

**TESTIMONY OF KANSAS DEVELOPMENT FINANCE AUTHORITY
PRESENTED BY KDFA EXECUTIVE VICE PRESIDENT &
GENERAL COUNSEL REBECCA FLOYD TO THE SENATE
COMMERCE COMMITTEE REGARDING HOUSE BILL 2169
OF THE 2007 LEGISLATIVE SESSION**

March 6, 2007

Honorable Chair and Members of the Committee, Kansas Development Finance Authority ("KDFA") appreciates this opportunity to testify before you concerning proposed House Bill ("H.B.") 2169.

- House Bill 2169 seeks to amend several statutes to authorize the Authority to develop and promote a statewide comprehensive energy conservation program which would be accessible to state agencies, including the Board of Regents institutions, political subdivisions, including municipalities and school districts, community and technical colleges, and federal entities.
- The authorization is sought based on ongoing discussions by and between KDFA and certain client borrowers, including the Board of Regents, representatives of the State Energy Office, and individual legislators regarding existing energy conservation improvement authorization, as well as KDFA's observations about utilization of energy conservation measures pursuant to current law.
- Statutory authorization for energy conservation improvements by various entities may currently be found scattered about in various locations, including authorization in K.S.A. 75-37,111 *et seq.*, for certain energy improvements for state agencies with an annual cost cap of \$5,000,000; authorization found in the 2005 Session Laws of Kansas, Chapter 174, Section 128(e)(1), pertaining to Board of Regents institutions, and authorization is given to community and technical colleges to implement energy conservation measures pursuant to 2006 Session Laws of Kansas, Chapter 88.
- KDFA has identified the following issues regarding the current state of energy conservation authorizations:
 - The various authorizations empowering various entities to seek financing for energy conservation improvements are scattered and somewhat confusing.
 - The cost cap limitation of \$5,000,000 set forth in K.S.A. 75-37,114, applicable to energy conservation improvements for state agencies, renders this particular act virtually obsolete. The threshold is far too low to be meaningful, especially for bond financing.
 - The Board of Regents Institutions have advised that they do not take advantage of the program utilizing lower cost bond financing as often as they might because of the requirement that they receive approval from the State Finance Council. The universities explain that when they are ready to proceed with the improvements, a vendor will typically offer a lease rate, which, while higher than a typical bond rate, allows them to move forward with the improvements without waiting for a State Finance Council meeting. We believe it would be more efficient to require only the approval of the Secretary of Administration these instances as well, because anytime a capital improvement project costs, e.g. \$5--\$10 million or more, tax-exempt bonds will offer the lowest cost of borrowing.

- Any obligations issued by KDFA on behalf of entities other than state agencies would be the sole obligation of the borrowing entity, e.g., a political subdivision or federal entity, and no recourse for their payment could ever be made to the state. This is analogous to the scenario whereby KDFA issues bonds on behalf of e.g. a hospital. The hospital is accessing the capital markets through KDFA, and hospital revenues are pledged as the sole source of debt service repayment for the bonds. Bonds KDFA issues on behalf of entities other than the State are never obligations of the State of Kansas.
- KDFA believes it can achieve economies of scale similar to those attained in other pool and revolving fund finance programs the Authority currently offers, providing the advantages of a central finance administration department, pooling of multiple smaller financings, and consolidated cost of issuance efficiencies and reduced borrowing costs attributable to using tax-exempt bonds, typically representing the lowest cost of borrowing.
- KDFA very much appreciates the opportunity to assist in the development of legislation which would authorize development of a statewide multi-entity energy conservation program.