

Subject

Copy to

*Provisions - State
Employees - Mileage
Adm. Expenses*



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

March 12, 1974

Opinion No. 74-90 /

Henry Schwaller
Secretary of Administration
State Capitol
Topeka, Kansas 66612

Dear Mr. Schwaller:

I have a copy of your letter of February 18, 1974, addressed to Mr. Max Bickford, Executive Officer of the State Board of Regents. By copy directed to this office, you request an opinion whether the total cost of aircraft rental is payable as a travel expense under K.S.A. 75-3203, or whether reimbursement for travel by rented private aircraft is limited to ten cents per mile.

I enclose an opinion issued by this office July 22, 1972, concluding that "where a public official travels by any privately owned conveyance, including a rented aircraft, he is entitled only to the statutory allowance of nine cents (9¢) per mile."

K.S.A. 75-3203 states in pertinent part thus:

"Wherever in the statutes of the state of Kansas any mileage is allowed to any public official . . . , the rate thereof is hereby fixed and established at ten cents (10¢) per mile for each mile actually and necessarily traveled, via the most direct route by privately owned conveyance for official purposes Privately owned conveyances shall include, but not be limited to automobiles, limousines, station wagons, airplanes, airbuses, and helicopters."
[Emphasis supplied.]

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The enumeration of modes of travel included within the term "privately owned conveyances" does not suggest that the term embraces only those modes of travel, such as airbus, limousine, and the like, owned privately by the travelling state employee or other individual; on the contrary, in our view the enumeration appears to be a comprehensive category of all modes of travel other than by state-owned means, and includes a privately-owned and also a privately-rented aircraft.

K.A.R. 1-16-13 authorizes payment of the costs of rental or charter of aircraft, automobiles, boats, busses or other special conveyances. It is stated to be issued under the authority of K.S.A. 75-3207, which states in pertinent part thus:

"The secretary of administration shall adopt rules and regulations . . . covering the manner of payment of allowances for subsistence, non-subsistence and transportation expenses as defined in this act."

K.S.A. 75-3201 provides that when any state official or employee is required by his duty assignment to travel to points beyond his official station or regular domicile, he shall be entitled

"upon complying with the provisions of this act and the rules and regulations promulgated hereunder, to an allowance for subsistence and reimbursement for transportation, and other travel expenses incurred by him while in such travel status as provided in this act."

The definition of "privately owned conveyance" is such that it must be deemed to include aircraft, airbus, helicopter, motor vehicle, limousine, and any other mode of travel by privately owned means, whether the mode of travel is owned by the travelling employee, or leased or rented by him. The Secretary cannot by regulation authorize the reimbursement for transportation expenses which are not authorized by law. We have concluded, in the opinion of July 22, 1972, that reimbursement is prohibited for the costs of rental of privately owned aircraft. As a mode of travel, it falls squarely within the definition of privately-owned conveyances in K.S.A. 75-3203, which "include, but not be limited to automobiles, limousines, station wagons, airplanes, airbuses, and helicopters."

Accordingly, to the extent that K.A.R. 1-16-13 authorizes reimbursement prohibited by law, it must be deemed inoperative

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as of July 22, 1972, the date of our earlier opinion on this subject.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm

cc: Max Bickford, Board of Regents
James R. Cobler, Accounts and Reports
Franklin Theis, Department of Administration