Supreme Court has not directly addressed the constitutional issues presented in the proposed bill. It is, however, our opinion that the cases cited herein provide the foundation upon which the answer to the present issue can be constructed. We thus conclude that should a challenge be raised to the proposed plan and financing arrangement, that assuming both the authorizing legislation and bond documentation comport with the guidelines set forth in its earlier decisions, that the court would adhere to the principles set

forth in *Regents* and *Armory Board*, principally, that the terms of the contractual provisions control. To repeat the language of the court in *Board of Regents*:

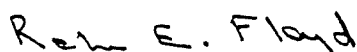
"The endorsement on the bond plainly states the bond is a contract between the board and the holder thereof. . . . In view of the act itself and the plain terms of the bond, a contract between the board and bond purchaser, we think no bondholder could logically contend the state, the college, the board, or any official member or employee of the board becomes obligated to pay the indebtedness represented by the bond. The legislature by this act, as previously indicated, prohibited the state from incurring a debt under the act. The contract between the board and the bond purchaser is in express harmony with that statutory prohibition. Such an agreement between a creditor and debtor violates no rule of constitutional law." *State, ex rel. v. Board of Regents*, 167 Kan 587, 590 (1949).

So long as the authorizing legislation in SB 552 and the ensuing bond documents clearly convey to purchasers of the bonds that the bonds would never be an obligation of the state, we believe the court would determine that no conflict arises within the confines of article 11, section 6 of the constitution.

Very truly yours,



CARLA J. STOVALL
Attorney General of Kansas



Rebecca E. Floyd
Assistant Attorney General

CJS:JLM:REF:jm



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CARLA J. STOVALL
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February 22, 1996

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Mr. Ted D. Ayres
General Counsel and Director
of Governmental Relations
Kansas Board of Regents
700 SW Harrison, Suite 1410
Topeka, Kansas 66603-3760

Re: Kansas Constitution—Finance and Taxation—State Tax Levies for Buildings—Proposed
Amendments to 1996 Senate Bill No. 552

Dear Mr. Ayres:

In your letter requesting our opinion regarding the constitutionality of a proposed bill and plan of finance for a capital improvement project for the regents institutions, you also request that should we determine that a constitutional infirmity exists with respect to the present version of senate bill no. 552 (SB 552), to advise you as to any changes in the language which we believe would correct the infirmity. Based on our analysis of SB 552 and keeping in mind the principles we discussed in Attorney General Opinion No. 96-15 we recommend the following changes:

1. Delete subsection 5(e) and replace with the following:

"(e) One the first day of each fiscal year, moneys in the educational building fund which are appropriated for such fiscal year for debt service for capital improvement projects pursuant to subsection (d) or pursuant to future appropriation acts shall be transferred by the direct of accounts and reports to the comprehensive rehabilitation and repair fund of the state board of regents established pursuant to subsection (c)."

2. Revise section 26 as follows (revisions from SB 552 are shown by strikeout or underline):

"On July 1, 1996 K.S.A. 76-6b02 is hereby amended to read as follows: 76-6b02. (a) All moneys received by the state treasurer under K.S.A. 76-6b01, and amendments thereto, shall be credited to the Kansas education building fund to be ~~appropriated by the legislature as needed~~ used for the

construction, reconstruction, equipment and repair of buildings and grounds at the state educational institutions under the control and supervision of the state board of regents and for payment of debt service on revenue bonds issued to finance such projects, all subject to and contingent on appropriation by the legislature.


(b) Subject to any restrictions imposed by appropriation acts, the state board of regents is authorized to pledge funds appropriated to it from the Kansas educational building fund or from any other source and transferred to a special revenue fund of the state board of regents specified by statute for the payment of debt service on revenue bonds issued for the purposes set forth in subsection (a). Subject to any restrictions imposed by appropriation acts, the state board of regents is also authorized to pledge any funds appropriated to it from the Kansas educational building fund or from any other source and transferred to a special revenue fund of the state board of regents specified by statute as a priority for the payment of debt service on such revenue bonds. Neither the state or the state board of regents shall not have the power to pledge the faith and credit or taxing power of the state of Kansas for such purposes and any payment by the state board of regents for such purposes shall be subject to and dependent upon appropriations being made from time to time by the legislature. Any obligation of the state board of regents for payment of debt service on revenue bonds and any such revenue bonds issued for the purposes set forth in subsection (a) shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas."

