

Approved: 5-7-10  
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Kevin Yoder at 9:07 a.m. on March 16, 2010, in Room 346-S of the Capitol.

All members were present.

Committee staff present:

Jim Wilson, Office of the Revisor of Statutes  
Nobuko Folmsbee, Office of the Revisor of Statutes  
Alan Conroy, Kansas Legislative Research Department  
J.G. Scott, Kansas Legislative Research Department  
Heather O'Hara, Kansas Legislative Research Department  
Jonathan Tang, Kansas Legislative Research Department  
Stephen Huggins, Chief of Staff, Appropriations Committee  
Kathy Holscher, Committee Assistant, Appropriations Committee

Others attending:

See attached list.

- Attachment 1 Administrative Order No. 241, Supreme Court of the State of Kansas
- Attachment 2 Proposed Amendment to **SB 446**
- Attachment 3 **HB 2355** Fiscal Note
- Attachment 4 Proposed Amendment to **HB 2355**

Jerry Sloan, Budget and Fiscal Officer, Judicial Branch, provided an overview on Administrative Order No. 241, (Attachment 1). He stated that the FY 2010 supplemental recommendation was \$8 million, and the Governor's recommendation was \$5 million. Mr. Sloan discussed the impact and actions taken to address reduced expenditures. He noted that 98% of the budget represents salaries. Mr. Sloan stated that the Kansas Judicial Branch is unable to bridge the gap between the amount appropriated and the amount necessary to operate.

Mr. Sloan responded to questions from committee members. He stated that district and appellate courts will be closed four days in FY 2010, and employees will be on furlough during this time. Judges will be in court during those days, but will not collect court fees, he added. Budget reductions included the elimination of temporary employees, 5% salary reductions, implementation of four furlough days and other reduced expenditures where possible, he added.

**SB 311 - Sub for S 311 by Committee on Ways and Means – State budget, state general fund ending balance requirements, revenue shortfalls and reductions in authorized expenditures**

Jim Wilson, First Revisor, Office of the Revisor of Statutes, presented an overview of **SB 311 - Sub for S 311**. He reviewed amendments in Section 1, regarding state allotment procedures, and Section 2 regarding fund transfers from the State General Fund. Mr. Wilson discussed the two-step process, which includes across the board cuts at a percentage rate not required to be equal in order to bring the balance back to a 3.5% threshold; and imposing allotments against special revenue funds if the projected ending balance will be less than zero.

Mr. Wilson responded to questions from committee members. He stated that three exceptions to the bill include debt service, Kansas Public Employee Retirement System, (KPERs), and KPERs school employer contributions. The allotment authority would be for special revenue funds and the recision authority would bring the ending balance back to the 3.5%, he stated.

J.G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department responded to a question from a committee member. He verified that the 3.5% authorized transfer represents \$5.4 billion in expenditures projected to be spent from the State General Fund.

Senator Colyer, made a presentation as a proponent of **SB 311**. Written testimony was not provided. He

## CONTINUATION SHEET

Minutes of the House Appropriations Committee at 9:07a.m. on March 16, 2010, in Room 346-S of the Capitol.

stated that a recommendation will be made to the Office of the Revisor of Statutes, to prepare language for this bill that would allow the authority for flexible changes if the budget falls below a zero balance and up to 3.5%.

Duane Goossen, Secretary, Department of Administration, stated that he would be available for questions. There were no questions from committee members.

Chairman Yoder closed the hearing on **SB 311**.

### **SB 446 - Repealing K.S.A. 75-3744 requiring the director of purchases to sign every state contract**

Representative Feuerborn made a motion for favorable passage of SB 446. The motion was seconded by Representative Merrick.

Representative Mast reviewed a proposed amendment to **SB 446**, (Attachment 2). She stated that this amendment would remove the contents from **HB 2403** to **SB 446**, which would initiate a new review of business cases for opportunities to privatize and outsource activities and functions in order to produce or enhance efficiencies, cost savings and quality outcomes.

Representative Mast made a motion to approve the proposed amendment. The motion was seconded by Representative Kelley.

Discussion followed by committee members. Jim Wilson, First Revisor, Office of the Revisor of Statutes, stated that the amendment includes outsourcing for state contracts regarding procurement of goods and services for state agencies. He noted that this amendment contains technical amendments to exclude engineering contracts, architectural services, building and highway projects. Mr. Wilson also reviewed the bidding process and procedures.

Representative Mast responded to questions from committee members. She reviewed the fiscal note and stated that the fiscal effect would be \$45,688 for salaries and benefits for one FTE position, and the \$35 per day per diem for council members is not included. Discussion followed concerning outsourcing, the impact on unemployment insurance benefits (which have been extended to 99 weeks) and the need to evaluate cost savings, and the impact on KPERS and additional job losses.

Representative Mast renewed the motion as amended. Motion carried.

Representative Rhoades made a motion to approve SB 446 as amended. The motion was seconded by Representative Mast. Motion carried.

