

MINUTES OF THE SENATE WAYS AND MEANS

The meeting was called to order by Chairman Jay Emler at 10:30 a.m. on January 16, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Alan Conroy, Kansas Legislative Research Department
J.G. Scott, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Estelle Montgomery, Kansas Legislative Research Department
Christina Butler, Kansas Legislative Research Department
Reagan Cussimano, Kansas Legislative Research Department
Dylan Dear, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Cody Gorges, Kansas Legislative Research Department
Aaron Klaassen, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Jonathan Tang, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Melinda Gaul, Chief of Staff
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Approval of Minutes

Senator Schodorf moved to approve the minutes of January 14th as written. The motion was seconded by Senator Masterson. Motion carried on voice vote.

Discussion and Action on SB 23 - Supplemental, appropriations for FY2009 for various state agencies.

Written testimony from Charles L. Wheelen, Health Care Stabilization Fund, was provided as a follow-up to his testimony during the hearing on **SB 23** (Attachment 1).

J. G. Scott, Legislative Research Department, provided an overview of the FY 2009 Governor's Budget Recommendation's Selected Decision Points (Attachment 2); listing of all Transfers Out in FY 2009 in Fee-Funded Agencies as recommended by the Governor (Attachment 3); and a listing of Agencies' Approved Budget for FY 2009, FY 2009 Revised Budgets and Percent Change (Attachment 4).

Jill Wolters, Office of Revisor of Statutes, explained differences between **SB 23** and the information presented.

State General Fund Revenue and Transfer Adjustments for FY 2009

- 1. Stop Highway Fund Loan Repayment (\$30.9 million)** – The 2002 Legislature borrowed funds from the State Highway Fund and transferred to the State General Fund (SGF). Partial repayments were made in FY 2007 and FY 2008. The GBR would stop any further repayments.

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Ethan Erickson, Budget Officer, Kansas Department of Transportation (KDOT), explained that projects on K-61, US-169 and US-50 were delayed in December 2008; however, KDOT has determined that loan payment reductions can be made, as well as the possibility of a federal stimulus package and has now determined that work can proceed. If the federal funds are not forthcoming, other projects will need to be delayed. The Committee expressed a concern that delay in loan payments will result in increased interest on the bonds and felt the Legislature's commitment to repay the loan should be fulfilled.

Senator Schordorf made a motion to adopt the GBR for FY 2009 to stop the Highway Fund Loan Repayment. The motion was seconded by Senator Masterson.

Senator Teichman made a substitute motion to adopt the GBR for FY 2009 to stop the Highway Fund Loan Repayment and add language to revisit the issue in FY 2011 with a commitment that repayment will be made as funds become available. The motion was seconded by Senator Lee. Motion carried on a voice vote. Senator Vratil requested to be recorded as voting "no".

- 2. Stop Other Fund Loan Repayments to the (a) Underground Petroleum Storage Tank Release Trust Fund (\$2.8) and (b) the Worker's compensation Fund (\$1.0)** – Two repayments of these loans have been made to each of these funds. The Underground Petroleum Storage Tank Release Trust Fund is funded with a 1-cent tax on gasoline. It was noted that there is an excess balance in the Worker's Compensation Fund.

Senator Taddiken moved to not adopt the GBR. The motion was seconded by Senator Vratil.

The Committee requested that the question be divided. In addition, the Committee requested the current balance in the Underground Petroleum Storage Tank Release Trust Fund.

Senator McGinn made a substitute motion to not address Item (a) of the GBR until more information is available and adopt Item (b) of the GBR to stop the loan repayment of \$1.0 million to the Worker's Compensation Fund. The motion was seconded by Senator Schordorf. The motion carried on a voice vote. Senators Taddiken and Vratil requested to be recorded as voting "no".

Bill Mondt, Department of Health and Environment (KDHE), responded to Committee questions with regard to the Underground Petroleum Storage Tank Release Trust Fund. Mr. Mondt reported a current balance in the fund of \$4.7 million, with \$15 million in encumbrances. Mr. Mondt reported that there is not a need to start all of the encumbered projects, noting that they are worked as funding becomes available. The gasoline tax of 1 cent is applied when the low balance in the fund reaches \$2 million and stopped when the balance in the fund reaches \$5 million. The gasoline tax is not currently applied.

Senator Taddiken moved to not adopt the GBR on Item (a) to stop the loan repayment to the Underground Petroleum Storage Tank Release Trust Fund. The motion was seconded by Senator Vratil. Motion carried.

Senator Lee made a substitute motion to adopt the GBR on Item (a) to stop the loan repayment to the Underground Petroleum Storage Tank Release Trust Fund and review in FY 2011. The motion was seconded by Senator Kelly. Motion failed on a 5-7 vote.

- 3. (a) Reduce non-SGF Agencies and (b) Transfer Balances (\$2.2 million)** – This reduction to non-

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SGF agencies is the equivalent of the Governor's request to reduce all SGF agencies budgets by 3 percent and transfer the balances to the SGF. The Committee expressed a concern with cash flow for the fee-funded agencies.

Senator Taddiken moved to not adopt the GBR. The motion was seconded by Senator Vratil.

The Committee requested that the question be divided.

Senator Lee made a substitute motion to adopt the GBR in Item "a" to reduce non-SGF agencies budgets by 3 percent. The motion was seconded by Senator Kultala. Motion carried on a voice vote.

Senator Taddiken moved to not adopt the GRB in Item "b" of transferring the balance of \$2.2 million to the SGF. The motion was seconded by Senator Schmidt. Motion carried on a 7-4 vote.

4. **End Kansas Savings Incentive Program (KSIP) and Transfer Balances (\$4.2 million)** – The program was created in 1998 to produce efficiencies in government and eliminate year-end spending of fund balances.

Senator Vratil moved to not adopt the GBR to end KSIP and transfer balances. The motion was seconded by Senator McGinn.

Senator Lee made a substitute motion to suspend the KSIP program and transfer the balances of \$4.2 million with further review on the KSIP program in FY 2011. The motion was seconded by Senator Kelly. Motion carried on a 7-6 vote.

5. **Transfer Other Special Revenue Balances (\$29.0 million)** – Addresses a special one-time sweep of fee funds.

Senator Schmidt moved to not adopt the GBR to Transfer Other Special Revenue Balances. The motion was seconded by Senator McGinn. Motion failed on a 5-6 vote.

Duane Goossen, Director, Division of the Budget, reported that some of the sweeps of certain fee funds are done on a normal basis when there appears to be excessive funds in the fund balances and not needed to cover normal operating expenses.

Senator Vratil made a substitute motion to not adopt the GBR except for the special one-time sweep of funds from the Adjutant General Expense Fund Hazardous Mitigation; Adjutant General Nat'l Guard Life Ins Prem Reimb Payment Fund; Attorney General Interstate Water Litigation Fund; Attorney General Medicaid Fraud Prosecution Revolving Fund; Osawatomie State Hospital Patient Fees Fund; Department on Aging Long Term Care Loan and Grant Fund; and Kansas Corporation Commission KETA Development Fund. The motion was seconded by Senator Masterson. Motion failed on a 5-7 vote.

Senator Lee made a substitute motion to adopt the GBR on Transfer Other Special Revenue Balances of \$29 million. The motion was seconded Senator Kelly. Motion failed on a 5-6 vote.

Senator Schmidt moved to not accept the GBR except for the special one-time sweep of funds from the Adjutant General Expense Fund Hazardous Mitigation; Adjutant General Nat'l Guard Life Ins Prem Reimb Payment Fund; Attorney General Interstate Water Litigation Fund; Attorney General

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Medicaid Fraud Prosecution Revolving Fund; Osawatomie State Hospital Patient Fees Fund; Department on Aging Long Term Care Loan and Grant Fund; and Kansas Corporation Commission KETA Development Fund for a total of \$7.6 million. The motion was seconded by Senator Wysong. Motion carried on a 6-4 vote.

Senator Schmidt requested to withdraw the motion; second did not approve.

Senator Kultala made a substitute motion to adopt the GBR of \$29 million. The motion was seconded by Senator Lee. Motion failed on a 5-6 vote.

6. **Transfer Unallocated Gaming Revenue (\$300 KPERs Post-Retirement Benefit) (\$-1.6 million).** Funding for payment of the \$300 KPERs Post-Retirement Benefit, as approved by the 2008 Legislature, was to be paid from Gaming Revenues. The Gaming Revenues were not sufficient to cover the total expense of the benefit. This GBR proposed transfer from the SGF would offset the shortfall.

Senator Lee moved to adopt the GBR to transfer unallocated Gaming Revenue (\$300 KPERs Post-Retirement Benefit) of \$1.6 million from the SGF. The motion was seconded by Senator Kelly. Motion carried on a voice vote.

7. **Limit Bioscience authority Transfer to \$35.0 million from \$47.0 million (\$12.0 million).**

Senator Vratil moved to accept the GBR on Limiting Bioscience Authority transfer to \$35.0 million from \$47.0 million. The motion was seconded by Senator Lee. Motion carried on a 7-4 vote.

Senator Taddiken made a substitute motion to not accept the GBR on Limiting Bioscience Authority transfer to \$35.0 million from \$47.0 million. The motion was seconded by Senator Wysong. Motion failed on a 4-7 vote.

8. **Suspend Transfers to Special City County Highway Fund (\$10.0), State Water Plan Fund (\$6.0), Health Care Stabilization Fund (\$3.0).**

Senator Schmidt moved to reject the GBR on the Health Care Stabilization Fund of \$3.0 million. The motion was seconded by Senator Vratil. Motion carried on a voice vote.

Senator Lee moved to accept the GBR on the Special City County Highway Fund and State Water Plan Fund for a total of \$16.1 million. The motion was seconded by Senator Schordorf. Motion withdrawn.

Secretary Goossen stated the GBR would drop the transfer to the cities and counties of the Special City County Highway Fund from approximately \$155 million to \$145 million. The Committee noted that this reduction could cause an increase in county property taxes to maintain their current level of service.

Senator Vratil made a motion to not accept the GBR on the Special City County Highway Fund for \$10.1 million. The motion was seconded by Senator Taddiken. Motion carried on a voice vote.

Senator Taddiken made a motion to not accept the GBR on the State Water Plan Fund of \$6.0 million. The motion was seconded by Senator Vratil. Motion carried on a voice vote.

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Summary of Committee Actions on Revenue and Transfer Adjustments

Audrey Dunkel, Legislative Research Department, reported that Committee action has reduced the GBR of \$99.6 million by \$45.9, for a total Committee approved adjustments of \$54.1 million.

Expenditure Adjustments

9. **Operating Budget Reductions (Governor's 3.0 Percent Excluding K-12 and Social Service Caseload) (\$38.8 million)** - Reflects the Governor's request to reduce agency budgets by 3 percent.

Senator Vratil moved to accept the GBR on Operating Budget Reductions of \$38.8 million. The motion was seconded by Senator Masterson. Motion carried.

10. **Regents System Reductions (Governor's 3.0 Percent Excluding K-12 and Social Service Caseload) (\$24.6 million)** - Reflects the Governor's request to reduce budgets by 3.0 percent.

Senator Vratil moved to accept the GBR on Regents System Reductions of \$24.6 million. The motion was seconded by Senator Kelly.

Senator Lee made a substitute motion to accept the GBR on the Regents System Reductions except to reinstate the funding for the Kansas Academy of Math and Science (KAMS) program at Fort Hays State University. The motion was seconded by Senator Teichman. Motion carried.

11. **Debt Restructuring (\$14.0 million)** - Interest only will be paid on the first two years of the debt restructuring and will stretch the principle over additional years.

Duane Goossen stated the GBR would take the savings from the restructuring of bonds for the Department of Administration (\$11.9 million, mainly the Comprehensive Transportation Plan), Pittsburg State University (\$160,000), Department of Corrections (\$40,000), State Fair (\$400,000), and Adjutant General (\$1.2 million). The Secretary noted that debt restructuring is done routinely with more restructuring anticipated to be done in FY 2010. Mr. Goossen indicated that current restructuring is in process with decisions to be made on February 12, 2009. The Committee expressed concern with the process of debt restructuring and proposed that legislation could be entered to address the issue.

Senator Teichman moved to accept the GBR on debt restructuring. The motion was seconded by Senator Schordorf. Motion carried.

Senator Taddiken made a substitute motion to reject the GBR on Debt Restructuring and add a proviso to stop debt restructuring. The motion was seconded by Senator Wysong.

After discussion, Senator Taddiken amended the substitute motion and removed language pertaining to the proviso.

Senator Taddiken amended the substitute motion to reject the GBR on Debt Restructuring and request that legislation be introduced to stop debt restructuring. The motion was seconded by Senator Wysong. Motion failed on a 5-6 vote.

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12. **School Finance Maintained at the FY 2009 Approved (Total State and Local Funds) (\$17.7 million)** – Governor has recommended that the Base State Aid Per Pupil (BSAPP) remain at the same level as FY 2009 rather than be increased per the school finance formula. Local mill levy and property evaluation funding will remain constant.

Senator Lee moved to accept the GBR on School Finance Maintained at the FY 2009 Approved Level (\$17.7 million). The motion was seconded by Senator Kultala.

The Committee discussed the possibility of increased enrollment for the following school year as projected by the Consensus Estimating Group and the need for additional funding to cover the increased enrollment.

Senator Vratil made a substitute motion to reject the GBR on School Finance Maintained at the FY 2009 Approved Level in the amount of \$17.7 million and appropriate an additional \$700,000 for K-12 education for FY 2009. The motion was seconded by Senator Wysong.

Senator Vratil stated the addition of \$700,000 would be an increase to the FY 2009 budget and fulfill the commitment of the 2008 Legislature to K-12 Education.

In response to questions from the Committee, Dale Dennis, Deputy Commissioner, Department of Education, stated that the GBR would cut \$22 from the BSAPP for K-12 and reduce Special Education to 91 percent funding. Mr. Dennis noted that if BSAPP is cut, it would apply equally to school districts. There could be some shifting because of the weighting factor and the make-up of the individual school districts. The Committee requested printout on additional information as to how the GBA and the extra funding in Senator Vratil's substitute motion would affect school districts.

Senator Lee moved to table further action on the substitute motion regarding the GBR on school finance until additional information is available as requested. The motion was seconded by Senator Kelly. Motion carried on a 6-5 vote.

Senator Taddiken moved to remove the school finance issue from the table. The motion was seconded by Senator Vratil.

Senator Lee made a substitute motion to table the original motion on school finance until January 20, 2009. The motion was seconded by Senator Kelly. Motion carried.

13. **Kansas Health Policy Authority-Shift to Fee Funds (\$8.5 million).**

Senator Schordorf moved to accept the GBR on the Kansas Health Policy Authority (KHPA) to shift expenditures to fee funds in the amount of \$8.5 million. The motion was seconded by Senator Kelly. Motion carried.

14. **Department of Social and Rehabilitation Services-Home and Community Based Services (HCBS) Physically Disabled Waiver (\$8.4 million).** Would avoid removing any individuals presently on the waiver.

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Senator Taddiken moved to adopt the GBR on HCBS waiver of \$8.4 million. The motion was seconded by Senator Vratil. Motion carried.

15. **Close Department of Corrections Facilities (Osawatomie and Toronto) (\$1.6 million).**

Senator Wysong moved to accept the GBR on the closing of Department of Corrections' facilities of Osawatomie and Toronto (Item 15) and accept the GBR on the delay of Osawatomie State Hospital (Item 17). The motion was seconded by Senator Umbarger.

The Committee requested that the question be divided.

Senator Wysong moved to accept the GBR on the closing of Department of Corrections' facilities at Osawatomie and Toronto. The motion was seconded by Senator Umbarger. Motion carried.

16. **Close Atchison Juvenile Correctional Facility (\$2.0 million).** The Committee noted that the facility is already closed.

Senator Wysong moved to accept the GBR on the closing of the Atchison Juvenile Correctional Facility. The motion was seconded by Senator Schmidt. Motion carried.

17. **Delay Osawatomie State Hospital 30-Bed Unit (\$1.8 million).**

Senator Wysong moved to accept the GBR on the closing of Department of Corrections facilities of Osawatomie and Toronto (Item 15) and accept the GBR on the delay of Osawatomie State Hospital (Item 17). The motion was seconded by Senator Umbarger.

The Committee requested that the question be divided.

Senator Wysong moved to accept the GBR on the delay of Osawatomie State Hospital 30-Bed Unit. The motion was seconded by Senator Umbarger. Motion carried.

Request for Additional Information

The Committee requested the following information on school finance be available for the meeting on January 20, 2009:

- Printout of how the GBR affects school districts and how the motion presented by Senator Vratil to reject the GBR and add \$700,000 in FY 2009 would affect school districts.
- Review today's actions by the Committee and figure out percent of cuts to all agencies that would need to be made to recoup the reduction of \$58 million from the GBR for FY 2009.
- Printout to show additional cuts necessary to make up \$700,000 additional funding for K-12 education as proposed in Senator Vratil's motion on School Finance.

Clarification

J. G. Scott, Legislative Research Department, explained that there are several items in SB 23 that need clarification: (1) the legislation indicates that the slider has been eliminated in FY 2010; however, funding for the slider is included in FY 2009. The payment of approximately \$40 million has been delayed from

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February, 2009, until June, 2009. If revenues are not sufficient to make the payment in June, there is language in the legislation to suspend or reduce the payment; (2) there is approximately \$300,000 - \$400,000 in minor adjustments included in the legislation (revenue and expenditures) as a result of a large number of minor adjustments to the FY 2009 budget.

Summary of Committee Actions

Alan Conroy, Legislative Research Department, presented the following spreadsheets:

- Comparison of FY 2009 Budget Adjustments by the GBR and actions of the Committee showing the difference between the recommendations (Attachment 5).
- Comparison of Tentative Senate Ways and Means Committee Initial Recommendations and Governor's Receipt and Expenditure Recommendations in FY 2009 and FY 2010 (Attachment 6).
- Comparison of Tentative Senate Ways and Means Committee Initial Recommendations, Plus Ending Balance Adjustment and Governor's Receipt and Expenditure Recommendations in FY 2009 and FY 2010 (Attachment 7).

Adjournment

The meeting was adjourned at 5:15 p.m. The next meeting of the Committee will be held on January 20, 2009.

**SENATE WAYS & MEANS COMMITTEE
GUEST LIST**

DATE: _____ January 16, 2009 _____

NAME	REPRESENTING
Val DeFever	Schools for Quality Education
Nathan Eberline	League of Kansas Municipalities
Dennis Williams	Corrections
Nancy Bryant	SOS
Sharon Zoellner	De Soto USD 232
John Heim	Emporia Public Schools
Dodie Wellshear	USA/Kansas
Bill Brady	SFFF
Bill Reardon	USA 500 (KCKs)
Suzanne Winkle	KAC
STACEY WOOLINGTON	KDA
Matt Casey	BIBA
Sarah Tidwell	KNA
Ethan Erickson	SDOT
AP MARIE HUGHES	SKIL
Shannon Jones	SILK
Dustin Meyer	KHPA
Chip Wheelen	ACSF Bd of Governors
MARK BOZANYAK	CAPITOL STRATEGIES
Bill Mondt	KDHE
Duane Goossen	DOB
Russ Jennings	JJA
Jenna Ward	DOB

Cody Dutton DOB



Health Care Stabilization Fund

Charles L. Wheelen, Executive Director
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Testimony To The
Senate Ways and Means Committee
Regarding Senate Bill 23
By Charles L. (Chip) Wheelen
Jan. 15, 2009

The Health Care Stabilization Fund Board of Governors is opposed to the provisions of subsections (a)(2) and (b) of section 88, Senate Bill 23. These subsections are inconsistent with K.S.A. 40-3403 which stipulates that the Health Care Stabilization Fund "shall be held in trust in the state treasury and accounted for separately from other state funds." Revenue in the Health Care Stabilization Fund consists of professional liability insurance premium surcharges paid by health care providers for the purposes specified in the Health Care Provider Insurance Availability Act.

Subsections (a)(2) and (b) of section 88 would immediately result in HCSF losses in excess of \$1 million. The long-term impact of SB23 is probably closer to \$2.5 million in current fiscal year losses to the HCSF. More important, **the transfer of revenue from a trust fund to the State General Fund is inappropriate and may be unconstitutional.** The synopsis of Attorney General's Opinion 2002-45 is appended to this statement for your reference.

Subsection (a)(2) of section 88 would transfer the unencumbered balance in the Stabilization Fund KSIP account to the State General Fund. This amounts to \$251,834 transferred from the HCSF to the SGF. This funding is crucial for purposes of upgrading our technology and was also budgeted for professional development programs. In order to afford these important planned expenses, we have drafted an amendment to section 33 which would address our immediate budget problem as follows:

Sec. 33.

HEALTH CARE STABILIZATION FUND BOARD
OF GOVERNORS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2009, by the state finance council on the health care stabilization fund is hereby decreased from \$1,335,926 to \$1,333,033. Provided however, That expenditures from the health care stabilization fund for technology improvements and professional development programs including official hospitality shall be in addition to this amount and shall not be limited.

Elaine L. Ferguson, D.O.
Michael A. Dorsey
Larry Shaffer

BOARD OF GOVERNORS
Arthur D. Snow, Jr., M.D., Chairman
Jimmie A. Gleason, M.D., Vice Chairman
Steve Clifton, CRNA
Steven C. Dillon, M.D.

Senate Ways & Means Cmte
Date 1-16-2009
Attachment 1

The requested amendment to section 33 would not, however, address the questionable public policy decision reflected in subsection (a)(2) of section 88. This can be accomplished by way of the following amendment:

Sec. 88. (a) (1) On the effective date of this act, the director of accounts and reports shall transfer all moneys credited in each Kansas savings incentive program account in the state general fund of each state agency to the state general fund. On the effective date of this act, all liabilities of each such Kansas savings incentive program account in the state general fund are hereby transferred to and imposed on the state general fund and the Kansas savings incentive program account in the state general fund is hereby abolished. The provisions of section 133(i) and section 135 of chapter 131 of the 2008 Session Laws of Kansas are hereby declared null and void and shall have no force and effect.

(2) On the effective date of this act, the director of accounts and reports shall transfer all moneys credited in each Kansas savings incentive program account of any special revenue fund of each state agency to the state general fund. On the effective date of this act, all liabilities of each such Kansas savings incentive program account of any special revenue fund of a state agency are hereby transferred to and imposed on the state general fund and such Kansas savings incentive program account of any special revenue fund of each state agency is hereby abolished: *Provided*, That the provisions of this subsection (a)(2) shall not apply to funds held in trust in the state treasury. *Provided further*, That the transfer of such moneys in each such Kansas savings incentive program account of a special revenue fund of a state agency to the state general fund shall be in addition to any other transfer from such Kansas savings incentive program account of a special revenue fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from each such Kansas savings incentive program account of a special revenue fund of a state agency to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency by other state agencies which receive appropriations from the state general fund to provide such services.

Subsection (b) of section 88 would suspend subsection (j) of K.S.A. 40-3403. This is the language in the Health Care Provider Insurance Availability Act that provides for reimbursement of claims and expenses that we pay on behalf of the self insured residents and faculty at KU Medical Center and the affiliated programs. Recently we certified to the Director of Accounts and Reports that we should receive State General Fund reimbursements amounting to \$803,811.70. We were informed on January 14, 2009 that the Director of Accounts and Reports has been instructed by the Director of the Budget to not reimburse us. Based on the experience of prior fiscal years, the amount will likely exceed \$2 million by the end of FY2009.

The effect of this decision is to shift the cost of insuring these residents in training and KUMC faculty from the State of Kansas to the doctors, hospitals, and other health care providers that participate in the Health Care Stabilization Fund. It is an indirect tax on health care providers.

