



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 20, 1978

ATTORNEY GENERAL OPINION NO. 78-241

Mr. Patrick Brazil
Director of Employment
Department of Human Resources
401 Topeka Avenue
Topeka, Kansas 66603

Re: Employment Security--Special Employment Security Fund--Expenditures

Synopsis: Monies in the special employment security fund, created facilities reserved exclusively for persons using local offices of the employment security program administered by the Division of Employment.

* * *

Dear Mr. Brazil:

You inquire concerning the use of monies in the special employment security fund, established under K.S.A. 44-716a. In particular, you advise that the agency desires to purchase land adjacent to its local office in Wichita, Kansas, to provide parking space for persons utilizing the services of the Division of Employment. Federal funds are not available for this purpose, and you inquire whether monies in this fund may be so used.

K.S.A. 44-716a, first, directs that moneys in the fund may be used by the commissioner

"only for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants

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(or other funds) received for or in the employment security administration fund."

However, another portion of this section directs that nothing in the section, including the quoted language above, shall prevent the moneys from being used

"as a revolving fund, to cover expenditures (necessary and proper under the law) for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received."

In addition, moneys in the fund are

"specifically made available to replace, within a reasonable time, any moneys received by this state pursuant to section 402 of the federal social security act, as amended, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of the employment security law."

Lastly, however, moneys in the fund may not be spent in any manner

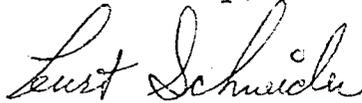
"which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said moneys be available to finance expenditures for the administration of the employment security law."

The sole question here is whether the expenditure of moneys for parking facilities is a "cost of administration," and a cost not chargeable against federal funds. You advise that federal funds may not be spent for this purpose. What constitutes a "cost of

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administration" is not, of course, defined. The phrase invites one to distinguish between operating costs and capital improvements, a distinction, however, which is not clearly relevant to the purpose of the fund. Its purpose is to provide moneys for expenditures incurred in the administration of the program which are not chargeable against federal funds themselves. The furnishing of appropriate quarters to house the employment security program is surely a necessary cost in the administration of the program. In most Kansas communities users of the services of the program must rely on private transportation to come to the offices of the Division of Employment, and the furnishing of parking space for users of its services is entirely appropriate. The term "cost of administration" should be broadly construed, in my judgment, to include all expenses which are reasonably and directly related to the furnishing of services of the employment security program. Parking facilities to be made available exclusively to persons served by the program, while visiting local offices of the program, is reasonably and directly related to operation of the program, in my judgment, and the acquisition of land for that purpose is a permissible cost of administration of the program to be borne by the special employment security fund, in my judgment. If the uses of the fund are to be more restricted than I have indicated above, it must fall to the legislature to indicate by appropriate amendments to this section some more specific limitations upon the purposes for which the fund may be applied.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj