

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Stephen Morris at 10:35 a.m. on January 22, 2003, in Room 123-S of the Capitol.

All members were present except: Senator Dave Kerr - excused

Committee staff present:

Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Deb Hollon, Kansas Legislative Research Department
Audrey Nogle, Kansas Legislative Research Department
Robert Waller, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Assistant Revisor of Statutes
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Don Moler, Executive Director, League of Municipalities
Randall Allen, Executive Director, Kansas Association of Counties

Others attending: See attached list

Chairman Morris opened the public hearing on:

SB 30--Appropriations for FY 2003, supplemental appropriations for various state agencies

Chairman Morris mentioned that normally the supplemental bill is handled in the subcommittee process throughout the session, which is what will be done with the majority of the supplemental bill, and recommended that rather than doing the whole supplemental bill, pull out parts of it and address four items separately. Staff briefed the committee by request of the Chairman regarding the following items currently contained in **SB 30 (Attachment 1)**:

1. Eliminate remaining FY 2003 payments for demand/revenue transfers - \$48.0 million
2. Do not repay loan from Kansas Department of Transportation - \$94.6 million
3. Special revenue fund transfers - \$35.1 million
4. Supplemental funding for the Board of Indigents' Defense Services - \$1.3 million

Regarding Item Number 2, Chairman Morris mentioned that plans are to have the Kansas Department of Transportation come to a committee meeting regarding the status of the highway fund, how the loss of the demand transfers (FY 2002, FY 2003 and FY 2004) affects their operations of the highway plan and discuss other impact by the Governor's budget. Committee questions and discussion followed.

Senator Feleciano requested information from staff regarding Item Number 1 for a spreadsheet relating to demand transfers to local units of government going back five years including these actions, reflect the actions of the expenditures that should have gone back to the local units of government and the affect of the Governor's proposal.

CONTINUATION SHEET

Senator Salmans requested information from staff regarding other things that may have offset eliminating the remaining FY 2003 payments for demand/revenue transfers with local units of government and if there are additional funds they have actually received through other revenue sources.

Senator Schodorf moved, with a second by Senator Bunten, to recommend SB 30 be amended by substituting a new bill to be designated as Senate Substitute for SB 30 to include elimination of the remaining FY 2003 payments for demand/revenue transfers, not repay the loan from the Kansas Department of Transportation, special revenue fund transfers and supplemental funding for the Board of Indigents' Defense Services. Motion carried on a voice vote.

Don Moler, Executive Director, League of Kansas Municipalities, spoke in opposition to **Senate Substitute for SB 30** (Attachment 2). Mr. Moler expressed concern that the legislature allow the legal process to work and allow the Supreme Court of the State of Kansas to rule in this area in regard to current litigation. He noted that there are separation of powers issues involved and urged letting the court determine whether the Governor can reduce demand transfers pursuant to the allotment process when that is in direct contradiction to the process that the Legislature has established for reducing demand transfers.

Randall Allen, Executive Director, Kansas Association of Counties, spoke in opposition to **Senate Substitute for SB 30** (Attachment 3). Mr. Allen expressed concern with the issue of timing, the legislative affirmation of the Governor's reductions in demand transfers through **SB 30** could potentially render the legal questions before the Supreme Court moot, and delay closure on the issue. He noted that the separation of powers issues and its relation to the ability of locally elected officials to know which revenues are solid and which revenue streams are less certain are their central concerns.

Committee questions and discussion followed. The Chairman closed the public hearing on **Senate Substitute for SB 30**.

Copies were distributed to the committee from the Kansas District Judges' Association regarding support for the current year supplemental funding for the Board of Indigents' Defense Services (Attachment 4).

Senator Feleciano moved, with a second by Senator Barone, to introduce a bill to include the remainder of the contents of SB 30. Motion carried on a voice vote.

Bill Introductions

Senator Adkins moved, with a second by Senator Schodorf, to introduce a bill concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; death and disability benefits (3rs0268). Motion carried on a voice vote.

Senator Jordan moved, with a second by Senator Jackson, to introduce a bill concerning crimes, criminal procedure and punishment; relating to aid to indigent defendants; application fee (3rs0270). Motion carried by a voice vote. Motion carried on a voice vote.

Senator Salmans moved, with a second by Senator Jackson, to introduce a bill concerning technical corrections regarding the emergency medical services board; related to financial support therefor (3rs0088). Motion carried on a voice vote.

Senator Downey moved, with a second by Senator Schodorf, to introduce a bill concerning the Kansas pet animal act; relating to seizure and impoundment of animals (3rs0229). Motion carried on a voice vote.

The meeting adjourned at 11:40 a.m. The next meeting is scheduled for January 24, 2002.