Subsection (b) of section 88 also raises questions regarding whether an appropriation act can override or change statutory provisions without amending the pertinent section of law. The language in subsection (b) of section 88 has the effect of amending an important provision in K.S.A. 40-3403 for one fiscal year. We believe this is inconsistent with the intent of Article 2, §16 of the Kansas Constitution because it would alter a public policy decision of the Legislature without properly amending the pertinent section of the Statutes. For guidance on this subject, you may wish to refer to 631 P.2d 668; STATE OF KANSAS, ex rel., ROBERT T. STEPHAN, Attorney General, Petitioner, v. JOHN CARLIN, Governor of the State of Kansas, and JACK H. BRIER, Secretary of State of the State of Kansas, Respondents.; 230 Kan. 252

We respectfully request that subsection (b) of section 88 be stricken from SB23.

Thank you for your consideration of our concerns and requests.

ATTORNEY GENERAL OPINION No. 2002-45

The Honorable Laura McClure
State Representative, 119th District
202 South 4th
Osborne, Kansas 67473

The Honorable Carl Holmes
State Representative, 125th District
P.O. Box 2288
Liberal, Kansas 67905

Re: Constitution of the State of Kansas--Legislative--Legislative Power; Authority of Legislature to Transfer Money from Special Revenue Funds into the State General Fund

Synopsis: If an assessment so exceeds the cost of regulation that it is apparent the Legislature is using it as a general revenue raising measure, the overage cannot stand on police power authority. If the assessment is in fact a revenue raising measure, it must be analyzed as such, which may include a determination as to whether it meets Commerce Clause and Equal Protection requirements, as well as any state constitutional requirements applicable to the type of tax it is. If an assessment cannot stand on either police power or taxing authority, it would have to be reimbursed. Whether the general fund contribution of a fund administered by an agency performing police power functions so far exceeds the direct and indirect costs incurred by the State on behalf of such agency as to be improper can be determined only as a factual matter on a case-by-case basis. While we do not have sufficient factual information to make this determination for the four scenarios discussed herein, we seriously question whether the agencies involved cost the State in indirect and administrative expenses as much as was taken from their funds during the 2002 Session. If, based on facts presented, a court determined that too much money was taken, and that the individuals and entities who pay fees and assessments to these agencies therefore are paying more than their fair share for the State's general operating expenses, it is likely the court would order those assessments reduced and payments into the general fund reversed. Cited herein: K.S.A. 9-1701; 9-1703; 9-2204; 9-2209; 9-2210; 16a-1-102; K.S.A. 2001 Supp. 16a-2-302; 16a-6-104; 16a-6-203; 17-5601; 17-5610; 17-5701; K.S.A. 44-501; K.S.A. 2001 Supp. 44-566a; K.S.A. 44-702; K.S.A. 2001 Supp. 44-703; K.S.A. 44-704; K.S.A. 2001 Supp. 44-710; 44-714; K.S.A. 44-716; K.S.A. 2001 Supp. 44-717; K.S.A. 44-719; K.S.A. 2001 Supp. 65-2801; 65-2803; 65-2812; K.S.A. 2001 Supp. 65-2836; K.S.A. 65-2846; K.S.A. 2001 Supp. 65-2852; 65-2855; K.S.A. 65-2909; K.S.A. 2001 Supp. 65-2911; 65-5509; 65-5513; 65-6910; 75-1304; 75-1308; K.S.A. 75-1310; K.S.A. 2001 Supp. 75-1315; K.S.A. 75-3170; K.S.A. 2001 Supp. 75-3170a; L. 2002, Ch. 204, §§ 12, 15, 57, 74; L. 2001, Ch. 144, §126; K.A.R. 100-11-1; 100-28a-1; 100-29-7.

1-4

FY 2009 Governor's Budget Recommendation's Selected Decision Points

(In Millions)

State General Fund Revenue and Transfer Adjustments	Amount	
Stop Highway Fund Loan Repayment	\$ 30.9	
Stop Other Fund Loan Repayments to the Underground Petroleum Storage Tank Release Trust Fund (\$2.8), and the Worker's Compensation Fund (\$1.0)	3.8	
Reduce non-SGF Agencies and Transfer Balances	2.2	
End Kansas Savings Incentive Program (KSIP) and Transfer Balances	4.2	
Transfer Other Special Revenue Balances	29.0	
Transfer Unallocated Gaming Revenue (\$300 KPERS Post-Retirement Benefit)	(1.6)	
Limit Bioscience Authority Transfer to \$35.0 from \$47.0	12.0	
Suspend Transfers to Special City County Highway Fund (\$10.0), State Water Plan Fund (\$6.0), Health Care Stabilization Fund (\$3.0)	19.1	
	\$ 99.6	
 Expenditure Adjustments	Amount	
Operating Budget Reductions (Governor's 3.0 Percent Excluding K-12 and Social Service Caseload)	\$ (38.8)	
Regents System Reductions (Governor's 3.0 Percent Excluding K-12 and Social Service Caseload)	(24.6)	
Debt Restructuring	(14.0)	
School Finance Maintained at the FY 2009 Approved (Total State and Local Funds)	(17.7)	
Kansas Health Policy Authority--Shift to Fee Funds	(8.5)	
Department of Social and Rehabilitation Services-Home and Community Based Services Physically Disabled Waiver	8.4	
Close Department of Corrections Facilities (Osawatomie and Toronto)	(1.6)	
Close Atchison Juvenile Correctional Facility	(2.0)	
Delay Osawatomie State Hospital 30-Bed Unit	(1.8)	
	\$ (100.6)	
 Total Adjustments		 \$ 200.2

Senate Ways & Means Cmte
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Attachment 2

FY 2009 Transfers Out of the State General Fund

		November	Governor's	FY 2009
		<u>Cons. Rev. Est.</u>	<u>Adjustments</u>	<u>Gov. Rec.</u>
Transfers Out:				
Department of Transportation	Special County/City Highway Fund	(10,063,664)	10,063,664	--
	Loan Repayment from 2003 Session	(30,896,209)	30,896,209	--
Department of Education	School District Cap. Improvements Fund	(75,379,000)	--	(75,379,000)
Water Plan Agencies	State Water Plan Fund	(6,000,000)	6,000,000	--
State Fair	Capital Improvements	(300,000)	--	(300,000)
Board of Regents	Regents Faculty of Distinction Program	(4,240,229)	--	(4,240,229)
	Regents Research Corporation Bonds	(9,915,259)	--	(9,915,259)
	Infrastructure Maintenance Fee Fund	(7,000,000)	--	(7,000,000)
Attorney General	Tort Claims	(1,857,629)	--	(1,857,629)
	Interstate Water Litigation Fund	(1,560,000)	1,560,000	--
Department of Administration	Federal Cash Management Fund	(1,300,000)	--	(1,300,000)
	State Emergency Fund (KSU Storm)	--	(1,948,893)	(1,948,893)
Bioscience Authority	Biosciences Initiative	(47,000,000)	12,000,000	(35,000,000)
Ks Dev't. Finance Authority	State Housing Trust Fund	(4,000,000)	--	(4,000,000)
Health Care Stab. Fund	Reimbursement for Claims & Expenses	(3,000,000)	3,000,000	--
KPERS	Non-Retirement Administration	(230,000)	--	(230,000)
Insurance Department	Repayment to Workers Comp. Fund	(1,000,000)	1,000,000	--
Secretary of State	HAVA Match Monies	(223,176)	--	(223,176)
State Treasurer	State Treasurer Operating Fund	(16,225)	--	(16,225)
	Spirit Aerosystems Incentive	(4,500,000)	--	(4,500,000)
	Eaton MDH Spec. Qual. Indus. Mfg. Fund	(500,000)	--	(500,000)
	Cessna Incentive	(3,000,000)	--	(3,000,000)
	Tax Increment Finance Replacement Fund	(1,000,600)	--	(1,000,600)
	Learning Quest Matching Funds	(275,000)	--	(275,000)
	Property Tax Reimb. to Local Tax Subdiv.	(44,846,000)	--	(44,846,000)
Real Estate Commission	Prior Year Correction	(1,154)	--	(1,154)
Racing & Gaming	Racing & Gaming Reserve Fund	(450,000)	--	(450,000)
Dept. of Education	Keeping Education Promises Trust Fund	(37,170,000)	--	(37,170,000)
Dept. of Health & Environment	Repayment to Waste Tire Mgmt. Fund	(250,000)	250,000	--
	Repymt. to Ungd. Petrol. Trust Fund	(2,500,000)	2,500,000	--
Water Office	Prior Yr. Correction (Clean Drinking Fees)	(3,073,743)	--	(3,073,743)
Total Transfers Out		\$ (301,547,888)	\$ 65,320,980	\$ (236,226,908)
Interest		(24,000,000)	--	(24,000,000)
Net Transfers		\$ (118,200,000)	\$ 99,163,758	\$ (19,036,242)

