

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 9:00 A.M. on February 7, 2008, in Room 514-S of the Capitol.

All members were present except:

- Representative Doug Gatewood - excused
- Representative Ty Masterson - excused
- Representative Kay Wolf - excused

Committee staff present:

- Alan Conroy, Legislative Research Department
- J. G. Scott, Legislative Research Department
- Reed Holwegner, Legislative Research Department
- Cody Gorges, Legislative Research Department
- Heather O'Hara, Legislative Research Department
- Nobuko Folmsbee, Revisor of Statutes
- Shirley Jepson, Committee Assistant

Conferees appearing before the committee:

- Susan Duffy, Director, Kansas Corporation Commission
- Michael Hoeme, Transportation Director, Kansas Corporation Commission

Others attending:

See attached list.

- Attachment 1 Testimony on Trucking Regulations by Kansas Corporation Commission
- Attachment 2 Budget Preparation Guidelines
- Attachment 3 State General Fund Receipts, July through January, FY 2008
- Attachment 4 Response regarding Master Settlement Agreement from Office of Attorney General

Introduction of Legislation

Representative Powell moved to introduce legislation regarding emergency power of local units of government. The motion was seconded by Representative Holmes. Motion carried.

Representative Holmes moved to introduce legislation regarding regulatory certainty in all agencies who have regulatory authority. The motion was seconded by Representative Tafanelli. Motion carried.

Federal Trucking Regulations

Susan Duffy, Director, Kansas Corporation Commission and Michael Hoeme, Transportation Director, Kansas Corporation Commission (KCC), presented testimony regarding the adoption of federal interstate trucking regulations that concern agriculture (Attachment 1). Ms. Duffy explained that the Commission was contacted in early summer of 2007 with regard to enforcement of the federal interstate regulations - regulations that have been in place since the 1930's. Ms. Duffy noted that the federal regulations have not been enforced with regard to the agricultural community.

Ms. Duffy stated that the Commission will continue to focus on working with the trucking industry. At the same time, the Commission will work with the agricultural community to educate farmers and ranchers on the federal interstate trucking regulations. Ms. Duffy noted that there is a lot of confusion across the state with regard to the federal interstate regulations and how they relate to farm trucks transporting grain, cattle, hay, anhydrous ammonia and diesel fuel. Ms. Duffy indicated that no tickets for non-compliance are being given at this time because the Commission places emphasis on education.

Mr. Hoeme noted that the Federal Motor Carrier Safety Administration (FMCSA) has jurisdiction over the transportation of hazardous materials, including anhydrous ammonia and diesel fuel, either

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on February 7, 2008, in Room 514-S of the Capitol.

intrastate or interstate.

Responding to questions from the Committee, Ms. Duffy stated that KCC is using the federal interpretation of the regulations. Ms. Duffy indicated that the Kansas Highway Patrol did a survey of the 50 states concerning the enforcement of the regulations. Of 33 states who responded to the survey, only 17 states are enforcing the regulations. Mr. Hoeme indicated that the Commission feels that there is very little expense or time involved for farmers and ranchers to comply with the regulations or find alternate methods to be in compliance with the regulations.

Responding to another question, Ms. Duffy stated that the educational programs for farmers have been postponed at the present time with the Commission being in a "wait and see" mode until additional information is received to avoid confusion with enforcement of the federal regulations.

Mr. Hoeme stated that 10 states are presently under investigation with regard to enforcement of the federal regulations. It is anticipated that some federal funding could be affected with non-compliance. With regard to the need for additional inspectors for the Commission, Ms. Duffy noted that KCC is a fee-funded agency and a request for additional funding is not anticipated at this time.

The Committee felt that enforcement of these regulations is a serious matter affecting the agricultural industry across the state.

Budget Preparation Guidelines

Budget preparation guidelines were presented to the Committee (Attachment 2). It is anticipated that these guidelines will be used by the Budget Committees as they prepare recommendations for full Committee action on state agency budgets.

Representative McLeland moved for adoption of the budget preparation guidelines. The motion was seconded by Representative Kelsey.

Representative Tapanelli moved to amend the budget preparation guidelines by striking the language "remove all" from the bullet point "Remove All Other State General Fund Enhancements" and insert language to give the Budget Committees the flexibility to shift funding from current programs to provide funding for the enhancements. The motion was seconded by Representative Powell. Motion carried.