### **HB 2355 - Limitation on outstanding principal of state general fund bonded debt**

J.G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department, presented an overview of the Fiscal Note for **HB 2355**, (Attachment 3).

Mr. Scott responded to questions from committee members. He stated that the current bonding authority, which has not been issued to date, is \$105 million and is over the 20% limitation. Mr. Scott explained bond ratings, which depend on revenues and dedicated revenue sources. Bonds that have been approved but not issued yet would be from the State General Fund, he added. Mr. Scott stated that if revenue is \$5.4 billion and bonding authority of \$280 million is already authorized, this would be 25.3%, which is over the cap of 20%.

Cody Gorges, Fiscal Analyst, Kansas Legislative Research Department, responded to questions from committee members. He reviewed the state bond rating by Moody's. The rating from last year has been downgraded due to negative outlook for this year, due to repeated revenue short-falls, deterioration in pension funding, reliance on non-reoccurring budgetary measures and potential reopening of litigation. He noted that there was no report provided from Standard and Poors.

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Chairman Yoder closed the hearing on **HB 2355**.

**SB 313 - H Sub for S 313 by Committee on Appropriations- State and school bond obligations, state general fund bonded debt, school district capital improvement fund transfers**

Representative Gatewood made a motion to strike the language in SB 313 and insert language from HB 2355. The motion was seconded by Representative Mast. Motion carried.

Representative Whitham made a substitute motion to change the percentage limitation from 20% to 25%. The motion was seconded by Representative Merrick. Motion carried.

Representative McLeland reviewed the proposed amendment to **HB 2355**, (Attachment 4). He stated that this amendment would place a cap on the state's obligation for new bonds issued by school districts.

Representative McLeland made a motion to amend HB 2355. The motion was seconded by Representative Kelley.

Representative McLeland responded to questions from committee members. He stated that any bonds that the state is currently paying on would not be affected, only any new bonds issued that reach the cap limitation. The issue of local control, the impact on poorer communities and construction jobs was discussed by committee members.

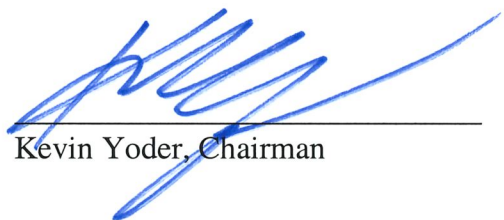
Jim Wilson, First Revisor, Office of the Revisor of Statutes, responded to questions from committee members regarding bonding restrictions.

Representative McLeland renewed the motion. Motion carried.

Representative Kelley made a motion to approve SB 313- H Sub for S 313 favorable for passage. The motion was seconded by Representative Merrick. The motion carried.

The next meeting is scheduled for March 17, 2010.

The meeting was adjourned at 10:35 a.m.



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Kevin Yoder, Chairman

# APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 3-16-10

NAME	REPRESENTING
Gene Meyer	KMTS Reporter
Nancy Casey	GSA
Rob Mack	KEARNEY & ASSOC.
RJ Wilson	KOSE
Wigh Keck	Hein Law firm
Chad Austin	KHA
DAVE HALBERT	KDOA
Mitzi McFarland	KABC
Dennis Phillips	KSCFF
Ed Redmon	KSCFF
Nick Woods	NRC

IN THE SUPREME COURT OF THE STATE OF KANSAS

ADMINISTRATIVE ORDER NO. 241

Re: Court Closures and Involuntary Unpaid Leave of Nonjudicial Personnel

The fiscal year 2010 appropriations for the Kansas Judicial Branch are greatly below the amounts needed to maintain operations at normal levels. Among its efforts to cope with this crisis, the Kansas Supreme Court continued a hiring freeze which had begun in December 2008, eliminated temporary employee positions, instituted an emergency surcharge on filings pursuant to 2009 Senate Bill 66, and reduced expenditures where possible. However, because salaries make up approximately 98% of the Kansas Judicial Branch budget, these steps alone cannot bridge the gap between the amount appropriated and the amount necessary to operate the Kansas Judicial Branch. Accordingly, the Kansas Supreme Court orders:

1. Kansas district and appellate courts will be closed on April 9, 16, 23, and May 7, 2010. These closures apply to all court offices, including the offices of the clerks of the district court, the court services offices, the office of the Clerk of the Appellate Courts, the Reporter of Decisions, the Supreme Court Law Library, the Office of Judicial Administration, the Office of the Disciplinary Administrator, the Kansas Lawyers Assistance Program, the Kansas Continuing Legal Education Commission, and any other offices staffed by Kansas Judicial Branch personnel.
2. All Kansas Judicial Branch personnel (employees paid through the Kansas Judicial Branch except justices and judges) will be on involuntary unpaid leave on the closure dates stated in paragraph 1 unless otherwise approved in advance in writing by the Supreme Court. No employee will be allowed to take paid leave or holiday leave on any designated involuntary unpaid leave date. Employees in positions that are less than 1.0 full time equivalent shall be placed on involuntary unpaid leave for 20% of the hours in their normal work week for each day of unpaid leave imposed on full-time employees. The chief judge of any district may realign the remaining work days of such employee to accommodate court closures.
3. Except as approved in advance in writing by the Kansas Supreme Court, no Kansas Judicial Branch personnel who are on involuntary unpaid leave shall perform any work for the Kansas Judicial Branch on the closure dates stated in paragraph 1.
4. All exempt employees under the Fair Labor Standards Act will be considered hourly employees during any week in which involuntary unpaid leave is imposed. As such, those employees will be required to complete a State of Kansas time and leave document for those periods and will be restricted to working no more than the equivalent of 8 hours per day for the remaining days, *e.g.*, in a week containing 1 involuntary unpaid leave day, the employee is restricted to working no more than 32 hours in the remaining 4 work days.

5. During the periods the courts are closed, the only district court proceedings that may be conducted are those that involve the following critical functions:

**Criminal**

- Determining probable cause for arrests without a warrant
- Conducting first appearances, K.S.A. 22-2901
- Setting appearance bonds and conditions of release pending preliminary examination or trial, K.S.A. 2009 Supp. 22-2802
- Issuing warrants pursuant to K.S.A. 22-2302 (arrest); K.S.A. 2009 Supp. 22-3716 (violations of probation); K.S.A. 22-2502 (searches and seizures); K.S.A. 22-2816 (violation of supervised release program); K.S.A. 22-2805 (holding a material witness); and K.S.A. 20-342, 22-2911, 22-2912 (violation of diversion agreement)
- Issuing orders for wiretaps, K.S.A. 22-2516
- Conducting inquisitions, K.S.A. 22-3101, *et seq.*

**Child in Need of Care (CINC)/Juvenile Offender**

- Conducting juvenile detention hearings, K.S.A. 2009 Supp. 38-2343(a)
- Conducting temporary custody hearings, K.S.A. 2009 Supp. 38-2243(b)
- Issuing warrants for juvenile offenders, K.S.A. 2009 Supp. 38-2342
- Issuing ex parte orders for CINC, K.S.A. 2009 Supp. 38-2242(a)
- Issuing ex parte orders for violation of a valid court order in CINC proceedings, K.S.A. 2009 Supp. 38-2260(c)
- Conducting preliminary hearings on violation of a valid court order in CINC proceedings, K.S.A. 2009 Supp. 38-2260(d)
- Conducting evidentiary hearings on violation of a valid court order in CINC proceedings, K.S.A. 2009 Supp. 38-2260(e)

### **Care and Treatment**

- Conducting probable cause hearings regarding the commitment of sexually violent predators, K.S.A. 59-29a05(b)
- Issuing ex parte emergency custody orders, K.S.A. 59-2958 (mental illness) and K.S.A. 59-29b58 (alcohol and substance abuse)
- Issuing temporary custody orders, K.S.A. 59-2959 (mental illness) and K.S.A. 59-29b59 (alcohol and substance abuse)

### **Protection from Abuse Orders**

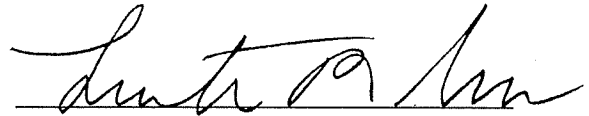
- Issuing protection from abuse emergency orders, K.S.A. 60-3105
- Issuing protection from stalking orders on an emergency basis, K.S.A. 2009 Supp. 60-31a06

### **Miscellaneous**

- Conducting hearings and issuing orders for isolation or quarantine, K.S.A. 2009 Supp. 65-129c(d)(3), (5)
  - Considering petitions to waive notice under K.S.A. 65-6705 and Supreme Court Rule 173 (2009 Kan Ct. R. Annot. 249)
  - Issuing temporary orders for care and custody in adoption proceedings, K.S.A. 59-2131
  - Performing other functions of an emergency nature as approved by the departmental justice
6. The chief judge of each judicial district shall be responsible for implementing this administrative order. Each chief judge shall also:
- a. Ensure judicial coverage for the critical functions listed in paragraph 5;
  - b. Notify court users of the court closures, including using the media and web pages;
  - c. Ensure telephones other than those in judges' chambers are answered with a recorded message notifying the caller of the duration of the court closure;
  - d. Notify the bar and law enforcement agencies of how to contact a judge for performance of critical functions and to explain that judges will not process the receipt of any funds;
  - e. Ensure the courts' fax machines are operating and are maintained during the periods the clerks' offices and court services offices are closed;

- f. Notify the post office to hold mail or make other arrangements for secure mail storage;
  - g. Arrange with law enforcement agencies or other entities for supervision of those on house arrest or high-risk supervision;
  - h. Discuss procedures for obtaining protection from abuse and protection from stalking orders with community organizations and law enforcement agencies;
  - i. Ensure courts are secure during periods of involuntary unpaid leave.
7. In addition to the closure dates stated in paragraph 1 of this order, offices of the clerks of the district courts may be closed to the public for additional time periods to allow staff uninterrupted time in which to process the backlogs resulting from court closures. Any such additional closures must be requested by the chief judge of a district and approved in advance by the Office of Judicial Administration. The chief judge shall ensure the public is notified of the schedule.