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Attachment 3

<u>Agency Name</u>	<u>Fund Name</u>	<u>KSIP Balances</u>	<u>Redux of Non-SGF Agencies</u>	<u>Special One-Times</u>
Department of Administration	Department of Administration	63,978	--	--
Kansas Corporation Commission	Conservation Fee Fund	--	--	2,500,000
Kansas Corporation Commission	Flexible Fund Transfer	--	634,875	--
Kansas Corporation Commission	KETA Development Fund	--	--	1,000,000
Citizens Utility Ratepayer Board	Utility Regulatory Fee Fund	--	24,100	--
Health Care Stabilization Fund	Health Care Stabilization Fund	251,834	--	--
KPERS	KPERS Fund	29,756	--	--
Kansas Lottery	Lottery Operating Fund-KSIP	698,176	--	--
Racing & Gaming Commission	State Racing Fund- KSIP	43,761	--	--
Department of Revenue	Cigarette & Tobacco Products Regulation Fund	--	--	380,000
Department of Revenue	County Drug Tax Fund	--	--	400,000
Department of Revenue	Special County Mineral Production Tax Fund	--	--	2,000,000
Abstracters Board of Examiners	Abstracters Fee Fund	--	654	--
Board of Accountancy	Board of Accountancy Fee Fund	--	9,500	--
Board of Accountancy	Board of Accountancy Fee Fund - KSIP	41,382	--	--
State Bank Commissioner	Bank Commissioner Fee Fund	--	257,311	800,000
State Bank Commissioner	Bank Commissioner Fee Fund-KSIP	534,517	--	--
State Bank Commissioner	Consumer Education Settlement Fund	--	--	500,000
Board of Barbering	Board of Barbering Fee Fund	--	4,676	--
Behavioral Sciences Reg. Board	Behav Sci Reg Fee Fund--KSIP	27,134	--	--
Behavioral Sciences Reg. Board	Behavioral Sciences Regulatory Board Fee Fund	--	19,717	--
Board of Cosmetology	Cosmetology Fee Fund	33,549	24,191	--
Credit Unions	Credit Union Fee Fund	--	26,840	--
Credit Unions	Credit Union Fee Fund--KSIP	51,016	--	--
Kansas Dental Board	Dental Board Fee Fund	3,079	11,472	--
Board of Healing Arts	Healing Arts Fee Fund	--	67,618	--
Hearing Instruments Board	Hearing Instruments Fee Fund	--	885	--
Board of Mortuary Arts	Mortuary Arts Fee Fund	29,834	8,298	--
Board of Nursing	Board of Nursing Fee Fund	--	55,647	--
Board of Nursing	KSIP	50,460	--	--
Optometry Board	Optometry Fee Fund	--	3,912	100,000

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<u>Agency Name</u>	<u>Fund Name</u>	<u>KSIP Balances</u>	<u>Redux of Non-SGF Agencies</u>	<u>Special One-Times</u>
Board of Pharmacy	Board of Pharmacy Fee Fund	--	25,102	--
Board of Pharmacy	Board of Pharmacy Fee Fund--KSIP	72,524	--	--
Board of Real Estate Appraisers	Appraiser Fee Fund	11,681	9,804	--
Kansas Real Estate Commission	Real Estate Fee Fund	--	33,095	50,000
Kansas Real Estate Commission	Real Estate Fee Fund-KSIP	195,671	--	--
Kansas Real Estate Commission	Real Estate Recovery Revolving Fund	--	--	550,000
Securities Commissioner	Securities Act Fee Fund-KSIP	255,722	--	--
Board of Technical Professions	Technical Professions Fee Fund	--	17,325	--
Board of Technical Professions	Technical Professions Fee Fund - KSIP	33,566	--	--
Board of Veterinary Examiners	Board of Veterinary Examiners Fee Fund	--	8,068	--
Board of Veterinary Examiners	Board of Veterinary Examiners KSIP Fund	57,822	--	--
Attorney General	Interstate Water Litigation Fund	--	--	1,560,000
Attorney General	Medicaid Fraud Prosecution Revolving Fund	--	--	1,500,000
Insurance Department	Service Regulation Fund	--	--	5,000,000
Insurance Department	Service Regulation Fund	--	472,357	--
Insurance Department	Service Regulation Fund - KSIP	169,987	--	--
Insurance Department	Workers Compensation Fund	--	--	3,000,000
Secretary of State	Information and Copy Service Fee Fund	--	186,500	--
State Treasurer	Bond Services Fee Fund	--	--	250,000
State Treasurer	Bond Services Fee Fund	--	30,000	--
State Treasurer	Postsecondary Educ Svgs Prog Expense Fund	--	2,651	--
State Treasurer	State Treasurers Operating Fund	--	55,419	--
State Treasurer	Unclaimed Property Expense Fund	--	17,349	--
PMIB	Pooled Money Investment Portfolio Fee Fund	--	25,716	--
PMIB	Pooled Money Investment Portfolio KSIP Fund	145,543	--	--
Osawatomie State Hospital	Patient Fees Fund	--	--	541,202
Department on Aging	LTC Loan and Grant Fund	--	--	805,000
KDHE--Health	KSIP--SPOF--State Ops	110,394	--	--
KDHE--Health	KSIP--SPOF--State Ops--Environment	4,431	--	--
KDHE--Environment	Aboveground Storage Tank Release Trust Fund	--	--	1,950,000
KDHE--Environment	Radiation Control Operations Fee Fund	--	--	250,000
KDHE--Environment	Subsurface Hydrocarbon Storage Fund	--	--	250,000

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<u>Agency Name</u>	<u>Fund Name</u>	<u>KSIP Balances</u>	<u>Redux of Non-SGF Agencies</u>	<u>Special One-Times</u>
KDHE--Environment	Underground Storage Tank Release Trust Fund	--	--	1,250,000
KDHE--Environment	Voluntary Clean Up Fund	--	--	500,000
Department of Labor	Human Resources Special Projects Fund	--	--	100,000
Department of Labor	Workmen's Compensation Fund	--	--	600,000
Department of Labor	Workmen's Compensation Fund - KSIP Fund	25,976	--	--
Department of Education	State Safety Fund	--	--	--
KCI	KSIP	10,000	--	--
Adjutant General	Adjutant General Expense Fund - Haz Mitigation	--	--	1,883,892
Adjutant General	Nat'l Guard Life Ins Prem Reimb Payment Fund	--	--	319,657
Emergency Medical Services	Emergency Medical Services Operating Fund	46,922	53,077	--
State Fire Marshal	Fire Marshal Fee Fund	30,970	129,627	--
Kansas Highway Patrol	General Fees Fund	--	--	300,000
Kansas Highway Patrol	Highway Patrol Training Center Fund	--	--	150,000
Attorney General -- KBI	Private Detective Fee Fund	--	--	100,000
KS CPOST	KS CPOST Fund	--	--	500,000
KDOT	State Highway Fund - KSIP	1,205,857	--	--
Total		\$ 4,235,542	\$ 2,215,786	\$ 29,089,751