Representative McLeland renewed the motion to adopt the budget preparation guidelines as amended. The motion was seconded by Representative Kelsey. Motion carried.

State General Fund (SGF) Receipts

Alan Conroy, Legislative Research Department, presented an update on State General Fund Receipts for the period July through January, FY 2008 (Attachment 3).

Response from Attorney General

A copy of correspondence received from the Office of the Attorney General clarifying testimony on the tobacco Master Settlement Agreement (MSA) was distributed to the Committee (Attachment 4).

Referral of Bills

HB 2671, HB 2685, HB 2716 and HB 2761 were referred to the Social Services Budget Committee.

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee will be held at 9:00 a.m. on Monday, February 11, 2008.


Sharon Schwartz, Chair



Kansas Corporation Commission - Transportation Division

Interstate Guidelines for the Kansas Farm Vehicle Driver Transporting Anhydrous Ammonia

The Federal Motor Carrier Safety Administration (FMCSA) has jurisdiction over Commercial Drivers License (CDL), Substance & Alcohol Testing and Hazardous Materials in intrastate and interstate commerce.

A farm vehicle driver that transports placardable amounts of hazardous materials is subject to the FMCSA hazardous materials regulations and the Pipeline and Hazardous Materials Safety Administration (PHMSA) hazardous materials.

- Farmers pulling Nurse Tanks transporting anhydrous ammonia within the state are exempted by state law from safety regulations such as lights and brakes.
 - Farmers are exempt from writing a Security Plan if the farm earns less than \$500,000 annually in gross receipts from the sale of agricultural commodities or products;
 - Farmers are exempt from the Pipeline Hazardous Materials Safety Administration (PHMSA) registration;
 - Farmers are exempt from the HM Safety Permit while transporting Class 2 & 3 materials such as anhydrous ammonia and diesel fuel as long as the tanks capacity is less than 3,500 gallons.

Federal Motor Carrier Safety Regulations (FMCSA) defines a **farm vehicle driver** as a person who drives a commercial motor vehicle that is:

- Controlled and operated by a farmer as a private motor carrier of property;
- Being used to transport either agricultural products, or farm machinery, farm supplies, or both to or from a farm;
- Not being used in the operation of a for-hire motor carrier;
- Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded;
- Being used within 150 miles of the farm.

Farm vehicle drivers in intrastate or interstate commerce are subject to all the applicable state and federal safety and hazardous materials regulations listed on the reverse side:

HOUSE APPROPRIATIONS

DATE 2-07-2008
ATTACHMENT 1

Check List for Farm Operations

- ✓ **Are you subject to Federal Motor Carrier Safety Regulations?**
- ✓ **Do you operate a Commercial Motor Vehicle (CMV) in interstate commerce?**
- ✓ **To learn more visit www.FMCSA.dot.gov**

Yes, subject to DOT number and legal name of farm on both sides of vehicle
Yes, drivers of a comm... vehicle are required to have a physical exam every 2 years and carry a medical certificate; Farmers operating <u>within the 150 mile radius</u> of the farm are exempt from the following: 21 year age requirement, investigation into background and driving record, road test, maintenance files and records.
Yes, drivers are subject to substance and alcohol testing if they operate a Commercial Driver License (CDL) class vehicle in <u>intrastate</u> or <u>interstate</u> commerce in excess of 150 miles from the farm
Yes, subject to a CDL when operating in a CDL class vehicle in excess of 150 miles from the farm
Yes, subject to emergency equipment, use of seat belts and all applicable parts related to driving of commercial motor vehicles
Yes, subject to all parts and accessories necessary for safe operation
Yes, subject to log book and supporting documentation when operating beyond 100 air-miles (as the crow flies) from the farm in <u>interstate</u> commerce
Yes, subject to inspection of motor vehicles in operation, periodic inspections, and all applicable parts of inspection, repair and maintenance. Driver vehicle inspection reports are for multiple CMV operations only.
Yes, farmers must understand and comply with the HM Table, Shipping Papers, Marking, Labeling, Placarding, Emergency Response Information and Training. Drivers must have understanding the HM table; must have shipping papers accessible; and trained on product transport every three years.



Kansas Corporation Commission - Transportation Division

Interstate Guidelines for the Kansas Farm Vehicle Driver Transporting Diesel Fuel Intrastate

The Federal Motor Carrier Safety Administration (FMCSA) has jurisdiction over Commercial Drivers License (CDL), Substance & Alcohol Testing and Hazardous Materials in intrastate and interstate commerce.

A farm vehicle driver transporting placardable amounts of hazardous materials is subject to the FMCSA hazardous materials regulations.

The Federal Motor Carrier Safety Regulations (FMCSA) defines a **farm vehicle driver** as a person who drives a commercial motor vehicle that is:

- Controlled and operated by a farmer as a private motor carrier of property;
- Being used to transport either agricultural products, or farm machinery, farm supplies, or both to or from a farm;
- Not being used in the operation of a for-hire motor carrier;
- Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded;
- Being used within 150 miles of the farm.

According to Haz Mat (HM) regulations, an agricultural product other than a Class 2 material such as "diesel fuel" transported in quantities greater than 119 gallons but less than 502 gallons over local roads between fields of the same farm are exempt from the HM regulations. However, the driver no longer meets the definition of a farm vehicle driver because placarding is required, and therefore is subject to all the applicable safety regulations.

Farm vehicle drivers in intrastate or interstate commerce are subject to all the applicable state and federal safety and hazardous materials regulations listed on the reverse side:

Check List for Farm Operations

- ✓ **Are you subject to Federal Motor Carrier Safety Regulations?**
- ✓ **Do you operate a Commercial Motor Vehicle (CMV) in interstate commerce?**
- ✓ **To learn more visit www.FMCSA.dot.gov**

Straight Trucks	Combination Vehicle
Yes, subject to DOT number and legal name of farm on both sides of vehicle	
No, drivers that operate straight trucks are exempt from all driver qualification requirements	Yes, drivers must have a physical exam every 2 years and carry a medical certificate; Farmers operating <u>within the 150 mile radius</u> of the farm are exempt from the following: 21 year age requirement, investigation into background and driving record, road test, maintenance files and records.
Yes, drivers are subject to substance and alcohol testing if they operate a Commercial Driver License (CDL) class vehicle in <u>intrastate</u> or <u>interstate</u> commerce in excess of 150 miles from the farm	
Yes, subject to a CDL when operating a CDL sized vehicle in excess of 150 miles from the farm	
Yes, subject to emergency equipment, use of seat belts and all applicable parts related to driving of commercial motor vehicles	
Yes, subject to all parts and accessories necessary for safe operation	
Yes, subject to log book and supporting documentation when operating beyond 100 air-miles (as the crow flies) from the farm in <u>interstate</u> commerce	
Yes, subject to inspection of motor vehicles in operation, periodic inspections, and all applicable parts of inspection, repair and maintenance. Driver vehicle inspection reports are for multiple CMV operations only.	
<p>Yes, farmers transporting Diesel Fuel in quantities greater than 119 gallons but less than 502 gallons in direct support of their intrastate farm operations over local roads between fields of the same farm are not subject to the HM regulations, 107.601 PHMSA HM certificate or 385.403 Safety Permit.</p> <p>However, if you operate beyond the scope of local roads between fields of the same farm exception, you will be required to understand and comply with the Hazardous Material (HM) Table, Special Provisions, HM Communications, Shipping Papers, Marking, and Placarding before you operate.</p> <p>Additionally if your intrastate operations take you beyond 150 miles from the farm you will also be subject to Emergency Response Information and Training.</p>	

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Kansas Corporation Commission - Transportation Division

Interstate Guidelines for the Kansas Farm Vehicle Driver Transporting Grain, Cattle & Hay

The Federal Motor Carrier Safety Administration (FMCSA) has jurisdiction over Commercial Drivers License (CDL), Controlled Substance & Alcohol Testing and Hazardous Materials (HM) in intrastate and interstate commerce.

Kansas farmers operating Commercial Motor Vehicle's (CMV) "wholly in intrastate commerce" are exempt from federal safety regulations. An example:

1. Grain transported by the producer to the local elevator, feedlot, flour mill or ethanol plant that is processed or consumed in Kansas is considered intrastate commerce and meets the exemption.

