

Approved: 2-18-97  
Date

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 12, 1997 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department  
Kathy Porter, Legislative Research Department  
Mark Burenheide, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Michael Corrigan, Revisor of Statutes  
Judy Bromich, Administrative Assistant  
Janet Henning, Committee Secretary

Conferees appearing before the committee: Meredith Williams, Executive Secretary, KPERS  
Rob Woodard, Chief Investment Officer, KPERS  
Tom Young, AARP  
Bobbi Mariani, Asst Director, Dept of Admin  
Shirley Moses, Director, Accounts and Reports  
Dean Carlson, Secretary, KDOT

Others attending: See attached list

It was moved by Senator Salisbury and seconded by Senator Salmans that bill draft 7 RS 0979 be introduced as requested by KaMMCO. The motion was carried on a voice vote.

**SCR 1604:** **Constitutional amendment to allow KPERS and other retirement systems authorized by law to be stockholders in banking institutions**

Meredith Williams, Executive Secretary, KPERS informed Committee members that **SCR 1604** calls for a constitutional amendment to allow the retirement system to invest in the stock of banks and other financial institutions (Attachment 1). Under Kansas law the board invests its system's assets for the exclusive benefit of members using the prudent expert standard.

Rob Woodard, Chief Investment Officer, KPERS, told Committee members the most immediate impact of restricting investments is the potential reduction of gain associated with an inability to freely direct investable capital to its highest and best use, and consequently its greatest perceived potential return. Another significant impact of restricting the investable universe has to do with risk. By restricting the number of stocks which can be used to diversify the portfolio, the effective risk to the portfolio may be compromised. Mr. Woodard stated the system effectively pays higher management fees by virtue of their inability to invest in commingled equity funds, typically offered by the System's passive equity managers.

Tom Young, AARP, appeared before Committee members in support of **SCR 1604** and stated this would allow KPERS the flexibility to invest in companies which own a portion of bank stock but are good strong income producing companies (Attachment 2).

Senator Feleciano moved, Senator Salmans seconded, that SCR 1604 be recommended favorable for passage. The motion carried on a voice vote.

**SB 104:** **State officers and employees, reimbursement of moving expenses**

Bobbi Mariani, Assistant Director, Division of Personnel Services, appeared before Committee

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on February 12, 1997.

members in support of SB 104 (Attachment 3). Ms. Mariani informed Committee members that their agency occasionally encounters competition with other public and private organizations while recruiting applications for certain jobs. Ms. Mariani also informed the Committee that SB 104 would also alleviate some of the financial hardship on traveling state officers and employees by allowing agencies to pay lodging expenses directly to lodging establishments.

Shirley Moses, Director, Accounts and Reports, informed Committee members of the agency's support of SB 104 (Attachment 4). Ms. Moses also informed the Committee that previous changes in legislation was primarily an effort to eliminate the separate, and costly, manual reporting and record keeping requirements for taxable payments under the previous payroll system. With the new payroll system, no further programming changes are required to process, pay, and report taxable moving expense reimbursements. Ms. Moses also discussed the amendment in SB 104 to allow lodging expenses of traveling state officers and employees to be paid directly to the lodging establishment. This exemption will decrease state agency expenditures, with a corresponding decrease in state sales tax revenues. However, the elimination of sales tax expenditures, due to direct payment of in-state lodging, is expected to compensate for any reduction in state sales tax revenues, as well as any increase in processing expenditures due to the creation of additional payment documents. In response to a question from Senator Ranson regarding bed tax and whether it would continue to be paid, Ms. Moses advised she would obtain the information for the Committee.

Dean Carlson, Secretary of Transportation, Kansas Department of Transportation, appeared before Committee members in support of SB 104 (Attachment 5). Secretary Carlson told Committee members that changes which 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. Real estate expenses have been a substantial cost to the employee. Also a salary increase resulting in a promotion would not be adequate to cover the costs of moving under the existing reimbursement rules. 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. Secretary Carlson also told the Committee members that KDOT must have employees in travel status in order to accomplish certain tasks on a routine basis. The department is currently involved in a pilot program which has demonstrated that providing direct reimbursement for lodging is both administratively feasible and very helpful to the employees.

The Chairman informed the Committee members that more information should be obtained regarding the number of agencies participating in programs as discussed by Secretary Carlson. Senator Petty stated she would like information regarding the various agency expenditures and the number of employees involved in these existing programs.

