

Approved: Feb. 1, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson August Bogina at 11:10 a.m. on January 26, 1994 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Kathy Porter, Legislative Research Department
Julian Efird, Legislative Research Department
Norm Furse, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Secretary Seltsam, Department of Administration
John Sheirman, Department of Transportation
Bob Alderson, General Counsel for the Mid States Port Authority

Others attending: See attached list

SB 532--DEPARTMENT OF ADMINISTRATION; ORGANIZATION THEREOF; POWERS OF SECRETARY; SUBSISTENCE PAYMENTS

Secretary Seltsam appeared before the Committee in support of SB 532 and reviewed Attachment 1. In discussing sections 2 and 3 of the bill, she stated that the Wichita expansion prompted the request to expand authority beyond Shawnee County.

The Secretary stated that examples of reorganization (Section 1) would be the consolidation of architects and engineers in both Facilities Management and Architectural Services; the consolidation of inventory tracking and purchase reviews within the Division of Accounts and Reports; and the consolidation of duties within the Division of Payroll and Personnel.

In answer to Senator Petty, Secretary Seltsam stated that sections 2 and 3 are not intended to usurp any of the authority of the Joint Committee on State Building Construction. In regard to building space, Senator Karr noted that the control of leased building space outside Shawnee County is patchwork and is certainly beyond the control of the Joint Committee on Building Construction. He suggested that SB 532 might be a good vehicle for further study of inconsistent space and lease rates. In answer to questions, the Secretary stated that because the decision making process on lease agreements is fragmented, it could be helpful as well as more economical if the Department of Administration were more involved in those decisions.

Senator Vancrum expressed concern that there would be less legislative ability to determine which agency has responsibility for specific functions if the original statutes were not repealed.

The Chairman told members that SB 532 would be held until the subcommittee had an opportunity to study what efficiencies might be realized and noted that it might also be a vehicle for some of the concerns of the Joint Committee on Building Construction.

SB 534--STATE AGENCIES; CLAIMS FOR DAMAGES TO PERSONAL PROPERTY; IMPREST FUNDS; AUDIT REQUIREMENTS

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at
11:00 a.m. on January 26, 1994.

Secretary Seltsam reviewed her written testimony in support of SB 534 (see Attachment 2). In response to questions, she stated that sections 6, 7 and 8 would remove the dollar limitation on all imprest funds. She noted that the Secretary of Administration would be responsible for the approval of an agency's request to adjust the limit on the imprest fund. In discussion regarding an agency's ability to establish the amount of its imprest fund, Secretary Seltsam said that this proposed legislation would not provide additional expenditure authority for the agency. Staff told members that an appropriation is made to an imprest fund only upon its creation and when the Legislature increases the dollar amount of the fund.

In discussion of the Department's current procedure for auditing claims, accounts, receipts, etc. (Section 5), Sec. Seltsam stated that because the Department handles three million individual payments each year, she repeatedly receives requests for increased auditing staff. She told members that most audit firms use the technique of random sampling on low dollar claims. In answer to questions, she said that as the Department implements the electronic voucher system, the computer allows for dollar limitation criteria to be set.

Senator Petty moved, Senator Vancrum seconded, that section 4 of SB 534 be amended by replacing the words "minimum standard audit program" with the words "municipal audit guide" as suggested by the Secretary (Attachment 2-1). The motion carried on a voice vote.

The Chairman announced that SB 534 would be held in Committee.

**SB 557--APPROPRIATIONS FOR FY 94 AND FY 95, DEPARTMENT OF
TRANSPORTATION, RAILROAD REHABILITATION LOAN GUARANTEE FUND**

Mr. John Scheirman, Kansas Department of Transportation, appeared before the Committee in support of SB 557 and reviewed Attachment 3. He pointed out that an amendment to the bill had been requested by Mid States bond counsel and agreed to by KDOT (Attachment 4). Staff distributed Attachment 5, background information on the Railroad Rehabilitation Loan Guarantee Fund.