Federal Law does not exempt:

1. A farmer that transports grain to an elevator that loads the grain onto railcars or trucks for out-of-state shipment. The FMCSA has determined that the first move, field to elevator, is the first leg of an interstate shipment.
2. Hay that is designated for out of state shipment. The FMCSA has determined that the first move, hay to market, is the first leg of an interstate shipment.
3. Cattle purchased from out-of-state or sold for out-of-state shipment. The FMCSA has determined that the first or last move of livestock, farm to market, is the first or last day leg of interstate commerce.

How does this ruling impact the local farmer?

For the purposes of the FMCSA Regulations, a **farm vehicle driver** means a person who drives a commercial motor vehicle that is:

- Controlled and operated by a farmer as a private motor carrier of property;
- Being used to transport either agricultural products, or farm machinery, farm supplies, or both to or from a farm;
- Not being used in the operation of a for-hire motor carrier;
- Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded;
- Being used within 150 miles of the farm.

Farm vehicle drivers in interstate commerce are subject to federal safety regulations listed on the reverse side:

Check List for Farm Operations

- ✓ **Are you subject to Federal Motor Carrier Safety Regulations?**
- ✓ **Do you operate a Commercial Motor Vehicle (CMV) in interstate commerce?**
- ✓ **To learn more visit www.FMCSA.dot.gov**

Straight Trucks	Combination Vehicle
Yes, subject to DOT number and legal name of farm on both sides of vehicle	
No, drivers that operate straight trucks are exempt from all driver qualification requirements	Yes, drivers must have a physical exam every 2 years and carry a medical certificate; Farmers operating <u>within the 150 mile radius</u> of the farm are exempt from the following: 21 year age requirement, investigation into background and driving record, road test, maintenance files and records.
Yes, drivers are subject to substance and alcohol testing if they operate a Commercial Driver License (CDL) class vehicle in <u>intrastate</u> or <u>interstate</u> commerce in excess of 150 miles from the farm	
Yes, subject to a CDL when operating a CDL sized vehicle in excess of 150 miles from the farm	
Yes, subject to emergency equipment, use of seat belts and all applicable parts related to driving of commercial motor vehicles	
Yes, subject to all parts and accessories necessary for safe operation	
Yes, subject to log book and supporting documentation when operating beyond 100 air-miles (as the crow flies) from the farm in <u>interstate</u> commerce	
Yes, subject to inspection of motor vehicles in operation, periodic inspections, and all applicable parts of inspection, repair and maintenance. Driver vehicle inspection reports are for multiple CMV operations only.	
Yes, farmers must understand and comply with the HM Table, Shipping Papers, Marking, Labeling, Placarding, Emergency Response Information and Training. Drivers must have understanding the HM table; must have shipping papers accessible; and trained on product transport every three years.	

Budget Preparation Guidelines

- The overall goal is for State General Fund expenditures to not increase more than **5.0 percent** in FY 2009 above the revised FY 2008 amount.
- **State Agency Budgets Must be Tight.** Given the uncertainty in the economy and the budget profile outlook for FY 2010 any new or expanded programs must be carefully reviewed and examined.
- **Fund Only the Required State General Fund Increases** - Fund only the **required** State General Fund increases in FY 2009. Those increases total \$235 million or a 3.8 percent increase in FY 2009:
 - School finance - \$179.1 million
 - Third year of the three-year school finance plan;
 - Consensus school finance estimates (enrollments, student weightings, etc.);
 - Special education (maintain at 92 percent of excess costs);
 - KPERs-School employer contribution rate increase.
 - SRS/Health Policy Authority/Aging caseload estimates - \$43.3 million
 - Consensus caseload estimates for entitlement programs.
 - KPERs bonds debt service increase - \$10 million
 - Pension obligation bonds - \$500 million.
 - KPERs employer contribution increase - state - \$14.9
 - Statutory increase of 0.6 percent of covered payroll.
 - Adjustment for FY 2008 one-time state employee bonus (\$860) - Savings of \$19.4 million
 - Removes from the base budget this one-time payment.
- **Remove All Other State General Fund Enhancements** - All FY 2009 State General Fund enhancements, except for the above required increases and the state pay plan, must be removed at this time. Once a

clearer picture develops on the state of the economy (April consensus revenue estimates) and perhaps expanded gaming (Supreme Court decision) we will have the opportunity to review this decision.

