



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 25, 1976

ATTORNEY GENERAL OPINION NO. 76- 75

Mr. Max Bickford
Executive Officer
Kansas Board of Regents
Suite 1416 - Merchants National
Bank Tower
Topeka, Kansas 66612

Re: Board of Regents--Fiscal Officers--Right of Set-off

Synopsis: Opinion No. 75-408 does not permit agencies and officers of the state, other than the Director of Accounts and Reports, to exercise the right of set-off discussed in that opinion.

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Dear Mr. Bickford:

In your letter of December 22, 1975, you relay a question posed by Mr. Roger Lowe, Vice President for Business Affairs at Wichita State University, concerning Opinion No. 75-408.

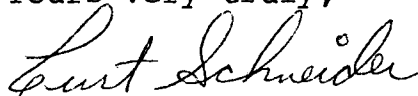
In that opinion, relying upon the statutory authority and responsibilities of the Director of Accounts and Reports, I concluded that in auditing any claim against the state which is presented for payment, the Director must determine that such claim is due and unpaid, and in making that determination, he is entitled to exercise the right of the State as a creditor of such claimant to set-off against such claimed indebtedness such amounts as are known to him to be due to the state from such claimant in determining the final indebtedness which is due and unpaid. The opinion dealt with an indebtedness due the state from the claimant arising out of overpayment of compensation to members of the Kansas Commission on Civil Rights, and upheld the right of the

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Director to withhold from future claims for compensation for performance of their official duties amounts equal to the overpayments which remain outstanding, and in the repayment of which the claimants are delinquent.

The opinion relied upon the statutory authority of the Director of Accounts and Reports, and the fact that the set-off to be applied arose out of overpayments for past services on the Commission, and was to be applied against future claims for such services. There is no statutory authority for agencies of the state, other than the Director of Accounts and Reports, to exercise this right, and that opinion should not be construed to vest in the various offices and agencies of the state the right of set-off which was concluded to be vested in the Director of Accounts and Reports.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj