

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 a.m. on March 7, 2011, in Room 548-S of the Capitol.

All members were present

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Alan Conroy, Director, Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Legislative Research Department
Aaron Klaassen, Senior Fiscal Analyst, Legislative Research Department
Dorothy Hughes, Fiscal Analyst, Legislative Research Department
Brea Short, Intern, Senator McGinn's Office
Jan Lunn, Committee Assistant
Josh Lewis, Chief of Staff

Bill Introductions

Senator McGinn moved introduction of the Mega and Capital Improvements bills for FY 2012. The motion was seconded by Senator Vratil and carried on a voice vote

Announcements

Senator McGinn announced that committee work will continue through next week. She reviewed several outstanding issues scheduled for discussion and encouraged committee members to contact her should agenda items be required.

Information that was requested during the February 18, 2011, Senate Ways and Means Committee meeting was distributed (Attachment 1). This was requested by Senator Schmidt and related to fee funded agencies that have special litigation reserve funds.

Subcommittee Hearing

Kansas Department of Transportation (KDOT)

Senator Umbarger was recognized to present the Kansas Department of Transportation Subcommittee report (Attachment 2). Senator Umbarger expressed appreciation to Senators Kultala, Masterson and Teichman for their work in the Subcommittee.

Senator Umbarger informed committee members that the Subcommittee concurred with the Governor's recommendation in FY 2011. He discussed the agency's request and the Governor's recommendation for FY 2012. Senator Umbarger reported the Subcommittee concurred with the Governor's recommendation with the following adjustments and notations:

1. Added \$875,000, all from the State Highway Fund, to provide half of the remaining \$1.75 million to complete the KDOT Communications System Project for FY 2012.
2. Noted the transfer of approximately \$1.4 billion out of the State Highway Fund since the beginning of the Comprehensive Transportation Program in FY 2000, which concerned the Subcommittee. In addition, the agency's current outstanding debt was noted.
3. Noted that previous legislation provided for the reduction of sales and compensating use tax from 6.3 percent to 5.3 percent beginning in FY 2014.
4. Noted the importance of transportation in sustaining any economic growth and recovery.

Senator Vratil requested clarification on the differences between reportable and non-reportable expenditures. Senator Umbarger provided examples of non-reportable expenditures and noted that if reported, they could be duplicated in another agency's expenditure report. Discussion ensued and Senator McGinn suggested that a briefing be scheduled in the next several weeks to provide committee members additional information on terms such as "off budget," demand transfers," "revenue transfers," and "non-reportable expenditures." These terms have been used in the past and result in limited public and legislative access to information.

Senator Emler commented that a secondary review of the Kansas Highway Patrol and Kansas Bureau of Investigation Subcommittee reports concerning the state forfeiture and seizure

CONTINUATION SHEET
MINUTES OF THE WAYS AND MEANS COMMITTEE on March 7, 2011, 10:30 a.m. 548-S

monies required to complete the 800 Mhz communications interoperability project could be required in light of KDOT's addition of \$875,000 for the project.

In response to Senator Huntington's question concerning criteria for vehicle replacement, Jerry Younger, Deputy Secretary of Engineering at KDOT, indicated vehicle replacement criteria are:
140,000 miles and/or 9 years old for pickup trucks, and
100,000 miles and/or 7 years old for light passenger vehicles.

Mr. Younger indicated all vehicles included in the budget have met or exceeded the replacement criteria.

Senator Umbarger moved adoption of the Kansas Department of Transportation Subcommittee report. Senator Teichman seconded the motion, which carried on a voice vote.

The meeting was adjourned at 10:57 a.m.

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

68-West-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 • FAX (785) 296-3824

kslegres@klrd.ks.gov

<http://www.kslegislature.org/klrd>

March 7, 2011

To: Senate Committee on Ways and Means

From: Legislative Research

Re: Special Litigation Reserve Funds at Fee Funded Agencies

The Board of Accountancy and Board of Technical Professions have special litigation reserve funds. The Board of Pharmacy and Dental Board have requested authority to create but do not currently contain litigation reserve funds. No other fee funded agencies have or have requested the authority to create litigation reserve funds at this time.