- **Remove Expanded Gaming Expenditures.** See the attached list. Expanded gaming funds can not be budgeted until a final court decision is made regarding the legality of the funds. If a Budget Committee wants to finance any of these items now, another source of funding must be identified. If State General Fund financing is utilized, a corresponding reduction in other State General Fund spending must be recommended.
- **Fund the State Employee Below Market Pay Adjustment** - Include the funding for the classified state employees below market pay adjustment as recommended by the Special Committee on the State Employee Pay Plan and the Governor.
- **Base Salary Adjustment for State Employees** - Include funding for a **1.5 percent base salary adjustment** for all employees, rather than the 2.5 percent that the Governor recommended.
- **Longevity Pay for Classified Employees** - Eliminate longevity pay for classified employees. The movement to a market pay compensation system along with annual base salary adjustments will shift the emphasis on state employee compensation to performance and away from a system that is just based on length of service.
- **Carefully Examine Any New State Debt** - The Governor recommends expansion of additional state debt:
 - \$96 million for a renovated State Docking Office Building;
 - \$37 million for Statehouse renovation and restoration;
 - \$50 million - KU School of Pharmacy expansion (although an additional \$100 million will come from federal and private funds).
- **State Vehicles** - It will be left to each Budget Committee to review and decide if the Governor's recommendation for new state vehicles should be approved or not. Review if the Governor's guidelines on vehicle replacements for your assigned agency's is appropriate and is being followed.

**EXPANDED LOTTERY ACT REVENUES FUND
FY 2008 and FY 2009**

<u>Agency/Program</u>	<u>Governor's Recommendation FY 2008</u>	<u>Governor's Recommendation FY 2009</u>
Department of Administration		
Statehouse Renovation Bonds (Debt)	\$ -	\$ 10,052,858 *
SGF KDOT Bonds (Debt)	-	16,148,175 *
Judicial Center Improvements (Debt)	-	101,170 *
Capitol Complex Maintenance	-	3,000,000
Docking Bldg. Renovation Planning	-	1,000,000
Subtotal - Administration	\$ -	\$ 30,302,203
Adjutant General		
Armory Renovation (Debt)	\$ -	\$ 2,226,807 *
Regional Training Center	-	4,000,000
Subtotal - Adjutant General	\$ -	\$ 6,226,807
Department of Commerce		
Bioenergy Research Program	\$ -	\$ 2,000,000
Department of Corrections		
Prison Capacity Expansion (Debt)	\$ -	\$ 3,679,303 *
Corrections Bonds CIBF Transfer (Debt)	-	1,689,697
Subtotal - Corrections	\$ -	\$ 5,369,000
Department of Wildlife and Parks		
Ongoing Parks Rehabilitation	\$ -	\$ 3,000,000
Disaster Damage & Green Space Development	-	1,500,000
Subtotal - Wildlife and Parks	\$ -	\$ 4,500,000
Kansas Bureau of Investigation		
Headquarters Acquisition (Debt)	\$ -	\$ 311,850 *
Site Planning and Property Acquisition	-	250,000
Subtotal - KBI	\$ -	\$ 561,850
Kansas Development Finance Authority		
Housing Trust Fund Transfer	\$ -	\$ 3,000,000
Kansas Public Employees Retirement System		
Retirement Benefits 13th Check Bonds (Debt)	\$ -	\$ 3,210,948 *
Kansas State Fair		
Master Plan (Debt)	\$ -	\$ 1,840,821 *
Kansas State Historical Society		
Historic Site Preservation and Development	\$ -	\$ 500,000
Board of Regents		
Regents Crumbling Classrooms EBF Transfer	\$ -	\$ 15,000,000
Technical Education Equipment Grant	-	2,500,000
Subtotal - Regents	\$ -	\$ 17,500,000
University of Kansas		
School of Pharmacy Expansion	\$ -	\$ 1,000,000
University of Kansas Medical Center		
Energy Conservation (Debt)	\$ -	\$ 908,000 *
Wichita State University		
Aviation Research (Debt)	\$ -	\$ 1,644,208 *
NAIR -- Aviation Infrastructure	-	2,500,000
Subtotal - State Conservation Commission	\$ -	\$ 4,144,208
Pittsburg State University		
Readiness Center (Debt)	\$ -	\$ 326,999 *
TOTAL TRANSFERS AND EXPENDITURES	\$ -	\$ 81,390,836
	Governor's Recommendation	Governor's Recommendation
	FY 2008	FY 2009
ELARF Resource Estimate		
Beginning Balance	\$ -	\$ 9,338,700
Gaming Revenues	9,338,700	72,432,320
Other Income**	-	-
Total Available	\$ 9,338,700	\$ 81,771,020
Less: Expenditures and Transfers	-	81,390,836
ENDING BALANCE	\$ 9,338,700	\$ 380,184