3. Revise subsection 5(c) as follows:

On page 5, in line 27, preceding "That" by inserting "That the state board of regents may make expenditures from this fund for payment of debt service on revenue bonds issued to finance such projects: And provided further,";

We hope these suggestions are helpful to you in structuring SB 552. Please feel free to contact us should you have further questions or this or any other matter.

Very truly yours,


Carla J. Stovall
Attorney General of Kansas

CJS:REF:jm

Exhibit A
Proposed Amendments to Senate Bill No. 552
as Introduced into the Committee on Ways and Means
of the Kansas Senate on January 29, 1996

1. Delete subsection 5(e) and replace with the following:

"(e) On the first day of each fiscal year, moneys in the educational building fund which are appropriated for such fiscal year for debt service for capital improvement projects pursuant to subsection (d) or pursuant to future appropriation acts shall be transferred by the director of accounts and reports to the comprehensive rehabilitation and repair fund of the state board of regents established pursuant to subsection (c)."

2. Revise section 26 as follows (revisions from S.B. 552 are shown by strikeout or underline):

"On July 1, 1996 K.S.A. 76-6b02 is hereby amended to read as follows: 76-6b02.

(a) All moneys received by the state treasurer under K.S.A. 76-6b01, and amendments thereto, shall be credited to the Kansas educational building fund to be ~~appropriated by the legislature as needed~~ used for the construction, reconstruction, equipment and repair of buildings and grounds at the state educational institutions under the control and supervision of the state board of regents and for payment of debt service on revenue bonds issued to finance such projects, all subject to appropriation by the legislature.

(b) Subject to any restrictions imposed by appropriation acts, the state board of regents is authorized to pledge funds appropriated to it from the Kansas educational building fund or from any other source and transferred to a special revenue fund of the state board of regents specified by statute for the payment of debt service on revenue bonds issued for the purposes set forth in subsection (a). Subject to any restrictions imposed by appropriation acts, the state board of regents is also authorized to pledge any funds appropriated to it from the Kansas educational building fund or from any other source and transferred to a special revenue fund of the state board of regents specified by statute as a priority for the payment of debt service on such revenue bonds. The state board of regents shall not have the power to pledge the faith and credit or taxing power of the state of Kansas for such purposes and any payment by the state board of regents for such purposes shall be subject to and dependent upon appropriations being made from time to time by the legislature. Any obligation of the state board of regents for payment of debt service on revenue bonds and any such revenue bonds issued for the purposes set forth in subsection (a) shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas."

*Senate ways & means
February 26, 1996
Attachment 2*



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

Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

DATE: February 26, 1996
TO: Members of Senate Ways & Means
FROM: Charles E. Simmons, *Secretary*
SUBJECT: SB 580

Senate Bill 580 requires Kansas educational institutions to provide for enrollment without charge of tuition or fees for any dependent of a public safety officer who died as the result of injury sustained while performing duties as a public safety officer. This bill is a very worthy bill and it has my full support. My concern is that the definition of law enforcement officer as set forth in the bill excludes parole officers and corrections officers. The bill uses the law enforcement definition of K.S.A. 74-5602 which excludes employees of the Department of Corrections. However, corrections officers and parole officers are included in the definition of law enforcement officers as defined in K.S.A. 22-2202(13).

Parole officers and corrections officers face the same risks, perhaps even greater risks, as other law enforcement officers, since they work with already convicted felons. Three corrections officers and one parole officer have been killed in the performance of their duties in the last twenty years, the most recent in May 1993. The policy reasons for enactment of this type of legislation applicable to other law enforcement officers are certainly applicable to parole officers and corrections officers as well.

Therefore, I strongly urge that SB 580 be amended to include parole officers and corrections officers. These individuals perform difficult and potentially dangerous duties. The benefit proposed in these bills for other law enforcement officers should be available to parole officers and corrections officers as well.