Agencies with Litigation Reserve Funds:

Board of Accountancy:

In the **2005** Legislative Session, a Special Litigation Reserve Fund was established to be used for costs incurred in litigation against individuals in violation of Kansas accountancy regulations that would cause the Board to expend more than the amount approved by the Legislature. Expenditures may only be made from this reserve fund upon the approval of the State Finance Council. A requested amount of money (usually \$15,000 per fiscal year) derived from fees would be placed into the fund each year until the cap of \$300,000 is reached. The actual balance of the fund in FY 2010 was \$60,000.

Board of Technical Professions:

The **2001** Legislature established a Special Litigation Reserve Fee Fund in addition to the Technical Professions Fee Fund. The Special Litigation Reserve Fee Fund was created to shield the agency's primary fee fund from exposure to extraordinary litigation costs. In 2001, \$300,000 was transferred to the fund and it has not been accessed. The fund is appropriated as no-limit.

Agencies Requesting Authority to Create Litigation Reserve Funds:

Board of Pharmacy:

The agency made a supplemental request for FY 2011 to create a separate fund to hold \$150,000 for litigation costs. The agency stated that its budgeted expenditures would be

Senate Ways and Means

Date:

Attachment:

03/07/11

insufficient to cover additional litigation costs, should legal action be brought against the agency. The agency request does not include a limitation on expenditures from the fund.

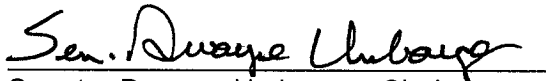
Dental Board:

The creation of a litigation fund has been requested, and the Governor has concurred. If approved by the Legislature, transfers of \$50,000 each would be completed in FY 2012 and FY 2013. Expenditures from the fund would only be permitted upon approval from the Division of the Budget, which must evaluate the expenditure request against legislatively prescribed criteria.

FY 2012

SENATE WAYS AND MEANS SUBCOMMITTEE

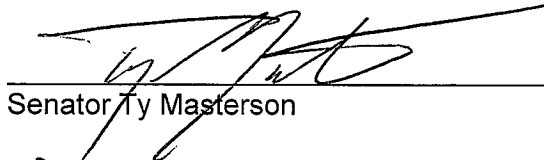
KDOT



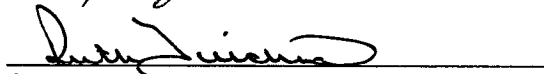
Senator Dwayne Umbarger, Chair



Senator Kelly Kultala



Senator Ty Masterson



Senator Ruth Teichman

Senate Ways and Means

Date:

03/07/11

Attachment:

2

Senate Subcommittee Report

Agency: Kansas Department of Transportation

Bill No. - -

Bill Sec. - -

Analyst: Klaassen

Analysis Pg. No. 1071

Budget Page No. 462

Expenditure Summary	Agency Request FY 2012	Governor Recommendation FY 2012	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 0	\$ 0	\$ 0
State Highway Fund	397,737,514	397,737,514	875,000
Other Funds	343,779,588	343,779,588	0
Subtotal	\$ 741,517,102	\$ 741,517,102	\$ 875,000
Capital Improvements			
State General Fund	\$ 0	\$ 0	\$ 0
State Highway Fund	716,927,689	693,596,769	0
Other Funds	0	0	0
Subtotal	\$ 716,927,689	\$ 693,596,769	\$ 0
 TOTAL	 <u>\$ 1,458,444,791</u>	 <u>\$ 1,435,113,871</u>	 <u>\$ 875,000</u>
 FTE positions	 3,113.5	 2,916.5	 0.0
Non FTE Uncl. Perm. Pos.	51.0	51.0	0.0
TOTAL	<u>3,164.5</u>	<u>2,967.5</u>	<u>0.0</u>

Agency Request

The **agency** requests a FY 2012 reportable budget of \$1.5 billion, which is an increase of \$18.2 million, or 1.3 percent, above the FY 2011 revised estimate. Reportable expenditures from the State Highway Fund total \$1.1 billion, which is an increase of \$46.9 million, or 4.4 percent, above the FY 2011 revised estimate. All funds non-reportable expenditures total \$323.4 million, including \$196.6 million from the State Highway Fund, which is an all funds decrease of \$105.1 million, or 24.5 percent, and a State Highway Fund increase of \$5.8 million, or 3.1 percent, above the FY 2011 revised estimate. The request includes an enhancement request for \$5.4 million, all from the State Highway Fund, to replace 281 vehicles.