	FY 2009 App. with Shifts SGF	FY 2009 App. with Shifts All Funds	FY 2009 Revised SGF	FY 2009 Revised All Funds	Percent Change SGF	Percent Change All Funds
General Government						
Department of Administration	65,447,980	79,077,285	52,951,929	69,910,302	-19.1%	-11.6%
Kansas Corporation Commission	--	21,029,138	--	21,472,537		2.1%
Citizens Utility Ratepayer Board	--	803,448	--	859,619		7.0%
Kansas Human Rights Commission	1,776,937	2,250,971	1,724,014	2,191,624	-3.0%	-2.6%
Board of Indigents Defense Services	22,926,945	23,926,945	22,464,268	23,329,268	-2.0%	-2.5%
Health Care Stabilization	--	33,484,239	--	33,496,715		0.0%
Kansas Public Employees Retirement Sys.	10,270,948	57,057,166	10,270,948	53,579,481	0.0%	-6.1%
Department of Commerce	620,741	112,733,882	608,376	129,406,155	-2.0%	14.8%
Kansas Technology Enterprise Corporation	--	14,201,325	--	13,144,797		-7.4%
Kansas, Inc.	--	622,433	--	586,456		-5.8%
Kansas Lottery	--	78,069,226	--	50,901,225		-34.8%
Kansas Racing & Gaming Commission	--	17,548,633	--	10,237,649		-41.7%
Department of Revenue	21,439,029	98,240,974	20,795,859	100,536,669	-3.0%	2.3%
Court of Tax Appeals	1,826,913	2,328,147	1,626,669	2,272,903	-11.0%	-2.4%
Abstracters Board of Examiners	--	21,814	--	21,160		-3.0%
Board of Accountancy	--	315,697	--	315,893		0.1%
Office of the State Bank Commissioner	--	8,577,041	--	8,438,921		-1.6%
Board of Barbering	--	155,851	--	142,692		-8.4%
Behavioral Sciences Regulatory Board	--	625,213	--	610,371		-2.4%
Board of Cosmetology	--	806,356	--	798,593		-1.0%
Department of Credit Unions	--	894,662	--	877,990		-1.9%
Kansas Dental Board	--	382,560	--	380,950		-0.4%
Governmental Ethics Commission	554,614	715,706	512,918	699,843	-7.5%	-2.2%
Board of Healing Arts	--	3,259,578	--	3,601,944		10.5%
Hearing Instruments Board of Examiners	--	29,511	--	28,626		-3.0%
Board of Mortuary Arts	--	276,605	--	269,488		-2.6%
Board of Nursing	--	1,854,916	--	1,869,484		0.8%
Board of Examiners in Optometry	--	130,411	--	126,499		-3.0%
Board of Pharmacy	--	764,201	--	694,115		-9.2%
Real Estate Appraisal Board	--	326,818	--	316,050		-3.3%
Kansas Real Estate Commission	--	1,103,162	--	1,091,988		-1.0%
Office of the Securities Commissioner	--	2,961,053	--	2,875,503		-2.9%
Board of Technical Professions	--	576,909	--	584,269		1.3%
Board of Veterinary Examiners	--	268,925	--	262,051		-2.6%
Office of the Governor	8,744,874	18,676,585	8,384,355	13,164,094	-4.1%	-29.5%
Office of the Lieutenant Governor	254,362	254,362	203,947	203,947	-19.8%	-19.8%
Attorney General	5,445,352	20,639,252	5,111,224	19,550,997	-6.1%	-5.3%
Insurance Department	--	23,617,836	--	24,040,565		1.8%
Secretary of State	51,704	6,215,928	--	6,029,428	-100.0%	-3.0%
State Treasurer	--	17,971,781	--	62,940,200		250.2%
Legislative Coordinating Council	983,083	983,083	799,381	799,381	-18.7%	-18.7%
Legislature	18,852,105	18,938,575	18,475,210	18,550,279	-2.0%	-2.1%
Legislative Research Department	3,955,022	3,955,022	3,849,709	3,849,709	-2.7%	-2.7%
Legislative Division of Post Audit	2,875,097	2,875,097	2,808,623	2,808,623	-2.3%	-2.3%
Revisor of Statutes	4,047,667	4,047,667	3,838,714	3,838,714	-5.2%	-5.2%
Judiciary	112,424,310	127,127,095	111,862,198	126,326,970	-0.5%	-0.6%
Judicial Council	161,210	1,555,573	158,210	1,441,525	-1.9%	-7.3%
Total--General Government	\$ 282,658,893	\$ 812,278,657	\$ 266,446,552			

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Attachment 4

	FY 2009 App. with Shifts SGF	FY 2009 App. with Shifts All Funds	FY 2009 Revised SGF	FY 2009 Revised All Funds	Percent Change SGF	Percent Change All Funds
Human Services						
Social & Rehabilitation Services	683,916,546	1,559,077,509	686,625,225	1,604,449,849	0.4%	2.9%
Kansas Neurological Institute	11,112,811	28,731,630	11,112,811	28,730,954	0.0%	0.0%
Larned State Hospital	42,208,617	54,920,875	42,110,459	55,294,295	-0.2%	0.7%
Osawatomie State Hospital	18,110,591	28,017,799	16,267,473	26,543,999	-10.2%	-5.3%
Parsons State Hospital & Training Center	10,409,646	25,446,488	10,614,646	25,446,488	2.0%	0.0%
Rainbow Mental Health Facility	5,396,507	7,983,481	5,342,542	7,983,481	-1.0%	0.0%
Subtotal--SRS	\$ 771,154,718	\$ 1,704,177,782	\$ 772,073,156	\$ 1,748,449,066	0.1%	2.6%
Kansas Health Policy Authority	517,045,220	1,414,697,664	503,209,165	1,406,803,586	-2.7%	-0.6%
Department on Aging	199,402,878	501,676,928	195,084,155	494,775,499	-2.2%	-1.4%
Health & Environment--Health	26,501,725	157,902,521	25,343,400	160,744,299	-4.4%	1.8%
Department of Labor	608,030	362,231,305	564,139	402,709,389	-7.2%	11.2%
Commission on Veterans Affairs	9,511,635	22,197,145	9,227,492	22,962,754	-3.0%	3.4%
Kansas Guardianship Program	1,386,543	1,386,543	1,285,374	1,285,374	-7.3%	-7.3%
Total--Human Services	\$ 1,525,610,749	\$ 4,164,269,888	\$ 1,506,786,881	\$ 4,237,729,967	-1.2%	1.8%
Education						
Department of Education	3,247,497,788	3,769,682,217	3,235,266,585	3,767,793,642	-0.4%	-0.1%
School for the Blind	5,956,032	6,524,898	5,807,841	6,641,347	-2.5%	1.8%
School for the Deaf	9,373,237	10,038,104	9,157,444	9,962,461	-2.3%	-0.8%
Subtotal--Department of Education	\$ 3,262,827,057	\$ 3,786,245,219	\$ 3,250,231,870	\$ 3,784,397,450	-0.4%	0.0%
Board of Regents	197,351,649	301,518,583	192,136,497	241,825,589	-2.6%	-19.8%
Emporia State University	35,595,985	77,394,150	34,528,235	87,870,687	-3.0%	13.5%
Fort Hays State University	37,655,576	83,355,108	36,528,949	90,620,743	-3.0%	8.7%
Kansas State University	117,386,040	491,955,353	113,870,142	534,626,189	-3.0%	8.7%
Kansas State University--ESARP	56,123,762	127,206,221	54,440,049	123,730,291	-3.0%	-2.7%
KSU--Veterinary Medical Center	11,587,263	33,253,180	11,248,645	34,349,001	-2.9%	3.3%
Pittsburg State University	38,916,466	84,867,047	37,598,900	92,179,668	-3.4%	8.6%
University of Kansas	154,860,446	549,883,449	150,214,632	574,042,432	-3.0%	4.4%
University of Kansas Medical Center	127,017,719	275,331,477	123,293,470	275,561,035	-2.9%	0.1%
Wichita State University	78,467,225	209,305,210	76,162,534	220,692,263	-2.9%	5.4%
Subtotal--Regents	\$ 854,962,131	\$ 2,234,069,778	\$ 830,022,053	\$ 2,275,497,898	-2.9%	1.9%
Kansas Arts Commission	1,769,232	2,338,022	1,499,361	2,291,547	-15.3%	-2.0%
Historical Society	6,733,186	10,083,205	6,351,599	9,915,729	-5.7%	-1.7%
State Library	5,542,951	7,449,972	5,376,662	7,193,492	-3.0%	-3.4%
Total--Education	\$ 4,131,834,557	\$ 6,040,186,196	\$ 4,093,481,545	\$ 6,079,296,116	-0.9%	0.6%
Public Safety						
Department of Corrections	126,613,005	147,226,925	116,811,550	142,149,425	-7.7%	-3.4%
El Dorado Correctional Facility	24,070,874	24,195,016	24,171,714	24,383,634	0.4%	0.8%
Ellsworth Correctional Facility	12,149,799	12,200,351	12,536,799	12,625,883	3.2%	3.5%
Hutchinson Correctional Facility	28,031,623	28,415,531	28,466,282	29,214,392	1.6%	2.8%
Lansing Correctional Facility	37,013,581	37,313,581	37,345,280	37,746,156	0.9%	1.2%
Larned Correctional Mental Health Facilit	9,437,730	9,439,930	9,529,730	9,671,267	1.0%	2.5%
Norton Correctional Facility	14,120,621	14,314,398	14,325,621	14,747,143	1.5%	3.0%
Topeka Correctional Facility	12,315,485	13,221,812	12,315,485	13,647,939	0.0%	3.2%
Winfield Correctional Facility	11,943,711	12,195,763	12,248,325	12,911,555	2.6%	5.9%
Subtotal--Corrections	\$ 275,696,429	\$ 298,523,307	\$ 267,750,786	\$ 297,097,394	-2.9%	-0.5%