CES:dja

*Senate Ways & Means
February 26, 1996
Attachment 3*



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TESTIMONY OF KEN GORMAN
KANSAS FRATERNAL ORDER OF POLICE
SB 580

On behalf of the Kansas State Lodge of the Fraternal Order of Police I am indeed pleased to express our wholehearted support of SB 580.

For the past fourteen years I have had the honor of coordinating the annual Kansas Law Enforcement Memorial Service held in May of each year on the North side of the Capitol. I have also attended the annual Memorial Service in Washington D.C.

As a result of these activities I have had the opportunity to speak with many surviving family members of Law Enforcement Officers killed in the line of duty. Those surviving family members have many concerns one of which is educating their children as well as providing themselves the means to support themselves and their children. SB 580 will help alleviate that concern.

The names of over 200 men and women appear on the Law Enforcement Memorial on the North Side of the Capitol Building. Four more names will be added to the Monument this year. They are Dean Goodheart, Kansas Highway Patrol, Tony Patterson, Topeka Police, Kevin Easter, Sedgwick County Deputy, and Daniel Trail, Beloit Police Officer. Each of them gave their lives in service to the people of Kansas. Please join the thirty-five other states that have seen fit to provide this benefit to the families of Law Enforcement Officers killed in the line of duty.

Your consideration is greatly appreciated.

*Senate Ways & Means
February 26, 1996
Attachment 4*

**KANSAS PEACE OFFICERS ASSOCIATION
AND
KANSAS SHERIFFS ASSOCIATION**

Senate Committee on Ways & Means
SB 580

Mr. Chairman and Members of the Committee:

My name is Helen Stephens representing the Kansas Peace Officers Association and Kansas Sheriffs Association.

We support passage of this legislation for the children of our slain comrades. The fathers of these children gave their life to protect and serve the public.

Law enforcement is not a rich profession. Some of our comrades have died without having the benefit of years of saving for their children's college education. We believe the passage of this legislation will ease the burdens of wives who were left on their own early and may not be able to attain the funds for a college education for the surviving children.

We urge your support of SB 580.

*Senate Ways & Means
February 26, 1996
Attachment 5*

February 26, 1996

Chairman Kerr and Members of the Senate Ways and Means Committee:

Thank you for this opportunity to appear here today in support of **SB 580**. My name is Julie Patterson. I have two children, ages 6 and 2. My husband and I did not attend college, but the idea of a college education was very important and we were working toward the goals so that Mitch and Kasey would be able to go to college without working during the school year and without any monetary pressure to pay their own tuition. It was our wish that our children take part in the college life that we were unable to take part in.

We had started a small college fund for each child and one of the things that frightened me most after the murder of my husband was a fear that I would be unable to carry out his wish that the children attend college and would only have to work in the summers for clothing and spending money.

I am most grateful to the citizens of Topeka for taking my kids into their homes in that they have started a college fund at Commerce Bank but worry that other police officers' children may not have that benefit.

Our law enforcement officers provide one of the most valuable services to the community, to protect and serve, and in doing so put their lives on the line everyday. I believe it would be an outstanding monument to the memory of our slain officers if their children would be able to attend, tuition free, the fine Universities in this State.

*Senate Ways & Means
February 26, 1996
Attachment 6*

The Testimony of

Ted D. Ayres
General Counsel and
Director of Governmental Relations
Kansas Board of Regents

before
SENATE WAYS & MEANS
1996 Legislative Session

in re
S.B. 580

11:00 a.m.
February 26, 1996
Room 123-S
Kansas Statehouse

*Senate Ways & Means
February 26, 1996
Attachment 7*

Chairperson Kerr, Members of the Senate Ways & Means Committee:

My name is Ted D. Ayres and I am General Counsel and Director of Governmental Relations for the Kansas Board of Regents. I am here this morning representing the Board of Regents to provide commentary on Senate Bill 580. I am not here to oppose a bill with 37 sponsors (including ten members of this Committee), but we do believe it important that comments be provided.

I would suggest that an appropriate point of debarkation is the following language from page 78 of Volume 1 of the Governor's Budget Report for Fiscal Year 1997:

The Board of Regents, through statutes and rules and regulations, have the authority to grant tuition waivers to a variety of individuals. While the Governor does not recommend specific changes to these programs, he recommends that the Board review this issue and establish criteria on which waivers should continue to be granted.