BY ORDER OF THE COURT this 12th day of March, 2010.



LAWTON R. NUSS, Justice,  
for ROBERT E. DAVIS, Chief Justice



PROPOSED AMENDMENT TO SB 446  
For Consideration by Committee on Appropriations  
March 16, 2010

I move to amend SB 446, on page 1, before line 17, by inserting the material to read as follows:

1           “Section 1. Sections 1 through 14, and amendments thereto, shall be known and may be cited  
2 as the council on efficient government act.

3           Sec. 2. (a) It is the public policy of this state to provide the highest quality services at the  
4 lowest possible cost to taxpayers. Efficiency can only be achieved, however, if decisions about how  
5 government services are provided are governed by the following fundamental principles:

6           (1) The state government should not compete with private businesses that provide the same  
7 goods and services;

8           (2) the state government should not replicate, duplicate or compete with not-for-profit  
9 organizations that provide the same goods and services;

10          (3) the state government should not replicate, duplicate or compete with the federal  
11 government or local units of government that provide the same goods and services;

12          (4) there are certain functions and operations of state government that are inherently  
13 governmental and cannot be outsourced, and these activities are intimately related to the public  
14 interest; and

15          (5) when activities are clearly not governmental functions and operations, the state  
16 government should conduct a rigorous comparison of private business or not-for-profit  
17 organizational costs with the costs of the state government providing those functions and operations.

18          (b) The purpose of the council on efficient government is:

19          (1) To ensure that each state agency focuses on its core mission, and delivers goods and

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1 services effectively and efficiently by leveraging resources and contracting with private business  
2 suppliers or not-for-profit organizations if those entities can more effectively and efficiently provide  
3 such goods and services thereby reducing the cost of government while expanding those services to  
4 the greatest number of citizens;

5 (2) to develop a comprehensive and detailed process to analyze opportunities to improve the  
6 efficiency, cost-effectiveness and quality of state governmental services, operations, functions and  
7 activities; and

8 (3) to evaluate for feasibility, cost-effectiveness and efficiency, business cases that  
9 potentially could be outsourced and make recommendations to state agencies prior to the outsourcing  
10 of goods or services.

11 Sec. 3. As used in sections 1 through 14, and amendments thereto:

12 (a) "Activity" means the provision of goods or services or the performance of any function  
13 or operation by a state agency.

14 (b) "Affiliated" means a person who directly or indirectly through one or more  
15 intermediaries, controls or is controlled by, or is under common control with, a specified entity.

16 (c) "Business case" means any proposal to outsource a state agency activity or eliminate  
17 replication or duplication of a state agency activity and operations carried out by a private business,  
18 not-for-profit organization or other government agency.

19 (d) "Contractor" means any private business or not-for-profit organization that contracts with  
20 a state agency to perform an activity previously performed by such state agency.

21 (e) "State agency" means any department, authority, office or other governmental agency of  
22 this state. The term shall not include any political subdivision of the state, municipality or other unit

1 of local government.

2 Sec. 4. (a) There is hereby created a body politic and corporate to be known as the council  
3 on efficient government. The council on efficient government is hereby constituted a public  
4 instrumentality and the exercise of the authority and powers conferred by this act shall be deemed  
5 and held to be the performance of an essential governmental function.

6 (b) The council shall consists of 11 members as follows:

7 (1) One member, who shall be either the lieutenant governor or the chief executive of a state  
8 agency, who shall be appointed by the governor;

9 (2) two members, who shall be engaged in private business and are not members of the  
10 legislature, appointed by the governor;

11 (3) three members, who shall be engaged in private business and only one of whom may be  
12 a member of the legislature, appointed by the president of the senate;

13 (4) three members, who shall be engaged in private business and only one of whom may be  
14 a member of the legislature, appointed by the speaker of the house of representatives;

15 (5) one member, who shall be engaged in private business and who shall not be a member  
16 of the legislature, appointed by the minority leader of the senate; and

17 (6) one member, who shall be engaged in private business and who shall not be a member  
18 of the legislature, appointed by the minority leader of the house of representatives.

19 (c) Members shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b,  
20 and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person  
21 appointed to the council shall exercise any power, duty or function as a member of the council until  
22 confirmed by the senate.

1 (d) Members shall serve for a term of two years. Terms of members appointed pursuant to  
2 this section shall expire on March 15. In the case of the member who is a state official, such member  
3 shall serve for a term of two years, or until such member ceases to hold public office, whichever  
4 occurs first. Members shall serve until a successor is appointed and confirmed.

5 (e) After the expiration of a member's term, or whenever a vacancy occurs a member shall  
6 be appointed as described in subsection (a). In the event of a vacancy the appointment shall be for  
7 the remainder of the unexpired portion of the term. Any member is eligible for reappointment for  
8 successive two-year terms.

9 (f) No member shall appoint a designee to serve in such member's place on the council.

10 (g) The council shall annually elect a member as chairperson. The member appointed  
11 pursuant to paragraph (a)(1) and any member who is a member of the legislature is not eligible to  
12 serve as chairperson.

13 (h) The council shall meet at least four times a year at the call of the chairperson. A quorum  
14 shall consist of a majority of the members of the council.

15 (i) Members attending council meetings shall be entitled to compensation and expenses as  
16 provided in K.S.A. 75-3223, and amendments thereto.

17 Sec. 5. (a) In order to achieve its purpose as provided in this act, the council on efficient  
18 government shall:

19 (1) Review and evaluate the possibility of outsourcing goods or services provided by a state  
20 agency to a private business or not-for-profit organization that is able to provide the same type of  
21 good or service and whether such action would result in cost savings to the state;

22 (2) review and evaluate the possibility of outsourcing operations or functions of a state

1 agency to a private business or not-for-profit organization that is able to more efficiently and  
2 cost-effectively perform such operation or function;

3 (3) review and evaluate instances where a state agency is providing goods or services in  
4 competition with one or more private businesses to determine ways to eliminate such competition;

5 (4) review and evaluate instances where a state agency is providing goods or services that  
6 replicate, duplicate or compete with one or more not-for-profit organizations or federal or local units  
7 of government;

8 (5) make any requests it deems necessary to state agencies for an inventory of such agency's  
9 activities that may be outsourced, or that compete with, replicate or duplicate activities provided by  
10 private entities or federal or local units of government;

11 (6) develop and implement a standard process for reviewing business cases pursuant to this  
12 act;

13 (7) make recommendations to state agencies regarding the outsourcing of operations,  
14 functions and the provision of goods and services based on the council's review and evaluation of  
15 business cases pursuant to this act; and

16 (8) identify and distribute information regarding the best practices in outsourcing efforts to  
17 state agencies.

18 (b) The council may appoint advisory groups, provided, at least one member of the council  
19 is appointed to each such group.

20 (c) The council shall annually prepare and submit a report to the governor, the committee  
21 on ways and means of the senate and the committee on appropriations of the house of  
22 representatives. The report shall be submitted no later than January 15, and shall contain details of

1 the council's activities for the immediately preceding year and include the following:

2 (1) Recommendations on methods of delivering government services that would improve  
3 the efficiency, effectiveness and delivery of government services;

4 (2) outsourcing efforts of state agencies, including the number of business cases reviewed,  
5 those recommended for outsourcing and the state agency action on the business case; and

6 (3) information on all outsourcing contracts entered into the preceding year, including, the  
7 dollar value of each outsourcing contract, descriptions of performance results, any breach of contract  
8 or inadequate performance, and the status of extensions, renewals and amendments of outsourcing  
9 contracts.

10 Sec. 6. The staff of the legislative research department shall provide such assistance as may  
11 be requested by the council on efficient government.

12 Sec. 7. (a) A business case may be submitted by the governor, any member of the legislature,  
13 any state agency, a private business, a not-for-profit organization or any government entity that is  
14 not a state agency. A business case shall be submitted in the manner and form prescribed by the  
15 council.

16 (b) A business case shall include the following:

17 (1) A description of the state agency activity the council is to review and evaluate;

18 (2) a description of the private market for such activity; and

19 (3) a proposal as to the price to be paid by the state agency if such activity were outsourced.

20 (c) If the business case is submitted by a state agency, the following shall also be included  
21 in the business case:

22 (1) A description and analysis of the agency's performance with respect to such activity;

1 (2) an analysis comparing the potential costs and savings to the agency between outsourcing  
2 the activity and continuing to perform such activity;

3 (3) a citation to existing legal authority for outsourcing such activity;

4 (4) a transition plan that addresses changes in personnel, equipment, office location and  
5 communication with clients and the general public should such activity be outsourced;

6 (5) a description of any legislative action necessary to accomplish the outsourcing of such  
7 activity; and

8 (6) a description of specific performance standards that a contractor must meet in performing  
9 such activity, including:

10 (A) Specific and measurable goals to be met by the contractor;

11 (B) a plan to ensure compliance by the contractor with all applicable laws and regulations;

12 and

13 (C) a contingency plan addressing the contractor's nonperformance or inadequate  
14 performance of such activity.

15 (d) If the business case is submitted by an entity other than a state agency, the council shall  
16 send a copy of the submitted business case to the state agency currently performing the activity in  
17 question. The state agency shall have 30 days from receipt of the business case to submit a response  
18 to the council. The response shall include those items set forth in subsection (c).

19 (e) The council may review and evaluate any business case that is submitted to the council  
20 to determine: (1) If there is competition, replication or duplication of an activity by a state agency  
21 with a private business, not-for-profit organization or other government entity; (2) whether such  
22 activity may be outsourced such state agency; and (3) the costs and savings that will likely result

1 from such outsourcing.