**SENATE WAYS AND MEANS COMMITTEE
GUEST LIST**

DATE January 22, 2003

NAME	REPRESENTING
Becky Mann	Hein Law Firm
Kit Scalia	Bd of Judges' Welfare
Don Moler	LKM
Randall Allen	Ks. Assoc. of Counties
Robert Haley	KDOT
Bill Watts	KDOT
Wendy Johnson	KAPA
Woody Moss	KRMCA
Stuart Little	Little Gov. Relations
Melissa Bunn	—
Diane Gjerstad	Wichita Public Schools
Tim Aiken	USD 260 (Derby) BOE
Don Adkisson	USD 260 DERBY
Lindy D'Ercole	Kansas Action for Children
Katharine Williams	Partnership for Children
Cady Kaber	KAAA
Josie Torres	KACIL
Gina McDonald	KACIL
Tony Folsom	BOTA
Jacque Debes	SQE
Andy Sanchez	KAPE
Carole Jordan	KDA

ITEMS TO BE ADDRESSED IN EMERGENCY SUPPLEMENTAL BILL**1. Eliminate Remaining FY 2003 Payments for Demand/Revenue Transfers - \$48.0 million**

Local Ad Valorem Tax Reduction Fund (LAVTRF). The LAVTRF is distributed by the state to local units of governments for property tax relief. The distribution of local ad valorem aid is made on January 15 and July 15 of each fiscal year to county governments for distribution under the statute. The amount distributed equals 3.6 percent of the total sales and compensating use taxes credited to the State General Fund in the prior calendar year, based on a formula allocating 65 percent to the counties by population and 35 percent by property valuation. In recent years, the Legislature has restricted the annual growth in payments from the fund. The 2002 Legislature authorized FY 2003 payments totaling \$52.5 million. *As part of the November allotments, the Governor recommended eliminating the January 15 distribution, reducing the total FY 2003 distribution by \$26,246,722.*

County and City Revenue Sharing Fund (CCRSF). The CCRSF is distributed by the state to local units of governments for property tax relief. By statute, the distribution of county and city revenue sharing aid is made on July 15 and December 10 of each fiscal year in an amount equal to 2.8 percent of the total credited to the State General Fund in the prior calendar year from sales and compensating use taxes. The formula allocates 65 percent among the counties by population and 35 percent by equalized assessed tangible property valuation. Each county receives 50 percent of its entitlement and the remaining 50 percent is distributed to its cities on the basis of population. In recent years, the Legislature has restricted the annual growth in payments from the fund. The 2002 Legislature authorized FY 2003 payments totaling \$33.5 million. *As part of the November allotments, the Governor recommended eliminating the December 10 distribution, reducing the total FY 2003 distribution by \$16,740,646.*

Special City and County Highway Fund (SCCHF). This fund was established in 1979 to prevent the deterioration of city streets and county roads. By statute, on January 15 and July 15 of each fiscal year this fund is to receive an amount equal to the state property tax levied on motor carriers (semi-tractors and trailers, etc.). In recent years, the Legislature has restricted the annual growth in transfers to the fund. The 2002 Legislature authorized FY 2003 payments totaling \$10.1 million. *As part of the November allotments, the Governor recommended eliminating the January 15 transfer, reducing the total FY 2003 transfer by \$5,031,822.*

2. Do Not Repay Loan from Kansas Department of Transportation - \$94.6 million

The 2002 Legislature took a number of steps in an attempt to provide a positive State General Fund ending balance at the end of FY 2002. Among them was a transfer of \$94.6 million from the State Highway Fund to the State General Fund. The 2002 Omnibus appropriations bill also included a provision requiring a transfer of the same amount from the State General Fund back to the State Highway Fund on June 30, 2003. As part of the November allotments, the Governor recommended elimination of the repayment of the loan.

Senate Ways and Means
1-22-03
Attachment 1

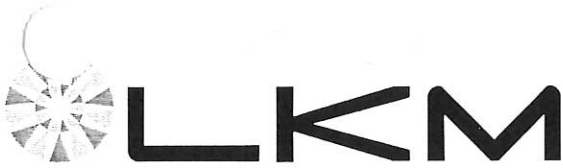
3. Special Revenue Fund Transfers - \$35.1 million

In November 2002, as part of his plan for elimination of the FY 2003 State General Fund deficit, Governor Graves recommended a number of transfers from special revenue funds to the State General Fund. Those transfers were estimated to result in increased revenue totaling \$35.1 million to the State General Fund. The recommended transfers are:

- Transfer the ending balance in the *Kansas Endowment for Youth (KEY) Fund* - \$14,400,000;
- Transfer the remaining balance in the *Senior Services Trust Fund* - \$8,300,000;
- Transfer of the uncommitted balance of the *Long Term Care Loan and Grant Fund* - \$7,416,587;
- Transfer funding from the *Workers' Compensation Fund* of the Kansas Insurance Department - \$4,000,000; and
- Transfer funding from the *Waste Tire Management Fund* of the Kansas Department of Health and Environment - \$1,000,000

4. Supplemental Funding for the Board of Indigents' Defense Services - \$1.3 million

The Governor recommends an additional \$1,252,934 from the State General Fund to address budget shortfalls in the agency. The recommendation includes \$702,934 for the Assigned Counsel Program and \$550,000 for the Death Penalty Defense Unit. The agency requested \$1,244,000 for the Assigned Counsel Program, \$550,000 for the Death Penalty Defense Unit, and \$180,000 for Legal Services for Prisoners. The additional funding is designed to avoid a delay in payments to attorneys and expert witnesses.