The Chairman explained that this bill would change the funding from loans to bonds and that the bonds would be more desirable to the bond underwriters, insurers and buyers if guaranteed by the legislation. He pointed out that this bill must pass the full Senate by 2/3 majority because it is part of the internal improvements issue.

In response to a question regarding the word "unconditional" before guarantee in line 28 of the bill, Mr. Scheirman stated that he believed "unconditional" is a term of art that lenders like to use. He recalled that the banks in 1989 requested that language be used. As far as the statute, his interpretation is that the authority to guarantee is broadly granted to the Secretary. Mr. Scheirman stated that he saw no conflict between the statute allowing the Department to guarantee and an appropriation referring to an unconditional guarantee. The Chairman queried why the word "unconditional" was not used before the proposed word "guaranteed" in line 31. Mr. Bob Alderson, chief counsel for the Mid States Port Authority stated that the original document which was signed by the Secretary had been styled as an unconditional guarantee of payment. The language which was in statute and which remains in statute was interpreted by the Attorney General as being broad enough to authorize that unconditional guarantee of payment, and that was what was required by Bank IV for the loan. It was his opinion that a change from the current language could cause the bond underwriters and insurers to read something into it and detract from the quality of the bonds.

In answer to a question, Mr. Scheirman stated that the appropriation is only necessary in the event of a default, and the lender wants to see that in the bill. He noted that the bonds would be insured. He stated that the underwriters believe the bonds would not be insured without the continuing guarantee of the legislation.

Responding to Senator Kerr, Mr. Scheirman said that the maximum liability for the state would be the outstanding principal balance of the bonds at any time. He stated that the insurer is behind the state as far as the liability on bonds. Senator Kerr questioned whether the title "Railroad Rehabilitation Loan Guarantee Fund" is of concern considering the change in funding to bonds. The conferees concurred that the opinion from KDOT's special counsel on bonds and from the bond counsel for the Port Authority is that the bond is a specialized form of loan and there is no conflict there. They stated that the bond counsel had expressed that opinion before the Board of Directors of the Port Authority and it would be reduced to writing.

Because there is no dollar limitation in the bill, Senator Karr queried whether there was any limit on expansion in the event Mid States chose to expand. Mr. Alderson stated that the Port Authority statutes created the ability for the Port Authority to issue revenue bonds for the acquisition of buildings, facilities, etc. That can be done only one time. The Port Authority did that in 1984 by issuing \$1 million which was paid off as part of the 1989 refinancing. The Port Authority is limited by 12-3420 to a revenue refunding bond issue which cannot be used for expansion, but only refunding existing obligations. It was stated that in the opinion of the bond counsel these would be revenue refunding bonds and can only be used to repay existing debt.

It was moved by Senator Karr and seconded by Senator Salisbury that the amendments provided in the

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at
11:00 a.m. on January 26, 1994.

balloon (Attachment 4) be adopted. The motion carried on a voice vote.

The Chairman asked for the Committees' pleasure on SB 557. Senator Salisbury moved and Senator Lawrence seconded by SB 557 as amended be recommended favorable for passage. The motion carried on a roll call vote.

SB 456--APPROPRIATIONS FOR FY 94. DEPARTMENT OF COMMERCE AND HOUSING

The Chairman reminded members that there was a motion on the floor to recommend SB 456 favorable for passage. Senator Karr pointed out some inconsistencies in the information provided regarding the micro loan demonstration project and the Technology Reinvestment Program. Senator Ranson clarified that the request is for \$250,000 state match and \$150,000 local match for the first year. After the first year, the match money would be provided in total by local units. She assured members that no additional requests for state money would be made.

Senator Vancrum expressed his opinion that the Employment and Training Board in Sedgwick County should be viewed as a pilot project and, if successful, should be looked at as a potential statewide project.

Concern was expressed by Senator Karr that, although Sedgwick County certainly has employment problems, there are many other counties with more serious problems that will not be receiving state appropriations.

Senator Rock commended the small businesses which had joined in a consortium to access a federal grant.

The motion to recommend SB 456 favorable for passage carried on a roll call vote.