The Chairman adjourned the meeting at 12:00 p.m.

The next meeting is scheduled for February 13, 1997.

# SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: 2-12-97

NAME	REPRESENTING
DALE JOST	KDOT
Bill Watts	KDOT
Dean Carlson	KDOT
Nancy Bogina	KDOT
SHIRLEY MOSES	DDA ARK
Robert Woodward	KPERS
Meredith Williams	KPERS
Jack Hawn	KPERS
SCOTT PEPPARD	KPERS
Damon Whisman	KPERS
Mary Lou Marrett	KVEA
Tom Young	AARP
Christie Vanderlice	SMNW
Ryan Muelle	SMNW
Dena Strolin	Sec. of State
JAN PUSONROGER	BRAD SMOOT
Marvin Burris	KBOR
Barbara M Brown	Intern - Sen Salmons
Sen Tim Kuelkamp	



# Financial Institution Restrictions

## Background

Current constitutional and statutory restrictions prevent the Retirement System from investing in the securities of any "banking institution, savings and loan or credit union which positions the System as a shareholder or owner of such banking institution, savings and loan or credit union", (K.S.A. 74-4921(5)(d)). The Kansas Constitution, Article 13, Section 2, provides "The State shall not be a stockholder in any banking institution." This constitutional restriction was originally adopted by the Wyandotte Constitution on July 5, 1859, and ratified by electors on October 4 of the same year. In researching this issue, it appears that the restriction was "in keeping with the trends of the time" and probably reflected a mistrust of the as yet to be standardized national banking system.

According to a May 18, 1987, opinion from the Office of the Attorney General of the State of Kansas, the Retirement System is the "State" for the purposes of the Kansas Constitution. In a December 15, 1992 letter, the Attorney General opined that the statute does not prohibit the System from investing in equity issues of non-bank financial institutions, debt securities of a banking institution, savings and loan association or credit union, or from investing in a corporation which is a parent company to a subsidiary banking institution, savings and loan or credit union.

As a consequence of these laws and subsequent interpretations, the Retirement System is precluded from making a common stock investment in any bank, savings and loan or credit union of either domestic or international origin.

## Impact of Restrictions

The impact of these restrictions can be described in several ways, each of which reflects the consequences of artificially restricting the investable universe. The most immediate impact of restricting investments is the potential reduction of gain associated with an inability to freely direct investable capital to its highest and best use, and consequently its greatest perceived potential return. This can best be evidenced by comparing the returns of the broad market to the returns available from the broad market less banks, savings and loans and credit unions. As the table below illustrates, for the past six years, with two exceptions, the inability to own the broad market, including banks, has "cost" the System in total return. For the trailing six years, the bank restriction has cost the System an

average of .27% of annual return each year. While the absolute under performance may seem minimal, remember that under performing by even small amounts in a fund with over \$7 billion in total investments is significant. For example, a mere twenty-seven basis points, or twenty seven one-hundredths of one percent, of lost return on the current domestic equity investment portfolio of \$3 billion amounts to \$8.1 million each year this under performance occurs!

### U.S. Stocks vs. U.S. Stocks less Banks

<u>Calendar Year</u>	<u>S&amp;P500 less Banks</u>	<u>S&amp;P500</u>	<u>Return differential</u>
1991	29.34	30.55	-1.21
1992	8.97	7.68	1.29
1993	10.31	10	0.31
1994	1.75	1.33	-0.42
1995	36.24	37.5	-1.26
1996	21.54	23.25	-1.71

Another significant impact of restricting the investable universe has to do with risk. As of December 31, 1996, the stocks of banks, savings and loans and credit unions represented about 8.5% of the total S&P 500 index. In international markets, the concentrations of banks as a percentage of the index are usually higher. As of September 30, 1995, for example, approximately 17% of the MSCI EAFE Index (Morgan Stanley Capital International - Europe, Australia and the Far East) was comprised of banks or related issues. By restricting the number of stocks which can be used to diversify the portfolio, the effective risk of the portfolio may be compromised. While absolute measures of this potential impact are more difficult to quantify, it stands to reason that an artificial reduction in the number of choices available to diversify the portfolio may have the effect of increasing the risk of the portfolio.

