

STATE NEWS WEEKLY SUMMARY CONTINUED

The task force, Mitchell noted, is charged with discussing possible alternatives for funding the legal services.

A possible alternative, discussed at length during the task force's early October meeting, is the expansion of the IOLTA (Interest On Lawyers' Trust Accounts) program from a voluntary program to an all-inclusive or opt out program. Tony Scott, who administers the program for the Oklahoma Bar Association, told the panel Thursday that such a move would likely increase the money flowing into the program from approximately \$300,000 annually to just under \$600,000. Approximately 42 percent of the state's active attorneys participate in the program, which was established by the state's Supreme Court, Scott said.

The program is funded, as its name implies, with interest earned on attorneys' trust accounts.

"We won't know how much additional money we might bring into the system until we actually make such a move," said Scott, noting that the amount generated in other states has varied when a similar conversion was made.

Scott also warned the task force that a recent Fifth Circuit Court of Appeals decision threatens the continuation of the IOLTA programs. Specifically, he explained, the court ruled that similar programs in Louisiana, Mississippi and Texas were unconstitutional because they unfairly deprived citizens — the attorneys' clients — of property.

If that decision is upheld by the U.S. Supreme Court, Scott said, "The IOLTA program in its present form will most likely go away."

Even voluntary programs such as Oklahoma, Scott added, would likely be harmed by such a decision, because attorneys would likely be required to obtain their clients'

consent to send the interest earned on their money to the program, creating a problem in terms of administration.

Scott said the Supreme Court would likely hear the case because of the different lower court opinions concerning such programs.

Sen. Bernest Cain, D-Oklahoma City, and Sen. Jerry Smith, R-Tulsa, the only two lawmakers in attendance because of the House's Democratic caucus, expressed support for protecting the legislature's appropriation to indigent legal services, saying other methods of funding the efforts, such as fee increases, would not likely survive lawmakers' scrutiny.

—SHAWN ASHLEY
11/07/96

ECONOMIC DEVELOPMENT

STATE BACKS NEW VENTURE FUND

■(OKLAHOMA CITY) Michael A. Tharp, president, Oklahoma Capital Investment Board, on Monday announced that the Oklahoma Capital Formation Corporation has made an investment in Chisholm Private Capital Partners, L.P., an Oklahoma based venture capital fund with offices in Tulsa and Oklahoma City.

Chisholm invests in both new and existing firms with strong management teams who can use additional capital to create significant increases in value. Chisholm works closely with management and co-investors to help companies finance transitions from one stage of development to another. Chisholm invests in a wide variety of industries including manufacturing, software, telecommunications services and health care. The primary focus is Oklahoma and the contiguous states.

The fund recently held its first closing at \$12.5 million of total committed capital. The Oklahoma Capital Formation Corporation committed to \$3.15 million at the first close. C. James Bode, John B. Frick and Joe D. Tippens are the general partners of the fund and have committed \$1 million of their personal capital to the fund.

Michael Mitchelson, chairperson of the Oklahoma Capital Investment Board, stated that this group of general partners with two offices in the state should provide Oklahoma entrepreneurs with access to growth capital.

—OKLA. DEPT. OF COMMERCE
11/04/96

EDUCATION

ATTORNEY GENERAL ISSUES EDUCATION OPINION

■(GIT) State education officials won two and lost one on Monday when the Oklahoma Attorney General's Office issued its response to a request for a formal opinion concerning the expenditure of certain funds.

The opinion, prepared by Assistant Attorney General Neal Leader, follows a request from Superintendent of Public Instruction Sandy Garrett.

The state superintendent asked:

- Whether the State Board of Education could expend appropriated money for existing programs which were to have been amended by legislation that was vetoed;
- Whether the board could expend monies for programs which were named specifically in an approved piece of legislation but for which the legislation creating the program was vetoed; and
- Whether the board has the authority to extend the state's minimum salary schedule to include years of experience beyond those set out in law.

At the heart of the questions were SB800 and SB1100. SB800, which appropriated more than \$116.5 million to the State Board of Education was passed by the legislature and signed by the governor. SB1100, however, was vetoed by Governor Frank Keating.

As a result of that action, funds appropriated in SB800 which would have gone to new programs created by SB1100 were withheld from the state board. Additionally, money allocated for career teachers' pay raises, the schedule of which was included in SB1100, was sent directly to districts for use as they saw fit, leaving career teachers without a guarantee of a pay increase.

Leader determined that the board could legally expend funds appropriated for a program which would have been amended by a separate piece of legislation which was vetoed, noting that despite the veto of a bill which would have altered the program, the program continues to exist.

On the issue of whether appropriated funds could be spent on a program that was created by legislation that was vetoed, although the expenditure of the funds was approved, Leader determined that because the program does not exist — the governor's

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"The American feels so rich in his opportunities for free expression that he often no longer knows what he is free from. Neither does he know where he is not free; he does not recognize his native autocrats when he sees them."

Erik H. Erikson
Childhood and Society
1950