2 (f) In conducting its review and evaluation of a business case the council shall consider the  
3 state agency's response submitted pursuant to subsection (d), if applicable, and determine whether  
4 the activity in question is an inherent governmental function that cannot be outsourced, or a  
5 commercial activity which may be performed by an entity other than the state agency. The council  
6 may hold public hearings, seek advice from advisory groups and request additional information from  
7 the state agency.

8 (g) Any member of the council that is either employed by the state agency which is  
9 performing the activity that is the subject of a business case under review, or is affiliated with a  
10 private business or not-for-profit organization that could perform such activity shall not participate  
11 in the review and evaluation of that particular business case.

12 (h) Upon completion of its review and evaluation the council shall prepare a report on its  
13 findings and recommendations. Copies of the council's final report on a business case shall be sent  
14 to the entity that initially submitted the business case, and the state agency which performs the  
15 activity that is the subject of the business case.

16 (i) Any state agency receiving a report pursuant to subsection (h) shall submit a response to  
17 the council within 45 days after receipt of the report. The response shall include the agency decision  
18 with respect to outsourcing or eliminating the activity, the reasons supporting the decision and the  
19 implementation date, if any.

20 Sec. 8. Any contract entered into by a state agency with a private business or not-for-profit  
21 organization which is an agreement for the private business or not-for-profit organization to perform  
22 an activity previously performed by the state agency shall include the following:



1 (a) A specific scope of work statement clearly identifying the activity to be performed by the  
2 contractor;

3 (b) if services are being provided, an agreement as to what constitutes adequate provision  
4 of such services, and the ability of the state agency to resume provision of such services if not  
5 adequately provided by the contractor;

6 (c) a specific transition plan providing for the transfer of the activities in question to the  
7 contractor;

8 (d) specific and measurable performance standards that must be met by the contractor;

9 (e) a provision granting the state agency access to all relevant documents and records of the  
10 contractor necessary for the purposes of verifying the contractor is meeting all performance standards  
11 and auditing the contractor's performance;

12 (f) a provision requiring the contractor to interview and consider for employment any state  
13 employee previously employed by the state agency who expresses an interest in such employment;  
14 and

15 (g) a contingency plan for transferring such activity back to the state agency in the event the  
16 contractor does not meet the required performance standards.

17 Sec. 9. (a) When any contract for the purchase of goods or services by any state agency, as  
18 that term is defined in K.S.A. 75-3701, and amendments thereto, is not awarded to a vendor after  
19 such vendor has submitted the lowest bid for such contract, the director of purchasing of the  
20 department of administration shall prepare a written explanation detailing the reasons why such  
21 vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be  
22 remedied to the satisfaction of the director. In the event the contract is awarded by a state agency

1 other than the department of administration, such state agency shall prepare a written explanation  
2 detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such  
3 vendor's bid could not be remedied to the satisfaction of the head of such state agency, and submit  
4 such written explanation to the director of purchasing of the department of administration.

5 (b) On or before January 12, the director of purchasing of the department of administration  
6 shall transmit to the standing committee on appropriations of the house of representatives, the  
7 standing committee on ways and means of the senate and the council on efficient government a  
8 report that shall include all written explanations prepared in accordance with this section during the  
9 immediately preceding year.

10 (c) The provisions of this section shall not apply to contracts that are subject to the  
11 provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and  
12 amendments thereto, or to contracts in support of the planning, development or implementation of  
13 a road, bridge or public transportation construction program of the department of transportation.

14 Sec. 10. (a) When any contract for the purchase of goods or services by any state agency, as  
15 that term is defined in K.S.A. 75-3701, and amendments thereto, is not awarded to a vendor that is:  
16 (1) Domiciled in this state; (2) proposing to have the work which is the subject matter of the contract  
17 performed by employees subject to Kansas income withholding taxes; and (3) subject to Kansas  
18 income taxes, the director of purchasing of the department of administration shall prepare a written  
19 explanation detailing the reasons why such vendor was not awarded the contract and why the  
20 deficiencies in such vendor's bid could not be remedied to the satisfaction of the director. In the event  
21 the contract is awarded by a state agency other than the department of administration, such state  
22 agency shall prepare a written explanation detailing the reasons why such vendor was not awarded

1 the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction  
2 of the head of such state agency, and submit such written explanation to the director of purchasing  
3 of the department of administration.

4 (b) On or before January 12, the director of purchasing of the department of administration  
5 shall transmit to the standing committee on appropriations of the house of representatives, the  
6 standing committee on ways and means of the senate and the council on efficient government a  
7 report that shall include all written explanations prepared in accordance with this section during the  
8 immediately preceding year.

9 (c) The provisions of this section shall not apply to contracts that are subject to the  
10 provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and  
11 amendments thereto, or to contracts in support of the planning, development or implementation of  
12 a road, bridge or public transportation construction program of the department of transportation or  
13 to contracts for building construction.