There are other costs associated with the restrictions. The System effectively pays higher management fees by virtue of their inability to invest in commingled equity funds, typically offered by the System's passive equity managers. The System may be even more successful in negotiating competitive fees with all equity managers if the bank restriction did not set us apart from other accounts. For example, the restriction has been used as justification for higher fees within the "most favored nations" clause contained in all our management contracts. In addition, the construction and maintenance by outside parties of customized benchmarks with which the System measures performance within the restricted portfolios can cost approximately \$4,000 per year.

## Conclusions

Estimations of the risk and return impact are very sensitive to the time period used, and fee differentials will vary by the type of management account being considered. Generally, however, over the long run the impact of this restriction is to reduce the investable universe for the System, and in the process, impose opportunity costs which may lead to reduced returns, less efficient portfolios when measured in terms of risk and added costs for customized indexes and segregated portfolio management. Finally, these restrictions serve no useful purpose to the State or participants of the System.

SCR 16~~40~~<sup>04</sup>

FEBRUARY 12, 1997 TOM YOUNG AARP

MR CHAIRMAN , MEMBERS OF THE COMMITTEE

I HAVE APPEARED BEFORE YOU ON SEVERAL OCCASIONS ASKING FOR SOMETHING . I HAVE OPPOSED SOME BILLS AS THEY WERE PRESENTED. TO DAY FOR A CHANGE I SUPPORT A BILL WHICH IS BEFORE YOU SCR 16~~40~~<sup>04</sup>. THIS IS A WELCOME CHANGE

SCR 1640 WOULD ALLOW KPERS THE FELXIBILITY TO INVEST IN COMPANIES WHICH OWN A PORTION OF BANK STOCK. BUT ARE GOOD STRONG INCOME PRODUCING COMPANIES.

I AM SURE AT ONE TIME THERE WAS A REASON TO EXCLUDE THE PURCHASING OF BANK STOCK FROM KPERS. HOWEVER TO DAY WITH BANKS, SAVINGS & LOANS, AND CREDIT UNIONS SO DIVERSIFIED WE WOULD LIKE TO ALLOW KPERS THE PRIVILAGE OF INVESTING IN COMPANIES WHICH OWN BANK STOCK AND YET WILL BRING CONTINUED GROWTH TO THE KPERS FUND SAFELY. WE FEEL SCR 16~~40~~<sup>04</sup> DOES THAT.

AARP AND KNEA SUPPORT THE PASSAGE OF SCR 16~~40~~<sup>04</sup>

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Attachment # 2



Testimony To The  
Senate Ways and Means Committee

By  
Bobbi Mariani, Assistant Director  
Division of Personnel Services

**RE: Payment of Moving and Lodging Expenses - Senate Bill 104**

Chairperson and members of the committee, thank you for the opportunity to appear before you today. I am here in support of Senate Bill 104, which will expand recruitment incentives and benefit current state employees. I would like to discuss two aspects of this bill: (1) paying moving expenses for applicants and current employees who are required to relocate and (2) direct payment of lodging expenses for traveling state employees.

While recruiting applicants for certain jobs, we occasionally encounter stiff competition with other public and private organizations. Currently, with the Governor's approval, state agencies may pay moving expenses only if the applicant is moving to Kansas from out-of-state and only if that applicant is filling a position that requires professional, technical, or unusual qualifications. Also, state regulations allow some flexibility in the salary we can offer an applicant who possesses exceptional qualifications. However, this limited flexibility is not always enough to attract an applicant who has to relocate to accept the job. Many employers are willing to pay moving expenses in order to attract applicants. The proposed legislation allows agency heads to decide when to pay moving expenses and to also pay moving expenses for applicants who live in Kansas. Reimbursing moving expenses will increase the ability of state agencies to recruit top candidates for professional, technical, managerial, and speciality positions in state government. These amendments would elevate our recruitment incentives for job applicants in a competitive marketplace.

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. It offers equitable treatment to all agencies who currently cannot pay moving expenses for managerial employees and persons who reside in-state, such as the Department of Transportation. Paying for 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.

Senate Bill 104 will also alleviate some of the financial hardship on traveling state officers and employees by allowing agencies to pay lodging expenses directly to lodging establishments. Currently, state employees who travel on state business pay all subsistence-related travel costs and then submit claims for these expenses upon their return. This can cause financial hardship for some state employees, particularly if the travel is for an extended time 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 out-of-pocket travel expense. Many state agencies with employees who would benefit from this payment method have expressed a desire to allow the direct payment option.

I encourage your support of this bill. I would be happy to answer any questions or provide additional information.