We have begun our efforts in this regard; obviously, that effort addresses past legislative initiatives and not current ones.

Looking specifically at S.B. 580, it is stated in Section 1.(c) that:

Any Kansas educational institution, at which enrollment, without charge of tuition or fees, of the dependent of a deceased law enforcement officer is provided for under subsection (b), may file a claim with the state board of regents for reimbursement of the amount of such tuition and fees. **The state board of regents shall be responsible for payment of reimbursements to Kansas educational institutions upon certification by each such institution of the amount of reimbursement to which entitled.** (page 1, lines 36-42, emphasis supplied)

The societal justifications for the legislation are understood. Further, it is clearly a legislative decision as to whether this benefit should be extended to dependents of deceased law enforcement officers; however, it is our respectful request that this benefit not be extended as an unfunded mandate. It is our recommendation that the program should either be funded as a scholarship

through the board office, or the value of the waivers should be funded through increased appropriations to the institutions involved.

For your benefit and interest, I have enclosed two attachments. One is a copy of the fiscal note prepared by our office vis-a-vis S.B. 580; the other provides information on FY 1996 tuition and required fees for full-time students at Regents institutions.

Thank you for your attention and consideration of my testimony. I would now stand for questions.

MEMORANDUM

TO: Gloria Timmer
Director of the Budget

FROM: Stephen M. Jordan
Executive Director

RE: FISCAL NOTE ON SENATE BILL 580

DATE: February 6, 1996

ATTN: Elaine Frisbie

Senate Bill 580 requires that every Kansas educational institution shall provide for the enrollment without charge of tuition or fees for dependents of law enforcement officers who died from injuries sustained in the line of duty. Kansas educational institutions are defined to include area vocational schools, area vocational-technical schools, community colleges, Washburn University, the Regents institutions and technical colleges.

Law enforcement officers are defined as full- or part-time officers or employees of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic laws of Kansas or any municipality thereof. As defined in the bill, law enforcement officers would include city police officers; highway patrol officers; sheriffs, undersheriffs, and deputy sheriffs (full-or part-time); conservation officers of the Kansas Department of Wildlife and Parks; campus police officers; law enforcement agents of the Director of Alcoholic Beverage Control; law enforcement agents of the Kansas Lottery; law enforcement agents of the Kansas Racing Commission; deputies and assistants of the state fire marshall having law enforcement authority; capitol area security guards; railroad police; and school security officers designated as school law enforcement officers.

The bill places no limits on the amount of the tuition and fee waiver, except that the recipient of the waiver may receive it for no more than eight semesters, or the equivalent thereof. Given the bill's definitions and 1995-96 full-time tuition and fee rates at the Regents institutions, the current annual cost of each waiver at Regents institutions could range from \$1,532 at Kansas State University - Salina to \$21,004 for a non-resident, third-year medical student at the KU Medical Center. It is impossible to project with any reasonable degree of accuracy the total amount of such waivers in a given year.

The bill provides that the State Board of Regents shall be responsible for reimbursing Kansas educational institutions for the amount of tuition and fees waived under this act; however, the bill does not provide the Board of Regents with a means of funding the reimbursements. The existing budget of the Board of Regents office is not adequate to pay the reimbursements. Such reimbursement would need to be made from appropriations for that purpose.

