TESTIMONY
OF
KANSAS DEVELOPMENT FINANCE AUTHORITY
STEPHEN R. WEATHERFORD, PRESIDENT
BEFORE THE SENATE UTILITIES COMMITTEE
February 1, 2006

Honorable Chairman, Members of the Committee, I am Steve Weatherford, President of Kansas Development Finance Authority, ("KDFA") and I want to thank you for inviting me to share some information with you regarding energy conservation finance options.

As you are all aware, KDFA was created by the legislature in 1987 for the primary purposes of enhancing the ability of the State to finance capital projects and public programs by centralizing the function of debt issuance and management, and for improving access to long-term capital financing for State agencies, political subdivisions, and other public and private organizations and businesses.

KDFA financings typically involve the issuance of tax-exempt bonds, which offer borrowers the lowest cost of borrowing available. It is important to distinguish among the different types of revenue bonds KDFA is authorized to issue which may be primarily divided into the following categories:

Governmental Bonds (Public Purpose Bonds): Bonds issued on behalf of a governmental entity to finance projects or activities which serve a public purpose and primarily benefit a governmental entity. An example would be bonds issued to renovate the State Capitol.

Governmental Bonds are almost always entitled to tax-exempt treatment.

Debt service on Governmental Bonds may come from, for example, a state general fund appropriation in the instance of bonds issued to renovate the State Capitol, or from a dedicated revenue stream from the facility being financed. An example of the latter might include bonds issued to renovate a **university dormitory** or to finance a **parking facility**, wherein the revenues generated from the dormitory rents, or parking garage fees are pledged to debt service the bonds.

Private Activity Bonds: These obligations are issued on behalf of a private entity to finance activities which primarily benefit that private entity. An example are bonds issued to finance an affordable housing complex or a hospital. These bonds are solely the obligation of the private entity, and are payable only from revenues of the private entity—again, the pledged revenues of the housing rents, or hospital general receipts.
They are never an obligation of the State of Kansas.

These bonds may also be issued as tax-exempt obligations if they are "Qualified Private Activity Bonds", which may be issued to finance certain activities that Congress has determined are eligible to be financed with tax-exempt bonds. Again, examples include hospitals and affordable housing projects, among other activities.

Energy Conservation Finance Options Through KDFA

State Agencies and Institutions have access to various financial resources to finance energy conservation improvements.

In past years, KDFA has issued bonds to finance conservation improvements installed in numerous state agency and university facilities.

Through 1996, KDFA issued bonds to finance energy improvements at state facilities pursuant to authorization set forth in K.S.A. 75-37,111 *et seq.* (the "Act").

The Act was passed by the 1989 Kansas Legislature, and authorized the financing of energy conservation improvements for state facilities in the amount of $5,000,000 a year, and provides that the moneys derived from the measured energy cost savings would be used to repay the costs of financing such projects.

Improvements sought under this authorization require the approval of the Division of Architectural services, the Secretary of Administration, and review by the Joint Committee on State Building Construction.

KDFA has not issued bonds to finance energy conservation improvements pursuant to the Act since 2001, in part because the $5 million annual cap is so low, and the Act applies only to State facilities. Should the legislature want to see increased use of the Act in order to facilitate additional energy conservation projects, KDFA would suggest consideration of raising the cap to e.g. $50 million a year for State facilities, and by authorizing municipalities, school districts, and private entities to access financing under the Act as well.

Any bonds KDFA would issue on behalf of municipalities or school districts, would become **solely the obligations** of such municipalities or school districts, with no recourse to the State, presumably also payable from realized energy cost savings. Also as explained earlier, any bonds issued by KDFA on behalf of a private entity, are solely the repayment obligation of the private entity, and again, there is no possible recourse to the State.

The 2003 Kansas Legislature authorized certain energy conservation improvements for state educational institutions, as set forth in Chapter 138, Section 67 (e)(1) of the 2003 Session Laws of Kansas. This authority also appears in the 2004 and 2005 Session Laws of Kansas.

This authorization allows any state educational institution to seek KDFA financing for the purposes of making energy and other conservation improvements.

This authorization does not place a cap on the amount which might be borrowed to make conservation improvements, but does require that the State Board of Regents must first advise and consult the joint committee on state building construction regarding a proposed project, and any such project must also be approved by the State Finance Council.

The authorization also requires that any energy conservation project, for which bonds are issued for financing under this authority, shall be designed and completed in order to produce cost savings sufficient to be equal or greater than the cost of debt service on such bonds.

The Board of Regents is further directed to prepare and submit a report to the House Appropriations Committee, and the Senate Ways and Means Committee on the savings attributable to the energy conservation improvements for which bonds are issued for financing under this authorization, to have begun at the start of the 2004 Legislative Session.

KDFA issued $34,100,000 in bonds to finance energy conservation improvements at Kansas State University and the University of Kansas Medical Center.

KDFA has been advised by the Regents institutions that this particular authorization would probably be used more extensively if the approval process could be expedited, for example, requiring the approval of the Secretary of Administration or Director of the Budget, rather than the State Finance Council. Because the interest rate environment can change so quickly, waiting for State Finance Council meeting dates can significantly increase the cost of a conservation transaction as proposed by the provider—for this reason, if there will be a significant delay, even though tax-exempt bond rates almost always represent the lowest cost of borrowing, the institutions may choose to go ahead with a lease transaction at the rate quoted by the lessor, not wanting to build in the extra time necessary to await State Finance Council review.

Again, thank you for the opportunity to offer some comments on some of the existing energy conservation finance options available through KDFA. I would be happy to answer any questions.

ENERGY CONSERVATION FINANCINGS THROUGH KANSAS DEVELOPMENT FINANCE AUTHORITY

KDFA 1990 H Revenue Bonds (Department of Administration: DoA, SRS, KU, KSU, WSU, PSU & ESU)
$4,415,000
Authority: K.S.A. 75-37,111 to K.S.A. 75-37,114

KDFA 1992 G Revenue Bonds (Kansas Board of Regents: KU, KSU, ESU) $3,600,000
Authority: K.S.A. 75-37,111 to K.S.A. 75-37,114

KDFA 1993 L Revenue Bonds (State and Board of Regents: KHP, KSU, KU, KUMC, FHSU & WSU)
$3,975,000
Authority: K.S.A. 75-37,111 to K.S.A. 75-37,114

KDFA 1995 E Revenue Bonds (State and Board of Regents: KHP, KBI, DOC, KSU, ESU & FHSU)
$2,734,000
Authority: K.S.A. 75-37,111 to K.S.A. 75-37,114

KDFA 1996A Revenue Bonds (Board of Regents: ESU, KSU, KU, WSU)
$5,105,000
Authority: K.S.A. 75-37,111 to K.S.A. 75-37,114

KDFA 2003 J-1 (Board of Regents: KSU & KUMC)
$34,100,000
Authority: Section (e)(1) of Ch. 138 of the 2003 Session Laws of Kansas