TESTIMONY REGARDING SENATE BILL 104  
SENATE WAYS AND MEANS COMMITTEE  
February 12, 1997, 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 104. The bill contains two measures proposed by the Department to enhance the ability of state agencies to recruit and retain employees. I will briefly summarize each separately in today's testimony.

*Moving Expense Reimbursement*

SB 104 amends current law to expand moving expense reimbursement benefits to employees. With the exception of the allowance for moving expense reimbursements for newly-hired Kansans and managerial employees, the provisions within SB 104 generally restore allowable expenditures to pre-fiscal year 1995 law. Changes in the federal Internal Revenue Code effective January 1, 1994 discontinued non-taxable treatment for certain payments formerly authorized by the State of Kansas. Legislation was enacted during the 1994 Legislative Session to allow only those reimbursements defined as non-taxable payments to the employee. The change in legislation was primarily an effort to eliminate the separate, and costly, manual reporting and record keeping requirements for taxable payments under the previous payroll system. Within the new payroll system, no further programming changes are required to process, pay and report taxable moving expense reimbursements. Payment of moving expenses will continue to be at the discretion of agency managers. Existing agency resources are presumed to fund any increase in moving expenditures by state agencies.

*Direct Payment of Lodging Expenses*

The amendments in SB 104 also allow the lodging expenses of traveling state officers and employees to be paid directly to the lodging establishment as an option to reimbursing the employee. If the state agency becomes the "customer" for payment of in-state lodging expenses, the expenses will be exempt from Kansas sales tax. This exemption will decrease state agency expenditures, with a corresponding decrease in state sales tax revenues and sales tax revenues for local units of government. Payment of lodging expenses directly will require the creation of additional vouchers and warrants. However, the cost is immeasurable due to the uncertainty of agency participation in

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the direct payment option and any increase should be offset by the opportunity to consolidate payments to lodging establishments, as well as establish less frequent billing cycles. Overall, the elimination of sales tax expenditures due to direct payment of in-state lodging is expected to compensate for any reduction in state sales tax revenues, as well as any increase in processing expenditures due to the creation of additional payment documents.

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



## KANSAS DEPARTMENT OF TRANSPORTATION

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Bill Graves  
Governor of Kansas

TESTIMONY BEFORE THE  
SENATE WAYS AND MEANS COMMITTEE

Regarding S.B. 104

Relating to Reimbursement of Moving Expenses and Direct Payment of Lodging  
Expenses for Applicants, State Officers and Employees

February 12, 1997

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. 104. I have supported the changes included in this bill for several years.

The proposed legislation would repeal K.S.A. 75-3219 and 75-3224, which would delete those sections that prohibit state agencies from reimbursing applicants, state officers and employees for moving expenses which are not considered "qualified moving expenses" under the Federal Internal Revenue Service (IRS) Code. These portions limit the state's reimbursement to nontaxable items and provide for similar treatment of out-of-state applicants and employees. Also, Section 2 of the bill provides for direct payment of lodging expense to a lodging establishment instead of reimbursement of expenses to the employee who is traveling on official state business.

During the 1994 Legislative Session, K.S.A. 75-3219 and 75-3224 were amended to prohibit state agencies from paying moving expenses that are not considered to be "qualified moving expenses" by the IRS. Before this statutory change, reimbursement of 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 the employee while in transit between the employee's old and new official station;

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- 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.

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" includes meals while moving to a new residence; travel expenses, meals and lodging for pre-move 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 in order for the agency 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. Also, because of the Governor's and Legislative mandated reductions of two percent in FY 1996 and three percent in FY 1997 and the reorganization in the department, there is a need for flexibility in the moving policy. The Department is attempting to make these changes through attrition and it becomes difficult if we cannot adequately provide for the moving expense. The addition of the IRS-related language financially penalizes those who follow their most obvious career track or accommodate the Department's reorganization needs.

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 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 who were 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. The approximate cost of a move during FY 1996 for all state employees is \$1,959 whereas the approximate cost for KDOT employees during that same time period was \$931.

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.

Section 2 deals with the direct payment of lodging expense for all of our traveling employees. KDOT must have employees in travel status in order to accomplish certain tasks on a routine basis. The practice of having the employee provide interim financing for lodging expenses while on official state business is a burden to the employee. The Department's pilot 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 inclusion of provisions in SB 104 which make the direct payment provision a permanent practice.