FY 1996 TUITION AND REQUIRED FEES FOR FULL-TIME STUDENTS

| RESIDENT | KU | KSU | WSU | ESU | PSU | FHSU |
|----------------------------|------------|------------|------------|------------|------------|------------|
| Undergraduate (15 hrs.) | | | | | | |
| Tuition | \$883.00 | \$883.00 | \$866.00 | \$687.00 | \$687.00 | \$687.00 |
| Required Fees | \$208.00 | \$216.45 | \$321.75 | \$204.00 | \$216.00 | \$233.75 |
| Total Per Semester | \$1,091.00 | \$1,099.45 | \$1,187.75 | \$891.00 | \$903.00 | \$920.75 |
| Graduate (12 hrs.) | | | | | | |
| Tuition | \$1,059.00 | \$1,059.00 | \$1,040.00 | \$835.00 | \$835.00 | \$835.00 |
| Required Fees | \$208.00 | \$216.45 | \$260.40 | \$204.00 | \$216.00 | \$187.20 |
| Total Per Semester | \$1,267.00 | \$1,275.45 | \$1,300.40 | \$1,039.00 | \$1,051.00 | \$1,022.20 |
| NON-RESIDENT | KU | KSU | WSU | ESU | PSU | FHSU |
| Undergraduate (15 hrs.) | | | | | | |
| Tuition | \$3,742.00 | \$3,742.00 | \$3,742.00 | \$2,678.00 | \$2,678.00 | \$2,678.00 |
| Required Fees | \$208.00 | \$216.45 | \$321.75 | \$204.00 | \$216.00 | \$233.75 |
| Total Per Semester | \$3,950.00 | \$3,958.45 | \$4,063.75 | \$2,882.00 | \$2,894.00 | \$2,911.75 |
| Graduate (12 hrs.) | | | | | | |
| Tuition | \$3,498.00 | \$3,498.00 | \$3,498.00 | \$2,528.00 | \$2,528.00 | \$2,528.00 |
| Required Fees | \$208.00 | \$216.45 | \$260.40 | \$204.00 | \$216.00 | \$187.20 |
| Total Per Semester | \$3,706.00 | \$3,714.45 | \$3,758.40 | \$2,732.00 | \$2,744.00 | \$2,715.20 |
| Off-Campus Fees (Per Hour) | | | | | | |
| Undergraduate | \$79 | \$79 | \$79 | \$67 | \$69 | \$65 |
| Graduate | \$117 | \$117 | \$117 | \$97 | \$97 | \$89 |

Regents Center Construction Fee of \$10 per credit hour is added on all courses offered at the Regents Center.

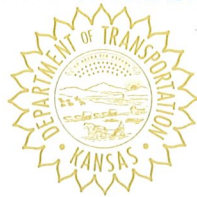
FOOTNOTES:

| Schedule for Institutional Payments of Tuition for Grad. Teaching Assistants | |
|--|-----------------|
| FTE Appointment | Tuition Payment |
| .4 to .99 | 100% |
| .3 to .39 | 75% |
| .2 to .29 | 50% |
| .1 to .19 | 25% |
| Less than .1 | 0% |

Applicants for admission to undergraduate programs will be assessed an application fee of \$15.

Eligible Kansas Teacher of the Year recipients are allowed to enroll tuition-free in up to 9 credit hours annually at any Regents institution, provided the individual is actively pursuing a teaching career in Kansas. A list of eligible persons is on file in the Board of Regents office.

Eligible non-resident students enrolled under the Midwest Student Exchange Program will be assessed 150% of resident tuition.



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Bill Graves
Governor of Kansas

TESTIMONY BEFORE THE
SENATE WAYS AND MEANS COMMITTEE
Regarding S.B. 492
Relating to Reimbursement of Moving Expenses
for State Officers and Employees

February 26, 1996

Dear Mr. Chairman and Committee Members:

I appreciate the opportunity to appear before you today on behalf of the Kansas Department of Transportation to provide testimony in support of S.B. 492.

The proposed legislation would delete the portion of K.S.A. 75-3218 which prohibits state agencies from reimbursing state employees for moving expenses which are not considered "qualified moving expenses" under the federal Internal Revenue Service code, thereby limiting the state's reimbursement to nontaxable items.

During the 1994 Legislative Session, K.S.A. 75-3218 was amended to prohibit state agencies from paying for moving expenses that are not considered to be "qualified moving expenses" by the IRS. Before this statutory change, reimbursement of state employees' moving expenses was governed both by statute and regulation. The regulations limited reimbursement of moving expenses to those cases where the new duty station was more than 25 miles from the old duty station. Those former regulations also allowed, but did not limit, reimbursement to the following items:

- moving and storage of household goods;
- mileage reimbursement for moving a private vehicle;
- subsistence expenses for employee while in transit between the employee's old and new official station;
- expenses for one round trip to seek permanent residence at the new duty station; and
- subsistence expenses for 30 days in temporary lodging at the new duty station.

