

## 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 Cussimanio, 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 14<sup>th</sup> as written. The motion was seconded by Senator Masterson. Motion carried on voice vote.

### **Committee Discussion 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.

### **Committee Actions on SB 23 - Governor's Budget Recommendations (GBR)**

#### **State General Fund Revenue and Transfer Adjustments for FY 2009**

## CONTINUATION SHEET

MINUTES OF THE Senate Ways And Means at 10:30 a.m. on January 16, 2009, in Room 545-N of the Capitol.

- 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.

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.

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

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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 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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MINUTES OF THE Senate Ways And Means at 10:30 a.m. on January 16, 2009, in Room 545-N of the Capitol.

### 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 4).
- Comparison of Tentative Senate Ways and Means Committee Initial Recommendations and Governor's Receipt and Expenditure Recommendations in FY 2009 and FY 2010 (Attachment 5).
- 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 6).

### **Adjournment**

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