The Chairman adjourned the meeting at 12:25 P.M. The next meeting is scheduled for January 31, 1994.

GUEST LIST

COMMITTEE: SENATE WAYS AND MEANS

DATE: Jan. 26, 1994

[illegible]

TESTIMONY OF SUSAN SELTSAM
SECRETARY OF ADMINISTRATION
REGARDING SB 532
BEFORE THE SENATE WAYS AND MEANS COMMITTEE
JANUARY 26, 1994

I am appearing today to testify in support of 1994 SB 532 on behalf of the Department of Administration. This bill contains two sections regarding the authority of the Secretary of Administration with respect to the organization of the Department of Administration and to space management functions.

Section 1.

This new section authorizes the Secretary of Administration to transfer powers, duties and functions of any organizational unit within the department to other organizational units within the department. This power to reorganize includes the authority to abolish organizational units and consolidate powers, duties and functions. Any transfer is subject to the approval of the Governor.

--The Department of Administration has a wide variety of functions and responsibilities. Therefore, the flexibility to arrange the organization and distribution of duties and functions within the Department is an appropriate means to ensure that those responsibilities are carried out in an efficient, effective manner.

--Some functions, such as personnel/payroll issues, may involve overlapping areas of responsibilities within the Department's organizational framework. In order to respond to changing needs and technologies, the ability to structure or re-structure the distribution of those responsibilities is an important element of effective management.

--Any reorganization would have to be done within the approved budget, therefore there is no fiscal impact associated with this bill. It is not possible to predict with certainty what savings might be accomplished by any future reorganizations authorized by this bill.

Section 2 and Section 3.

These sections amend K.S.A. 75-3651 and K.S.A. 75-3765 which relate to the authority of the Secretary with respect to space management, including assignment of space and charging rent for space. Amendments to these statutes provide the Secretary with authority to direct any executive branch state agency to occupy space in a particular building, and to establish a system of rental charges and collect rents for property and buildings owned or controlled by the Department of Administration in any part of the state. Currently, this authority is limited to facilities and buildings in Shawnee County.

*SWAM
January 26, 1994
Attachment 1*

January 26, 1994

--Expanded authority to assign space and establish rental charges for facilities owned or controlled by the state outside of Shawnee County would provide the Secretary of Administration with the flexibility to identify and implement instances where consolidation of state agency space would be cost effective and achieve efficiencies in services.

--The consolidation of state offices in Wichita illustrates the potential for such projects to provide space for state agencies in a more cost effective manner, to avoid duplication of facility support systems such as conference rooms and telephone systems, and to provide more convenient, efficient services to the public. During FY 1995, it is anticipated that the cost of the Wichita state office building space payments by state agencies will be \$214,674 less than their current lease arrangements.

This bill supports quality management initiatives which focus on providing high quality services, responsiveness to the public and customer satisfaction. Both of these proposed amendments are consistent with the goal of providing sufficient managerial flexibility for the Department of Administration to meet the challenges of responsive government. I urge your support for SB 532 and would welcome any questions you might have. Thank you for this opportunity to speak on behalf of SB 532.

SENATE WAYS AND MEANS COMMITTEE

January 26, 1994

TESTIMONY PRESENTED BY SUSAN M. SELTSAM
SECRETARY OF ADMINISTRATION

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear in support of Senate Bill 534. Section 1 relates to claims for damage to certain personal property. The Department requests legislation to clarify the types of claims that can be paid by state agencies. Section 1 amends the current law to specifically disallow payment for any loss sustained to a state employee's personal vehicle, when the vehicle is used on official state business. The amendment supports the Department's policy to deny payment for personal vehicle loss under the provisions of the mileage reimbursement rate in K.S.A. 75-3203 which is prescribed to include insurance as a cost covered by the reimbursement rate.

Sections 2-4 relate to accounting for municipalities. The amendments replace obsolete reference to the National Committee of Governmental Accounting and the Municipal Accounting Board. These governing bodies have been abolished or replaced.