*Senate Ways & Means
February 26, 1996
Attachment 8*

Inclusion of the IRS-related language during the 1994 Legislative Session effectively eliminated reimbursement of most of the items that were previously allowed. Under section 132 of the Federal Internal Revenue Code of 1986, moving expenses that are not considered "qualified" include meals while moving to a new residence; travel expenses, meals and lodging for pre-moving house-hunting trips; and meals and lodging while occupying temporary quarters in the area of the new workplace.

In order to claim qualified moving expenses under the IRS code, an employee's new workplace must be at least 50 miles farther from the employee's old home than the employee's old home was from the employee's old workplace. As a result of these changes, fewer employees are now eligible for any reimbursement.

The Department of Transportation often encourages employees to move in order to fill vacancies throughout the state with experienced, qualified workers. The nature of KDOT's work requires that for certain positions, the employee live in close proximity to the work station. This is necessary to respond quickly to weather conditions and other emergencies. Due to this need and the geographic makeup of the area and subarea offices, the most logical candidates for promotion are those most affected by the restrictions on the distance moved. The addition of the IRS-related language financially penalizes those who follow their most obvious career track.

It is the agency's belief that the changes that were made in 1994 have had a negative effect on the Department's efforts to maintain an efficient operation that is staffed with the most qualified people. It is necessary for newly appointed employees to move to their new job location immediately after a promotion is approved. In most cases, this does not allow sufficient time to dispose of their house, acquire another house, make arrangements to move household goods and make the official move. Some of the costs associated with a move, such as the sale and purchase of houses, impose a direct cost to the employee who is moving. These costs have not been and are not proposed to be reimbursed, however depending on market conditions, real estate expenses can be a substantial cost to the employee.

For these reasons, we believe it is not only appropriate, but necessary to reimburse employees for other reasonable expenses resulting from a move. A salary increase resulting from a promotion would not be adequate to

cover the costs of moving under the existing reimbursement rules. Although the costs are significant for the employee, they represent a very small expense for the agency. For the 28 KDOT employees moved in 1993, the average moving expense for household goods was \$2,216, and based on a sample, the average amount paid for transition subsistence was \$1,253. Under the current guidelines, five of those employees would not have received reimbursement for moving their household goods and none would have received transition subsistence.

KDOT has reviewed the policies of comparable organizations within the industry and found that employees are reimbursed for the following types of moving expenses:

- travel expenses for employee and spouse to seek permanent residence at the new work station
- subsistence expenses for employee and family during move
- temporary lodging for employee
- incidental expenses
- storage of household goods and personal possessions
- moving of trailer homes
- dual housing expense
- reimbursement assistance for real estate
- reimbursement to offset federal and state income, social security, medicare and city taxes as result of reimbursed moving expenses

Reimbursement of expenses that are not considered "qualified moving expenses" under IRS rules would be taxable. KDOT would prefer a taxable benefit to no benefit. This would support the Department's need to staff our offices with the most qualified people while limiting the financial burden of employees who are promoted.

COMPARISON OF POLICIES FOR REIMBURSEMENT OF MOVING EXPENSES

| <u>TYPE OF EXPENSE</u> | <u>KANSAS DOT POLICY</u> | <u>MISSOURI HTD POLICY</u> |
|---|---|--|
| Travel Expenses for Seeking Permanent Residence at New Duty Station | Not covered | Transportation, meals and lodging for employee for a total of five days and four nights to secure residence |
| Moving of Household Goods | Actual cost of moving of household goods, up to 12,000 pounds, <u>only</u> if new duty station is at least 50 miles farther from old residence than old duty station was from old residence | Actual cost of moving household goods including full replacement value insurance |
| Moving Private Vehicles | Actual mileage during the move | Mileage reimbursed for up to two personally owned vehicles |
| Subsistence During the Move | Lodging during the move | Meals and lodging for employee for up to three days |
| Temporary Lodging | Not Covered | Meals, lodging and miscellaneous expenses for up to 30 days, including mileage for returning home on weekends |
| Real Estate Assistance | Not Covered | Assistance to offset increased mortgage interest rates for three years; realtor's fees in disposition of old residence; loan fees and closing costs of new residence |

