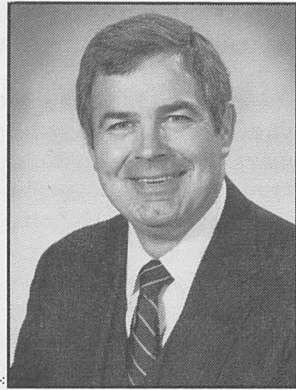


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*Senator Moloney graduated from Xavier University and UK's College of Law.*



GENERAL SESSION  
Friday, September 6, 1991

Honorable Michael R. Moloney  
Chairman, Senate Appropriations  
and Revenue Committee

## KENTUCKY'S LEGISLATIVE PERSPECTIVE

Thank you very much. This is the fourth or fifth Transportation Forum in which I've had the opportunity to speak. It seems that each time that I, or Joe Clarke and I, have spoken, we've talked about the rather dreary fiscal picture that the state faces. After the 1990 session of the General Assembly, I thought I'd have an opportunity to develop a new speech—one in which we weren't going to have to talk about how bad things are fiscally. However, as we approach the 1992 session (and having just received the final year-end report), we find ourselves facing some dire economic times again. Our economy is not as strong as it was projected to be.

In an area of your great concern—the road fund—we were \$37 million below our projected revenues. Using some “smoke and mirrors,” that figure was reduced somewhat, so a balance was carried forward. In this fiscal year all the mirrors have been broken and the smoke is gone and there's going to be a significant shortfall and it's not going to be \$37 million—it's going to be a whole lot higher. The base is going to be reduced by \$37 million and growth is not going to be as rapid as projected.

As we enter the 1992 General Assembly and as we begin to prepare budgets for the 1992-94 biennium, we're going to find ourselves in a situation of looking at a strained road fund. Projects which have been promised may get built and then again they may not. I think the latter is more likely than the former simply because the money is not there. The

second half of the bond issue is not being sold. The debt service for it has been dedicated and I think there will be some looking at that again.

Everybody in this room probably knows that I was one of the ones who advocated a pay-as-you-go basis. I felt that after 10 years (seven years really), we not only would have the same roads built, we would have money left over; but, we didn't go that way. The majority said they would rather go the other way and now we're going to have to "pay the fiddler."

In the 1990 session, I said that the \$600 million bond issue wasn't really a \$600 million bond issue because it's going to cost \$1,200,000,000 before it is finished, if you go the whole route. Just keep that in mind.

Now I'd like to shift my topic to something that might be even nearer and dearer to the hearts—if not the pockets—of some of the people in this room, and that is campaign finance reform. Kentucky has probably been written about as much as any other state concerning the manner in which campaigns are operated. We've told public officials they can't recoup money out of their own pocket money that they spend in a campaign unless they get it before election day. Of course, that's not effective for some people because they've already done it beforehand and they can do it in the future. You've got to identify who's actually giving the money. The court now has ruled that a statute stating that a person shall not give money in anyone's name but their own is not clearly understandable. I had a hard time understanding that ruling.

The Registry of Election Finance has indicated that it is willing to do its job and is beginning to conduct some investigations. We've reached the point where we can't look at this piecemeal anymore. I believe the entire system of campaign finance in this state has to be changed, not just the method in which we collect money, but the manner in which we spend it, and the amount we spend. I don't think that we can have what I like to refer to as a "government of, by, and for the highest bidder." And that's not necessarily referring to the best contract. Look at the articles that Tom Loftus of the Courier Journal and John Winn Miller of the Lexington Herald-Leader have written in the last several months and I think you'll see the direct connection between contributions and contracts. It's an expensive connection.

Between January 1, 1988, (and I pick that date because it's following the assumption of the present Administration and the end of this most recent fiscal year), over \$268 million in non-bid personal-service contracts have been awarded—that's over a quarter of a billion dollars. Now, about \$100 million of that has been awarded to architects and engineers in the last fiscal year alone. I remember a fellow standing in front of the Legislature in January 1988 saying that this state has been operating on a credit-card mentality. I wonder what the phrase is going to be in 1992?