Section 4 should be further amended to replace the words "minimum standard audit program" with the words "municipal audit guide" to better describe the purpose of the document.

Section 5 relates to certain statutory auditing requirements. The Department proposes to amend K.S.A. 75-3731 to streamline the audit process and permit statistical random and periodic sampling of certain claims. Currently, the statute requires every claim that is submitted by agencies to be audited. As amended, the bill permits the director of accounts and reports to refuse to pay any account or bill that the director determines is not a valid obligation or was not incurred in accordance with applicable rules and regulations without requiring the audit of every claim. Areas of expenditure which have a high number of small dollar transactions are candidates for periodic sampling. As we move into increased electronic processing of payments, there are statistically valid random sampling programs available which will save staff time and create less paperwork.

The proposed amendments also eliminate the requirement that the agency head certify that amounts claimed for payroll payments are correct and allows the director of accounts and reports to determine procedures for the processing of payrolls.

The goal of permitting periodic and random sampling of certain types of claims is to increase efficiency and speed the processing of claims while still maintaining sufficient audit coverage.

SWAM
January 25, 1994
Attachment 2

Sections 6, 7 and 8 relate to imprest funds of state agencies. Currently, imprest funds of state agencies are established by statute and vary from agency to agency in amount. Amendments to K.S.A. 75-3072 and K.S.A. 75-3075 eliminate the need to establish or increase the limits on state agency imprest funds through legislation. The proposed legislation would repeal all statutes providing for individual agency imprest funds. In their place, the proposed legislation would provide a general administrative framework for an agency to request from the director of accounts and reports the establishment of an imprest fund in an amount as approved by the Secretary of Administration.

-The proposed legislation would allow state agencies the opportunity to vary the dollar limitation of the respective imprest funds, as the need arises, through an administrative approval process. For example, the Kansas Department of Commerce and Housing has in the past needed to increase its imprest fund dollar limitation due to the need for travel expense advances for employees traveling overseas. Without the flexibility to increase the imprest fund when needed, a financial burden is placed on the traveling employees. Moreover, the need to change the limit may not coincide with the legislative session.

-The need for additional flexibility is illustrated by the number of instances in which imprest fund statutes have needed to be amended. For example, K.S.A. 75-3058, which establishes the imprest funds for Department of Corrections has been amended 13 times in the last 18 years.

-Current law requiring the director of accounts and reports to draw warrants against funds out of which imprest fund payments would have otherwise been made is retained in the proposed legislation so that expenditures from the fund can be tracked by object code.

I request your support for Senate Bill 534 and if the Committee has questions, I will be pleased to respond.

STATE OF KANSAS



Michael L. Johnston
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
FAX - (913) 296-1095

Joan Finney
Governor of Kansas

Testimony on Senate Bill No. 557
Senate Ways and Means Committee

by John R. Scheirman
Chief, Bureau of Rail Affairs
Kansas Department of Transportation

January 26, 1994

Mr. Chairman and members of the Committee,

My name is John Scheirman. I am the Chief of the Bureau of Rail Affairs in the Kansas Department of Transportation. I am here today to testify on behalf of KDOT in support of Senate Bill No. 557.

This appropriations bill relates to the legal and financial relationship which exists between the Secretary of Transportation and the Mid States Port Authority. I will try to briefly summarize that relationship and the events that brought us to where we are today. Mid States is a quasi-public body which was formed in 1980 by fourteen counties in northern and western Kansas pursuant to K.S.A. 12-3401 et seq. With the help of a federal loan, Mid States was able to buy over 400 miles of rail lines from the trustee of the bankrupt Chicago, Rock Island and Pacific railroad in 1984. The federal government asked the Secretary of Transportation to guarantee that loan, and with authorization from the Legislature

SWAM
January 26, 1994
Attachment 3

and the State Finance Council, he did so. In 1989, due to changes in federal policy, Mid States had the opportunity to pay off the federal loan balance at a discount and reduce its debt from \$18 million dollars to less than \$7 million. This was accomplished by taking out a new bank loan. Again, the lender asked for KDOT's guarantee, and again, the Legislature authorized such action.

