

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2009

Substitute for SENATE BILL No. 311

By Committee on Ways and Means

4-30

12 AN ACT concerning the state budget; state general fund and special
13 revenue fund expenditures, transfers and ending balance require-
14 ments; reduction and allotment procedures; amending K.S.A. 75-3722
15 and 75-6704 and repealing the existing sections.
16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 75-3722 is hereby amended to read as follows: 75-
19 3722. (a) An allotment system will be applicable to the expenditure of
20 the resources of any state agency, under rules and regulations established
21 as provided in K.S.A. 75-3706, *and amendments thereto*, only if, in the
22 opinion of the secretary of administration on the advice of the director
23 of the budget, the use of an allotment plan is necessary or beneficial to
24 the state. In making this determination the secretary of administration
25 shall take into consideration all pertinent factors including (1) available
26 resources, (2) current spending rates, (3) work loads, (4) new activities,
27 especially any proposed activities not covered in the agency's request to
28 the governor and the legislature for appropriations, (5) the minimum
29 current needs of each agency, (6) requests for deficiency appropriations
30 in prior fiscal years, (7) unexpended and unencumbered balances, and (8)
31 revenue collection rates and prospects.

32 (b) [(1)] Whenever for any fiscal year it appears that the resources
33 of ~~the general fund or~~ **[the state general fund or]** any special revenue
34 fund are likely to be insufficient to cover the appropriations made against
35 **[the state general fund or]** such ~~general fund or~~ special revenue fund,
36 the secretary of administration, on the advice of the director of the
37 budget, shall, in such manner as ~~he or she~~ *the secretary of administration*
38 may determine, inaugurate the allotment system so as to assure that ex-
39 penditures for any particular fiscal year will not exceed the available re-
40 sources of ~~the general fund or any~~ **[the state general fund or]** *such*
41 special revenue fund for that fiscal year.

42 [(2) **In addition, the director of the budget shall continuously**
43 **monitor the status of the state general fund with regard to esti-**

1 mated and actual revenues and approved and actual expenditures
2 and demand transfers. Periodically, the director of the budget
3 shall estimate the amount of the unencumbered ending balance of
4 moneys in the state general fund for the current fiscal year and
5 the total amount of anticipated expenditures, demand transfers
6 and encumbrances of moneys in the state general fund for the
7 current fiscal year. If the amount of the unencumbered balance in
8 the state general fund is less than the amount equal to 3.5% of the
9 total amount authorized to be expended or transferred by demand
10 transfer from the state general fund in such fiscal year, as jointly
11 estimated by the director of the budget and the director of legis-
12 lative research under K.S.A. 75-6702, and amendments thereto,
13 the director of the budget shall certify such joint estimate to the
14 secretary of administration, after adjusting the estimates of the
15 amounts of such demand transfers with regard to new estimates
16 of revenues to the state general fund, where appropriate. Upon
17 receipt of any such certification, the secretary of administration,
18 with the advice of the director of the budget and in such manner
19 as may be determined by the secretary of administration, may in-
20 augurate the allotment system for the expenditures and demand
21 transfers from the state general fund for the fiscal year so that the
22 estimated unencumbered ending balance in the state general fund
23 is not less than the amount equal to 3.5% of the total amount au-
24 thorized to be expended or transferred by demand transfer from
25 the state general fund in such fiscal year, as jointly estimated by
26 the director of the budget and the director of legislative research
27 under K.S.A. 75-6702, and amendments thereto.]

28 (c) The allotment system shall not apply to ~~the legislature or to the~~
29 ~~courts or their state general fund or to any appropriations for the legis-~~
30 ~~lative or judicial branches of state government or to any agencies or of-~~
31 ~~ficers and employees of such branches.~~

32 (d) Agencies affected by decisions of the secretary of administration
33 under this section shall be notified in writing at least ~~thirty (30)~~ 30 days
34 before such decisions may become effective and any affected agency may,
35 by written request addressed to the governor within ~~ten (10)~~ 10 days after
36 such notice, ask for a review of the decision by the ~~finance council gov-~~
37 ~~ernor.~~ The ~~finance council~~ governor shall hear appeals and render a de-
38 cision within ~~twenty (20)~~ 20 days after the governor receives requests for
39 such hearings.