We've burned all the credit cards, they are gone. We can't afford to do this anymore. I think the taxpayers feel they can't afford to have it done to them anymore.

In November 1990, I introduced legislation that I hoped would address this issue. I proposed to limit the amount of contributions that could be given and the amount that could be received, and tried to address this bundling issue. It was reported that over \$17,454,909 was spent in the primary we just went through for governor and lieutenant governor. Think about that. When we finish the current governor's race, we will have spent over \$20 million to elect the Governor of Kentucky. There are not a lot of things in which Kentucky ranks really high in this nation, but we rank sixth in the nation in cost of campaigns. And who do we compare to? California, New York, Pennsylvania, Texas, and Florida. That's pretty fast company. That is also ridiculous to spend that kind of money to elect a public official in a state of 3,800,000 people.

After looking at those figures I changed my bill. The new legislation that I proposed and which has been pre-filed for 1992 (and I'm conducting whatever efforts I can to pass that bill in 1992) will limit the maximum contribution by any one person to any candidate to \$500 per election. It's going to limit the ability to bundle or collect money from an entity—say an engineering firm or partnership, a business, whatever—to \$5,000 per election if that entity hopes to get a non-bid contract in the future. If they want to bid they can give all they want, but if they want that non-bid contract, it's going to be limited to \$5,000. No candidate is going to be permitted to collect 10 percent of their total funds from political action committees collectively in an attempt to try to reduce their influence.

We're going to require all persons to act as fund-raisers, whoever raises more than \$3000 in an election, to register and file reports with the Registry of Election Finance and, in a somewhat new twist, we're going to say that anybody who raises more than \$30,000 for a candidate in an election will not be eligible to receive an appointment from that candidate in their administration. This doesn't just apply to governors and lieutenant governors, it applies to mayors and county judges and on and on. We're requiring more frequent reports—every 30 days from the time someone announces.

We're going to prohibit contributions from being made in the last 30 days prior to an election. Some people have told me, "You can't do that, the planning for elections are such that you've got to have that flexibility." Stop and think about that statement. The people who are asking for money are asking to be given the confidence of the public to manage government for a four-year period of time. If we have enough confidence in them to give them that trust, surely they have the ability to manage a campaign for a 30-day period of time or longer. And, if they

can't budget for 30 days, they've got no business working on a budget for two years for the state government.

We're going to put some penalties in these laws that are going to be a little different from what we've had in the past. A violation by a contributor will constitute a felony. That's harsh, but it also says there is no statute of limitations. We've had problems in the past with our attorney generals not finding things for eight or nine years. It doesn't make any difference now; with no statute of limitations, they can continue to look.

Contracts awarded to people who have violated these laws will be canceled and they will be declared ineligible to participate in future contracts.

To be fair, we're providing that those public officials who violate the law will be disqualified from the office that they hold. That's a pretty harsh penalty but I think it's one that is only fair.

We're also looking at limiting the amount of spending that can be done in a governor's race and a lieutenant governor's race. I'm not going beyond that. We're proposing that in the future, if the legislation passes, a candidate for governor will only be able to spend \$1.8 million per election and the lieutenant governor candidate will be able to spend \$900,000 per election. Of these, two-thirds of one million two hundred thousand dollars for the governor and \$600,000 for the lieutenant governor, will come from the public treasury. That immediately causes a lot of people to rear back. My source of funding on this is from our investment account, which has been averaging \$30 million a year, but the reason we must have public financing—in this instance, partial public financing—is that only through partial public financing or full public financing can you impose spending limitations. The Supreme Court of the United States has ruled that. I think partial public financing will be less expensive in the long run for the taxpayers, both in their capacity as taxpayers and donors, than the system we have right now of intertwined contributions and non-bid contracts.