League of Kansas Municipalities

To: Senate Ways and Means Committee
From: Don Moler, Executive Director
Re: Opposition to Portions of SB 30
Date: January 22, 2003

First of all, thank you for allowing the League to appear today in opposition to three specific sections of SB 30. The sections we are opposing are Sections 40, 41, and 42. These sections eliminate the second half of the FY 2003 Demand Transfers to local governments which amounts to a \$48 million loss of revenue which cities and counties are unable to replace in the current budget year.

As I am sure you are all aware, these are the Demand Transfers which were stopped by Governor Graves last year as part of the allotment process. There is currently a lawsuit pending which involves the League of Kansas Municipalities, the Kansas Association of Counties, and a number of individual cities and counties. We believe that a very, very important legal issue is presented by this case and that there is no reason for the legislature to take action at this time. We urge the legislature to allow the legal process to work and to allow the Supreme Court of the State of Kansas to rule in this area.

Ultimately, this lawsuit focuses on the powers of the Governor and the ability of the Governor to modify legislative action. We are very concerned that this legislation would short circuit the litigation thus not allowing for a determination by the Kansas Supreme Court of the legality of the Governor's actions. This has potential ramifications not only for cities and counties, but also for others who are subject to appropriations of the legislature which may then be impacted adversely by a decision of a Kansas Governor in years to come. There are also very serious separation of powers issues involved in this litigation. As a result, we would urge the Committee to remove the changes to Sections 40, 41, and 42 which will allow the litigation to run its course and the court to determine whether the Governor can reduce demand transfers pursuant to the allotment process, when that is in direct contradiction to the process that the Legislature has established for reducing demand transfers. Thank you for allowing the League to appear today on this very important subject.



KANSAS
ASSOCIATION OF
COUNTIES

Testimony concerning SB 30
Senate Ways and Means Committee
January 22, 2003
Presented by Randall Allen, Executive Director
Kansas Association of Counties

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to present testimony on Senate Bill 30.

I am here today to specifically address Sections 40, 41, and 42 of SB 30, relating to the three demand or revenue transfers to local government. As much as we object to the policy implications of shifting up to \$48 million to the local property tax, I am not here to address the fiscal policy issue. Rather, I am here to express a concern about the timing of SB 30, and its effect on bringing some clarity to the separation of powers question that is the crux of our legal action against various state officials.

Clearly, the Legislature has the right to authorize or not authorize transfers of revenue from the State General Fund to units of local government. That is unquestionable, and we do not question your role in this regard. As demonstrated by our legal action in December, *we do question* the extent of the Governor's authority to change or abolish the transfers after the Legislature has taken its action. If the Supreme Court rules on our action, clarity on this legal point can be used by local government budgeters for years to come. As such, the concern I bring today is one of *timing*, i.e. that legislative affirmation of Governor Graves' reductions in demand transfers through SB 30 could potentially render the legal action before the Supreme Court moot, and delay closure on this important issue. The separation of powers question and its relation to the ability of locally elected officials to know which revenues are solid and which revenue streams are less certain are our central concerns today.

Thank you for the work you do and for your time in listening to my comments.

6206 SW 9th Terrace
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785•272•2585
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The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

Senate Ways and Means
1-22-03
Attachment 3



The Kansas District Judges' Association



January 22, 2003

Senator Morris, Chair
Senate Ways and Means Committee
Statehouse, Room 123-S
Topeka, Kansas 66612

Dear Senator Morris and Senate Ways and Means Members:

On behalf of the Kansas District Judges Association Executive Board, I am writing to convey the board's support for current year supplemental funding for the Board of Indigents' Defense Services. At our board meeting yesterday, we discussed the statewide impact of the board's impending inability to pay assigned counsel and other costs in indigent cases.

Although some delays in payments have been inherent in these types of cases in the past, this is the most significant delay we have experienced in recent years. Many attorneys simply cannot absorb the costs of office overhead, insurance, support staff, and other costs for five months without at least some payment for their services. As a result, some attorneys we have come to rely upon to provide representation in indigent felony cases may find themselves in the position of not being able to accept these appointments. Expert witness fees present a similar issue. It is sometimes difficult to find appropriate expert witnesses under the best of circumstances, but finding appropriate expert witnesses who know they will not be paid for five months results in an even more difficult situation.

As judges, we are placed in the position of having to appoint counsel when there are no area attorneys willing to accept the appointments. This can result in speedy trial issues, and ultimately may result in the dismissal of some cases.

We are mindful of the difficult fiscal situation you face as legislators, and know that both the current fiscal year and FY 2004 present many troubling issues for you. While we do not mean to add to your difficulties, we felt that some discussion of the consequences of not providing this funding was warranted.

Thank you for your consideration of this issue.

Sincerely,

Hon. Larry F. Solomon
Kansas District Judges Association President

*Senate Ways and Means
1-22-03
Attachment 4*