14 (d) For purposes of this section, the term "building construction" means furnishing labor,  
15 equipment, material or supplies used or consumed for the design, construction, alteration, renovation,  
16 repair or maintenance of a building or structure, including multilevel parking structures and  
17 stand-alone parking lots.

18 Sec. 11. (a) Any contract for the purchase of goods or services by any state agency, as that  
19 term is defined in K.S.A. 75-3701, and amendments thereto, which includes a provision for the  
20 automatic renewal or extension of such contract, shall be reviewed by the head of such agency to  
21 determine if such contract shall be allowed to be automatically renewed or extended. Such review  
22 shall include an evaluation of the cost savings the agency might benefit from if the agency were to

1 terminate the contract and issue a new request for proposal. If the head of the state agency determines  
2 that it is in the agency's best interest to allow the contract to be automatically renewed or extended,  
3 then the head of the state agency shall prepare a written explanation detailing the reasons why such  
4 contract was allowed to be automatically renewed or extended and submit such written explanation  
5 to the director of purchasing of the department of administration.

6 (b) On or before January 12, the director of purchasing of the department of administration  
7 shall transmit to the standing committee on appropriations of the house of representatives, the  
8 standing committee on ways and means of the senate and the council on efficient government a  
9 report that shall include all written explanations prepared in accordance with this section during the  
10 immediately preceding year.

11 (c) The provisions of this section shall not apply to contracts that are subject to the  
12 provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and  
13 amendments thereto, or to contracts in support of the planning, development or implementation of  
14 a road, bridge or public transportation construction program of the department of transportation.

15 Sec. 12. The provisions of sections 1 through 14, and amendments thereto, shall not apply  
16 to any activity conducted by or under the authority of the state board of regents, or to any contract  
17 entered into by the state board of regents or any postsecondary educational institution, as defined by  
18 K.S.A. 74-3201b, and amendments thereto.

19 Sec. 13. (a) The director of purchases and any state agency authorized by statute or by  
20 delegation of authority by the director of purchases to administer purchasing procedures using  
21 competitive bidding procedures for contracts for supplies, materials, equipment and contractual  
22 services shall draft or cause to be drafted specifications for bids in a manner that does not limit the

1 bidding, directly or indirectly, to any one specific contractor, subcontractor, manufacturer or supplier.  
2 When preparing specifications for such purposes which require specific materials, products, items  
3 or services, the director of purchases and any such state agency shall use specific brand or trade  
4 names only for reference. When preparing specifications for contracts for supplies, materials,  
5 equipment and contractual services, the director of purchases and any such state agency shall specify  
6 all materials required by American national standards institute (ANSI) number or builders hardware  
7 manufacturers association (BHMA) product number. No product or manufacturer shall be given  
8 preference over any other product or manufacturer in any specifications prepared by or for director  
9 of purchases or any such state agency for contracts for supplies, materials, equipment and contractual  
10 services.

11 (b) No specifications for bids to be administered by the director of purchases or by any state  
12 agency authorized by statute or by delegation of authority by the director of purchases to administer  
13 purchasing procedures using competitive bidding procedures, shall be drafted or caused to be drafted  
14 by an outside specification writer who is a representative, supplier, owner or employee of a  
15 manufacturer or who is in any other way associated or under contract with a manufacturer.

16 (c) The provisions of this section shall not apply to contracts that are subject to the  
17 provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and  
18 amendments thereto, or to contracts in support of the planning, development or implementation of  
19 a road, bridge or public transportation construction program of the department of transportation or  
20 to contracts for building construction.

21 (d) For purposes of this section, the term "building construction" means furnishing labor,  
22 equipment, material or supplies used or consumed for the design, construction, alteration, renovation,

1 repair or maintenance of a building or structure, including multilevel parking structures and  
2 stand-alone parking lots.

3 Sec. 14. If any provision of sections 1 through 14, and amendments thereto, or the  
4 application thereof to any persons or circumstances is held invalid, such invalidity shall not affect  
5 other provisions or application of the act which can be given effect without the invalid provisions  
6 or application and to this end the provisions of sections 1 through 14, and amendments thereto, are  
7 declared to be severable.”;

8 And by renumbering sections accordingly;

9 On page 1, in the title, in line 1, by striking all after “concerning”; in line 2, by striking all  
10 before the semicolon and inserting “state contracts; relating to procurement of goods and services  
11 for state agencies; bid specifications; creating the council on efficient government”

12

## HB 2355 Fiscal Note

	<b>SGF Revenue</b>	<b>SGF Bond Debt</b>	<b>Ratio</b>
FY 2010	\$ 5,401,832,000	\$ 996,975,000	18.5%
FY 2011	\$ 5,830,628,000	\$ 1,084,395,000	18.6%

Note 1: For every \$100.0 million in State General Fund (SGF) Revenue adjustments the amount of Bond Debt Limitation would be adjusted by \$20.0 million.

Note 2: For every 1.0 percent adjustment in the Bond Debt Limitation percentage, the total amount of the Bond Debt Limitation would be adjusted by \$58.3 million.