	FY 2009 App. with Shifts SGF	FY 2009 App. with Shifts All Funds	FY 2009 Revised SGF	FY 2009 Revised All Funds	Percent Change SGF	Percent Change All Funds
Juvenile Justice Authority	39,836,696	69,516,861	39,941,331	69,619,714	0.3%	0.1%
Atchison Juvenile Correctional Facility	5,549,957	5,844,083	3,014,899	3,094,880	-45.7%	-47.0%
Beloit Juvenile Correctional Facility	4,005,685	4,227,009	3,936,905	4,028,698	-1.7%	-4.7%
Kansas Juvenile Correctional Complex	15,257,018	16,287,646	15,704,777	16,262,420	2.9%	-0.2%
Larned Juvenile Correctional Facility	8,546,491	8,618,511	8,386,005	8,496,062	-1.9%	-1.4%
Subtotal--Juvenile Justice	\$ 73,195,847	\$ 104,494,110	\$ 70,983,917	\$ 101,501,774	-3.0%	-2.9%
Adjutant General	29,169,014	153,672,650	28,053,635	200,427,259	-3.8%	30.4%
Emergency Medical Services Board	--	2,306,203	--	2,494,249		8.2%
State Fire Marshal	--	4,780,958	--	4,941,259		3.4%
Highway Patrol	39,499,096	93,060,294	37,406,194	89,621,434	-5.3%	-3.7%
Kansas Bureau of Investigation	17,336,999	27,156,085	16,094,392	27,273,989	-7.2%	0.4%
Kansas Parole Board	522,900	522,900	502,669	502,669	-3.9%	-3.9%
Comm. on Peace Officers Stand. & Trng.	--	722,502	--	643,000		-11.0%
Sentencing Commission	10,034,517	10,506,945	9,342,428	9,809,768	-6.9%	-6.6%
Total--Public Safety	\$ 445,454,802	\$ 695,745,954	\$ 430,134,021	\$ 734,312,795	-3.4%	5.5%
Agriculture & Natural Resources						
Department of Agriculture	12,206,961	28,424,388	11,695,253	28,751,854	-4.2%	1.2%
Animal Health Department	941,265	2,800,855	913,027	2,886,773	-3.0%	3.1%
State Conservation Commission	912,258	15,731,332	884,917	17,043,594	-3.0%	8.3%
Health & Environment--Environment	10,161,902	74,275,246	9,469,653	74,207,368	-6.8%	-0.1%
Kansas State Fair	1,540,821	6,684,896	1,130,821	6,417,698	-26.6%	-4.0%
Kansas Water Office	2,912,892	9,530,098	2,824,403	19,822,620	-3.0%	108.0%
Department of Wildlife & Parks	9,974,440	57,941,870	8,704,441	66,896,569	-12.7%	15.5%
Total--Agriculture & Nat. Resources	\$ 38,650,539	\$ 195,388,685	\$ 35,622,515	\$ 216,026,476	-7.8%	10.6%
Transportation						
Department of Administration	16,148,175	16,148,175	16,148,175	16,148,175	0.0%	0.0%
Kansas Department of Transportation	--	1,599,023,985	--	1,497,105,234		-6.4%
Total--Transportation	\$ 16,148,175	\$ 1,615,172,160	\$ 16,148,175	\$ 1,513,253,409	0.0%	-6.3%
Finance Council Pay Plan Distribution	374,599	386,164	--	--	-100.0%	-100.0%
Total Expenditures	\$ 6,440,732,314	\$13,523,427,704	\$ 6,348,619,689	\$13,600,095,025	-1.4%	0.6%

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Comparison of FY 2009 Budget Adjustments
(In Millions)

<u>State General Fund Revenue and Transfer Adjustments</u>	Governor's Recommendation	Ways and Means Recommendation	Difference
Stop Highway Fund Loan Repayment	\$ 30.9	\$ 30.9	1 \$
Stop Other Fund Loan Repayments to the Underground Petroleum Storage Tank Release Trust Fund (\$2.8), and the Worker's Compensation Fund (\$1.0)	3.8	1.0	2 (2.8)
Reduce non-SGF Agencies and Transfer Balances	2.2	-	3 (2.2)
End Kansas Savings Incentive Program (KSIP) and Transfer Balances	4.2	4.2	4 -
Transfer Other Special Revenue Balances	29.0	7.6	5 (21.4)
Transfer Unallocated Gaming Revenue (\$300 KPERS Post-Retirement Benefit)	(1.6)	(1.6)	-
Limit Bioscience Authority Transfer to \$35.0 from \$47.0	12.0	12.0	-
Suspend Transfers to Special City County Highway Fund (\$10.1), State Water Plan Fund (\$6.0), Health Care Stabilization Fund (\$3.0)	19.1	-	(19.1)
Subtotal Revenue Adjustments	\$ 99.6	\$ 54.1	\$ (45.5)
<u>Expenditure Adjustments</u>	Amount	Ways and Means Recommendation	Difference
Operating Budget Reductions (Governor's 3.0 Percent Excluding K-12 and Social Service Caseload)	\$ (38.8)	\$ (38.8)	\$ -
Regents System Reductions (Governor's 3.0 Percent Excluding K-12 and Social Service Caseload)	(24.6)	(24.3)	6 0.3
Debt Restructuring	(14.0)	(14.0)	-
School Finance Maintained at the FY 2009 Approved (Total State and Local Funds)	(17.7)	(17.7)	7 -
Kansas Health Policy Authority--Shift to Fee Funds	(8.5)	(8.5)	-
Department of Social and Rehabilitation Services-Home and Community Based Services Physically Disabled Waiver	8.4	8.4	-
Close Department of Corrections Facilities (Osawatomie and Toronto)	(1.6)	(1.6)	-
Close Atchison Juvenile Correctional Facility	(2.0)	(2.0)	-
Delay Osawatomie State Hospital 30-Bed Unit	(1.8)	(1.8)	-
Subtotal Expenditure Adjustments	\$ (100.6)	\$ (100.3)	\$ 0.3
Total Adjustments	\$ 200.2	\$ 154.4	\$ (45.8)

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Footnotes:

1. Do not make the repayment, and review in 2011.
2. Do not make repayment to the Worker's Compensation Fund and review in 2011.
3. Reduce expenditures, but do not sweep savings to the State General Fund.
4. Suspend, don't eliminate, the program and sweep balances to the State General Fund.
5. Only sweep the following funds: Adjutant General Expense Fund - Hazard Mitigation, Adjutant General National Guard Life Insurance Premium Reimbursement Payment Fund, Attorney General Interstate Water Litigation Fund, Attorney General Medicaid Fraud Prosecution Revolving Fund, Osawatomie State Hospital Patient Fees Fund, Department on Aging LTC Loan and Grant Fund and Kansas Corporation Commission KETA Development Fund.
6. Exclude funding for the Kansas Academy for Math and Science from the Regents System Reductions.
7. This item was tabled until Tuesday, January 20th, 2009.