COMPARISON OF POLICIES FOR REIMBURSEMENT OF MOVING EXPENSES

5-5
8

| <u>TYPE OF EXPENSE</u> | <u>KANSAS DOT POLICY</u> | <u>MISSOURI HTD POLICY</u> |
|---|--|--|
| Dual Housing Expense | Not Covered | Reimbursement of up to two months' rent or 2 percent of the purchase price of the house up to \$800 |
| Assistance for Federal, State, Social Security, Medicare and City Taxes | Not Covered | Reimbursement for increased federal and state income, social security, medicare and city earnings tax due to moving expenses |
| Storage of Household Goods | Cost of temporary storage, up to 30 days | Cost of storage of household goods at either old or new location for up to 90 days |
| Incidental Expenses | Not Covered | Married employee allowed up to \$450 for incidental expenses including travel and living expenses for spouse and children during actual move; disconnecting and reinstalling telephones, tv antennas, gas or electrical appliances. A single employee is allowed up to \$300 for those applicable expenses |



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Bill Graves
Governor of Kansas

TESTIMONY BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS
Regarding Amendment to S.B. 492
Authorizing Direct Payment of Lodging Expense
February 26, 1996

Mr. Chairman and Committee Members:

The Department of Transportation would request an amendment to SB 492 that would include the provisions for direct payment to lodging establishments. The proposed amendment would provide state agencies with statutory authorization to reimburse lodging establishments directly for costs incurred by agency personnel while performing official state business. Because of job related responsibilities such as surveying, traffic counting or paint stripping highways, some of our employees routinely travel for extended periods of time. Even though the employee is reimbursed promptly, an employee may have several hundred dollars of personal funds "tied up" in expenses.

In January of 1993, KDOT provided the Secretary of Administration with a proposal for implementing direct payments to lodging establishments. During the following months, the Department worked with the Department of Administration to develop a pilot project. The pilot project was authorized on December 28, 1993, for employees in two of the six districts within KDOT. In June of 1994, KDOT reported to the Secretary of Administration the results of the pilot. There were 24 different lodging establishments located in 21 different cities and 186 employees participating. Based on the experience, the Secretary of Transportation recommended direct payment to lodging establishments be implemented for the traveling State employees. On September 9, 1994, authorization was given to extend the pilot to all employees within the Department. Authorization for the pilot is through June 30, 1996.

Direct payment of lodging expenses improves employees' financial situations at no additional cost to the state. The total amount of money involved is not great. The Department has provided approximately \$300,000 in direct reimbursement to lodging establishments under the pilot program to date.

The Department of Transportation must have employees in travel status in order to accomplish tasks on a routine basis. The practice of requiring the employee to provide interim financing for lodging expenses while on official state business is a burden to the employee. The Department's pilot

*Senate Ways & Means
February 26, 1996
Attachment 9*

program has demonstrated that providing direct reimbursement for lodging is both administratively feasible and very helpful to our employees. We appreciate the Department of Administration's cooperation in carrying out the pilot program, and we strongly support the amendment of SB 492 to make the direct payment provision a permanent practice.



KANSAS DEPARTMENT OF TRANSPORTATION

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Bill Graves
Governor of Kansas

TECHNICAL AMENDMENTS TO S.B. 492

February 26, 1996

There are two technical amendments that are needed in S.B. 492. On line 30, the word "for" is used instead of the correct word, "from." In Section 2, K.S.A. 1995 Supp. 75-3219 and 75-3224 are repealed without being amended. K.S.A. 74-2114, 75-5250, and 76-727 reference these statutes. We suggest that these statutes be amended to reference Section 1 of S.B. 492.

*Senate Ways & Means
February 26, 1996
Attachment 10*

**TESTIMONY REGARDING SENATE BILL 492
SENATE WAYS AND MEANS COMMITTEE
February 26, 1996, 11:00 a.m., Room 123-S**

Presented by Shirley A. Moses
Director of Accounts and Reports

Mr. Chairman, Members of the Committee:

I am testifying today on behalf of the Department of Administration in support of SB 492 concerning the reimbursement of moving expenses for state employees.