Governor's Recommendation

The **Governor** recommends a FY 2012 reportable budget of \$1.4 billion, which is an increase of \$17.0 million, or 1.2 percent, above the FY 2011 recommendation, and a decrease of \$23.3 million, or 1.6 percent, below the agency's FY 2012 request. Reportable expenditures from the State Highway Fund total \$1.1 billion, which is an increase of \$45.8 million, or 4.4 percent, above the FY 2011 recommendation, and a decrease of \$23.3 million, or 2.1 percent, below the agency's FY 2012 request. The Governor's recommendation includes:

- The transfer of \$200.0 million from the State Highway Fund to the State General Fund for FY 2012. In order to make this transfer in FY 2012 funding for preservation projects was reduced by \$22.0 million in FY 2011 and FY 2012 to capture the necessary savings;
- As part of the \$200.0 million transfer, the Governor's recommendation includes an increase of \$50.0 million to the agency's non-reportable expenditures to advance \$50.0 million in bond proceeds for FY 2012;
- Reducing building project expenditures by \$1.3 million;
- The agency's enhancement request for 281 replacement vehicles for FY 2012 totaling \$5.4 million, all from the State Highway Fund;
- Continuation of funding for the Kansas Highway Patrol Operations for FY 2012 through a transfer to the State General Fund (\$31.1 million); and
- Reducing 197.0 FTE vacant FTE positions, which would decrease the agency's FTE limitation from 3,113.5 to 2,916.5 FTE positions for FY 2012.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governor's recommendation with the following adjustment and notations:

1. Add \$875,000, all from the State Highway Fund, to provide half of the remaining \$1.75 million to complete the the KDOT Communications System Project for FY 2012. The other half will be provided by the Kansas Highway Patrol from federal forfeiture funds. The Subcommittee notes the importance of the KDOT Communications System Project, which will update existing communications towers and allow for communications between various 800 Mhz and non-800 Mhz radio systems that are used by emergency responders and public safety agencies statewide. It is estimated that it will take \$3.5 million to complete the remaining 14 towers in Northwest and Southwest Kansas. The state's five homeland security regions have offered up half, or \$1.75 million, in homeland security funds if the state matches these funds to complete the project. The Subcommittee was informed that an agreement had been reached between KDOT and the Highway Patrol, in which KDOT would provide \$875,000, all from the State Highway Fund, and that the Highway Patrol would provide \$875,000, all from the Federal Forfeiture Fund, to provide for the state's match to complete this project.
2. The Subcommittee notes that the agency stated that approximately \$1.4 billion has been transferred out of the State Highway Fund since the beginning of the Comprehensive Transportation Program in FY 2000. The Subcommittee notes concern as to the magnitude of the transfers and how these transfers limit the agency's ability to create jobs through project lettings and fully provide the services for which they were created. Additionally, the Subcommittee notes that the agency's current debt outstanding, as of March 1st, is \$1.78 billion.
3. The Subcommittee notes that 2010 Senate Sub. for HB 2360 increased the sales and compensating use tax from 5.3 percent to 6.3 percent. The agency currently receives 0.65 percent of this tax, and as part of the increased tax the State Highway Fund is estimated to receive an additional \$20.4 million in FY 2011, \$21.0 million for FY 2012,

and \$21.0 million for FY 2013. Additionally, beginning in FY 2014 the rate will drop back to 5.7 percent, and the State Highway Fund will receive all sales and compensating use tax in excess of 5.3 percent. The Subcommittee once again notes the importance of funding transportation and encourages efforts to allow the agency to retain the additional 0.4 percent sales and compensating use tax funding in the future.

4. The Subcommittee notes that as Kansas looks to the future for the road to recovery, that one of the primary factors behind economic growth is transportation. Past history has proven that there is a strong link between the strength of the state's transportation program and the ability of the State to sustain and even hasten economic recovery.