Tentative Senate Ways and Means Committee Initial Recommendations
 Governor's Receipt and Expenditure Recommendations in FY 2009 and FY 2010
 Receipts Adjusted for Actual Receipts through December (\$44.6 below the estimate)
 Additional FY 2009 Adjustment to Reach 7.5 Percent in FY 2010
 FY 2008 Actual Receipts and Expenditures
 Governor's Projection for FY 2011 - 4.0 Percent Growth in Tax Receipts; No School Finance Increase

STATE GENERAL FUND RECEIPTS, EXPEND. AND BALANCES
 FY 2008 - FY 2011
 In Millions

	Actual FY 2008	Ways & Means Tentative FY 2009	Governor's Recommended FY 2010	Governor's Projection FY 2011
Beginning Balance	\$ 935.0	\$ 526.6	\$ (32.1)	\$ (134.4)
Receipts (November 2008 Consensus) - 4.0 % Growth	5,693.4	5,781.2	5,782.4	6,219.0
Transfer Other Special Revenue Balances	0.0	7.6	2.2	-
Reduce Non-SGF Agencies and Transfer Balances	0.0	0.0	2.9	-
End Kansas Savings Incentive Program and Transfer Balance	0.0	4.2	0.0	-
Delete KDOT Loan Repayment	0.0	30.9	30.9	-
Delete Other Fund Loan Repayments	0.0	1.0	3.8	-
Limit Bioscience Authority Transfer	0.0	12.0	20.0	-
Suspend Trans. City-County Highway; Water Plan; Health Care	0.0	0.0	19.1	-
Transfer Gaming Revenue Fund	0.0	(1.6)	56.7	-
Suspend Property Tax Slider	0.0	0.0	45.3	-
Moratorium KPERs Death/Disability; Health Insurance	0.0	0.0	28.8	-
Net Other Adjustments	0.0	(0.5)	43.1	-
Proposed Tax Legislation (Estate; Corp. Franch.; Others)	0.0	0.0	60.6	-
Committee Adjustments	0.0	0.0	0.0	-
Actual Receipts through December, 2008	0.0	(44.6)	(44.6)	(44.6)
Adjusted Receipts	5,693.4	5,790.2	6,051.2	6,174.4
Total Available	\$ 6,628.4	\$ 6,316.8	\$ 6,019.1	\$ 6,040.0
KPERs Death/Disability; Health Insurance	-	-	(62.4)	-
School Finance Net Adjustments	-	(14.0)	(29.5)	-
Regents Systemwide Reductions	-	-	(55.3)	-
State Employee Market Adjustments - 2008 HB 2916	-	-	8.5	8.5
Human Services Caseloads (net adjustments)	-	5.4	(15.2)	60.0
Home and Community Based Services - P.D. Waiver	-	8.4	-	-
Operating Budget Reductions, Including Regents	-	(63.4)	-	-
Debt Restructuring	-	(17.7)	(39.3)	-
Net Other Adjustments	-	(8.8)	(46.3)	-
Close or Delay State Facilities (DOC; JJA; SRS)	-	(5.4)	(11.5)	-
Additional Adjustments	-	0.3	-	-
All Other Expenditures	6,101.8	6,444.1	6,404.5	6,145.0
Total Expenditures	6,101.8	6,348.9	6,153.5	6,213.5
Ending Balance	\$ 526.6	\$ (32.1)	\$ (134.4)	\$ (173.5)
Ending Balance as a Percentage of Expenditures	8.6%	-0.5%	-2.1%	-2.8%
Receipts Above Expenditures	\$ (408.4)	\$ (558.7)	\$ (102.3)	\$ (39.1)

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Tentative Senate Ways and Means Committee Initial Recommendations, Plus Ending Balance Adjustment
Governor's Receipt and Expenditure Recommendations in FY 2009 and FY 2010
Receipts Adjusted for Actual Receipts through December (\$44.6 below the estimate)
Additional FY 2009 Adjustment to Reach 7.5 Percent in FY 2010
FY 2008 Actual Receipts and Expenditures
Governor's Projection for FY 2011 - 4.0 Percent Growth in Tax Receipts; No School Finance Increase

STATE GENERAL FUND RECEIPTS, EXPEND. AND BALANCES
FY 2008 - FY 2011
 In Millions

	Actual FY 2008	Ways & Means Tentative FY 2009	Governor's Recommended FY 2010	Governor's Projection FY 2011
Beginning Balance	\$ 935.0	\$ 526.6	\$ 272.9	\$ 475.6
Receipts (November 2008 Consensus) - 4.0 % Growth	5,693.4	5,781.2	5,782.4	6,219.0
Transfer Other Special Revenue Balances	0.0	7.6	2.2	-
Reduce Non-SGF Agencies and Transfer Balances	0.0	0.0	2.9	-
End Kansas Savings Incentive Program and Transfer Balance	0.0	4.2	0.0	-
Delete KDOT Loan Repayment	0.0	30.9	30.9	-
Delete Other Fund Loan Repayments	0.0	1.0	3.8	-
Limit Bioscience Authority Transfer	0.0	12.0	20.0	-
Suspend Trans. City-County Highway; Water Plan; Health Care	0.0	0.0	19.1	-
Transfer Gaming Revenue Fund	0.0	(1.6)	56.7	-
Suspend Property Tax Slider	0.0	0.0	45.3	-
Moratorium KPERS Death/Disability; Health Insurance	0.0	0.0	28.8	-
Net Other Adjustments	0.0	(0.5)	43.1	-
Proposed Tax Legislation (Estate; Corp. Franch.; Others)	0.0	0.0	60.6	-
Committee Adjustments	0.0	0.0	0.0	-
Actual Receipts through December, 2008	0.0	(44.6)	(44.6)	(44.6)
Adjusted Receipts	5,693.4	5,790.2	6,051.2	6,174.4
Total Available	\$ 6,628.4	\$ 6,316.8	\$ 6,324.1	\$ 6,650.0
KPERS Death/Disability; Health Insurance	-	-	(62.4)	-
School Finance Net Adjustments	-	(14.0)	(29.5)	-
Regents Systemwide Reductions	-	-	(55.3)	-
State Employee Market Adjustments - 2008 HB 2916	-	-	8.5	8.5
Human Services Caseloads (net adjustments)	-	5.4	(15.2)	60.0
Home and Community Based Services - P.D. Waiver	-	8.4	-	-
Operating Budget Reductions, Including Regents	-	(63.4)	-	-
Debt Restructuring	-	(17.7)	(39.3)	-
Net Other Adjustments	-	(8.8)	(46.3)	-
Close or Delay State Facilities (DOC; JJA; SRS)	-	(5.4)	(11.5)	-
Additional Adjustments	-	0.3	-	-
Additional Ending Balance Adjustments	-	(305.0)	(305.0)	-
All Other Expenditures	6,101.8	6,444.1	6,404.5	6,145.0
Total Expenditures	6,101.8	6,043.9	5,848.5	6,213.5
Ending Balance	\$ 526.6	\$ 272.9	\$ 475.6	\$ 436.5
Ending Balance as a Percentage of Expenditures	8.6%	4.2%	7.5%	7.1%
Receipts Above Expenditures	\$ (408.4)	\$ (253.7)	\$ 202.7	\$ (39.1)