* Replaces State General Fund debt service totaling \$40,451,139 for all agencies.

** Other income includes interest, transfers, reimbursements and released encumbrances.

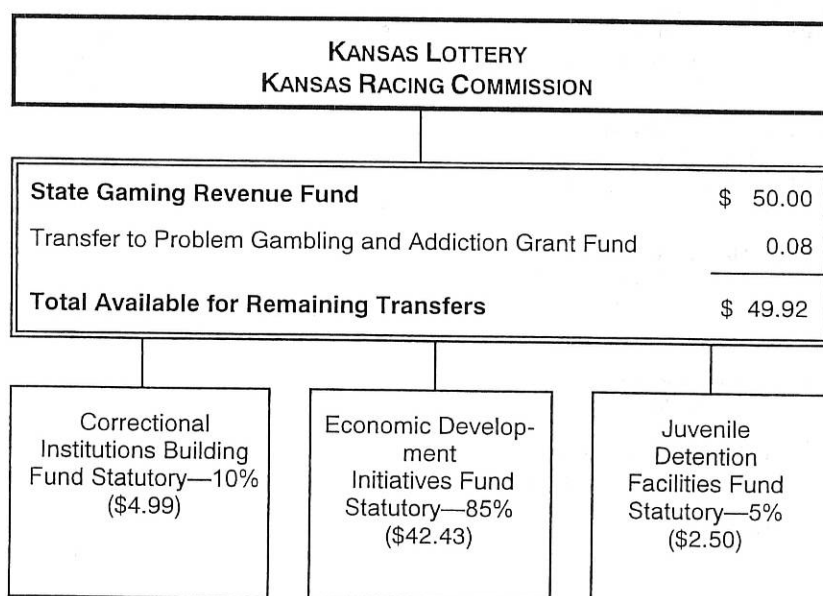
GAMING REVENUES

The Kansas Lottery historically has generated revenue for the state through the sales of lottery tickets and online games. With the passage of 2007 SB 66, the Kansas Lottery will begin transferring new revenue to the state that will be in addition to the traditional (or old) lottery money. The new lottery money will be generated by fees and gaming at race track and casino facilities authorized by 2007 SB 66. The two different funds associated with old and new lottery money are described below.

State Gaming Revenues Fund (SGRF) Overview

The statutes governing the SGRF provide that it shall be used to make transfers to the correctional institutions building fund (CIBF), the Juvenile Detention Facilities Fund (JDFF), and the State Economic Development Initiatives Fund (EDIF). The SGRF which was created by 1986 legislation which created the Kansas Lottery. A portion of state revenue from both the Lottery and parimutuel wagering is transferred to the SGRF. That fund is used essentially as a clearing fund from which further transfers are made on a monthly basis. No more than \$50.0 million may be credited to the SGRF in any fiscal year. Amounts in excess of \$50.0 million are credited to the State General Fund. The Governor estimates \$73.0 million in FY 2008 and \$74.0 million in FY 2009 will accrue to the State General Fund, in addition to the statutory transfers shown below.

State Gaming Revenues Fund Revenue Flow (In Millions)



Expanded Lottery Act Revenues Fund (ELARF) Overview

The statutes governing the ELARF provide that its funding shall be used for "...reduction of state debt, state infrastructure improvements, and reduction of local ad valorem tax..." Revenue to the fund is derived from the distribution of receipts from race track gaming facilities and lottery gaming facilities, and from one-time gaming machine privilege fees and one-time lottery gaming facility privilege fees. The ELARF was created by the 2007 legislation (SB 66).