We're also proposing there be a run-off primary for governor and lieutenant governor in the event that no candidate gets 40 percent of the vote in the primary. Additionally, we're going a little further and proposing a constitutional amendment that will leave four statewide elected officials in existence—the governor, the lieutenant governor, the attorney general, and the auditor-treasurer (those two offices will be combined). The secretary of state would be appointed by the governor and confirmed by the senate; same with the commissioner of agriculture. Abolish superintendent of public instruction—he doesn't have any duties left anyway—and abolish the railroad commissioner who shouldn't have any duties left anyway. I'm combining auditor and treasurer rather than combining the lieutenant governor, secretary of state, and treasurer, as

some have proposed. The lieutenant governor, if he were performing the duties of secretary of state, would be chairman of the Board of Elections. Inasmuch as this constitutional amendment also provides for succession of statewide officials, I really question whether the lieutenant governor should be in charge of the Board of Elections. To further streamline the process and make it more efficient, I'm proposing that the election for governor, lieutenant governor, attorney general, and auditor-treasurer in 1995 be for a three-year term. Thereafter, the elections that would be held in 1998, and every four years thereafter, would be for a four-year term.

We're also recommending that in all elections held, even in odd-numbered years, the officials who hold those positions have their terms extended by one year to roll that election into the next even-numbered year so Kentucky would then have elections in the presidential year and in the next even-numbered year. We won't have elections every six months, based upon our primary and general election cycle. That will save Kentucky's general fund \$5 million over a four-year period. We spend \$2.5 million every year for elections from the state and that is not counting what local government must spend.

There is one other provision in this legislation. It is another constitutional amendment that proposes to create a state procurement officer. All contracts, the specs for all contracts, and request for proposals will be prepared by this individual. This individual will be appointed by the Governor, confirmed by the Senate, to serve a 10-year term, to be removed only for cause, and who will draw staff from the present staff of Transportation and Financing Administration. I really believe that this will remove the contract process from the political process.

I realize that may sound hypocritical coming from somebody who's been in politics for as long as I have (I've been in the Senate for 20 years) and was involved in running campaigns prior to that time. We've reached the point where we must remove politics from the process if we want to have an efficient government. I've seen too much to not recognize that we're costing the taxpayers money with our present system. Taxpayers are the ones we ultimately must serve.

I hope that you all can support some or all of this legislation. I suspect the part that would receive the most support would be that which would limit the maximum contribution to \$500, but attendant to that is all of the rest. If we don't want to limit spending, then we don't want real reform, and if we want to limit spending, we've got to have partial public financing or public financing. I think it can produce a better system, a system in which the people will have more confidence—and God knows that we've got to convince the public to have more confidence in our system. After all, we had 39 percent of the eligible Democrats vote in the primary this past May, and the Republican Party (which had a contested

primary for the first time in 26 years) had 29 percent of its eligible members vote. I have a strong belief that part of the reason why people are turned off is this massive amount of money that they hear about. Another reason is the negative campaigning that they are seeing.

Let me close with this: stop and think about what we've learned so far about the fall election. The two biggest stories that have been in the paper have been that the Lieutenant Governor set a new record by raising \$800,000 in one night and the other big story is that the Lieutenant Governor hadn't filed his tax returns. What do either one of those things have to do with the needs of the people of Kentucky? The next biggest story we're going to see is that Mr. Hopkins will set a new campaign record when President Bush comes to town to raise money for him, and what does that have to do with the needs of the people of Kentucky? I think we need to get realistic and start speaking to those needs, and the first way we can do it is to eliminate money as the driving force in every election that we have in Kentucky. I want your help with that, I hope you feel you can help.

I had one fellow in the transportation industry tell me "I can't be for your bill. The way I look at it, if I back the wrong guy I can buy my way back in." That's pretty cynical, and he's probably right, but that's not the way government should function. I want your help and I need your help. Thank you.