SB 492 amends current law to expand moving expense reimbursement benefits to employees. Kansans recruited for state employment will have the same opportunity to be reimbursed for moving expenses as those recruited from out-of-state. "Managerial" employees will qualify for reimbursement, as currently available to those with "professional, technical or unusual qualifications." It is anticipated that these changes will improve the recruitment process, particularly for cabinet and other professional positions.

With the exception of the allowance for moving expense reimbursements for newly-hired Kansans and managerial employees, the provisions within SB 492 restore allowable expenditures to pre-fiscal year 1995 law. Within the new payroll/personnel system, SHARP, no further programming changes are required to process, pay and report taxable moving expense reimbursements. Prior to implementation of SHARP, payment and reporting of taxable moving expense reimbursements to employees was a costly manual effort. SHARP eases and automates the processing of taxable employee business expense reimbursements. Agency efforts to relocate employees to more remote areas of the state will improve with the restoration of moving expense reimbursement benefits.

There appears to be two technical issues related to the bill. First, the Highway Patrol, Department of Corrections and State Board of Regents institutions have specific statutory authority to pay and/or limit payment of moving expenses. However, these statutes, specifically K.S.A.'s 74-2114, 75-5250 and 76-727, reference the statutes proposed to be repealed by SB 492. Secondly, there appears to be a typographical error on line 30. It appears "for" should be "from".

*Senate Ways & Means
February 26, 1996
Attachment 11*

The Department of Administration also supports a proposed amendment by the Kansas Department of Transportation to allow direct payment of lodging expenses to lodging establishments for traveling employees. This provision will alleviate some of the financial hardship on certain employee groups. Under current law, state employees who must travel on official state business pay all subsistence related travel costs and then submit claims for these expenses upon their return. This method can cause financial hardship for certain state employees, particularly if the travel is for extended time periods or the employee is not highly compensated. Many employees either choose not to use credit cards or are unable to qualify for a credit card, thereby increasing the financial burden of paying travel expenses and waiting for reimbursement vouchers to be processed. Direct payment of lodging expenses to the lodging establishment eliminates the largest element of out-of-pocket travel expenses.

Thank you for the opportunity to appear before the Committee today. I would be happy to answer any questions the Committee may have.

Testimony To The

SENATE WAYS AND MEANS COMMITTEE

By

**Bobbi Mariani, Assistant Director
Division of Personnel Services**

February 26, 1996

RE: Moving Expenses for State Officers and Employees

Mr. Chairperson and members of the committee, thank you for the opportunity to appear before you today. I am here in support of Senate Bill 492, which will provide an additional benefit to state employees and recruitment incentives. I would like to discuss two aspects of this bill: (1) reimbursing moving expenses for applicants and (2) paying moving expenses of employees who are transferred.

While we recruit applicants for certain jobs, we occasionally find we are in stiff competition with other public and private organizations. Many of these employers are willing to pay moving expenses in order to attract applicants. State regulations allow for some flexibility in the salary we can offer an applicant who possesses exceptional qualifications. However, that is not always enough to attract an applicant who has to relocate to accept the job. The ability to reimburse moving expenses will increase the ability of state agencies to recruit top candidates for professional, technical, managerial, and speciality positions in state government.

As the state adapts to external and internal changes, such as downsizing or reorganizing, it may be necessary to transfer employees both within and between agencies in order to best utilize their knowledge, skills, and abilities. The ability to pay moving expenses for transferred employees increases the opportunity to retain their skills and experience and maintain an effective workforce.

The Division of Personnel Services supports Senate Bill 492 because it offers opportunities to enhance the state workforce through recruitment incentives for new employees. Paying the moving expenses for current employees provides a benefit to those employees while encouraging better alignment of state employees with the human resource needs of state government.

The Division of Personnel Services appreciates your support in this matter. I believe an official from Accounts and Reports will discuss some of the tax implications of reimbursement. I would be happy to provide you with any additional information or answer questions.

*Senate Ways & Means
February 26, 1996
Attachment 12*