At the present time, Mid States is preparing to issue revenue refunding bonds which will allow it to pay off the bank loan, which has a fixed interest rate of eleven percent. KDOT has analyzed the various financing options, and we have concluded that such a bond issue would offer Mid States the lowest interest costs available in today's financial markets, possibly less than six percent. Mid States began to consider the feasibility of a bond issue at KDOT's request. We believe this type of refinancing offers the most advantageous terms to the state of Kansas, if KDOT is to continue as guarantor of the debt remaining from the 1984 acquisition of the former Rock Island lines. As a matter of policy, for the past ten years KDOT has tried to balance the needs for financial assistance to maintain rail service in northwestern Kansas with the necessity for prudence and fiscal integrity with respect to KDOT's contingent liabilities as guarantor of that financing. We believe the arrangements in place up until now have been very successful in meeting these goals. At this time, we have an opportunity to make additional progress.

On a more technical note, I would like to explain the need for this bill. It is the determination of KDOT's special counsel on

bond matters that the Secretary has the statutory authority to guarantee the bond issue. However, to make such a guarantee effective in the eyes of the bond underwriters, insurers and buyers, KDOT needs to have annual appropriations authority in place to make good on the guarantee in the event of a default. The Legislature has granted such authority to the agency annually since 1984, but the current language in our 1994 appropriations bill specifically relates to the existing bank loan and is not broad enough to cover a bond issue. Senate Bill 557 would simply add new language to KDOT's appropriations for FY 94 and 95 which would demonstrate to the bond market that the Kansas Legislature concurs in the Secretary's commitment to honor the guarantee.

It is certainly our expectation that the budgetary authority to assume the obligations of Mid States to its bondholders will never need to be exercised. We have estimated the net value of the rail properties which will be pledged as security to be three to four times the value of the bond issue. We have worked closely with Mid States and its operator, Kyle Railroad, for over ten years now and are confident in their ability to pay their debts in a timely manner and to continue providing high quality local rail freight service to the public. KDOT has estimated that the bond financing would save Mid States about three quarters of a million dollars at today's present value. We believe these adjustments would further minimize any risk of default, by providing Mid States and Kyle with more flexibility and working capital to respond to changing conditions.

Due to the timing of the proposed bond issue, this matter was not included in KDOT's main appropriations bill. Favorable action by the Committee at this time will assist all parties concerned in moving quickly to take advantage of current financial conditions. Thank you for your consideration. I will try to answer any questions that members of the Committee may have at this time.

DRAFT OF AMENDMENTS TO SB 557

SENATE BILL No. 557

By Committee on Ways and Means

For Consideration By Senate Ways and Means
(1-25-94)

1-20

8 AN ACT making and concerning appropriations for the fiscal years
9 ending June 30, 1994, and June 30, 1995, for the department of
10 transportation; relating to the railroad rehabilitation loan guarantee
11 fund; authorizing certain transfers, imposing certain restrictions
12 and limitations, and directing or authorizing certain receipts and
13 disbursements and acts incidental to the foregoing.
14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. For the fiscal years ending June 30, 1994, and June
17 30, 1995, appropriations are hereby made, restrictions and limitations
18 are hereby imposed, and transfers, receipts, disbursements and acts
19 incidental to the foregoing are hereby directed or authorized as
20 provided in this act.

21 Sec. 2.

DEPARTMENT OF TRANSPORTATION

23 (a) In addition to the other purposes for which expenditures may
24 be made from the railroad rehabilitation loan guarantee fund for the
25 fiscal year ending June 30, 1994, expenditures may be made from
26 the railroad rehabilitation loan guarantee fund for fiscal year 1994
27 by the secretary of transportation in satisfaction of liabilities arising
28 from the unconditional guarantee of payment entered into in con-
29 nection with the mid-states port authority, ~~revenue refunding bonds,~~
30 series 1994, dated February 1, 1994, authorized by K.S.A. 12-3420
31 and amendments thereto and ~~issued~~ pursuant to K.S.A. 75-5031 and
32 amendments thereto, except that expenditures from the railroad re-
33 habilitation loan guarantee fund for such purpose for fiscal year 1994
34 shall not exceed the amount which the secretary of transportation
35 is obligated to pay during fiscal year 1994 in satisfaction of liabilities
36 arising from such unconditional guarantee of payment.