40 Sec. 2. K.S.A. 75-6704 is hereby amended to read as follows: 75-
41 6704. (a) The director of the budget shall continuously monitor the status
42 of the state general fund with regard to estimated and actual revenues
43 and approved and actual expenditures and demand transfers. Periodically,

1 the director of the budget shall estimate the amount of the unencum-
2 bered ending balance of moneys in the state general fund for the current
3 fiscal year and the total amount of anticipated expenditures, demand
4 transfers and encumbrances of moneys in the state general fund for the
5 current fiscal year.

6 (b) (1) If the amount of such unencumbered ending balance in the
7 state general fund is less than ~~\$100,000,000~~ *the amount equal to 3.5% of*
8 *the total amount authorized to be expended or transferred by demand*
9 *transfer from the state general fund in such fiscal year, as jointly estimated*
10 *by the director of the budget and the director of legislative research under*
11 *K.S.A. 75-6702, and amendments thereto*, the director of the budget shall
12 certify to the governor the difference between ~~\$100,000,000~~ *the amount*
13 *equal to 3.5% of the total amount authorized to be expended or transferred*
14 *by demand transfer from the state general fund in such fiscal year, as*
15 *jointly estimated by the director of the budget and the director of legis-*
16 *lative research under K.S.A. 75-6702, and amendments thereto*, and the
17 amount of such unencumbered ending balance in the state general fund,
18 after adjusting the estimates of the amounts of such demand transfers
19 with regard to new estimates of revenues to the state general fund, where
20 appropriate.

21 ~~(b)~~ (2) Upon receipt of any such certification and subject to approval
22 of the state finance council acting on this matter which is hereby declared
23 to be a matter of legislative delegation and subject to the guidelines pre-
24 scribed by subsection (c) of K.S.A. 75-3711c, and amendments thereto,
25 the governor may issue an executive order reducing, by applying a per-
26 centage reduction determined by the governor in accordance with this
27 section, ~~(A)~~ (A) the amount authorized to be expended from each approp-
28 riation from the state general fund for the current fiscal year, other than
29 any item of appropriation for debt service for payments pursuant to con-
30 tractual bond obligations or any item of appropriation for employer con-
31 tributions for the employers who are eligible employers as specified in
32 subsections (1), (2) and (3) of K.S.A. 74-4931, and amendments thereto,
33 under the Kansas public employees retirement system pursuant to K.S.A.
34 74-4939, and amendments thereto, and ~~(2)~~ (B) the amount of each de-
35 mand transfer from the state general fund for the current fiscal year, other
36 than any demand transfer to the school district capital improvements fund
37 for distribution to school districts pursuant to K.S.A. 75-2319, and amend-
38 ments thereto.

39 ~~(c)~~ (3) The reduction imposed by an executive order issued under
40 this ~~section~~ subsection (b) shall be determined by the governor and may
41 be equal to or less than the amount certified under *this* subsection ~~(a)~~
42 (b). ~~Except as otherwise specifically provided by this section, the per-~~
43 ~~centage reduction applied under subsection (b) shall be the same for each~~

1 ~~item of appropriation and each demand transfer and shall be imposed~~
2 ~~equally on all such items of appropriation and demand transfers without~~
3 ~~exception. The executive order issued by the governor under this subsec-~~
4 ~~tion (b) shall specify a specific percentage reduction for each item of ap-~~
5 ~~propriation or demand transfer from the state general fund, as determined~~
6 ~~by the governor, which is not required to be the same percentage reduc-~~
7 ~~tion for all such items of appropriation or demand transfers.~~

8 ~~(4) The provisions of this subsection (b) shall not apply if the amount~~
9 ~~of the unencumbered ending balance in the state general fund for the fiscal~~
10 ~~year ending June 30, 2010, or any fiscal year thereafter, is determined to~~
11 ~~be insufficient to cover the remaining amount authorized to be expended~~
12 ~~or transferred by demand transfer from the state general fund in such~~
13 ~~fiscal year, as jointly estimated by the director of the budget and the~~
14 ~~director of legislative research under K.S.A. 75-6702, and amendments~~
15 ~~thereto. In any such case, the provisions of subsection (c) shall apply.~~

16 ~~(5)~~ (4) During any fiscal year, any expenditures from the state general
17 fund for disasters or emergencies that receive a federal disaster declara-
18 tion designation may be excluded from any determination of whether the
19 ending balance in the state general fund is equal to 3.5% of the total
20 amount authorized to be expended or transferred by demand transfer
21 from the state general fund in such fiscal year.