For FY 2008, the Governor estimates privilege fees of \$4,417,500 for 1,767 gaming machines at two race track facilities will be transferred to the ELARF. For FY 2009, the Governor estimates privilege fees of \$30,500,000 for two casinos will be transferred to the ELARF. The Governor in making recommendations for FY 2008 and FY 2009 also estimates other receipts based on the distributions of gaming machines revenue from two race track facilities, including transfers to the ELARF, as follows:

Distribution of Gaming Machine Revenue	Statutory Percentage	Gov. Rec. FY 2008	Gov. Rec. FY 2009
Live Horse Racing Purse Supplement Fund	7.0%	\$ 861,210	\$ 5,792,890
Live Greyhound Racing Purse Supplement Fund	7.0%	861,210	5,792,890
Horse Fair Racing Benefit Fund	1.0%	123,030	1,015,430
Problem Gambling & Addiction Grant Fund (SRS)	2.0%	246,060	2,030,860
Local Units of Government	3.0%	369,090	3,046,290
Race Track Manager Fees & Expenses	40.0%	4,921,200	41,932,320
Transfer to Expanded Lottery Act Revenues Fund (State Share)	40.0%	4,921,200	41,932,320
Total Distribution	100.0%	\$ 12,305,008	\$ 101,545,009

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February 6, 2008

To: Legislative Budget Committee

STATE GENERAL FUND (SGF) RECEIPTS July through January, FY 2008

This is the third month of experience under the revised estimate of SGF receipts in FY 2008 made by the Consensus Estimating Group on November 5, 2007. The figures in both the "Estimate" and "Actual" columns under FY 2008 on the following table include actual amounts received in July-October. That means that this report deals mainly with the difference between estimated and actual receipts in November through January.

Total receipts through January of FY 2008 were \$12.4 million, or 0.4 percent, below the estimate. The component of SGF receipts from taxes only was \$14.8 million, or 0.4 percent, above the estimate. Total SGF taxes only, at the end of December, were \$20.3 million, or 0.7 percent, below the estimate. Total receipts at the end of December were \$27.6 million, or 1.1 percent, below the estimate.

Taxes that **exceeded** the estimate by more than \$1.0 million were retail sales (\$10.0 million, or 1.0 percent), corporation income (\$9.5 million, or 4.4 percent), motor carriers (\$4.2 million, or 28.1 percent), severance (\$2.4 million, or 3.3 percent), and insurance premiums (\$1.2 million, or 2.4 percent).

The tax sources that **fell below** the estimate by more than \$1.0 million were individual income (\$11.4 million, or 0.7 percent), corporate franchise (\$1.4 million, or 10.7 percent), and cigarette (\$1.1 million, or 1.6 percent)

Interest earnings exceeded the estimate by \$3.6 million. Net transfers were \$24.7 million less than expected and agency earnings were \$6.1 million less than expected. It should be noted that a transfer out of \$25.9 million related to the machinery and equipment "slider" to local units of government, which had been estimated to be made in February, actually took place in January. Agency earnings were below the estimate, largely related to less-than-anticipated net unclaimed property receipts.

Total SGF receipts through January of FY 2008 were \$115.2 million, or 3.6 percent, below FY 2007 receipts for the same period. But remember, in the current fiscal year there were two large transfers out of the State General Fund (Keeping Promises Education Trust Fund and the Statewide Maintenance and Disaster Relief Fund) that, in part, distort year-to-year comparisons. Tax receipts only for the same period exceeded FY 2007 by \$107.7 million, or 3.4 percent.

This report excludes the December 10, 2007 deposit to the SGF of \$350 million pursuant to issuance of a certificate of indebtedness. This certificate will be discharged in the next fiscal year.

HOUSE APPROPRIATIONS
DATE 2-07-2008
ATTACHMENT 3

STATE GENERAL FUND RECEIPTS
July - January, FY 2008
(dollar amounts in thousands)