federally taxable

guaranteed

37 (b) There is appropriated for the above agency from the special
38 revenue fund for the fiscal year ending June 30, 1995, all moneys
39 now or hereafter lawfully credited to and available in such fund,
40 except that expenditures shall not exceed the following:

1 Railroad rehabilitation loan guarantee fund..... No limit

2 *Provided*, That expenditures from this fund shall not exceed the
43 amount which the secretary of transportation is obligated to pay

SWAM
January 26, 1994
Attachment 4

1 during the fiscal year ending June 30, 1995, in satisfaction of liabilities
2 arising from the unconditional guarantee of payment which was en-
3 tered into by the secretary of transportation in connection with the
4 mid-states port authority, revenue refunding bonds, series 1994,
5 dated February 1, 1994, authorized by K.S.A. 12-3420 and amend-
6 ments thereto and [issued] pursuant to K.S.A. 75-5031 and amend-
7 ments thereto.

federally taxable

guaranteed

8 (c) Upon notification from the secretary of transportation that an
9 amount is due and payable from the railroad rehabilitation loan
10 guarantee fund, the director of accounts and reports shall transfer
11 from the state highway fund to the railroad rehabilitation loan guar-
12 antee fund the amount certified by the secretary as due and payable.

13 Sec. 3. *Appeals to exceed limitations.* Upon written application
14 to the governor and approval of the state finance council, expend-
15 itures from special revenue funds may exceed the amounts specified
16 in this act.

17 Sec. 4. This act shall take effect and be in force from and after
18 its publication in the Kansas register.

JAN 24 1994

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

300 S.W. 10th Avenue
Room 545-N – Statehouse

Phone 296-3181

January 24, 1994

TO: Senator August Bogina, Jr.

Office No. 120-S

RE: S.B. 557

This appropriations bill addresses FY 1994 and FY 1995 for the Railroad Rehabilitation Loan Guarantee Fund, and would amend current law (Chapter 111 of the *1993 Session Laws of Kansas*) and the Governor's FY 1995 recommendations for KDOT included in 1994 S.B. 511. This fund is included in the Kansas Department of Transportation for budget purposes.

The bill would authorize an agreement by the Secretary of Transportation to be updated from one of April 29, 1989, to a new agreement of February 1, 1994, in order for a guarantee of up to \$7.0 million from the State Highway Fund to be pledged in regard to the bonded principal debt in case of default. The proceeds from a bond sale would be used for paying off a current outstanding loan using bonds for refinancing the debt. The current loan is guaranteed by the April 29, 1989, agreement.

K.S.A. 75-5029 *et seq.* establishes the Railroad Loan Guarantee Fund and provides for how funds may be expended. K.S.A. 75-5030 specifically authorizes the payment from this Fund, to the Federal Railroad Administration, on behalf of the Mid-States Port Authority, the amounts of any loan which is in default, not to exceed 50 percent of a loss which otherwise would be assumed by the federal government. K.S.A. 75-5031 authorizes the Secretary of Transportation to enter into agreements with the Mid-States Port Authority and participating financial institutions to guarantee the repayment of any loan obtained by the Authority for refinancing. The total principal amount guaranteed shall not exceed \$7.0 million.

Background

In 1989, the Mid-States Port Authority paid off its original loan from the Federal Railroad Administration using proceeds from a bank loan secured under K.S.A. 75-5031. The Authority plans to issue bonds during February of 1994, pending legislative and gubernatorial approval of this appropriation bill, in order to pay off its 1989 bank loan. The principal amount of the bond issue is estimated at \$5.5 to \$6.0 million.



Julian Efird
Principal Analyst

SWAM
January 26, 1994
Attachment 5