22 ~~(6)~~ (5) No such percentage reduction and no provisions of any such
23 executive order under this ~~section~~ subsection (b) shall apply or be con-
24 strued to reduce: (A) Any item of appropriation for debt service for pay-
25 ments pursuant to contractual bond obligations ~~or~~, (B) any item of ap-
26 propriation for employer contributions for the employers who are eligible
27 employers as specified in subsections (1), (2) and (3) of K.S.A. 74-4931,
28 and amendments thereto, under the Kansas public employees retirement
29 system pursuant to K.S.A. 74-4939, and amendments thereto, or (C) any
30 demand transfer to the school district capital improvements fund for dis-
31 tribution to school districts pursuant to K.S.A. 75-2319, and amendments
32 thereto. The provisions of such executive order shall be effective for all
33 state agencies of the executive, legislative and judicial branches of state
34 government.

35 ~~(c) (1) Whenever the amount of the unencumbered ending balance~~
36 ~~in the state general fund for the fiscal year ending June 30, 2010, or any~~
37 ~~fiscal year thereafter, is determined to be insufficient to cover the re-~~
38 ~~maining amount authorized to be expended or transferred by demand~~
39 ~~transfer from the state general fund in such fiscal year, as jointly estimated~~
40 ~~by the director of the budget and the director of legislative research under~~
41 ~~K.S.A. 75-6702, and amendments thereto, the director of the budget shall~~
42 ~~certify that determination to the governor and recommend a percentage~~
43 ~~reduction to be applied to all items of appropriation and demand transfers~~

1 ~~from the state general fund, except as otherwise provided by this subsection~~
2 ~~tion (c), so as to assure that expenditures for such fiscal year will not~~
3 ~~exceed the amount of the unencumbered ending balance in the state general~~
4 ~~fund for such fiscal year. Upon receipt of such certification and recom-~~
5 ~~mendation, and upon approval by the state finance council acting on~~
6 ~~this matter which is hereby characterized as a matter of legislative dele-~~
7 ~~gation and subject to the guidelines prescribed by subsection (c) of K.S.A.~~
8 ~~75-3711e, and amendments thereto, the governor may issue an executive~~
9 ~~order imposing the same percentage reduction on each item of appropri-~~
10 ~~ation or demand transfer from the state general fund, except as otherwise~~
11 ~~provided by this subsection (c). Any such percentage reduction imposed~~
12 ~~under this subsection (c) for a fiscal year on appropriations and demand~~
13 ~~transfers from the state general fund shall be implemented by the gover-~~
14 ~~nor, in such manner as the governor determines, so as to assure that~~
15 ~~expenditures and demand transfers from the state general fund for the~~
16 ~~fiscal year do not exceed the available resources of the state general fund~~
17 ~~for the fiscal year.~~
18 ~~—(2) No such percentage reduction and no provisions of any such ex-~~
19 ~~ecutive order under this subsection (c) shall apply or be construed to~~
20 ~~reduce: (A) Any item of appropriation for debt service for payments pur-~~
21 ~~suant to contractual bond obligations, (B) any item of appropriation for~~
22 ~~employer contributions for the employers who are eligible employers as~~
23 ~~specified in subsections (1), (2) and (3) of K.S.A. 74-4931, and amend-~~
24 ~~ments thereto, under the Kansas public employees retirement system pur-~~
25 ~~suant to K.S.A. 74-4939, and amendments thereto, or (C) any demand~~
26 ~~transfer to the school district capital improvements fund for distribution~~
27 ~~to school districts pursuant to K.S.A. 75-2319, and amendments thereto.~~
28 ~~The provisions of such executive order shall be effective for all state agen-~~
29 ~~cies of the executive, legislative and judicial branches of state government.~~
30 ~~(d)~~**(c)** If the governor issues an executive order under this section,
31 the director of accounts and reports shall not issue any warrant for the
32 payment of moneys in the state general fund or make any demand transfer
33 of moneys in the state general fund for any state agency unless such
34 warrant or demand transfer is in accordance with such executive order
35 and such warrant or demand transfer does not exceed the amount of
36 money permitted to be expended or transferred from the state general
37 fund.
38 ~~(e)~~**(d)** Nothing in this section shall be construed to (1) require the
39 governor to issue an executive order under this section upon receipt of
40 any such certification by the director of the budget; or (2) restrict the
41 number of times that the director of the budget may make a certification
42 under this section or that the governor may issue an executive order under
43 this section.

- 1 Sec. 3. K.S.A. 75-3722 and 75-6704 are hereby repealed.
- 2 Sec. 4. This act shall take effect and be in force from and after its
- 3 publication in the statute book.