	Actual FY 2007	Estimate*	FY 2008		Percent increase relative to:	
			Actual	Difference	FY 2007	Estimate
Property Tax:						
Motor Carriers	\$ 17,116	\$ 15,100	\$ 19,347	\$ 4,247	13.0%	28.1%
Income Taxes:						
Individual	\$ 1,446,174	\$ 1,579,000	\$ 1,567,572	\$ (11,428)	8.4%	(0.7)%
Corporation	223,308	218,600	228,131	9,531	2.2	4.4
Financial Inst.	14,851	20,600	20,970	370	41.2	1.8
Total	\$ 1,684,333	\$ 1,818,200	\$ 1,816,673	\$ (1,527)	7.9%	(0.1)%
Estate Tax	\$ 38,256	\$ 32,600	\$ 32,636	\$ 36	(14.7)%	0.1%
Excise Taxes:						
Retail Sales	\$ 1,054,090	\$ 1,010,000	\$ 1,020,032	\$ 10,032	(3.2)%	1.0%
Comp. Use	168,461	162,000	161,025	(975)	(4.4)	(0.6)
Cigarette	68,328	67,500	66,412	(1,088)	(2.8)	(1.6)
Tobacco Prod.	3,064	3,190	3,262	72	6.5	2.3
Cereal Malt Bev.	1,258	1,310	1,348	38	7.2	2.9
Liquor Gallonage	10,189	10,450	10,524	74	3.3	0.7
Liquor Enforce.	26,649	29,000	29,693	693	11.4	2.4
Liquor Drink	4,851	5,025	5,125	100	5.7	2.0
Corp. Franchise	10,099	12,800	11,435	(1,365)	13.2	(10.7)
Severance	65,977	73,000	75,437	2,437	14.3	3.3
Gas	41,596	45,500	46,488	988	11.8	2.2
Oil	24,381	27,500	28,950	1,450	18.7	5.3
Total	\$ 1,412,966	\$ 1,374,275	\$ 1,384,295	\$ 10,020	(2.0)%	0.7%
Other Taxes:						
Insurance Prem.	\$ 43,966	\$ 50,450	\$ 51,665	\$ 1,215	17.5%	2.4%
Miscellaneous	2,926	1,900	2,676	776	(8.6)	40.8
Total	\$ 46,892	\$ 52,350	\$ 54,340	\$ 1,990	15.9%	3.8%
Total Taxes	\$ 3,199,563	\$ 3,292,525	\$ 3,307,292	\$ 14,767	3.4%	0.4%
Other Revenue:						
Interest	\$ 51,512	\$ 68,000	\$ 71,625	\$ 3,625	39.0%	5.3%
Transfers (net)	(103,733)	(311,750)	(336,432)	(24,682)	224.3	--
Agency Earnings and Misc.	46,141	41,900	35,811	(6,089)	(22.4)	(14.5)
Total	\$ (6,080)	\$ (201,850)	\$ (228,996)	\$ (27,146)	--	13.4%
TOTAL RECEIPTS	\$ 3,193,484	\$ 3,090,675	\$ 3,078,295	\$ (12,380)	(3.6)%	(0.4)%

* Consensus estimate as of November 5, 2007.

Excludes \$350 million to the State General Fund due to issuance of a Certificate of Indebtedness.

NOTES: Details may not add to totals due to rounding.



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February 5, 2008

Representative Sharon Schwartz
Chair, House Appropriations Committee
517-S, Statehouse
Topeka, KS 66612

RE: Strategic Contribution Calculation

Dear Representative Schwartz:

On January 31, 2008 I testified, on behalf of the Attorney General's office, before the House Appropriations Committee regarding the status of the tobacco Master Settlement Agreement. As a part of my testimony I indicated that we estimate the state will receive an additional \$15.4 million per year for 2008 through 2017 for our portion of the Strategic Contribution Fund. Following my comments I was asked why the Governor had only budgeted for the receipt of \$8 million per year.

The estimate we previously provided to the Governor's office was based on the information provided at that time by the National Association of Attorneys General ("NAAG") tobacco project and our understanding of how the calculation would be made. We subsequently received clarification from NAAG regarding how the dollars would be allocated and revised our estimate to \$15.4 million. However, we were also advised that this amount will be subject to withholding by the manufacturers in the same manner as applied to the state's base payment, which will reduce the amount the state will actually receive. We estimate the withholding could be as much as \$7 million, which could result in an actual payment of around \$8 million.

I apologize for the confusion created by my comments and hope this information is helpful to the Committee. Please contact me if you have questions.

Sincerely,

Linda J. Sheppard
Deputy Attorney General
Consumer Protection Division

HOUSE APPROPRIATIONS

DATE 2-07-2008
ATTACHMENT 4