Note 3: The Bond Debt Limitation percentage at 20.0 percent would provide for a Bond Debt Limitation of \$1,166,125,600 for FY 2011.

Note 4: The SGF Revenue is the Consensus Revenue Estimates as adjusted for the Governor's recommendation (page 23 of the *FY 2011 Governor's Budget Report*, Volume 1).

Note 5: The SGF Bond Debt is the principal estimates taken from page 84 of the *FY 2010 Comparison Report*, and from page 207 of the *FY 2011 Governor's Budget Report*, Volume 1.

Appropriations Committee  
Date 3-16-10  
Attachment 3

PROPOSED AMENDMENTS TO HB NO. 2355  
MARCH 16, 2010

On page 1, in line 15, preceding "Section" by inserting "New"; following line 36, by inserting the following material to read as follows:

"(d) Upon receipt of the certification by the Kansas development finance authority pursuant to subsection (c), the secretary of administration shall consult with the director of the budget and the director of legislative research and shall determine the maximum amount of state general fund bonded debt for the fiscal year commencing on the next ensuing July 1. The secretary of administration shall determine whether the amount of the estimated outstanding principal balance of state general fund bonded debt certified for such fiscal year equals or exceeds the maximum amount of state general fund bonded debt for such fiscal year imposed by this section and shall certify such determination to the secretary of state. Upon receipt of such certification, the secretary of state shall publish such certification in next issue of the Kansas register published after receiving such certification. At the same time the certification is transmitted to the secretary of state, a copy shall be transmitted to the governor, department of education, director of the budget and the director of legislative research.";

Also on page 1, in line 37, by striking "(d)" and inserting "(e)";

On page 2, following line 3, by inserting the following:

"Sec. 2. K.S.A. 2009 Supp. 75-2319 is hereby amended to read as follows: 75-2319. (a) There is hereby established in the state treasury the school district capital improvements fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

Appropriations Committee  
Date 3-16-10  
Attachment 4-1



(b) Subject to the provisions of subsection (f), in each school year, each school district which is obligated to make payments from its capital improvements fund shall be entitled to receive payment from the school district capital improvements fund in an amount determined by the state board of education as provided in this subsection. The state board of education shall:

(1) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this section;

(2) determine the median AVPP of all school districts;

(3) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(4) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. Except as provided by K.S.A. 2009 Supp. 75-2319c, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school

district. The state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 5% for contractual bond obligations incurred by a school district prior to ~~the effective date of this act July 1, 1992,~~ and 25% for contractual bond obligations incurred by a school district on or after ~~the effective date of this act July 1, 1992,~~ except that the state aid computational percentage is 0% for contractual bond obligations incurred by a school district during any period described in subsection (e)(2);

(5) determine the amount of payments in the aggregate that a school district is obligated to make from its bond and interest fund and, of such amount, compute the amount attributable to contractual bond obligations incurred by the school district prior to the effective date of this act and the amount attributable to contractual bond obligations incurred by the school district on or after the effective date of this act;

(6) multiply each of the amounts computed under (5) by the applicable state aid percentage factor; and

(7) add the products obtained under (6). The amount of the sum is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(c) The state board of education shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital improvements fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund ~~except that all such transfers during the fiscal year ending June 30, 2007, shall be considered~~

to be revenue transfers from the state general fund.

(d) Payments from the school district capital improvements fund shall be distributed to school districts at times determined by the state board of education to be necessary to assist school districts in making scheduled payments pursuant to contractual bond obligations. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the bond and interest fund of the school district to be used for the purposes of such fund.

(e) (1) The provisions of this section apply only to contractual obligations incurred by school districts pursuant to general obligation bonds issued upon approval of a majority of the qualified electors of the school district voting at an election upon the question of the issuance of such bonds.

(2) The provisions of this section not apply to and school districts are not entitled to receive payments from the school district capital improvements fund for any contractual obligations incurred by school districts pursuant to general obligation bonds issued during any period commencing on the date of publication of an issue of the Kansas register containing a determination by the secretary of administration pursuant to section 1, and amendments thereto, that the amount of the estimated outstanding principal balance of state general fund bonded debt certified for such fiscal year equals or exceeds the maximum amount of state general fund bonded debt determined for state fiscal year and ending on the last day of such state fiscal year.

(f) Amounts transferred to the capital improvements fund of a school district as authorized by K.S.A. 72-6433, and amendments thereto, shall not be included in the computation when

determining the amount of state aid to which a district is entitled to receive under this section.

Sec. 3. K.S.A. 2009 Supp. 75-2913 is hereby repealed.";

And by renumbering section 2 as section 4;

On page 1, in the title, in line 9, following "ACT" by inserting "concerning the state general fund; relating to certain state and school district contractual bond obligations;"; in line 11, following the semicolon, by inserting "limiting transfers to the school district capital improvements fund;"; in line 12, preceding the period, by inserting "amending K.S.A. 2009 Supp. 75-2319 and repealing existing section"